

OFFICER INVOLVED SHOOTING OPA 2017-033

INVESTIGATOR: SERGEANT JOSH CLARK

I. INTRODUCTION

Richmond Police Department Sergeant Josh Clark, of the Office of Professional Accountability (OPA), conducted an internal administrative review of an officer-involved fatal shooting that occurred on September 27, 2017. The shooting involved multiple officers from the Richmond Police Department and the Fairfield Police Department. The involved Richmond Police Officers consisted of seven officers who discharged their firearms as well as nine witness officers. The shooting occurred in the westbound lanes of Interstate 80, located within the city limits of Emeryville, CA. The Emeryville Police Department responded and acted as the primary agency investigating any criminal conduct. The Alameda County District Attorney's Office oversaw the criminal investigation. The incident is documented under Emeryville PD case # 1709-2151.

The Richmond Police Officers who discharged their firearms at Mr. Hodge were:

Sergeant Chris Llamas #1364
Sergeant Donovan Decious #1416
Detective Anthony Diaz #1512
Officer Michael Ricchiuto #1619
Officer Cedric Tagorda #1483
Officer Orlando Guzman #1652
Officer Benjamin Mendler #1586

The Richmond Police Officers who witnessed the shooting were:

Sergeant Aaron Pomeroy #1287
Sergeant Lynette Parker #1396
Officer Daniel Reina #1439
Officer Jeff Tyner #1341
Officer Jovan Walker #1634
Officer Leah Joseph #1424
Officer Khala Finley #1685
Officer Brandon Ruffin #1646
Officer Robert Wright #1742
Officer Daniel Campos #1486

As part of OPA's administrative review, the officer-involved shooting is viewed from two perspectives: 1) A review of the use of lethal force by the involved shooting officers pursuant to RPD's use of force policy, and 2) a review of potential violations of other RPD policies by any officer pertinent to this investigation. This report does not examine the actions of the Fairfield Police Officers who fired their weapons because our administrative investigation jurisdiction does not extend to officers outside of the Richmond Police Department.

This report contains factual findings based on the information made available in the course of the investigation and does not draw any legal conclusions. This report does not purport to include every detail as described by the individuals involved, but rather, assesses the important facts as they pertain to the incident being investigated.

II. SUMMARY OF FINDINGS

Use of Force Review – Lethal Force

After a review of all evidence to include investigator's reports, operations orders, coroner's report, ballistics report, AVR footage, News footage, CHP helicopter footage, radio log, statements of witness officers and statements of involved shooter officers, this investigator concludes that there is sufficient evidence to exonerate all seven active participant officers from allegations that they used excessive deadly force against Demilo Hodge on September 27, 2017, and violated the Richmond Police Department Policy 300 – Use of Force, specifically Richmond Police Department Policy 300.4 Deadly Force Applications. Therefore, this investigator finds that all officers involved in the shooting death of Demilo Hodge on September 27, 2017, are **Exonerated** of any policy violations.

Pursuit Review

7
[REDACTED]

Use of Force Review – K-9 Contact (Officer Reina)

After a review of all evidence to include investigator's reports, operations orders, coroner's report, ballistics report, AVR footage, News footage, CHP helicopter footage, radio log, statements of witness officers and statements of involved shooter officers, this investigator concludes that there is sufficient evidence to exonerate Officer Daniel Reina from allegations that he used excessive force when he deployed his K-9 against Demilo Hodge on September 27, 2017, and violated the Richmond Police Department Policy 300 – Use of Force or 318 – K-9 Policy. Therefore this investigator finds that Officer

Reina is **Exonerated** of any policy violations related to the Richmond Police Department Policy 318.2 – Guidelines for Use of canine.

[REDACTED]

7 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

III. APPLICABLE STANDARDS OF CONDUCT

Richmond Police Department Policy Manual (Adoption Date: 2017/06/22):

A. 300.4 DEADLY FORCE APPLICATIONS

Use of deadly force is justified in the following circumstances:

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.
- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible. Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:

INVESTIGATOR: SERGEANT JOSH CLARK

- 7

██████████

██████████

7

7

██████████

██████████

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

D. 318.2 Guidelines for Use of Canine (Adoption Date: 2017/06/22):

A canine may be used to locate and apprehend a suspect if the canine handler reasonably believes that the individual has either committed or threatened to commit any serious offense and if any of the following conditions exist:

- (a) There is a reasonable belief that the individual poses an imminent threat of violence or serious harm to the public, any officer, or the handler.
- (b) The individual is physically resisting or threatening to resist arrest and the use of a canine reasonably appears to be necessary to overcome such resistance.
- (c) The individual(s) is/are believed to be concealed in an area where entry by other than the canine would pose a threat to the safety of officers or the public.

It is recognized that situations may arise that do not fall within the provisions set forth in this policy. In any such case, a standard of objective reasonableness shall be used to review the decision to use a canine in view of the totality of the circumstances.

Absent reasonable belief that an individual has committed or threatened to commit a serious offense, mere flight from pursuing officer(s) shall not serve as good cause for the use of a canine to apprehend the individual.

Once the individual has been located and no longer reasonably appears to represent a threat or risk of escape, the canine should be placed in a down-stay or otherwise secured as soon as it becomes reasonably practical.

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

7

IV. METHODOLOGY OF THE INVESTIGATION

The investigation consisted primarily of interviewing individuals of the Richmond Police Department (RPD), interviewing the victim of the reported crime and reviewing various records and documents. During the course of the investigation, where possible, the investigator attempted to obtain corroboration of certain facts from multiple sources. The credibility of the information gathered was reviewed using several factors, including, but not limited to:

- Source of the information;
- Witness' basis of knowledge;
- Existence of corroborating information;
- Period of time, if any, between certain events and the date of any reported complaint relating to those events;
- Motivation of those providing information; and
- Ordinary experience and common sense of the investigator.

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

Additional Tasks Included:

- Review of the City of Richmond Police Department Policy and Procedures;
- Review of the Richmond Police Department Code of Conduct
- Review of IAPro tracking and various IAD case files and process;
- Review of the City of Richmond Police Department Policy on Internal Affairs and Citizens Complaints.

A. Interviews

All witness interviews were digitally recorded by the Emeryville Police Department and uploaded to the OPA computer server. All interviewees were admonished to keep all aspects of the interview confidential, that responses to investigator questions were required to be complete and truthful, and that City policy prohibited retaliation for cooperating in the investigation.

Interview Subject	Party	Interview Date
Interviews by Alameda County District Attorney's Office / Emeryville PD		
Sgt. Chris Llamas	Subject	09/28/2017
Sgt. Donovan Decious	Subject	09/28/2017
Det. Anthony Diaz	Subject	09/28/2017
Ofc. Ben Mendler	Subject	09/28/2017
Ofc. Cedric Tagorda	Subject	09/28/2017
Ofc. Orlando Guzman	Subject	09/28/2017
Ofc. Mike Ricchiuto	Subject	09/28/2017
Sgt. Aaron Pomeroy	7 [REDACTED]	10/04/2017
Ofc. Leah Thomas	Witness	10/04/2017
Sgt. Lynette Parker	Witness	10/03/2017
Ofc. Jeff Tyner	Witness	10/03/2017
Ofc. Robin Wright	Witness	10/03/2017
Ofc. Dan Reina	Witness	10/04/2017
Ofc. Dan Campos	Witness	10/03/2017
Ofc. Khala Finley	Witness	10/03/2017
Ofc. Jovan Walker	Witness	10/03/2017

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

B. Reviewed Documents

Exhibit No.	Description
1	RPD Policy # 300 – Use of Force
2	7 [REDACTED]
3	7 [REDACTED]
4	7 [REDACTED]
5	Sgt. Llamas AVR
6	Ofc. Tagorda AVR
7	Ofc. Guzman AVR
8	Ofc. Mendler AVR
9	Ofc. L. Thomas AVR
10	Ofc. Ruffin AVR
11	Sgt. Parker AVR
12	Ofc. Tyner AVR
13	Ofc. Wright AVR
14	Sgt. Reina AVR
15	Ofc. Campos AVR
16	Ofc. Riley AVR
17	Ofc. Finley AVR
18	Ofc. Walker AVR
19	CHP Helicopter Video
20	Autopsy Report/Photos
21	Medical Records
22	Coroner's Report
23	Emeryville PD Redacted Investigation Report (Rec'd 08/09/2019)
24	Crime scene photographs
25	Involved officer photographs
26	CHP MAIT Report
27	ACSO Ballistic report
28	Audio Interviews of all subject officers
29	RPD CAD Report
30	RPD Dispatch Recordings
31	Alameda County District Attorney Letter

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

C. EVIDENCE, FINDINGS AND ANALYSIS

The U.S. Department of Justice Standards and Guidelines for Internal Affairs Investigations were used to adjudicate this investigation.

- 1) The burden of proof is on the agency.
- 2) The standard of proof is a preponderance of evidence.
- 3) The standards of evidence are those of administrative law, not criminal law.
- 4) No presumptions of truth are made regarding facts in dispute.
- 5) No presumptions are made regarding witness credibility: all persons are equally credible unless an objective, fact-based evaluation of the witnesses' capacities, testimonial coherence, and other relevant and demonstrable factors justify otherwise.
- 6) Conclusions are logically deduced from the evidence.

The following is a key to the terminology used in reaching findings as specified from the Richmond Police Department Manual:

- Unfounded:** When the investigation discloses the alleged act(s) did not occur or did not involve Department personnel. (Complaints that are determined to be "frivolous" pursuant to Penal Code § 832.5(c) will fall within the classification of unfounded).
- Exonerated:** When the investigation discloses the alleged act occurred, but the act was justified, lawful and/or proper.
- Not Sustained:** When the investigation discloses there is insufficient evidence to sustain the complaint or fully exonerate the employee.
- Sustained:** When the investigation discloses sufficient evidence to establish the act occurred and that it constituted misconduct.

OFFICER INVOLVED SHOOTING OPA 2017-033

INVESTIGATOR: SERGEANT JOSH CLARK

Statement Summaries:

Emeryville PD/Alameda County District Attorney's Office interviews are summarized below and were taken by the Emeryville Police Department Detectives. The statements are summarized.

When necessary, additional interviews were conducted by OPA Investigators and are summarized below. The full audio of each interview has been uploaded to IA Pro under OPA CS# 2017-33.

Witness Officers

Sergeant Aaron Pomeroy:

On October 4, 2017, Sergeant Aaron Pomeroy (hereafter referred to as Sgt. Pomeroy) was interviewed by Emeryville Police Department Detective Edward Mayorga. In the room with Sgt. Pomeroy and Det. Mayorga was Det. Jason Krinsky with the Emeryville Police Department.

Sgt. Pomeroy was hired by the Richmond Police Department in June 1998. He previously worked with the Santa Clara County Sheriff's Department for approximately 4 years. His call sign at the time of the incident was T-106 (Tom 1-0-6). He is the traffic motor sergeant. His normal shift hours are Monday through Thursday from 0600-1600 hours.

Sgt. Pomeroy said at the time of the incident he was wearing a full police uniform consisting of a short-sleeve wool shirt with Richmond Police patches over both shoulders and a silver badge on his left chest. He was driving vehicle #1173 which is an all-white Ford Explorer with subdued Richmond Police decals on the sides. It is equipped with emergency lights and siren.

Sgt. Pomeroy said he was at the police department when the incident happened. He didn't leave the police department until Sgt. Llamas asked for additional officers. He believes it was after the spike strips and after the suspect crashed into the center divider and came to a stop. During the initial standoff is when Sgt. Llamas requested more officers and that is when he responded.

Sgt. Pomeroy was asked what role he took in the incident when he arrived on scene. He said he was assisting Sgt. Llamas as a secondary supervisor on scene because at the time Sgt. Llamas was the only supervisor. He asked Sgt. Llamas what need to be done such as a REACT Team, shield, less lethal, etc. He started to put teams in place to act as a REACT Team in case the suspect became a threat to them.

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

Sgt. Pomeroy said the initial call was a request from the CHP airplane to assist in locating the suspect vehicle that was in the City of Richmond. He did not hear the initial crime to begin with when he heard the call. A couple officers found the car and tried to conduct a traffic stop but the car didn't yield and a pursuit ensued. He said due to the pursuit going on and on, he thought it must be something good or else they would've cancelled the pursuit already. He heard mentions over the radio that the suspect was supposed to be armed which also made sense to him as to why we were still chasing the vehicle. He said he checked his computer and looked at the detail to see what it was. He saw that the suspect was wanted for murder out of Fairfield. He continued to monitor the radio traffic. He thought to himself that the pursuit had already left the city, it wasn't worth getting involved in and they would turn over the pursuit to the CHP. When the spike strips were deployed and the suspect vehicle became disabled he thought it would come to an end. He heard over the radio that the suspect was still in the vehicle and wasn't showing his hands. Sgt. Llamas then asked for additional officer and Sgt. Pomeroy decided to go.

Sgt. Pomeroy said while he was in route he heard on the radio that the suspect was mobile again but stopped shortly after that. When he arrived they were at the second location from the initial crash. There were comments that the suspect had opened the rear hatch, they saw his hands and then the rear hatch closed. You could not see the suspect because the windows were dark. He said he had a discussion with one of the SWAT guys who was a patrol officer on scene. They discussed using a bean-bag to try and break the windows of the suspect's vehicle. They concluded they were at too great of a distance for the bean-bags to have an effect on the windows. Dispatch advised that Fairfield SWAT was in route and they were in close proximity. He believes the suspect moved his vehicle one more time prior to Fairfield PD showing up. Officer Campos, who is a CNT member (Crisis Negotiation Team), was on the PA trying to negotiate with the suspect to surrender and to come out with his hands up. Officer Campos was attempting negotiations with the suspect for "pretty much the whole time" he was on scene which was approximately 20-30 minutes. When the suspect rolled the windows down, the commands were given louder in an attempt to gain the suspect's attention and compliance.

Sgt. Pomeroy said Fairfield SWAT arrived and he spoke with one of their sergeants. He didn't remember the name of the Fairfield sergeant he spoke with. He said this sergeant took the initial supervisor role as the Fairfield guy. There was some agreement that Fairfield PD would take primary since it was their case. They also had the same idea of needing to see into the car and to deploy 40mm rounds to try and knock out some of the windows so they could see into the car. He said the first 40mm round did not penetrate and just spun off the side of the car. The second round went right into the back window but due to the heavy tint, the round penetrated and the glass shattered but it did break

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

the window to allow them to see inside. Fairfield said they were going to put a round of gas into the vehicle. They fired one round of gas into the vehicle. He never saw smoke and never smelled gas.

Sgt. Pomeroy stated, "Within 60 to 90 seconds after the gas round went in is...he (suspect) opened the door, exited the vehicle, quickly spun all in one motion and then with his right hand came out with a semi-automatic firearm and fired one round...at least one round at us. I do remember the slide, the action, the slide of the firearm and the muzzle flash and I ducked. So after I ducked I thought ok time to come up but by the time I came up everybody...there was multiple gunshots from law enforcement. I thought that's sounds like enough rounds, I don't need to put any down range."

Sgt. Pomeroy was asked, "So you didn't shoot because there was no need for you to shoot at that time." He stated, "Correct. I felt...there was definitely a threat. He did shoot at us. I just felt that by the time that I was going to react, the rounds were already going out. And I watched him spin and go to the ground and...as I think his...by the time I processed it, it was that he was already hit and going down."

Sgt. Pomeroy was asked for more detail regarding the suspect exiting the vehicle. He stated, "He opened the door with his left hand and spun quickly with his right hand with a firearm in his right hand. So he kind of brought it down from his waist area up as he spun out of the car." He recalled the suspect only using one hand to fire the gun.

After the suspect went down, he saw Officer Reina's K-9 go towards the suspect. He said he could see that the suspect wasn't moving at that moment. He yelled "cease fire" a couple of times. He didn't want the dog to get shot. The shooting stopped. Officer Reina gave his dog commands and brought him back. One of the patrol cars was used to tactically approach the suspect. The vehicle was cleared and first aid was provided to the suspect.

After the suspect was transported to the hospital, he approached and asked Sgt. Decious if he was a shooter and Sgt. Decious said he was. Sgt. Pomeroy knew he was the only sergeant on scene who did not shoot. He gave a general statement to the officers of "all shooters this side, non-shooters to this side" so he knew what he had to work with. They separated the officers. He had Officer Tyner catch up with the vehicle that was transporting the suspect to the hospital in San Francisco.

Sgt. Pomeroy said after that he started doing administrative duties. He started to get the shooters out of the scene, making sure things weren't being moved, and making sure tasks were handled. He did not take any photographs at the scene. He did receive phone calls from an IA (Internal Affairs) sergeant and the PIO (Press Information Officer). He said once the incident was over he was the only one on the radio. He thinks

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

the only person he called afterwards was his wife because he knew it was on TV and wanted to let her know he was ok.

7

Sgt. Pomeroy transported Officer Diaz to the police department from the scene.

The interview was concluded at 0913 hours.

Officer Leah Joseph:

On October 4, 2017, Officer Leah Joseph (hereafter referred to as Officer Joseph) was interviewed by Det. Lance Goodfellow of the Emeryville Police Department at the Richmond Police Department.

Officer Joseph had been a police officer for the City of Richmond for 11 years. She graduated from the Contra Costa County Police Academy in March 2006. Her current work schedule is Tuesday through Friday from 0630-1630 hours. Her call sign on the date of the incident was 2L7 (two-lincoln-seven). Her supervisor is Sgt. Rivera.

On the date of the shooting Officer Joseph said she was wearing a full police uniform that consisted of a short-sleeved shirt with Richmond Police patches on both shoulders and a silver badge on her left chest. She was wearing a full duty belt. She was driving vehicle #1105 which is a fully marked patrol vehicle with lights and siren.

Officer Joseph said she became involved in the call when it was dispatched as an outside assist in her beat. She was towing an abandoned vehicle at the time the call was being broadcast. When the call was first put out the description of the vehicle wasn't put out over the radio and we only knew that Fairfield PD was trailing a homicide suspect that they had been surveilling. Once the information came out that it was a black SUV, Officer Campos and Officer Riley located the vehicle. She said by the time she caught up with the cars it was near Barrett Avenue and 7th Street. When she caught up she saw there were already four cars trailing the suspect vehicle with lights and siren. She said she turned her lights and siren off at this time due to the number of officers already involved. She said the suspect vehicle drove on Harbour Way South and then onto eastbound I-580 towards Oakland.

Officer Joseph paralleled the pursuit. The pursuit continued onto the merge of I-80 and I-580. She decided to stop paralleling the pursuit because radio was requesting assistance from El Cerrito, Berkeley, and CHP and there were plenty of officers involved. She began back towards the abandoned vehicle she had been towing prior to

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

the pursuit. As the tow truck was loading the car, Sgt. Llamas requested more Richmond Officers to respond to the scene. She responded to the scene which was the termination point of the pursuit.

Officer Joseph arrived on scene. She believes she and Sgt. Parker, who was behind her, were the last two vehicles on scene. She got out of her vehicle and saw there were a bunch of SWAT officers and other officers already engaged in trying to communicate with the suspect on the PA. She heard Fairfield PD conducting negotiations on the phone. She said Richmond was trying to tell Fairfield to tell the suspect on the phone to listen to our instructions being given over the PA.

Officer Joseph said the least amount of officers were in the #4 and #5 lanes of the freeway on the passenger side of the suspect vehicle. You couldn't see into the car due to the window tint. They hadn't confirmed at that point if there was only one person in the car. She met up with Officer Finley who was at a vehicle in the #4 lane. Officer Finley was standing at the passenger side door of the patrol vehicle. She stood behind Officer Finley and told her she was up behind her and was her cover. She said Officer Walker, Officer Tyner, and Officer Riley were to the right of her in the #5 lane.

Officer Joseph said her perception of what was happening was that lanes #1, #2, and #3 have the driver. They were "calling the shots" and dealing with what was going on over there. She said the backdrop of the whole scene is eastbound I-80 which is stopped. Because they were in the #4 and #5 lanes and at a slight angle, their target beyond the suspect vehicle was eastbound I-80 with people outside with their cell phones standing there. Her focus is to whoever was in the passenger side of the car. She said the officers on her side were responsible for the right side of the vehicle as well as the back of the vehicle. She said when the door opens she would be able to see the driver as he comes out.

Officer Joseph said she did not know who was saying it but she could hear someone saying, "less-lethal, less-lethal" to let everyone know less-lethal was being used and to not be alarmed at the noise of the less-lethal shot being fired. She said it was very clear that less-lethal was about to be used. She said the first less-lethal round bounced off the back of the suspect vehicle and did not impact the back of the vehicle. The second round was fired and she saw the back window kind of shatter and break a little bit. She is not sure if she heard a third round fired or not because "everything happened really quick after that". She stated, "The suspect gets out of the car, and I hear shot fired. And I can see as he came out he swung around...like to the left and you can see...I can see his hands and I can see that there was definitely a shot and he shot." She said after the first shot it was just "rounds and rounds and rounds after that".

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

Officer Joseph said because they were on the right side it wasn't as loud to her as if it was right next to her. She didn't feel at any point the need to engage. She felt that "SWAT's got it, they got a sniper, they got everything on that side." She was also still watching the passenger side of the vehicle because it was still unknown if anyone was in there. When the suspect dropped, she saw the K-9 run out to where the suspect was. The K-9 engages the suspect but is then brought back. Everyone checked with everyone else to make sure they were ok. Thumbs up were given and everyone is ok. SWAT walked up and cleared the inside of the vehicle. She said once the vehicle was cleared they all thought that was it and they were holstering. The officers then started CPR and compressions on the suspect. An unmarked car was brought in and transported the suspect to the hospital in San Francisco.

Officer Joseph said everyone who engaged and had shots fired went to the east side of the freeway, or the #1 lane and everyone who did not go to the #5 lane. She was told to go back to the station. She transported Officer Wright back to the station. Once she was at the station she was sequestered 5 [REDACTED].

Officer Joseph was asked to clarify why she didn't shoot. She stated, "My target wasn't clear. And beyond my target was 80 eastbound. There were civilians." She said it was also due to her angle. She was concerned about her "backdrop" for firing her weapon.

Officer Joseph said she did not take any pictures while on scene. She does wear an AVR and it was activated at the time of the incident.

The interview was concluded at approximately 0942 hours.

Sergeant Lynette Parker:

On October 3, 2017, at approximately 0830 hours, Sergeant Lynette Parker (hereafter referred to as Sgt. Parker) was interviewed at the Richmond Police Department by Officer Jason Krinsky of the Emeryville Police Department. In the room with Sgt. Parker and Officer Krinsky was Det. Edward Mayorga of the Emeryville Police Department.

Sgt. Parker has been a police officer for the City of Richmond since July 2002. Her call sign at the time of the incident was SR-101. She is currently assigned as the sergeant of the school resource officers. She works Monday through Thursday from 0700-1700 hours. Her supervisor is Lt. Schlemmer.

At the time of the incident, Sgt. Parker was wearing a full Richmond police uniform consisting of a wool long sleeved shirt with City of Richmond Police Patches on the sleeves, sergeant's stripes, silver badge, and a full duty belt.

OFFICER INVOLVED SHOOTING OPA 2017-033

INVESTIGATOR: SERGEANT JOSH CLARK

Sgt. Parker said she drove to the scene in vehicle #1122 which is an all-black unmarked police vehicle that is equipped with ballistic doors and windows. The vehicle is equipped with lights and siren.

Sgt. Parker responded to the scene after additional officers were requested. She also had the SRO's (School Resource Officers) respond as well. The officers included Officer Gary Lewis, Officer Jovan Walker, Officer Kayla Finley, and Officer Orlando Guzman. She was asked what role she played when she arrived on scene. She described her role as "support" and to bring the vehicle with the ballistic panels to the scene.

Sgt. Parker did not take any pictures or make any calls while she was on scene.

Sgt. Parker was asked if there was a reason she did not shoot. She stated, "It's because K-9 Officer Reina and his dog were in front of me so I didn't feel I needed to... wasn't a clear shot." After the shooting took place, she asked someone to get AMR. She escorted AMR to the suspect. She then started to chalk off the casings to preserve the scene.

7

Sgt. Parker drove Officer's Ricchiuto, Tagorda, and Guzman back to the Richmond Police Department from the scene. She had instructed them not to talk to each other. She said Officer Ricchiuto had talked to his wife.

Sgt. Parker was asked if she saw what happened. She stated, "Yes, everything." She was asked what she saw. She stated, "They were...when I got on scene he had attempted to continue driving in his vehicle. (Inaudible) He wasn't able to drive. There was an officer that was doing...that was communicating with him. Asking him to put his hands out the window, roll down the window, open up the vehicle with his left hand from the outside, get out of the vehicle and surrender. They then used the less-than-lethal and shot out the back window and then attempted to deploy gas. He rolled down the window. He stuck his head out; stuck his hands out, put his hands back in, looked out, and I could see him looking in our direction through his side mirror. And then he got out with a firearm, raised it, and I think I heard two rounds before I heard the volley of return fire."

Sgt. Parker was asked what she did when the suspect fired. She stated, "Oh Shit! This is real." She said she was behind the ballistic panel of the open door to the vehicle she drove to the scene. She ducked and the volley of fire went.

The interview was concluded at approximately 0843 hours.

OFFICER INVOLVED SHOOTING OPA 2017-033

INVESTIGATOR: SERGEANT JOSH CLARK

Officer Jeff Tyner:

Officer Jeff Tyner (hereafter referred to as Officer Tyner) was interviewed by Det. Lance Goodfellow of the Emeryville Police Department. The interview was conducted at the Richmond Police Department.

Officer Tyner has worked for the Richmond Police Department for approximately 23 years. Prior to the Richmond Police Department, he worked for the City of Pittsburgh and the City of South San Francisco as a sworn officer. On the date of the incident his call sign was E-23 (Edward 23). He is currently assigned as a Crime Scene Investigator for the senior graveyard team and works Monday through Thursday from 2130 to 0730 hours. His current supervisors are Sgt. Moody and Sgt. Thomas.

On the date of the shooting Officer Tyner was wearing a full B.D.U. uniform consisting of a shirt with Richmond Police Patches on each sleeve and a silver star over his left chest. He was driving a fully marked patrol vehicle equipped with emergency lights and siren.

Officer Tyner said he became aware of the incident after he had been held over from his shift the night before due to the dayshift team being short personnel. He was assigned to work a beat for dayshift. He had been towing a car when the pursuit had entered the City of Richmond. He did not become involved in the pursuit. After the car was towed he went to the police department to turn in paperwork related to the tow. He heard Sgt. Llamas request over the radio for additional units to respond to the scene. He drove to the scene which was on westbound I-80 in Emeryville.

When Officer Tyner arrived on scene he saw various police cars and CHP. He drove up, parked his car, got out, and took a position behind the drivers' door of one of the vehicles. He said arriving officers were devising a plan and he thought someone was on the phone with the suspect. He estimated he was on scene for approximately 20 minutes.

Officer Tyner said less-lethal was used. He said rubber bullets were used to shatter the rear window of the vehicle. He said the first round missed and bounced off. The second round hit the window and cracked it and bounced off. The third round actually broke the window but they couldn't see inside because the window had "limo tint". He said the tint was one of his main concerns as well because of the suspect possibly shooting from inside the vehicle. He said approximately three minutes after that he heard the volley of gunfire. He saw the suspect "take a few rounds" and he saw the K-9 make contact with the suspect.

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

Officer Tyner was asked if he knew who shot first before the volley of gunfire. He stated, "To be honest I didn't. I was focused on the rear window. I know now after seeing footage that the suspect fired a weapon. But at the time I was focused on the rear window from this position I could only see the rear window and the passenger side. So, if he would've came out the passenger side then I would've been involved in the shooting. However I never witnessed him even get out of the vehicle." He said he couldn't see the driver's side and that was one of the reasons he did not shoot.

After the shooting stopped Officer Tyner saw the officers try life saving measures on the suspect. He had gone to his car and got some chalk to start marking the expended casings and magazines and such. He was instructed by Sgt. Pomeroy to provide an escort for the suspect to be transported to the hospital in San Francisco. When they arrived at the hospital medical staff immediately came out and started CPR on the suspect. They rushed him right into a room to complete life saving measures.

Officer Tyner said he stood around to get relieved because he did not know who was going to stay with the body. An officer arrived and relieved him although he doesn't know the officer's name. He returned to Richmond. 5 [REDACTED]
[REDACTED]

Officer Tyner believes he may have marked 10 items at the scene prior to providing the escort for the suspect to San Francisco. He does not know who took over the marking of the evidence after he left the scene.

Officer Tyner said he was wearing his body camera at the time of the incident and it was activated to record the incident. He did not take any pictures of the scene with a cell phone.

Officer Tyner was asked if he wanted to add or say anything. He stated, "We tried everything as far as to convince this young man not to get out of the car cause it was already...he had already stated and we were all clear that he was armed and that he wasn't going back to prison. He had made that very clear with the people who were trying to negotiate with him. I didn't think it would actually come to this. I thought he would eventually give up. But he didn't, so..." He said that was information he heard over radio and dispatch had repeated several times the suspect was armed and said he wasn't going back to prison.

The interview was concluded at approximately 0845 hours.

Officer Robert Wright:

On October 3, 2017, at approximately 0923 hours, Officer Robert Wright (hereafter referred to as Officer Wright) was interviewed by Officer Jason Krinsky of the

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

Emeryville Police Department. The interview was conducted at the Richmond Police Department. In the room with Officer Wright and Officer Krinsky was Det. Edward Mayorga of the Emeryville Police Department.

Officer Wright was hired by the Richmond Police Department on August 21st, 2017. Prior to the City of Richmond, he worked as a sworn officer for the City of El Cerrito for approximately three years.

On the day of the incident Officer Wright was in training and was riding with Officer Reina. Their call sign was 2K5 (two-king-five). He works Tuesday through Friday from 0630-1630 hours. His supervisor on the day of the incident was Sgt. Rivera. Officer Wright was wearing a full class "B" Richmond Police Uniform. The uniform has Richmond police Patches on the shoulder and he was wearing a silver star over his left chest. He was wearing a body worn camera and a full duty belt at the time of the incident.

Officer Wright said his AVR was activated at the time of the incident. He had no other recording devices activated at the time of the incident.

Officer Wright was driving a fully marked City of Richmond K-9 patrol vehicle that is equipped with emergency lights and siren. He was driving the vehicle as Officer Reina was in the passenger seat.

Officer Wright was asked how they became involved in the incident. He said they were at the police department and heard over the radio there was a 187 suspect (murder) located. Officer Reina told him to get into the car and put them in route to the area. They drove towards the officer who had located the suspect vehicle. He believed the suspect vehicle was being pursued at that point. They met up with the pursuit in the area of Macdonald Avenue and 6th or 7th Street. They were the 4th or 5th car. They pursued the car and ended up on eastbound I-580 towards Oakland. Once they neared Bayview Avenue the suspect started driving on the right shoulder of the freeway and passing traffic. The pursuit continued and CHP had deployed spike strips at University Avenue. He saw the suspect vehicle tire start to give out and debris on the roadway. The suspect vehicle eventually stopped and they took positions in a line behind the suspect vehicle.

Officer Wright said Sgt. Llamas instructed someone to get on the PA to make announcements. Officer Wright got on the PA and started making announcements. He said "Richmond Police Department" and to "put your hands out where we can see them". He couldn't remember if the suspect moved prior or if it happened the first time but the suspect popped the cargo back hatch of the SUV. He put his hands up but then closed the hatch. The suspect moved the SUV forward and when he stopped Officer Campos took over with the PA announcements and negotiating.

OFFICER INVOLVED SHOOTING OPA 2017-033

INVESTIGATOR: SERGEANT JOSH CLARK

Officer Wright said Officer Campos continued negotiations and asking the suspect to come out with his hands up. He stated, "There was a point where he actually opens the window, sticks his hands out and then after that, that's when he came out and it looked like as he was coming out, reaching into his waistband, and pulled out the firearm. Based on my location I couldn't really... I couldn't shoot cause I had an officer in front of me. Cause I had just been relieved. I was actually in the driver's side door at which time I was relieved so I went to the back of the car. And then I had Officer at that position where I was at the driver's side door and then an officer behind him on the left rear passenger door. So I was actually behind that officer."

Officer Wright was asked what he saw the suspect do. He stated, "When he was coming out, from my point of view, it looked like he actually was going into his waistband, was coming up and taking like a shooting stance. So again, like I said, based off of my location I couldn't have shot because I had two people in front of me. So I took cover. Plus I had a less-lethal at that time. So as soon as I saw the gun I wanted to transition to lethal if it had to get to that point." He was asked whether or not he saw the suspect fire his weapon. He stated, "No. I heard a round go off and then I just heard multiple rounds. So I don't know if that came from him or if that was from the PD (police department). So it was kinda hard for me to determine whether it was him or somebody else. After I heard that first round I heard multiple rounds go off."

Officer Wright was asked what it was he saw when the suspect reached down to his waistband. He stated, "It looked like a firearm". He said when the suspect came up it looked like he was taking a "shooting stance".

Officer Wright said after the shooting, the K-9 was sent. After the K-9 came back, a team approached the suspect and cleared the vehicle. He stayed to the back while this was occurring. He saw medics respond to the scene.

Officer Wright said he called his wife after the incident to let her know he was ok.

The interview was concluded at approximately 0937 hours.

Officer Daniel Campos:

On October 3rd, 2017, at approximately 1003 hours, Officer Daniel Campos (hereafter referred to as Officer Campos) was interviewed by Det. Lance Goodfellow of the Emeryville Police Department. The interview was conducted at the Richmond Police Department.

Officer Campos was hired by the Richmond Police Department in October 2007. He graduated from the Napa Valley Police Academy. His call sign on the date of the incident was 2L6 (two-lincoln-six). He works Tuesday through Friday from 0630 to 1630

OFFICER INVOLVED SHOOTING OPA 2017-033

INVESTIGATOR: SERGEANT JOSH CLARK

hours. He was driving a fully marked City of Richmond patrol vehicle equipped with emergency lights and siren. His supervisor at the time of the incident was Sgt. Rivera.

On the date of the incident Officer Campos was wearing a full Richmond Police "Class B" uniform and a full duty belt. His uniform included Richmond Police patches on both shoulders and a silver star over his left chest. Officer Campos is CNT (Crisis Negotiations Team) certified and has been with CNT since 2010. He attended a 40-hours CNT training class in San Diego.

Officer Campos said he became aware of the incident when dispatch broadcast that CHP was in pursuit of a 187 (murder) suspect vehicle, a black SUV. They were in the area of 32nd Street and Andrade Avenue. He was dispatched to the call and responded from the area of 6th Street and Bissell Avenue. He responded Code 3 and said we don't have the same radio channels as CHP and it was going to be hard to get radio updates. Dispatch updated that the CHP air unit was following the vehicle and the vehicle was southbound on 23rd Street and then westbound on Grant Avenue from 20th Street. He was at 20th Street and Roosevelt Avenue. He saw a black SUV parked midblock on 20th Street between Roosevelt Avenue and Grant Avenue. He thought this was the suspect vehicle so he immediately got out of his car and approached the vehicle and noticed a short Hispanic lady smiling at him. He figured he got the wrong vehicle. A motor unit radioed the suspect vehicle was seen at 7th Street and Barrett Avenue. He responded to 7th and Barrett Avenue where he saw a black SUV at the signal with the RPD motor unit behind it. The suspect vehicle took a southbound turn on 7th Street at a high rate of speed. Officer Campos turned on his lights and siren at this time and from there the pursuit began.

Officer Campos said he was the #1 pursuing vehicle. He said the pursuit continued and the suspect merged onto eastbound I-580 from Harbour Way South. Once on the freeway, the suspect went to the #1 lane. Sgt. Llamas was now behind Officer Campos and calling out the pursuit and road conditions. Due to traffic at a complete stop on I-580 near Regatta Blvd. the suspect vehicle went from the #1 lane to the right shoulder. The suspect continued to drive eastbound on I-580 along the shoulder of the freeway. The suspect was doing approximately 70 MPH on the shoulder until I-580 merged onto I-80.

Officer Campos said before they reached University Avenue, the suspect made an abrupt left turn and got into the traffic lane because he almost hit a vehicle that was parked on the shoulder. The suspect continued westbound I-80 and Sgt. Llamas was now the #1 vehicle behind the suspect vehicle with Officer Campos behind him. Officer Campos saw a CHP officer throw spike strips onto the roadway. The suspect vehicle hit the spike strips. Due to a traffic break by the CHP, the freeway was now completely

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

open. The suspect was in the middle of the freeway at approximately 50-60 MPH. The suspect vehicles tires began to give out and one of the tire treads struck Officer Campos's vehicle.

As the suspect vehicle passed Powell Street the suspect hit the center divider and the vehicle came to a complete stop. Officer Campos got out of his vehicle to conduct a high-risk felony stop. At this time Officer Campos's car was stopped in the far left lane which is the carpool lane. When he exited his vehicle he took cover on the driver's side behind the door. Since they heard the suspect was armed, he grabbed the patrol shotgun from inside his patrol vehicle. He "racked" a round into the chamber and pointed the shotgun at the vehicle. He ran towards the middle vehicle which was a K-9 car and took a position behind the front passenger door. Sgt. Llamas said for someone to get on the PA and start making announcements. He heard someone start to give announcements but he does not know who it was. Since he is CNT (Crisis Negotiations Team) trained, he took over the announcements as he handed the shotgun to Sgt. Llamas.

Officer Campos got on Richmond Radio Channel 2 and asked for the suspect name and if he had a phone number. He was advised the suspects name or Demilo and a phone number. At this time the suspect started to drive again and moved his vehicle to the middle of the freeway. He got back into his vehicle and started to make announcements through the PA such as "come out" "put your hands up" and "surrender peacefully". He doesn't know exactly how many times he said it but knew it was several times. He told the suspect to roll down the window and to put his hands out and exit the vehicle by opening the door from the exterior. He continued to make the announcements. He learned that Fairfield PD was on the phone with the suspect negotiating. He confirmed this was being done before Fairfield PD arrived on scene. He said the next thing he remembered was Fairfield PD tactical unit arrived on scene. He spoke with one of their guys and asked who they were talking to. They said one of their detectives was talking with the suspect on the phone. Officer Campos said he was asked if he wanted to talk to the suspect. He told them if their guy had already built rapport with the suspect for them to keep talking to him and ask him to come out and surrender peacefully. They continued their communications and he went back to his patrol car.

Officer Campos continued with announcements for the suspect to come out. As he's giving his announcements, the suspect started to drive away very slowly. The suspect didn't get far and stopped again. He had told the suspect to stop his vehicle because he was not going to be able to go anywhere with the vehicle the way it was. He heard on the radio that Fairfield PD was going to shoot non-lethal rounds. He was inside his vehicle when the non-lethal rounds were fired. He didn't hear if the non-lethal was bean bags or gas. He believes the rear window broke out from the non-lethal.

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

Officer Campos stated, "The next thing I see is the door opening, suspect coming out with his arm extended shooting. What I remember that is it looked like he was shooting at me, it looked like at my direction. I remember looking at his face. It looked like he was angry. He had an angered face description. And I remember the gunpowder, the smoke coming out of the gun. At that point I took cover. I don't even have my gun out. I just took cover by the dashboard. So I took cover by the dash and the next thing I know is just shots being fired. I just kinda peeked my head just a little and saw the suspect drop. A lot of gunfire and what I remember is that the guy that was standing on the passenger side, the SWAT guy, obviously he fired. The noise of the shots came into my vehicle and I probably went deaf for a good 30 seconds because of all the shots. After that I looked up, I saw that the suspect was down. They got a team together with a vehicle and started approaching the suspect. And I believe they were giving commands to...if there was a possible passenger because we couldn't see cause all of the windows are all tinted. Once they realized that there was no one else inside and he was just the only one in the vehicle."

Officer Campos got out of his car and whoever shot was told to go to the east side of the freeway and the ones who did not on the west side of the freeway. He went to the west side of the freeway. EMT arrived and started to render medical aid to the suspect. The medics wanted a vehicle to be able to transport the suspect. He assisted the EMT by helping them put the suspect in the backseat of a patrol vehicle. The suspect did not fit in the vehicle due to his size. Fairfield PD's van was brought up and he helped load the suspect's body to the rear of the van. They drove off to San Francisco General Hospital. Sgt. Pomeroy told Officer Campos to go relieve Officer Diaz at the hospital. Officer Campos got into a different patrol vehicle and drove to the hospital.

Officer Campos arrived on scene and told Officer Diaz he had to go back. Officer Campos was informed the suspect was deceased by hospital staff. He contacted Sgt. Rivera and told him about the situation. Sgt. Rivera told him to ask the deputies if they can stand by with the suspect's body so Officer Campos could return. The deputies agreed to stand by with the suspect's body 5 [REDACTED]

[REDACTED] He was then sequestered for 5-6 hours.

Officer Campos said he was wearing a body worn camera at the time of the incident and it was activated. He turned the camera off when he got into the patrol car just before driving to the hospital in San Francisco.

Officer Campos estimated he attempted negotiations with the suspect for 45 minutes to an hour. Officer Campos said he really wanted the suspect to surrender peacefully but it seemed like the suspect already had his mind made up how he wanted to end it.

The interview was concluded at approximately 1030 hours.

OFFICER INVOLVED SHOOTING OPA 2017-033

INVESTIGATOR: SERGEANT JOSH CLARK

Officer Khala Finley:

On October 3rd, 2017, at approximately 1009 hours, Officer Khala Finley (hereafter referred to as Officer Finley) was interviewed by Det. Edward Mayorga of the Emeryville Police Department. In the room with Officer Finley and Det. Mayorga was Det. Jason Krinsky of the Emeryville Police Department. The interview was conducted at the Richmond Police Department.

Officer Finley was hired by the Richmond Police Department on May 12, 2014. On the date of the incident her call sign was SR-6. She is currently assigned to Kennedy High School as a School Resource Officer. She works Monday through Thursday from 0700-1700 hours. Her supervisor is Sgt. Parker.

On the day of the incident, Officer Finley was wearing a full police uniform to include two Richmond Police shoulder patches and a silver star over her left chest and name plate over her right chest. She was wearing a full duty belt. She was wearing her body camera at the time of the incident. She was driving a fully marked City of Richmond patrol vehicle equipped with emergency lights and siren.

Officer Finley became involved in this incident when she was cleared to go by Sgt. Parker after more units were requested to respond. She arrived on scene and was positioned herself to the right rear of the suspect vehicle in the #4 lane.

On the way to the call, Officer Finley said she heard from dispatch that the suspect said he was not going back to jail and he was going to die today. She also heard the suspect had a firearm in the car and that the pursuit started in Fairfield. She arrived on scene and heard officers giving orders such as put your hands out of the vehicle. She didn't remember everything that was being said. She said non-lethal rounds were shot into the back windshield. The first time it ricocheted. The second time it broke the first set of glass.

Officer Finley stated, "I just remember him running out. Him coming out suddenly...the suspect... from the driver's side and then I saw a firearm coming up like this (showed interviewers how the firearm was raised) and then that's when the officers further east opened fire. And I'm guessing they saw it obviously because they were closer to the driver's side. They saw it maybe a half second or something faster than the people that were further west. They fired first and then I remember I didn't...I had enough time to decide not to shoot. Because I could already clearly see that he was being struck by the other gunfire." She stated, "It was obvious he was being shot".

Officer Finley was asked if she was able to see the gun come up. She stated, "Yes". She was asked if she heard the gunshots or if she actually saw the gun being fired. She

OFFICER INVOLVED SHOOTING OPA 2017-033

INVESTIGATOR: SERGEANT JOSH CLARK

stated, "It sounded like there were shots being fired at us. I don't know how many because they started shooting immediately." She said she doesn't remember seeing the flash but she remembers hearing it. She did see the suspect raising his arm up. She did not remember which hand he had the firearm in and does not remember if he used one hand or two. She said she was just focused on the gun.

Once the suspect was down Officer Finley said she saw the suspect on the ground. She said the K-9 then went to the suspect and bite one of his arms but then came back. After that she saw other officers secure the suspect's firearm and clear the vehicle of any other people before starting CPR on the suspect. She said the suspect was put into a van and he was transported to the hospital.

Officer Finley said she left the scene when she was told to go back to the station to be sequestered 5 [REDACTED]. She said she drove herself to the police department.

Officer Finley said she was wearing a body camera at the time of the incident. She said it was activated at the time of the incident. She activated her camera on the way to the incident. She turned the body camera off after the suspect was down and they were separated on the side of the freeway between shooters and non-shooters.

The interview was concluded at approximately 1024 hours.

Officer Jovan Walker:

On October 3rd, 2017, at approximately 1059 hours, Officer Jovan Walker (hereafter referred to as Officer Walker) was interviewed by Det. Jason Krinsky of the Emeryville Police Department. In the room with Officer Walker and Det. Krinsky was Det. Edward Mayorga of the Emeryville Police Department. The interview was conducted at the Richmond Police Department.

Officer Walker has been a police officer for the City of Richmond for approximately 6 years. Prior to the City of Richmond, he worked for the Los Rios Police Department for approximately 7 years.

On the date of the incident, Officer Walker was working training/overtime for the School Resource Officers. His call sign may have been SR-5 or SA-3. His shift that day was 0730-1330 hours. His normal duty hours are Monday through Thursday from 0700-1700 hours. He is currently assigned as a School Resource Officer.

Officer Walker was wearing a BDU uniform. The uniform consisted of a shirt with two Richmond Police shoulder patches and a cloth badge. He was driving vehicle #1123

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

which is a fully marked City of Richmond police patrol vehicle equipped with emergency lights and siren.

Officer Walker heard on the radio additional officers were requested to respond to the scene. He heard Sgt. Parker say over the air the SRO's were clear to respond to the scene. He responded to the scene. He followed Officer Finley who was in front of him. He arrived on scene and he could numerous patrol vehicles blocking the lanes of eastbound I-80. He exited his patrol car and got his patrol rifle from the trunk of his vehicle. He was instructed by Sgt. Pomeroy to cover the passenger side of the vehicle.

Officer Walker said after he took position in the east side of the freeway the suspect started to move his vehicle. Officer Walker was going to run to his vehicle to follow the suspect but a nearby officer told him to just jump in his car. The suspect stopped after a short distance and Officer Walker got out and pointed his rifle towards the suspect vehicle. Officer Walker stayed in the same position covering the passenger side of the car. The car he was behind was the car closest to the concrete wall on the east side of the freeway closest to the bay.

Officer Walker was on the east side of the freeway when the shooting occurred. From his angle he said he couldn't really see anything. He saw the suspect vehicle was the only vehicle in the roadway ahead of them. He saw lots of people stopped in the westbound traffic of I-80 and CHP had blocked traffic. He noticed people out of their cars with their cell phones out apparently trying to capture footage of the incident. He said he was aiming his rifle at the passenger door of the suspect vehicle in case the suspect came out of the passenger door. He couldn't see into the vehicle because the windows were "blacked out" with tint.

Officer Walker was asked if he saw the suspect come out of the vehicle. He said from his angle all he could see was "the extension of an arm" and then started hearing the shots. As the suspect was falling he saw a gun fall out of the suspect's hand. He said he didn't have a clear shot of the suspect. He could see the suspect lying on the ground. He said there was also "crossfire" issues because he had a rifle and he was angled towards the people on the other side of the freeway so he had to consider that. He repeated that he didn't have a clear shot so he didn't shoot. He later gave detail that he saw the suspect's hand to about mid-forearm extended. He said he saw the gun in the suspect's hand. He said the suspect appeared to be injured and/or down and not able to recover after the shots.

Officer Walker was asked if he heard gunshots coming from the suspect. He stated, "Once I seen the gun I just heard a whole bunch of gunfire. I don't know...I couldn't say if he fired first or the officers fired. I couldn't tell you."

OFFICER INVOLVED SHOOTING OPA 2017-033

INVESTIGATOR: SERGEANT JOSH CLARK

Officer Walker was wearing a body camera and said it was activated at the time of the incident. He turned it on prior to the shooting. He turned it off after the shooting and after the vehicle was cleared and medical aid was being rendered to the suspect. He did not use any other recording devices during the incident. He did not call any friends or family after the incident. After he left the scene, he was first told to go back to the police department. He stopped to get food on the way to the police department. He was then told to go to 5 [REDACTED] where he was sequestered. He said he went in the Richmond SWAT van with several other officers to include Fairfield PD officers. He said there was no talk about the incident and there had been small talk regarding sports and families.

Officer Walker said he did not sustain any injuries during the incident and none of his equipment was damaged.

The interview was concluded at approximately 1115 hours.

Officers Involved in the Shooting

Sergeant Llamas:

Sergeant Chris Llamas (hereafter referred to as Sgt. Llamas) was interviewed on Thursday September 28th, 2017 at approximately 1641 hours by Officer Jason Krinsky (Serial #308) of the Emeryville Police Department. In the room with Sgt. Llamas and Officer Krinsky was Sgt. Llamas's Representative Julia Fox from Rains, Lucia & Stern, David Cook DDA Alameda County, and Gus Galindo Alameda County DA Inspector.

Sgt. Llamas was asked if he would like to proceed with the interview to which he verbally consented to proceed by stating "Yes".

Sgt. Llamas was hired by the Richmond Police Department on June 2, 2002. He was assigned as one of the patrol sergeants for Junior Day Shift working Saturday through Tuesday from 0600-1600 hours. On the date of the incident he was working overtime as a patrol sergeant to be the second patrol sergeant working with Sgt. Rivera. The last shift he worked prior to the shift when the OIS occurred was Monday September 18th from 0600-1600 hours. He was not taking any medications at the time of the incident. When asked if he had any alcohol or drugs within the last 24 hours prior to the shooting he said he had a drink, an "old fashioned", the night prior at Ridges in Danville, CA. He also tried a sip of his girlfriend's Chardonnay. He was celebrating his girlfriend's birthday.

Sgt. Llamas said he last sleep the night before the incident. He said he got approximately 7 hours of sleep. He does not wear contacts or glasses since he had Lasik surgery approximately 8 years ago. He said there were no significant events prior to the shooting. He did not suffer any injuries from the shooting incident and did not see a doctor afterwards.

Sgt. Llamas described the clothing he was wearing at the time of the incident as a Class B uniform which consisted of a long sleeve wool shirt and wool pants. The shirt had Richmond Police patches on the side of both shoulders. He was wearing his Richmond Police Sergeant Badge above his left breast pocket. His name tag and a SWAT emblem above his name tag were above his right breast pocket. He was wearing a duty belt which consisted of his firearm, ammunition, Taser, ASP, radio, and pepper spray. He was also wearing black duty boots, A Richmond Police ball cap, and a ballistic vest. He is right hand dominant. He said he used a Richmond Police Department owned Remington 870 pump-action 12-gauge shotgun which he turned over to CSI Cuellar. CSI Cuellar photographed Sgt. Llamas after the incident in the Richmond Police Department's "break room".

OFFICER INVOLVED SHOOTING OPA 2017-033

INVESTIGATOR: SERGEANT JOSH CLARK

He said the shotgun was loaded with 4 rounds of department issued "Federal" brand buckshot in the magazine tube prior to him deploying and discharging the weapon.

Sgt. Llamas said he is one of Richmond PD's firearms instructor's and he believes the last training he received in the use of a shotgun was approximately eight months prior to this incident. He said he has a few thousand hours of training related to firearms. Prior to his police service, he was enlisted with the United States Marine Corps.

Sgt. Llamas described the vehicle he was driving as a Chevy Caprice, Car #50, which is A Richmond Police Department fully marked and emergency equipment equipped vehicle. He was the sole occupant and driver of the vehicle. He said the emergency equipment was functioning properly after performing a function test prior to his shift.

Sgt. Llamas described the shooting as occurring during daytime/sunlight and approximately 74 degrees. He said there wasn't any fog and the visibility was clear for over 1000 feet.

Sgt. Llamas said yesterday morning around 8:15am, he heard a radio broadcast that a 187 suspect was traveling through Richmond. He could not remember if it was CHP or a Richmond dispatcher but he caught the tail end of the transmission that they were requesting our assistance. Four CHP units were in route but they were not following the vehicle. We were being asked to help locate and stop the vehicle. He said it was broadcasted as a black SUV. We were getting updates as the vehicle was traveling through Richmond by a CHP overhead helicopter. Officers broadcasted that they were responding to the area. Officer Riley, a Richmond Motor Officer, broadcasted he had located the vehicle in the area of 6th or 7th Street and Nevin Ave and the vehicle was going westbound on Nevin from 6th Street.

Sgt. Llamas said he saw the vehicle make a westbound turn on Nevin Ave. He saw one patrol vehicle behind the suspect vehicle and he saw Officer Riley on his police motorcycle at the same intersection just north of Nevin Ave and he was pointing towards the suspect vehicle. He turned westbound on Nevin Ave and became the #2 pursuit car after the suspect vehicle. He said the primary officer provided the license plate to the suspect vehicle and dispatch confirmed the vehicle was the correct vehicle with which the driver was wanted for murder. As the vehicle was traveling westbound on Nevin Ave, the officer ahead of him, which he believed to be Officer Campos, activated his emergency overhead lights and siren. He said he turned on his lights and siren as well. He said he broadcasted to Richmond Dispatch that he was the #2 vehicle in the pursuit.

Sgt. Llamas said the pursuit went westbound on Nevin Avenue and then southbound on 4th Street. The suspect vehicle reached speeds of 50-60 MPH and it crossed over

OFFICER INVOLVED SHOOTING OPA 2017-033

INVESTIGATOR: SERGEANT JOSH CLARK

Macdonald Avenue failing to stop at a stop sign. The suspect vehicle made an eastbound turn on Bissell Avenue, southbound turn on 8th Street, east bound turn on Chanslor Avenue, southbound on Harbor Way at approximately 60-70 MPH with light traffic, and then merged onto eastbound I-580 from Harbor Way.

Sgt. Llamas said other units were approaching from behind that he could see in the rearview mirror. He was broadcasting the pursuit to Richmond Dispatch. The suspect traveled between 80-100 MPH and the pursuit continued all the way to Albany. At the I-580/I-80 merge, he heard the CHP helicopter broadcast that an officer was going to deploy spike strips at University Avenue. As the pursuit entered Albany, the traffic became very heavy. He said the suspect crossed all lanes of traffic from the #1 lane to the far right on the shoulder where he continued to drive at approximately 60-75 MPH. He said at one point there was a dump-truck style truck that was on the shoulder and the suspect vehicle drove around that truck on the shoulder. Sgt. Llamas was able to follow the suspect vehicle but Officer Campos was cut off from the pursuit by a civilian car. Sgt. Llamas then became the #1 or primary car in the pursuit.

As they approached University Avenue the driver of the suspect vehicle drove to the right and acted like he was going to take the University Avenue exit but continued straight and merged back onto the freeway. The spike strips were deployed and all of the traffic to the left was stopped. He saw the suspect vehicle drive over the spike strip and broadcasted that the spike strips were effective. The driver continued at 60-80 MPH for a short period of time approximately a mile to a mile and a half. Sgt. Llamas said the driver's side front tire completely "exploded" with rubber going all over the road and he could see the vehicle was driving on a rim. He said the vehicle eventually crashed into the right side median and then went all the way to the left where it stopped after it collided with the concrete center median which is approximately three and a half to four feet high.

Sgt. Llamas said all of the other support officers began arriving on scene. He said all of the officers spread out across all lanes of traffic. He requested a traffic break coming from I-580 west bound from the opposite direction due to the possibility of "crossfire". He saw all of the cars in the opposite direction were stopped and watching. Officer Campos then began C.N.T. (Crisis Negotiation) utilizing the patrol car public address system to try and contact the driver. Officer Campos repeatedly broadcast for the driver to "give up", "put your hands up", and "we don't want anybody to get hurt". Sgt. Llamas said Officer Campos repeated the broadcast "probably over 30 times". He said there were a couple times when the driver rolled down all of the windows of the SUV and unlocked or unsecured the rear hatch and raised it. The suspect would show his hands. He actually raised his hands a few times but he would then roll the windows back up and close the back hatch. He recalls that happening approximately three times.

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

Sgt. Llamas said at one point the suspect was yelling something but he couldn't understand what was being said. He said they got word through Richmond Dispatch that someone from Fairfield PD was talking with the driver. He told Officer Campos to continue with his crisis negotiations in an attempt to get the suspect to give up and to put his hands outside of the car so they could see he did not have a weapon.

Sgt. Llamas said Richmond Dispatch also had relayed that the suspect was supposed to be armed with a pistol and that the suspect said he was not going back to jail.

Sgt. Llamas said they continued with crisis negotiation attempts for about 15-20 minutes. The driver then drove off and entered the middle of east bound I-580 approximately $\frac{3}{4}$ of a mile before it splits to I-80, I-880, and I-580. He said more support was arriving on scene and the suspect stopped the vehicle again in the middle of the freeway. The officers fanned out their patrol cars again. Officer Campos used the PA system to try and get the suspect to surrender. He said it was a repetitive cycle for Officer Campos to ask the suspect to show his hands, give up, no one wants to get hurt, and we (police) aren't going anywhere. He said there was no response from the suspect. The suspect did roll all four windows down again but rolled them back up.

Sgt. Llamas requested AMR to respond and stage. He also requested a "bear cat" (armored vehicle) from the Contra Costa County Sheriff's Department. He also notified his co-sergeant, Sgt. Rivera, to initiate a SWAT Team callout. He said we could not speak to the suspect on the phone because the suspect was still on the phone with some other officer from Fairfield PD.

Sgt. Llamas said at approximately 40-45 minutes into the incident when the Fairfield PD SWAT Team arrived on scene. Sgt. Llamas contacted and spoke with the Fairfield PD Swat Sergeant. Sgt. Llamas discussed the current resources with the Fairfield PD SWAT Sergeant and informed him about our unmarked black SUV that has ballistic door panels. Sgt. Llamas said he asked the Fairfield Sergeant if he wanted tactical control due to the case being theirs. The sergeant said "yes" he would take tactical control. Sgt. Llamas said we would be here for them for support and that we would remain on "our line", provide a perimeter, and provide any additionally needed resources. The Fairfield Sergeant told Sgt. Llamas their plan of action was to deploy a bean bag round or less lethal round through the window of the SUV to shatter the window. He said the SUV had all tinted windows and you could not see inside of it. Sgt. Llamas thought that was a smart decision so you could gain visual inside of the car because the suspect could be armed and could have pointed the weapon at them or taken a shot at any one of them or the civilians on the opposite side of the freeway.

The Fairfield SWAT Sergeant said after they used less lethal to break the windows they were going to deploy gas into the vehicle. Sgt. Llamas is familiar with all of these

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

procedures as he is one of the Richmond Police Department SWAT Team Leaders and he has been a part of the SWAT Team for the past 10 years. After briefing with the Fairfield SWAT Sergeant, Sgt. Llamas said he returned to his position back at his patrol vehicle. He said approximately 5 minutes later the Fairfield SWAT Team deployed their less lethal (he wasn't sure what type of less lethal round was used). The first round did not shatter the window and hit just below the rear window of the SUV. The second round "punctured" the window but it still did not shatter completely as the window was still intact and attached to the vehicle. Sgt. Llamas said he heard a third round which he presumed was a gas round. He said it appeared the round made contact with the car or a portion of the window. He said, "Just off of an estimation, after that round was fired, the tear gas...or gas round was fired...I believe it was around 30-45 seconds where the suspect...he first rolled down his drivers' side window, driver's side door window, and then he opened the door. The minute his foot struck the ground...his right foot...his body turned completely towards me and the other officers that were on line. I clearly saw a black semi-automatic handgun in his right hand. He raised it with a two-handed grip. I saw the flash and I heard the shot and I knew that he had shot at...in my direction, directly at me. It wasn't over my head, it wasn't towards the ground...his arms were parallel to the ground and I saw the end of the...of his semi-automatic pistol. I perceived it as a deadly threat and I fired two rounds of my assigned shotgun at the suspect. He fell to the ground. I remember the Fairfield Sergeant requesting that we use a vehicle to approach, to secure the suspect in handcuffs, and to provide medical aid, and to check...clear the vehicle of any other threats or victims or hostages that may be inside."

Sgt. Llamas said Fairfield SWAT went along the left side of a patrol vehicle while Sgt. Llamas and three or four other Richmond Officer went along the right side. He said Fairfield SWAT cleared the driver's side of the SUV while he and the Richmond officers cleared the passenger side of the SUV. Officer Diaz assisted Fairfield PD with providing first aid to the suspect. Sgt. Llamas said he remembers telling Officer Diaz to apply a tourniquet. He saw other officer checking for a pulse and providing CPR. They requested an ambulance but due to the stopped traffic and congestion the ambulance couldn't get through. Another officer had a van pull up to the suspect SUV. The suspect was loaded into the van and driven to a hospital in San Francisco.

Sgt. Llamas said he remained on scene. He saw that Sgt. Decious was also on scene but Sgt. Llamas learned that Sgt. Decious had also shot his weapon. Sgt. Llamas said Sgt. Pomeroy was also on scene. Sgt. Llamas has worked with Sgt. Pomeroy in the past with the Special Investigations Section. Sgt. Llamas said Sgt. Pomeroy took over scene control since Sgt. Llamas was one of the shooters. Sgt. Llamas stayed with the other "shooter" officers and waited to be sequestered." He said at this point there were

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

approximately 30 officers on scene. He said Sgt. Pomeroy took over coordinating the investigative side along with Sgt. Lonso.

Sgt. Llamas was asked how far away from the suspect he was when he discharged his shotgun. Sgt. Llamas said he did not pace the distance out but estimated the distance at 45-50 feet. He confirmed the two rounds that were fired were buckshot rounds. Sgt. Llamas was asked if he knew whether or not the rounds he discharged struck the suspect. Sgt. Llamas stated, "I don't know if mine struck him. I had a clear sight picture. I remember pressing the trigger. I remember seeing the front sight was on the center mass of his body." Sgt. Llamas was asked, "When he came out of the vehicle what were you thinking, what were you feeling at that point?" He stated, "I was in fear for my life. The minute he stepped out...I...based on the comments that were said about him being armed and not going back to jail, I know it second or third hand but there's always the risk of...everyone has seen what's called suicide by cop where individual's will turn their attention or aggression towards an officer attempting to cause harm knowing that the outcome is potentially death or great bodily injury. I did have that in the back of my head. I thought that this person may attempt that and may assault us. The officers were aware; I made them aware of the backdrop and crossfire situation. There was one point I gave another officer, Officer I believe it was Wright, he's a lateral from another agency, during this time I gave him one of the shotguns from another patrol vehicle because he only had a pistol. Sorry, back to your question. I was in fear for my life when he stepped out and raised the barrel. I clearly saw the muzzle flash and I heard the bang of the pistol go off. There was no doubt that he was attempting to kill us."

Sgt. Llamas was asked to describe the background of the field of fire from his position and where the suspect was. He said his vehicle was just off to the left of his. His field of fire was an empty freeway. Just off to the left was a closed freeway with the traffic break but there were civilians on the top left merger where I-580 and I-80 merge. He said directly ahead of the suspect he didn't see very many cars if any.

It sounded as if Sgt. Llamas was handed a scene photograph and asked to circle his car and placing a #1 on the photo. Sgt. Llamas was asked where his position was when he discharged the shotgun. He said he couldn't recall exactly which car he was standing next to due to other cars arriving on scene. He wasn't sure if he went from car #50 to car #1131. He's not sure after he coordinated with Fairfield PD if he returned to the side of car #50 or #1131. He recalled using car #50 primarily as his cover during the incident. He said without reviewing his camera he could not be sure which car he was standing next to when he discharged the shotgun.

Sgt. Llamas said as they approached the suspect he clearly saw a black semi-automatic handgun on the ground and it looked like a round had struck the firearm. He believed it

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

to be on the grip of the firearm but he didn't recall which side. He said it looked like the round was in line with the barrel of the firearm which also indicates at the time he was shot the weapon was being pointed at the officers. It wasn't a side impact on the firearm. It traveled along the same axis of the barrel like a graze.

Sgt. Llamas was asked when he armed himself with the shotgun in relationship to his arrival. He said it was the first time the suspect stopped and crashed into the center median. He remembered getting out of the patrol car, holstering his pistol, and retrieving the shotgun which was locked in car #50. He said he had also removed the less lethal bean bag shotgun from car #50 and staged it at the back of car #1136 in case less lethal would've been a presentable option to use. He was asked why he switched from his pistol to a shotgun. He said he knows the effectiveness of a pistol versus a shotgun or long rifle. He knows the capabilities of a shotgun can stop a threat greater than a pistol especially if it's loaded with buckshot.

Sgt. Llamas was asked why he stopped firing after he fired twice. He said the first time he shot at the suspect; the suspect was still armed with the firearm in his hand. He racked the shotgun and pressed the trigger a second time. After that he "assessed the situation as if he was still...determining if he was a threat or not. At the time I stopped firing, I felt that he was not a threat any longer. I couldn't see the firearm in his hand any longer and he was not shooting at us anymore." He was asked if the suspect was still standing to which he answered, "No sir". He was asked the total amount of time between the first and second shot. He stated, "Approximately one second." He clarified that it took approximately 1 to 1.5 seconds to fire both rounds.

Sgt. Llamas said he activated his AVR during the pursuit which he believed to be about the time the pursuit was on I-580 eastbound at Regatta Blvd. He said he looked down several times during the incident to make sure it was recording. He confirmed with the detectives that he had not reviewed his AVR prior to their interview.

The interview was concluded at approximately 1727 hours.

Sergeant Decious:

Sergeant Donovan Decious (hereafter referred to as Sgt. Decious) was interviewed on Thursday September 28th, 2017 at approximately 1440 hours by Officer Jason Krinsky (Serial #308) of the Emeryville Police Department. In the room with Sgt. Decious and Officer Krinsky was Sgt. Decious's Representative Julia Fox from Rains, Lucia & Stern, David Cook DDA Alameda County, John Brohard Assistant District Attorney Alameda County, and Gus Galindo Alameda County DA Inspector.

OFFICER INVOLVED SHOOTING OPA 2017-033

INVESTIGATOR: SERGEANT JOSH CLARK

Sgt. Decious was asked if he would like to proceed with the interview to which he verbally consented to proceed by stating "I do".

Sgt. Decious (serial #1416) was hired by the Richmond Police Department on June 13, 2005. Prior to the Richmond Police Department he worked for the city of Mountain View where he started as a sworn officer in June or July 2001.

Sgt. Decious is currently assigned as the sergeant of the Gang and Parole Unit for the Richmond Police Department. He currently works Monday through Thursday from 0900-1900 hours. His current call sign is G103. His last shift worked prior to this incident was the day prior, Tuesday from 0900-1900 hours. He is not on any medications and said he had one alcoholic beverage after his shift on Tuesday at approximately 1945 hours. He does not wear contacts or glasses and does not have any other physical ailments or disabilities. The last time he slept was the night before the incident and slept for 7-8 hours. He did not experience anything significant at or before work the day of the incident.

Sgt. Decious said he did not sustain any injuries from this incident and he did not have to see a doctor or any medical personnel after the incident. He did not lose any equipment or sustain any damage to his equipment as a result of this incident. He wears a drop holster for a single action 1911 Nighthawk GRP .45 caliber handgun. He's not sure of the brand of holster. His firearm has a tactical light affixed to the rail. He believes the firearm was loaded with department issued "Federal" brand ammunition. He said depending on what size magazine he has inserted into the gun the amount of rounds varies. On the day of the incident he used a 7 round magazine which was fully loaded and had one round in the chamber. He has four 10 round capacity magazines fully loaded on his belt. He is right hand dominant. He was not carrying a backup firearm at the time of the incident.

He was driving a Chevy Caprice, either #40 or #41, fully marked City of Richmond police patrol vehicle equipped with emergency lights and siren. He was the driver of the vehicle on the day of the incident. Sgt. Decious described the scene as daytime, mid-morning, blue skies, no wind, with temperatures in the low 70's.

Sgt. Decious said he was driving to work in his undercover car. He had his radio on and heard assistance was requested for a pursuit that the CHP was involved in for a murder suspect and the pursuit was in our city. He said the suspect's vehicle was described as a black SUV. He said a license plate was not broadcasted. He did not see the suspect vehicle until he arrived on scene at the end of the pursuit. He heard that marked units started to respond to the area where they could see the suspect vehicle. It was later broadcast that the CHP was not in pursuit but they were attempted to catch up with the vehicle. A CHP helicopter was overhead and was monitoring the suspect vehicles

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

location and broadcasting the location to Richmond Dispatch. He turned his radio to Channel 2 and asked Richmond Dispatch to confirm who the suspect was and to confirm that he's actually wanted and a possible name or license plate for the vehicle. Dispatch told him they were working on the information.

Sgt. Decious said he was still driving his undercover car down the Richmond Parkway when he heard one of Richmond PD motor units located the car at Barrett Avenue and 7th Street. The motor unit was able to provide a license plate for the suspect vehicle. He heard the vehicle had turned southbound on 7th Street where a marked Richmond PD unit, believed to be Sgt. Llamas, got behind the suspect vehicle. A vehicle pursuit ensued. Sgt. Decious got back on Channel 2 and asked for an update. The suspect's name was given but he couldn't remember exactly what it was other than "Milo" or "Demilo". Dispatch also provided Sgt. Decious with the suspect's birth date and it was overheard that the suspect said he's not going back to prison; he's going to die today. He said he told the Channel 2 dispatch to broadcast that information over Channel 1 right now. He stayed on Channel 2 so he was uncertain if Dispatch in fact broadcast that information over Channel 1. He was later told they did broadcast the information over Channel 1.

Sgt. Decious changed his radio back to Channel 1 and continued to listen to the pursuit which was not on I-580 eastbound and coming up to traffic due to an overturned big rig. They broadcasted that spike strips were used on the suspect vehicle. Sgt. Llamas broadcast that the front right tire was deflating and then a short time later he said the vehicle crashed either into the center divide or into something on the right shoulder and became disabled. At that point Sgt. Decious said he had just pulled into the parking lot of the police department and he had been in contact with a couple of guys that work for him to let them know they were not going to do a previously scheduled operation and they were going to "gear up" and go to assist with the murder suspect.

Sgt. Decious said Det. Ricchiuto was in the backseat of his car and Det. Diaz was in the front seat. They put on "clearly identifiable" police gear. He described their normal street uniform as BDU tops that include affixed Richmond Police patches, leather or vinyl duty gear, and jeans. His duty belt consisted of holster, handcuffs, ASP, radio holder, and a magazine holder with magazines. He was also wearing a Richmond Police baseball style hat that said "SWAT". They drove Code 3 while driving on the right shoulder most of the way to the scene due to traffic. They went there due to units on scene requesting additional units respond due to the suspect being wanted for homicide. He said due to his tactical training and being one of the team leaders on SWAT, as well as Det. Diaz being a SWAT Team member, he thought they could be a resource on scene. Once on scene, he said what he saw was traffic at a standstill. There was an approximately 150 yard buffer between the end of traffic to where there were 6-8 marked police units

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

spread along the width of I-80 facing westbound. The driver and passenger doors were open with officers armed with rifles, long guns, hand guns, and shotguns facing towards a black SUV which was facing the same direction stopped in between the #3 and #4 lane of traffic. There were two flat tires on the driver's side. The vehicle was completely "blacked out" which he described to mean they couldn't see inside due to the window tinting and could not see anyone inside of the SUV.

Sgt. Decious parked his patrol car, got out, and made contact with Sgt. Llamas. They spoke about Fairfield PD being in route to include their SWAT Team. They talked about the possibility of Fairfield PD possibly bringing more equipment with them for the incident. They talked about whether or not they would allow Fairfield PD to take over the tactical portion of the incident. They decided it would be the best option to provide them with assistance and let them take over tactical control since they would have more equipment available at that point in time.

Sgt. Decious said they got a shield out of the car and stood next to their react team. They tried to fan the officers out the best they could to have coverage on both sides of the suspect vehicle. He remembered the driver's side window of the suspect's vehicle being rolled down several times. He saw a black males head peering back. Every once in a while the suspect would put a hand outside of the window but then roll the window back up. Soon after that Fairfield PD arrived on scene. He made contact with the Fairfield PD team leader who introduced himself but Sgt. Decious could not remember his name. He told the Fairfield PD officer we were going to let them handle the call and asked how they want to do it. He said Fairfield PD's plan was to shoot 40mm gas rounds into the back window of the SUV. Prior to doing so there were some announcements made for the suspect to come out with his hands up, we didn't want him to be hurt, and to surrender. He said we had a K-9 positioned on the side in case the suspect came out and did anything without a firearm or a firearm related offense. They were thinking about the totality of the circumstances with this location being a main artery of the Bay Area and it being completely shut down. They wanted to resolve the situation as quickly and as peacefully as possible.

Sgt. Decious said one of the Fairfield PD SWAT Operators fired one ferret or 40mm gas round to the back of the car which ricocheted off the back of the car and went to the right shoulder. He said after that one the window came rolling down and the guy inside said "What are you shooting at me" or said something to that effect. Again whether on PA or just vocal, verbal yelling, "Hey come out with your hands up, we want to end this peacefully type stuff". He didn't remember who was saying it but a voice kept saying it. Another 40mm round was then fired into the back window just to break it and then a ferret round went through the bed of the SUV. And when that went in he believed the gas, mist, chalk started to be introduced into the compartment of the black SUV.

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

Sgt. Decious stated, "I want to say the drivers' window was down at that point." He was positioned behind the trunk of the car he drove there with his pistol in his hand. He was staying back a bit in case something happened since he was a sergeant he wanted to still be able to put people wherever he needed to. He stated, "About a minute after the last gas round went into the truck...were watching the truck and you can see a little bit of movement...can't tell how many people are inside...the door flings open...and I say the drivers' door flings open...black male steps out, spins extremely fast, arms are punched out in a firing position as his butt and his legs squat down in almost like a fighting stance, I would say a shooting position. And I see two shots come from his gun. I do a side step to my right...step forward with my gun still drawn...punch out to be on point...get a good sight picture...I'm making sure when I step forward that I have nobody in front of me which is going to step up. So there was somebody kinda maybe on their knees to the right. I got up right behind them and leaned forward putting some body pressure on them just so they knew that I was on top of them. And when the rounds went off and I got a good sight picture I shot four or five rounds at the suspect. After those rounds I brought my gun to the low ready to kind of reassess and the guy was lying on the ground. There was a volley of shots which were being fired when I was firing mine. As soon as he went down and I stopped and I disengaged, I saw K-9 Ranger run from my right go to the suspect, and I don't know if he circled at that point but I do remember him grabbing one of his arms, I think his right arm and making K-9 contact with him right there. I could see that there was a gun lying on the ground next to his body. It looked like the magazine, from my position right there, was out of the gun at that point but I couldn't tell. The gun was next to his left hand as he was positioned on his back, head kind of pointed towards the bay or towards the drivers' side door. So his feet were facing I want to say eastbound, head westbound. Officer Reina called his dog back. Everybody made sure that we were all ok. We did a quick check, a buddy check to make sure nobody was shot. Everybody was good."

Sgt. Decious continued stating, "The team leader from Fairfield PD wanted someone to jump in the car to be the driver so we could use a patrol car to safely, effectively, and slowly move up...so use the patrol car as moving cover as we didn't have a bear-cat or any kind of armored vehicle. I jumped into the drivers' seat, opened up...kept my driver's my door open and I think the passenger door was open. And we slowly...had about a team of 4 or 5 on the driver's side of the vehicle... about 4 or 5 on the passenger side as we effectively and slowly moved up to about five to ten feet...maybe yards I don't know, from where the suspect was lying on the ground. The team on the left was focused on the man who was down, giving him orders to...you know...roll over roll over. He was non-responsive. The team on the right was focusing on the vehicle making sure that there were no other suspects in there that are going to cause harm to us. We couldn't tell based on the actual tint of the window if there was anybody inside."

OFFICER INVOLVED SHOOTING OPA 2017-033

INVESTIGATOR: SERGEANT JOSH CLARK

Ultimately I handed my ASP off to somebody and they were going to break the window to make sure that they could get inside the vehicle. I don't know how that actually happened or what happened there.

"I called for Code 3 paramedics. They came running up as quickly as possible. I know that one of my guys who work for me started compressions. They put a tourniquet on the suspect. When we were up close there was a gun...a black handgun next to the suspect. There was a magazine which I think probably had fallen out of the gun. AMR was on scene. He ended up getting transported eventually in a mini-van to I think to SF General. I'm not positive, but a hospital in San Francisco. I believe the mini-van was Fairfield's and I believe it was AMR and Anthony Diaz also went with them."

Sgt. Decious said after that they coordinated and started to separate people who were involved in the shooting and who was not. They started to try and figure out how they were going to be sequestered. He stated, "They had to kind of remove me out of there because I started wanting to tell people what to do but at that point I wasn't official, I shouldn't have been doing it. It's just what I naturally do so they pulled me back and I kind of stood off to the side and we ended up being sequestered and taken to the PD." He said there were pictures taken of them at the Police Department and their guns were taken. They changed out into comfortable clothes and 5 [REDACTED] and stood by until contacted.

Sgt. Decious was asked at what point he drew his firearm. He said he had his firearm out at multiple times. When he first got out of his car and approached the scene before Fairfield PD had arrived he had drawn his firearm because although he's talking to people he still had an eye on the suspect vehicle and there had been talk of him having a gun and possibly loading a gun in the vehicle. Also the suspect mentioning he wasn't going back to prison and that he was going to die today. He said when he was close to the suspect car he had his firearm out. When he went towards the back of the cars to talk to the Fairfield PD guys he had holstered his firearm. But each time he went back up closer to the suspect vehicle he removed his firearm at had it at the low-ready.

Sgt. Decious was asked to describe the location in regards to the backdrop. He said it was probably 100-200 yards north of...if you're speaking in terms of the freeway...east of the complete "maze" of the freeway where it leads to the Bay Bridge. He said the backdrop directly behind the suspect and his car was empty freeway consisting of concrete, asphalt, and freeway. The only people nearby were probably 60, 80, 90 feet in the air on some sort of on-ramp, off-ramp, or skyway portion of the maze where the freeway splits.

Sgt. Decious was asked what his state of mind, what was he thinking both before the shooting and when he re-holstered. He said before his main concern was that everyone

OFFICER INVOLVED SHOOTING OPA 2017-033

INVESTIGATOR: SERGEANT JOSH CLARK

had all of the information because this is the kind of incident...with all of the information we got prior to...this could ultimately end bad. He stated, "You just had that feeling this might be one of those kinds of incidents where you're going to be forced in a way to actually act. How I felt before? I was calm. I was deliberate in what I was doing. I was focused. Not scared. Just in that work mode of trying to organize and get people in position where if something does happen we have a tactical advantage of making sure everyone's going to be safe. When I shot, all I thought about was my front sight. And the reason why that is because when we train, when we shoot, wherever your front sight is, is where your rounds are going to go. So you actually want to...want to watch that front sight. And that's all that it is. When I was done...when I came down to low-ready...my first thought is making sure everyone is ok. You check yourself...buddy check. When I holstered my gun to get into the car I wasn't thinking anything other than...well let's safely get up to the actual vehicle. Let's render the scene safe. Once we rendered it safe, you walk back and you kind of go, "did that really just fucking happen". But in terms of how I was feeling...I mean I felt pretty good. I mean I...I mean honestly I wasn't like upset, really emotional. You're still kind of in that...wow that really just kind of happened type of thing."

Sgt. Decious was asked what he thought when the suspect exited the vehicle. He stated, "I think I said oh shit." He was asked how he felt and what he was thinking at that point, at that time. He stated, "Motherfucker shooting at us. Like...you're...dude's shooting at us. Like...this...this isn't good. You don't do that. I mean were gonna. I mean honestly I'm gonna shoot him before he shoots any of my guys. It's an absolute "Oh shit" and I'm sure I said "oh shit" or "oh fuck" when I ducked and moved but your training kicks in." He was asked how far he thought he was away from the suspect. He said he was 35-40 yards away. He was asked if he was targeting a specific part of the suspect's body, He stated, "Upper torso. Just the mass, the torso."

Sgt. Decious stated, "If your direct question is was I in fear for my life? Absolutely, if that's the wording that's best to say but it's a "oh shit" it's an "oh fuck" dude's shooting. I mean it's not the first time that I've been shot at, and I've seen my partner twenty feet in front of me being shot at not knowing where the rounds are coming from. That's the same kind of "fuck".

Sgt. Decious was asked if he shot one handed or two handed. He stated, "Two handed".

Based on the sound of the audio interview, Sgt. Decious was shown a picture(s) from the scene of the incident. He was asked to put where he was at the time of the shooting. He marked the photographs where he believed he was at the time of the shooting. He

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

told the investigators the patrol car had been moved from the time of the shooting up to the location where the suspect was lying on the ground.

Sgt. Decious was asked about the information he obtained regarding the suspect prior to the shooting on Channel 2 that he requested be aired on Channel 1. He stated, "It was...Fairfield had a wire. They had a wire I guess on the suspect's car. They passed information along to our dispatch that the suspect was heard saying he's not going back to prison...or paraphrase...he's not going back to prison, I'm going to die today. And I told dispatch to put that on Channel 1." He was asked if he received further information about the suspect and what he may or may not have in that vehicle after that point. He stated, "Yes...when Fairfield got on scene I asked them specifically what was used in the murder. They said a handgun but we don't know if he had it. But there was information that I don't know when I got it...it was before the actual shooting but that he was heard manipulating or said something about loading guns or there was some sort of...somehow somebody thought that he was manipulating guns or loading guns while in the car. Who I heard that from, I don't exactly remember. I know it was prior to the incident actually occurring. There's also a Sergeant at Fairfield named Frank Piro who had called me trying to touch base. And all I asked him...this is when I was in the parking lot...all I asked him on the phone was what this is about. Piro said they were trying to do a take-down of a murder suspect. We got one in custody, one guy left and the helicopter was following him and now you guys are apparently chasing it. That was all the information he had at that point in time." Sgt. Decious wasn't sure if Sergeant Piro was the one who had the information related to the suspect saying he was going to die today but he knows he got that information on Channel 2.

Sgt. Decious was asked what his state of mind was and what he believed the suspect may or may not have as far as being armed in that vehicle. He said he didn't have any specific information that the suspect had a gun. He had the information that the suspect had used or that a handgun was used in a murder and that the suspect was a murder suspect. He said he also knew from officers on scene prior to him getting there that the suspect was opening and closing the back hatch window looking and showing his hands almost playing cat and mouse then shutting the hatch. He said the suspect appeared to be "trying to bait us" to possibly approach the car. He said his state of mind is, "If somebody has a murder warrant and there's a car chase. You're driving...I'm going to say recklessly. You're not obeying commands...I mean to me I'd...you'd probably have a gun in that car as well. I mean it was my thought he probably had a gun but nothing more than...I didn't have any evidence that he did but it was my belief that he probably had a gun. And the information I was told on Channel 2, I had no reason not to believe it at that point in time given his actions after that information was told to me."

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

Sgt. Decious was asked what he saw and heard in terms of the suspect firing. He stated, "I heard one distinct pop and I saw smoke come from his gun. And as soon as that happened...I shot. I did a little bob and weave and did like "oh shit", came up and I started firing." He was asked in terms of there being two shots from the suspect, what he saw or heard that led him to believe two shots. He stated, "Bang, bang."

Sgt. Decious was asked at the moment he first fired if he could describe physically what the suspect was doing. He stated, "The last thing I saw the suspect, when I had him in my sights, his arms were out, he was still standing up. When I didn't have a picture of him in my sights which are; two sites in back and there's a front tip, when I didn't have a silhouette of him anymore I dropped down to reassess, to look at the ground, then I saw him lying on the ground basically motionless. And that's when K-9 Ranger came up on my right side and made K-9 contact with the suspect."

Sgt. Decious was asked where the suspect's gun was pointed when the suspect was firing. He stated, "Straight out towards all of us. Cannot...and I'll be frank, can I say it was directly at me? Sure looked like it to me. But I'm sure everyone's going to say that, right. Whether at me or at my partner, I'm protecting them and I'm protecting myself." He was asked who was in his immediate vicinity. He stated, "To my left, I believe they were a bunch of the Fairfield SWAT guys. And I think to my right, I think Sgt. Llamas might've been a car to my right but he might've been two cars to my right. And I think Anthony Diaz was on the car to my right as well. But I don't exactly remember where we were positioning people. There were quite a few people out there."

Sgt. Decious was asked to describe the pace of his firing. He described his firing as, "Bang, bang, bang, bang, bang." He was asked why he continued to fire. He stated, "To stop the threat, he was shooting at us." He was asked while he was firing if he saw anything that would show him the threat had stopped. He stated, "Not until I didn't see his silhouette and I dropped down to a low ready, to like a scanning per-se and I saw that he was down."

Sgt. Decious said he did not reload his firearm and when he presented his firearm to be inspected he said it was "as-is" to the condition of the firearm directly after the shooting. He said his firearm was inspected in the break room at the Richmond Police Department. He said he and his firearm were photographed.

The interview was concluded at approximately 1533 hours.

Detective Anthony Diaz:

Detective Anthony Diaz (hereafter referred to as Det. Diaz) was interviewed on Thursday September 28th, 2017 at approximately 1521 hours by Det. Edward Mayorga

OFFICER INVOLVED SHOOTING OPA 2017-033

INVESTIGATOR: SERGEANT JOSH CLARK

of the Emeryville Police Department. In the room with Det. Diaz and Det. Mayorga was Sgt. Diaz's Representative Jonathan Murphy from Rains, Lucia & Stern, Caesar Basa Inspector with Alameda County District Attorney's Office, Det. Edward Mayorga with Emeryville PD, Kevin Wong - Deputy District Attorney for Alameda County, and Jason Rikers - Inspector with Alameda County District Attorney's Office.

Det. Diaz was asked if he would like to proceed with the interview to which he verbally consented to proceed by stating "Yes".

Det. Diaz said he was hired by the Richmond Police Department on December 16th, 2008. He is currently assigned as a Detective for the Richmond PD Parole Unit. His call sign on this date was G42. His shift was Monday through Thursday working from 0900-1900. His direct supervisor the date of the incident was Det. Sgt. Decious.

Det. Diaz was asked if he had any training relevant to the officer involved shooting that took place. He said he is basic SWAT certified through POST, approximately 7 firearms and tactics schools, POST certified Range Master, and approximately 800-1000 hours of firearms training time.

The last shift Det. Diaz worked prior to the incident was the day before. He was in training at Elk Grove, CA from 8:00am to 4:30pm. He was home by 5:30pm. He is not taking any kinds of medication at this time and was not taking any medications at the time of the incident. He did not drink any alcoholic beverages 24 hours prior to the incident. He does not have any medical conditions that could potentially impact his judgment or physical abilities. He does not wear contacts or glasses. He last slept the night before the incident and got approximately 8.5 hours of sleep. There were no other significant events that occurred during his shift prior to the shooting.

Det. Diaz described his uniform the day of the shooting as a short sleeve black BDU bloused top with Richmond patches and silver star badge and name plate. He was wearing his ballistic vest with an AR 15 magazine, radio, tourniquet, and flashlight. His duty belt consisted of a drop down thigh Safari Holster which holds his black Smith & Wesson M&P .45 caliber handgun which was loaded with 10 rounds in the magazine and one in the chamber, handcuff case, two flash-bang pouches, and a quad magazine pouch with three (10) round magazines inserted with the fourth pouch being empty. He was wearing ear protection which included hearing enhancement and a black ballistic helmet. He said he is right hand dominant. He said there were photos taken of him after the incident of him and his uniform and gear at the police department. He did not sustain any damage to his uniform or equipment during this incident other than some blood on his jeans. He said he had a black CRKT knife that was a fold out no assist with a tanto blade, window punch and seatbelt cutter which he kept in his right pocket was given to a paramedic at one point and he did not know where it went from there.

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

Det. Diaz was also carrying a black Colt AR-15 6920 (.223 caliber) at the time of the incident. He had one magazine inserted into his rifle containing 27 rounds with one additional round loaded in the chamber, and one spare 28 round magazine in his vest. After the incident he gave his AR-15 to Officer Campos to secure in the back of Richmond PD patrol car #40. After the incident concluded he retrieved the rifle from the back of patrol car #40. He brought the rifle with him to the Richmond Police Department where he gave it to a CSI. He was originally issued the rifle when he became a member of the SWAT Team and he has used the same rifle during all of his firearms trainings. He believed he last qualified with both his handgun and rifle 3-4 months ago. He did not have any backup firearms on his person at the time of the incident.

Det. Diaz confirmed with Det. Mayorga that he discharged his rifle but he did not discharge his handgun. When asked to describe the location where he discharged his rifle, he said he was on the driver's side of a Richmond Police K-9 car approximately in the #2 or #3 lane area of westbound I-80 approximately 40 yards away from the suspect vehicle. He described the weather as sunny, clear, and not windy. Det. Diaz was asked to describe his day from the time it started to the incident. He provided the following:

Det. Diaz woke up at approximately 0700 hours. He got into the City of Richmond at approximately 0850 hours. He was driving southbound on 22nd Street approaching Nevin Avenue when he received a text from his sergeant saying they would be extended coming into work because he was monitoring a police pursuit. Det. Diaz called Sgt. Decious to see what was going on. He was told that Richmond PD units were in pursuit of a 187 suspect vehicle. He pulled over and got his patrol radio from his trunk. Over the radio he heard Sgt. Llamas detailing a pursuit and based on the streets he was naming Det. Diaz could tell the pursuit was in Richmond somewhere near Cutting Blvd. He drove to the police department to see if they were going to go help with the pursuit or stay at the PD. He met with Det. Ricchiuto in their office where they were monitoring the radio.

Det. Diaz heard spike strips had been used, was effective, and that the suspect vehicle had crashed and come to a standstill in the middle of I-80 west bound prior to the I-880 interchange. He and Det. Ricchiuto decided to put on their uniforms and head out to the scene to see if they could help. He re-contacted Sgt. Decious to tell him they were going to respond to scene. Det. Decious told him he would meet them in the parking lot and go with them. They met in the parking lot, got into a fully marked and emergency lighting equipped Richmond Police Car #40 and drove to the scene. At the time of the incident he was in the front passenger seat while Sgt. Decious was the driver and Det. Ricchiuto was in the rear passenger seat on the driver's side. As they were driving the traffic began to back up. They drove along the shoulder with lights and siren activated. When they arrived on scene he saw there was a line of police vehicles facing west bound on

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

the freeway. Approximately 35-40 yards in front of the police cars he saw a black Chevy Tahoe with dark tinted windows. He could see that at least one of the tires was flattened. One of the units called for a ballistic shield which they had in the back of their car. Det. Ricchiuto got the ballistic shield and they walked up to the line of police vehicles. He saw multiple units with their guns drawn at the low ready towards the suspect vehicle. He took a position of low ready facing the suspect's car.

Det. Diaz said he saw what appeared to be a Fairfield PD Officer on the phone and it sounded like he was on the phone with the suspect. He didn't get a good grasp as to what exactly was being said. The Fairfield Officer moved back away from the cars. Det. Diaz believed he was on scene for approximately a couple minutes. Officer Reina was at the driver's side of the patrol vehicle Det. Diaz was standing behind. At one point the Fairfield SWAT Team arrived on scene and Officer Reina was pulled back from his car with his K-9. Det. Diaz thought the Fairfield SWAT was going to try and coordinate some type of use of the K-9 with the Fairfield PD SWAT team. At that point Det. Diaz took Officer Reina's position. He saw Officer Guzman was behind the driver door of the K-9 car and appeared to be on one of his knees using the patrol car door as cover. He told Officer Guzman to use the engine block more for cover and gave him a heads up that he had his rifle and don't stand up if for whatever reason they had to shoot. He remembered reminding Officer Guzman that several times.

After approximately a minute or two, Det. Diaz saw the brake lights of the vehicle illuminate and he heard the engine start but then the engine went off and the brake lights went off. The brake lights went back on and the engine was started again. The car started to move forward at a slow speed at approximately less than 5 MPH. He instructed Officer Guzman to get into the driver's seat of the K-9 car and "slow crawl" forward but stay in line with the other cars. They moved forward approximately 15 feet when the suspect vehicle stopped. Soon after that, the suspect vehicle driver window came down. Someone on the left of Det. Diaz started to communicate with the driver. He could hear "stick both hands out the window with nothing in them", "come out of the car", and "open the driver door". At one point when the suspect window was down, he could see the suspect put one hand out then bring one hand back in. Then two hands would come out and then both hands would go back in and then the window would go back up. After that the window went back down and the same kind of thing occurred. At one point he saw the suspect stick his head out of the window with both hands out and he was looking back at them. Det. Diaz could see his eyes, nose, and mouth. The suspect's head and hands went back in the car and the window went up.

Det. Diaz said it was communicated "down the line" that someone was going to deploy a less lethal round into the back of the car to break out the window. He said it was told down the line that if they hear gunshots it's not coming from the suspect, it's less lethal

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

shots. He heard the round shot and it looked like a "sponge round" to him. It connected with the back window, bounced off, and was ineffective. Several seconds later another, what looked to be "sponge round" went down range and penetrated the back window. The round caused a hole and caused the surrounding glass to "spider" but the glass stayed whole. Not too long after that there were two subsequent rounds that had a "different tone" and before those were shot it had been communicated that gas rounds were going to be used. He thinks the suspect had his window down at this point. He remembers the suspect yelling out the window towards them but he could not hear what was being yelled. He could see what he thought was the gas powder exiting the openings of the vehicle.

Det. Diaz stated, "It wasn't too long for me after that final gas round went out that I saw he flung open his driver door. And it was in a quick manner. It wasn't a slow open. It was...you know...door. I can't remember if he kicked it open or pushed it open with his hand. But the driver door opens; he got out of the vehicle extremely quick. When he came out of the vehicle he was pretty much already facing our line. As soon as he got both feet on the ground I saw in his right hand he was holding a gun and he was starting to point it...it looked like he was pointing it at me. I saw him shoot one round and I...with my red dot on his chest area... I started shooting my rifle at him. In a manner of seconds I saw him start moving to his right or east bound at the same time. He was moving towards the ground. I remember him shooting at least two rounds from his gun. He fell to the ground. When he stopped moving I stopped shooting and I could see that the gun was lying on the ground at this point away from his hand. I saw that he wasn't moving. I made an announcement to see if anyone had been shot. I got a visual thumbs up from people on my left and people on my right that everyone was good and I didn't hear anything that one of had been shot or one of the police had been shot. At which point we held our positions and I could see the Fairfield SWAT Team had assembled. There was a police car to my left and they had assembled on the driver's side of that. Fairfield SWAT starting coming up with a plan to approach the vehicle and the suspect. The officers that were in my area were given the task of moving in-line with the Fairfield SWAT towards the vehicle and the Richmond officers with me would be in charge of breaching the rear window and clearing the vehicle. And the Fairfield SWAT Team would be in charge of contacting the suspect."

Det. Diaz said the Richmond Police car started moving forward. The team he was with started to move forward in-line with the Fairfield SWAT. Once they got to the back of the car the back window was breached. He looked into the trunk area and didn't see anyone in there. Due to the taller SUV seats he could not see down into the seats. Part of his team went to the passenger side and someone said the car was clear. Det. Diaz looked down at the suspect and could see the firearm which looked like a compact firearm, black in color, with a magazine lying near it which appeared to be silver in color.

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

He could see there was ammunition loaded in the magazine. The suspect was lying on his back with his arms out to the side. He could see a lot of blood pooling on the ground. He went over to the suspect and attempted to render aid the best he could. He placed a tourniquet on the suspect's right arm. Sometime during the time he was applying the tourniquet, two paramedics arrived on scene. He was wearing latex gloves and was given gauze by the paramedics. He saw a large open wound on the suspect's abdomen. He started packing the wound with gauze the best he could to control the bleeding. Once he saw there was no more blood coming from the wound he had an officer put their hand on it to keep pressure on it. He said he wasn't sure if he started to pack gauze in one of the wounds on the suspect's right arm or if a paramedic started it but he packed the wound as well. Once the bleeding stopped he kept pressure on that wound.

Det. Diaz said at one point a paramedic asked for a knife and he had the paramedic grab his knife from his right pocket. The paramedic used the knife to cut the suspect's shirt open. Once the suspect's shirt was open, Det. Diaz saw what he believed to be a sucking chest wound near his right pectoral and under his right arm near his arm pit. He used a piece of plastic that the paramedics had ripped open and he used his hand to put the plastic over the sucking chest wound under the suspect's right arm pit. It took him several seconds but he got another piece of plastic and put that piece of plastic over another sucking chest wound on the suspect's right chest. The paramedics determined they need to get the suspect off the ground, loaded into a vehicle, and be driven to a hospital as soon as fast as they could. Because of the traffic conditions they were pretty sure that it would be virtually impossible to get an ambulance there in time to render any type of aid. Richmond PD patrol car #40 was driven up to them. They helped load the suspect into the back of the patrol car. Once he was in the back of the patrol car they were deciding which hospital to go to. The medics said there wasn't enough room in the back of the patrol car for them to continue to render aid to the suspect.

Det. Diaz said Fairfield PD had an older Ford van that they used. They unloaded the suspect from the patrol car and put him in the middle of the van. At some point he was given the duty of chest compressions on the suspect. So he started chest compressions and rendering CPR. Someone had an external lung bag and was helping the suspect breath. A Fairfield SWAT officer was driving, both paramedics were in the van and Det. Diaz was in the back of the van. That was the first time he heard they were going to San Francisco General Hospital. They left the scene and it took them approximately 12-15 minutes from the scene to the ER. The entire time he saw paramedics rendering aid to the suspect to include chest compressions and external lung breathing. Once they got to the ER there were multiple nurses and doctors waiting to receive them. They parked, open the doors, a gurney was rolled out. The suspect was taken out of the van onto a

OFFICER INVOLVED SHOOTING OPA 2017-033

INVESTIGATOR: SERGEANT JOSH CLARK

stretcher. The suspect was taken into the ER and into what looked like an operating room where the doors were closed. He stood guard outside of the room. He stood guard for several minutes. Not too long after that Officer Campos showed up at the hospital and told Det. Diaz that he was relieving him so he could go back to the station. Det. Diaz rode with Officer Tyner back to the scene. When he was back at the scene he contacted someone from Richmond but he can't remember who. He told them that his rifle was in the trunk of patrol car #40 and he needed to get it back for evidence processing. He was instructed to go to the back of car #40, get his rifle, and take it to the station. When he got his rifle he ejected the magazine, locked back the bolt, and ejected the live round from the chamber which he loaded back on the top of the magazine and inserted the magazine back into the rifle. He got a ride back to the Richmond Police Department from Sgt. Pomeroy.

Once at the police department he was photographed by the civilian evidence technician. His rifle was taken, photographed, and wrapped in a white piece of paper. He went to his car, got his clothing out of there. He was contacted by Officer Palma who said he would be his sequestering officer. He secured his lunch box from the police department and met with Officer Palma in the administration parking lot. 5 [REDACTED]

[REDACTED] with Officer Palma until approximately 2000 hours when he was contacted by his representatives.

Det. Diaz was asked a follow question if he had heard or was told any more information regarding the incident prior to responding to the scene. He stated, "Yes, I heard several things. It was broadcasted that he was more likely than not in possession of a firearm and that he had made a statement to the effect of he wasn't going back to jail alive or he would not be going back to jail, something to that effect. I had also learned that a spike strip had been used on the freeway near University Avenue. And that spike strip was subsequently effective on the vehicle. After that spike strip a traffic collision occurred with the vehicle but I was unaware if that traffic collision involved other vehicles or just his. Once the traffic collision was done I learned that he came to a stop on the freeway and that he wasn't responding to orders of getting out of the car with his hands up. And he was actually staying in the car." He said the only thing he knew about the suspect at the time was that he was a murder suspect.

Det. Diaz was shown a couple photos and asked where he was positioned. He put a star on the photograph where he remembered being at the time of the incident.

Det. Diaz was asked to describe his backdrop during the incident. He described it as greenery, shrubbery, water, a freeway overpass elevated in the background approximately 800-1000 yards away. He said there was a concrete wall/barrier

OFFICER INVOLVED SHOOTING OPA 2017-033

INVESTIGATOR: SERGEANT JOSH CLARK

immediately in the backdrop behind the suspect vehicle. He said he did not see any vehicular or pedestrian traffic anywhere in the immediate backdrop of where the suspect was. He said the distance between he and the suspect was approximately 40 yards.

Det. Diaz described his knowledge of the area he responded to as a main thoroughfare for morning and afternoon commutes that consist of wide lane freeways in both directions that connects multiple cities. He described water to the west and commercial properties to the east.

Det. Diaz was asked his state of mind at that time when he was looking at the suspect. He stated, "I guess a lot of things were going through my mind. Everything we know about the suspect was that we were in a pretty dangerous situation. We had been told that he had a firearm. We had been told that he was wanted for murder. And so I knew this was a situation where I had to be extremely focused because based on the area I knew that my life was in danger, my fellow officer's lives were in danger and also there were thousands and thousands of citizens that were around this area that also could be in danger just like us."

Det. Diaz was asked what he thought when the suspect was moving his hands around and sticking them outside the window. He stated, "I thought it was very odd. Everything that I heard come from whoever was communicating with his verbally was to stick both hands out the window. I thought it was odd he would stick one hand out then bring one hand back in. And then two hands would come out and then two hands would go back in. And he would roll his window up and he would roll his window down. In my experience in these types of situations in traffic stops...it's very...it's not hard for suspects to listen to our directions and understand what we want. And so my line of thinking was he just doesn't want to comply with what we're asking him to do. It was really...he was really all over the place is what it seemed like. Window up, window down, one hand out, one hand in, two hands out, two hands in... looking back yelling at us." He said he could hear the suspect's voice but couldn't make out the words he was saying.

Det. Diaz was asked how many less lethal rounds he remembers being fired at the suspect vehicle. He said he remembered two "sponge rounds" and two "ferret rounds" being fired. After the less lethal rounds were fired, the suspect yelled something out of the driver's window which was down. After the "ferret round" went into the vehicle he started to see smoke coming out of the vehicle. Approximately 10 seconds or less later, he saw the suspect open the door. He stated, "The door flung open and I saw him jump out of the car. He jumped out of the car. It wasn't a slow and methodical step out. And yeah...he jumped out of the car and he was almost facing directly like...face to face like you and I are today. He was almost in that kind of position when he got out of his car."

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

Det. Diaz said the suspect then started pointing a gun. He stated, "It looked like he pointed the gun at me and I thought for sure he was going to shoot me. And at that point he did fire one round and not very quickly after that, fired another round. He shot...I remember him shooting two rounds." He said he felt like the suspect was aiming at him and he felt like the suspect was trying to kill him.

Det. Diaz approximated firing 12 rounds. He said he was aiming at the center of the suspect's chest. He fired his rifle with a two handed grip.

Det. Diaz was asked if he had any information on the suspect after the incident. He said he had heard the suspect name when he arrived on scene but it wasn't a name he had heard before.

Det. Diaz was asked if there was a coordinated response when arriving on scene as far as the Richmond Officers on scene. He said Officer Reina had said he was assembling a quick reaction team and Det. Diaz was named part of that quick reaction team. A ballistic shield was provided to Officer Mendler. They started to coordinate who would have verbal communication should the suspect get out of the vehicle or open the window and try to communicate with them. He also knew there had been coordination as to who would have the less-lethal bean-bag shotgun in the event they needed to use force using that.

Det. Diaz was asked when Fairfield PD showed up; if they (Richmond PD) coordinated with them as to how they would respond to the incident. He said there was some talk between supervisors in the back of the incident. That segued into how they were going to approach the vehicle after the shooting. Fairfield PD relayed what they were going to do and told Richmond what they were going to do and then they moved forward with the plan.

Det. Diaz was asked if he had heard continuous commands given to the suspect when he arrived on scene. He said yes and he heard clear commands of "put your hands out the window", "open up the car door", "exit the vehicle", and "face away from us". He said all those commands were given to the suspect from someone. He was asked if the suspect said anything or made any noise after the less-lethal rounds were fired and when he exited the car. He stated, "No. Not that I saw or heard." He was asked how long it took the suspect to point his gun once he exited the vehicle. He said that it took approximately one second and that he simultaneously fired the gun. He said he immediately responded by discharging his own gun.

Det. Diaz was asked how long it took him to discharge the approximate 12 rounds. He said three to four seconds. He was asked if his "target" changed from the time he fired his first round to the time he fired his 12th round. He said "yes". He stated, "As I was

OFFICER INVOLVED SHOOTING OPA 2017-033

INVESTIGATOR: SERGEANT JOSH CLARK

discharging my firearm, he started falling to the ground. His body started collapsing. And the gun was still in his right hand. As he started moving to the ground, he started what I remember kind of slowly turning to the right and then fell to the ground.

Det. Diaz was asked, "Someone might ask, why would you shoot 12 rounds?" He stated, "It was what I felt I needed to shoot to protect my life." He was asked what he meant. He stated, "After I was done shooting is when I felt that the threat to my life had been eliminated. While I was shooting, I felt that if I stop shooting I would not be protecting myself or anybody that was around me." He was asked why he stopped at the 12th round. He stated, "He was on the ground. I could see that the gun was now out of his hand. He wasn't moving and he wasn't trying to get the firearm. And because of all that I knew that I didn't have to shoot anymore at that point in time."

The interview concluded at approximately 1644 hours.

Officer Cedric Tagorda:

On September 28, 2017, at approximately 1421 hours, Officer Cedric Tagorda (hereafter referred to as Officer Tagorda) was interviewed by Inspector James North with the Alameda County District Attorney's Office at the Richmond Police Department. In the room with Officer Tagorda and Inspector North were Alameda County Deputy District Attorney Autry James, Emeryville Police Department Det. Lance Goodfellow, and Rains Lucia & Stern Attorney Vance Pate.

Officer Tagorda has been a police officer for 10 years. Prior to the City of Richmond, he worked as a police officer for the City of Berkeley for approximately 6 months. He was also a Federal Officer for the Federal Reserve Bank in San Francisco for approximately 5 and half years. On the date of the incident his call sign was 2L4 (two-lincoln-four). He was working as a solo patrol officer driving a fully marked patrol vehicle #1136. He works Tuesday through Friday from 0630-1630 hours. His supervisors on the date of the incident were Sgt. Rivera and Sgt. Llamas.

Officer Tagorda is right hand dominant. The last shift he worked prior to the incident was Tuesdays shift which was 0630-1630 hours. He did not work overtime. He does not have a second job or attend school outside of work. He doesn't take any medications besides Tylenol. He took 1-500mg Tylenol first thing in the morning when he came to work. He didn't have any alcoholic beverages within 24 hours of the incident. He wears contacts and was wearing them at the time of the incident. He said he slept approximately 7 hours the evening prior to the incident. He did not have any significant events occur in his life on the day of this incident. He did not sustain any injuries from this incident.

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

Officer Tagorda said there were pictures of him taken at the Richmond Police Department after the shooting. The uniform he was wearing were "patrol blues" with two patches that say Richmond Police and he was wearing his silver badge. He was wearing a full duty belt which consisted of his Kimber 1911 .45 caliber firearm, 3 spare magazines (8 round magazines), two handcuffs, Taser, and radio. His magazine normally holds 10 rounds and one round in the chamber but he believes he did not have his magazine topped off and had nine rounds in the magazine and one in the chamber. His uniform did not sustain any damage from the incident. He did not recall leaving any equipment at the scene. His holster was personally purchased but approved by the police department. Once the pictures were taken of him at the Richmond Police Department he submitted his firearm to the Richmond PD C.S.I. He was driving a fully marked Richmond Police patrol vehicle equipped with emergency lighting.

Officer Tagorda attended the Napa Valley Police Academy in 2005. He last qualified with his firearm in August. He also attends monthly firearms training. He carries a backup firearm which he described as a Ruger LCP .380. He carries this firearm on his left ankle. He did not use this weapon during the incident.

Officer Tagorda described the weather at the scene at the time of the incident as "clear and hot". He described the lighting as "sunny and bright".

Officer Tagorda said Richmond Dispatch radioed the CHP was following a 187 suspect out of Fairfield. The CHP ground units were trying to catch up to the vehicle but they were still a ways away. He had no prior contact with Fairfield PD regarding the suspect. He did not know the suspect's name until after the PA announcements were being made on scene. He was on his way to cover another officer and was in the area of Richmond Parkway and W. Ohio Avenue. He heard over the radio, one of the Richmond police units say they had spotted the suspect vehicle and dispatch had broadcast the suspect vehicle was near 23rd Street and Lincoln Avenue. The pursuit began to go towards the south side of the city. He said most chases head towards I-580 or Richmond Parkway so he started in that direction.

Officer Tagorda said he and Sgt. Llamas were in the area of Marina Way at Macdonald Avenue when they heard over the radio the suspect vehicle was at 7th and Barrett Avenue and still heading southbound. They started going westbound on Macdonald Avenue towards 7th Street. When they got to 6th Street they saw the suspect vehicle, a black SUV travelling southbound on 6th Street and then westbound on Nevin Avenue. Sgt. Llamas stayed north on 6th Street as Officer Tagorda attempted to cut the suspect vehicle off believing the suspect was going to come southbound on one of the streets. He saw the suspect vehicle make a southbound turn onto 4th Street as he was driving northbound on 4th Street. He thought the suspect was going to hit him so he braced for

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

impact but the suspect swerved around him. He said by the time he could get turned around other responding officers had arrived. He did not see the driver's face and did not hear the driver say anything because he was bracing for an impact. He said the SUV had dark tinted windows and couldn't see how many occupants there were.

Officer Tagorda got back into the pursuit and caught up to it when they were at I-580. He said he was about the 5th car. He described the suspect driving at a high rate of speed and weaving in and out of traffic acting like he was going to exit but then jumped back on the freeway. He said after the CHP had deployed spike strips and the freeway had opened up, Sgt. Llamas was the #1 car and he was the #2 car. He said the suspect vehicle tires began to shred so they "fanned out" to avoid the debris. He said Sgt. Llamas was calling the pursuit out over the radio. He saw the left front tire was going flat and the suspect was driving the vehicle on its rim. He said he was on the left as Sgt. Llamas was on the right. He described his location from the suspect as to the suspect's "8 o'clock" as Sgt. Llamas was to the suspect's "4 o'clock". They stayed approximately 75-100 yards behind the suspect vehicle. He said they didn't want to be too close because they didn't know what the suspect's intentions were at that time.

Officer Tagorda said the suspect vehicle began to slow down and struck the center divider "k" rail and came to rest. He said he was pretty much behind the suspect vehicle as Sgt. Llamas was to his right side. Other patrol cars caught up as well. The other officers began to give the driver commands by PA announcements such as asking him to step out and hands up. There was no response from the suspect. Officer Tagorda said his lights and siren were activated the whole time. The suspect was asked to step out several times but no response from the suspect.

Officer Tagorda was asked if he knew what the suspect was wanted for. He said it had already come out over the radio that the suspect was wanted for 187 out of Fairfield and that he was still possibly armed with a firearm. He said his patrol vehicle was directly behind the suspect vehicle by about 50 yards. He said he had removed his firearm at this time.

Officer Tagorda said the officers were giving the driver commands with still no response. He said at some point they saw the brake lights come on of the suspect vehicle. The vehicle then starts up and starts to drive off slow at no more than 5 MPH for approximately 150 yards towards the center of the freeway. They got back in their patrol vehicles and stayed behind the suspect vehicle. There were still commands being given to the driver such as "stop" and "there's nowhere to go". There was still no response. He said they did notice the windows go up and down at one point. He saw the left rear passenger window and the right rear passenger windows go down but then they would go right back up. He did not see if the back window ever went up or down.

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

He knew Fairfield PD was on the phone with the suspect and had direct communication with him.

Officer Tagorda said after the vehicle came to rest in the middle of the freeway more PA announcements were given asking "Demilo" to step out. There was no response but Officer Tagorda saw the windows go down and up again.

Officer Tagorda said he was paying attention to the vehicle and not paying attention as to what was going on behind him. He didn't see who was talking to whom between Richmond PD, Fairfield PD, and the CHP. He said it sounded like Officer Reina was giving the commands to the suspect.

Officer Tagorda said the SUV stopped in the #3 lane of the freeway but it was at a slight angle. His patrol car was approximately 50-75 yards behind the suspect vehicle in the same lane. From where he was positioned he could see a part of the driver's side door but not all of it. Officer Tagorda was shown scene photographs and asked follow up questions regarding the pictures. He was asked which picture contained his patrol car. He said all 3 pictures contained his car and he marked his car in each picture.

Officer Tagorda said it was "not a whole lot of time" from the time the SUV finally stopped to when the suspect exited the vehicle. He said the suspect exited the vehicle after the third round of less-lethal went into the SUV. He heard an officer say "less-lethal, less-lethal hold your fire" prior to the less-lethal rounds being fired. He saw three less-lethal rounds fired. He said the first round deflected off the vehicle and did not damage the vehicle. The second round penetrated the rear window. The third round also penetrated the rear window. Shortly after the third round was deployed is when the suspect exited the vehicle.

Officer Tagorda was asked how the suspect exited the vehicle. He stated, "With his arms extended with a firearm." He said the suspect was "facing us". Officer Tagorda was asked what happened at that point. He stated, "It seems like everything was kind of...you know...slow motion kind of thing. The first thing I see is the door open and him coming out with his arms or his arm extended with a firearm and that's when I reacted and I fired my weapon." He said he fired his weapon 6-8 times. He said he was aiming at "him". He was asked if he knew where his first round went. He stated, "Hopefully hit him. I was concerned because there were citizens behind...on the other side of the freeway. So I wanted to make sure my rounds counted." He was asked where his second round went and he said "hopefully hit him". He said he did not know if the rounds were hitting the suspect or not.

After he fired his rounds, Officer Tagorda stated, "I see the threat...the person's no longer a threat, I stop firing. And I think that went for everybody else because there was

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

no more gunfire.” He was asked what made it no longer be a threat to him. He stated, “When he did not have the weapon in his hand.” He was asked if he could see that the weapon was no longer in the suspect’s hand. He stated, “Yes”. He kept his weapon pointed down-range because they were approaching the car. He said they did not know if the SUV had any more suspects inside and the vehicle needed to be cleared. A team approached the vehicle and when they were close to the vehicle he holstered his weapon. He said it was a combination of Richmond and Fairfield Officers who approached the vehicle.

Once the vehicle was cleared, officers began to render first aid to the suspect. Officer Tagorda said Sgt. Llamas asked everyone who fired their weapons to step to the side so they can get accountability and get everyone together who actually fired their firearms. He said he provided a public safety statement on scene to a sergeant. He would later clarify that he gave the public safety statement to Sgt. Lonso. After providing the statement he went back to the police department where pictures were taken of him and he submitted his firearm to the C.S.I. 5 [REDACTED]

One of the investigators asked Officer Tagorda what the suspects speed was when he was driving on the surface streets in Richmond. He said 35-90+ MPH. He said he activated his lights and sirens when he first saw the suspect vehicle making the southbound turn on 6th Street. He entered I-580 by the Harbour Way South on-ramp. He approximated the distance from the suspect getting on the freeway to the point where the suspect’s vehicle hit the spike strips at “a couple miles”. He described the way the suspect was driving at that point as, “very erratically and dangerously.” He was asked what was going through his mind at that point. He stated, “I hope no one gets hurt.” He believes the spike strips were placed down near I-80 and University Avenue. He assumed there was air support because CHP had an air unit up and that’s how Richmond was notified by the fact the CHP air unit was following the suspect vehicle. He did not see the suspect vehicle hit the spike strips. He saw the tires shredding after the fact.

Officer Tagorda was asked what his backdrop was when the suspect vehicle finally stopped. He said the backdrop was “pretty clear”. He was asked if the suspect was doing anything when the commands were given. He said the only thing he saw were the windows going up and down but nothing verbal from the suspect that he heard.

Officer Tagorda was asked follow-up questions related to the suspect exiting the vehicle. He stated, “It happened pretty quickly. It looked like when he came out of that vehicle...and he came out of that vehicle pretty quick. The door swung open. As soon as that door swung open he was coming out and it looked like he was charging at us

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

and it looked like he was pointing right at me. That's...that was what I saw and that's when I reacted. As soon as I saw this motion (made gesture towards interviewers), you know my instincts, my training, took over and I had to do what I had to do to protect myself and my fellow officers."

Officer Tagorda was asked if he knew if the suspect fired rounds or had fired rounds at that point. He stated, "I'm not sure". He said he reacted to the threat when the suspect came out of the vehicle. He was asked what was going through his mind when the suspect came out of the vehicle and pointed the firearm at him. He stated, "It seemed like it was right at me. And again I didn't have time to think. I just had time to react." He was asked again what was going through his head and what emotions he had. He stated, "I can't even say what emotions I had. I saw a threat and I reacted to it. That's how we train. You train to react to a threat. I don't really have...I can't say I was having a certain emotion or feeling at the time just...here's a threat...you know here's someone that's trying to take my life or take the lives of my fellow officers. And I had to react to it."

Officer Tagorda was asked if he was wearing a body camera. He said he was. He was asked if he turned it on and he said, yes. He was asked if he had watched his body camera to which he responded, no. He said he turned on his body camera during the pursuit while still in the City of Richmond. He turned it off either just before or after giving the public safety statement.

The interview was concluded at approximately 1510 hours.

Officer Orlando Guzman:

On September 28, 2017, at approximately 1717 hours, Officer Orlando Guzman (hereafter referred to as Officer Guzman) was interviewed by Inspector James North with the Alameda County District Attorney's Office at the Richmond Police Department. In the room with Officer Guzman and Inspector North were Alameda County Deputy District Attorney Autry James, Emeryville Police Department Det. Lance Goodfellow, and Rains Lucia & Stern Attorney Vance Piggott.

Officer Guzman has been a police officer for approximately 3 years. He has no other sworn law enforcement prior to the City of Richmond. He attended the Napa Police Academy and graduated in 2014. He is currently assigned as a School Resource Officer and works Tuesday through Friday from 0700-1700 hours. His current supervisor is Sgt. Parker. He was working his normal shift at the time of the incident.

Officer Guzman said he slept approximately seven hours the night before the shooting. He is right hand dominant. He last worked his normal shift on Tuesday the week prior. He attended training after last Tuesday until he came back to work this Wednesday. He

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

does not have a second job and does not currently attend school. He does not take any medication. He does not wear contacts or glasses for his vision. He had no significant events occur in his life on the day of the incident and just prior to the incident. He said suffered an injury from the incident and described his right eardrum hurting and said he could still hear "ringing" in his right ear. His left ear is "good". He did not drink any alcohol prior to his shift on the day of the incident.

Officer Guzman described the uniform he was wearing at the time of the incident as a department issued wool uniform with "Richmond Police" patches on each shoulder and a badge on his left chest. He was wearing a full duty belt which consisted of his duty weapon, pepper spray, Taser, handcuffs, radio, and additional magazines. His duty weapon is a personally purchased, department approved Wilson Combat 1911 .45 caliber semi-automatic. His firearm contained 8 rounds in the magazine and one additional round in the chamber. This is the standard way he carries his duty weapon. He had four extra magazines which each hold 8 rounds of ammunition. He carries a back-up weapon described as a Smith & Wesson Lightweight .380 revolver. This weapon is carried in his left pocket. He last qualified with his duty weapon during the department's most recent range qualification.

Officer Guzman was driving a fully marked City of Richmond Patrol vehicle #1121 which is a Chevrolet Caprice with full lighting including a forward facing red light.

Officer Guzman described the weather at the time of the shooting as sunny and clear.

Officer Guzman was asked how he became involved in the incident. He was at Dejean Middle School when he heard over the radio about the call with the homicide suspect. He said they were still looking for the vehicle at the time he heard the radio traffic. He drove towards the area where the officers were looking for the suspect vehicle. Once he got closer to the area where they were actively looking for the suspect vehicle, Officer Campos located the vehicle and Sgt. Llamas was behind Officer Campos. A pursuit was initiated. When they were driving eastbound on Bissell Avenue, Officer Guzman was on 7th Street so the pursuit went past him. He entered the pursuit at this time. He activated his lights and siren. He was the 3rd car in the pursuit. He stayed in the pursuit until its termination point on the freeway.

Officer Guzman said the speeds on the freeway were approximately 60MPH and he still had his lights and siren activated. He said he heard over the radio the suspect was armed with a firearm. He also heard the CHP had spike strips but didn't know where or when they had them. He heard over the radio the suspect vehicle had in fact run over the spike strip.

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

Officer Guzman was shown three separate pictures from the scene. He said his vehicle was initially in the number three lane. After the suspect moved he got into someone else's patrol car and his patrol car was left there. Another officer took his patrol car after the shooting and drove to the hospital where the suspect had been taken.

Officer Guzman said when he arrived on scene the suspect had crashed into the center median. He said his patrol car was parked behind the suspect vehicle along the passenger side. He got out of his vehicle and took a position on the driver's side of a K-9 patrol vehicle. He removed his firearm and pointed the firearm at the suspect vehicle. He said one officer started to give commands through an intercom to the suspect for him to show his hands. He did not remember who was giving the commands. He said there was no response from the suspect.

Officer Guzman said after the vehicle initially stopped, it turned on and the vehicle moved forward to the center of the freeway. When the vehicle began to move he got into a different Richmond patrol vehicle and followed the suspect vehicle. No one else got into the car with him. He said the distance the suspect vehicle traveled before stopping again "wasn't far". When the suspect car came to a stop again he got out of the vehicle, drew his firearm, and pointed it at the suspect vehicle. Officers began to give commands towards the suspect again. He said at some point the suspect started rolling down his window, put his hands out the window, pulled his hands back in and closed the window. He said the back hatch opened and the suspect said something which he couldn't hear and then the back hatch was closed.

Officer Guzman was asked what he could see from his position behind the driver's door of the K-9 car. He said he could see the driver's side and the rear of the suspect vehicle. He said he was approximately 25-30 yards behind the suspect vehicle. He didn't remember anyone being on the passenger side of the car. He did not know where the K-9 Officer was at the time and thought he may be behind him. He said he had a good view of the doors but couldn't see into the car due to tinted windows.

Officer Guzman said at some point the Fairfield Police Department showed up. He said they started to position themselves at the patrol cars. He said someone had said they were going to use a projectile to break the window so they could see inside of the vehicle. They were yelling it across the line of cars so everyone could hear what was happening. He said two less-lethal rounds were fired. The first one missed but the second one shattered, but didn't fully break, the rear window of the suspect vehicle. After that, they said they were going to try and shoot gas into the suspect vehicle. They shot the gas into the vehicle. He said a few seconds after the gas was shot into the car is when the suspect stepped out of the car. He described the suspect exiting the car and turning to face the police. He stated, "I did see a firearm in his hand." He was asked

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

how the suspect came out with the firearm. He stated, "Just stepping out like if he was going to shoot us". He said it was very fast. He was asked if the suspect fired his firearm at all. He stated, "I don't remember that. I just...when he was stepping out, saw the firearm. I remember an officer fired who's standing right behind me and over me. I flinched, looked up and the firearm was still there but he was already kind of like moving around I thought he was going to kill us so I fired approximately 2-3 rounds. I don't know if I shot before that cause it was...the, the person who was shooting behind me, it was really loud. And for a moment I thought, I assumed he shot, the suspect shot and I thought I got hit. And I quickly got back up and then after that I checked myself and I just realized that he probably blew my eardrum and it was just the shockwave that made me feel like that."

Officer Guzman was asked if he saw the suspect shoot at him. He stated, "No". He was asked if he saw the suspect fire any rounds at all. He stated, "I didn't, no." He said at the time of the shooting he was kneeling behind the "V" of the door so my firearm was the only thing that he could probably see. And the officer who was standing behind me...kind of like where the rear door is at, I don't know if the door was open or not, but where the rear door is at...and um...but over me. He said it was Officer Diaz who was over him. He said Officer Diaz was shooting a rifle.

Officer Guzman was asked if he heard Officer Diaz shoot before he shot. He stated, "I don't remember if I shot at the beginning. I really don't remember that. I just remember that loud explosion from his firearm. Dazed me for like a milli-second. I don't know how long it took but it was like (he is heard snapping his fingers) I guess it was really fast. And then when I stood up, the suspect was still there, fired two rounds." He was asked if the suspect was still standing. He stated, "He was kind of like moving...like...yeah he was still standing." He was asked if he knew where his rounds landed. He stated, "I just fired it towards the suspect. I'm not sure." He said he aimed at "center mass". He said after he fired the two or three rounds he conducted an "in-battery reload" where he removed the magazine from his firearm, dropped it on the ground, and replaced it with a full magazine. He said the firearm didn't lock back so he assumed there was still a bullet in the chamber. He saw the officers moving up and "stacking up" behind a car so he followed them.

Officer Guzman said there were two teams stacking up. One team was on the left side of the suspect vehicle and one team was behind where the trunk is. Once the suspect vehicle was safe and clear of any other suspects, they rendered aid to the suspect. Officer Guzman said he used gauze to cover one of the suspect's wounds on his stomach area. He said another officer was doing compressions (CPR) but they exchanged duties for a few seconds and then changed back. He aid paramedics had already been there prior to starting compressions. The paramedics were looking for a

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

car to transport the suspect. Once a vehicle came the suspect was loaded into the vehicle and transported to the hospital.

Officer Guzman walked back to where the other officers were and stood next to the guard rail. He gave a public safety statement to Sgt. Lonso regarding the number of times he fired and what direction he fired those rounds. He said he told Sgt. Lonso he fired 5 times but wasn't sure why he said that number but added that he thought about it overnight and he didn't think it was 5. He said after he dropped the magazine to the ground he never went back and picked it up.

Officer Guzman was asked what his backdrop was when he fired his rounds. He said there was no traffic and there was no one there and it was only the suspect's car. He said beyond the suspect's car was freeway, a guardrail, and brush.

After he gave his public safety statement, Officer Guzman stood on scene until he got into a patrol car with Sgt. Parker, Officer Ricchiuto, and Officer Tagorda and was driven back to the police department.

Officer Guzman was asked when he turned on his body worn camera. He said he had his camera on during the initial pursuit and did not turn it off until after the shots were fired and they were standing there.

Officer Guzman was asked if there was any communication regarding the shooting in the car when they were driving from the scene to the police department. He stated, "No". He said once they got to the police department they went into the break room where a C.S.I. took pictures of them and took his firearm and ammunition. 5 [REDACTED] [REDACTED] where he was sequestered.

Officer Guzman was asked how far behind him Officer Diaz was. He didn't know how far back Officer Diaz was because Officer Diaz kept telling him not to stand up. He assumed the muzzle of Officer Diaz's weapon was right behind him because he was being told by Officer Diaz not to stand up.

Officer Guzman was asked to clarify how the suspect got out of the vehicle. He can be heard showing them how the suspect got out of the vehicle. He said the suspect had a one-hand grip on the firearm when he saw him.

Officer Guzman was asked what was going through his mind at that point. He stated, "I thought he was going to kill us. I thought he was going to point the...It felt like he was pointing the firearm...was gonna point the firearm at me because how he came out and where I was at. And I thought he was going to kill us."

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

Officer Guzman was asked clarifying questions about Officer Diaz firing and him flinching. Officer Guzman stated, "It felt honestly...like it felt like I got shot. I thought I got shot. I honestly thought I got shot. And I went down real quick and then I was like OK see what's going on and then I saw him still there and I fired two rounds." He confirmed the two rounds he fired were after he flinched. When he looked back up he saw the suspect was "stumbling" but still had the gun in his hand. He said the gun at that point was pointed at the ground. At that point he fired two rounds (approximately). He said the suspect fell to the ground, wasn't moving anymore, and everyone stopped shooting. He checked himself for wounds, conducted the tactical reload, and stood up.

The interview concluded at approximately 1804 hours.

Officer Benjamin Mendler:

On September 28, 2017, at approximately 1548 hours, Officer Benjamin Mendler (hereafter referred to as Officer Mendler) was interviewed by Inspector James North with the Alameda County District Attorney's Office at the Richmond Police Department. In the room with Officer Mendler and Inspector North were Alameda County Deputy District Attorney Autry James, Emeryville Police Department Det. Lance Goodfellow, and Rains Lucia & Stern Attorney Vance Piggott.

Officer Mendler has been a police for the City of Richmond since January 2010. Prior to the City of Richmond, he was an officer for the City of Oakland for approximately 2 years. Prior to the City of Oakland, he was a sworn officer for the City of Albany for approximately 2 years. He attended the Napa Police Academy and graduated in the end of 2006.

Officer Mendler is currently assigned to the Traffic and Special Events Division as a Motor Officer. He works Tuesday through Friday from 0700-1700 hours. He is assigned a fully marked City of Richmond police motorcycle fully equipped with lights and siren. His motorcycle is equipped with a police radio, moving radar, handheld radar, and his department issued Colt AR-15 (.556 caliber) in a rifle lock on the back. He carries a 20 round magazine in the gun. He also carries an extra magazine in the "saddle-bag" of his motorcycle. He believes the 20 round magazine inserted into his rifle could've had 18 or 19 rounds loaded in it. His duty weapon that he carries is a Springfield 1911 .45 caliber. He carries a backup weapon inside his ballistic vest on the right side. The backup weapon is a Smith & Wesson "J-Frame" revolver .357 caliber. His supervisor is Sgt. Aaron Pomeroy. He took a 40 hours in-house course to qualify to carry the rifle. He last qualified with his rifle in the beginning of summer. He last qualified with his handgun in August. He also took a rifle course when he worked at the Albany Police Department.

OFFICER INVOLVED SHOOTING OPA 2017-033

INVESTIGATOR: SERGEANT JOSH CLARK

Officer Mendler was wearing a wool uniform with a badge on the left breast, nametag, Richmond Police Shoulder patches, and a black and white motor helmet with a badge in the forehead area of the helmet, and motor pants. He was wearing a full duty belt which consisted of his duty weapon, (4) spare magazines, (2) sets of handcuffs, key holder, MK4 pepper spray, 4 keeper, flashlight holder, radio holder, Taser, and a short "Sap" baton in his pocket. His firearm is loaded with 8 rounds in the magazine with one round in the chamber. His spare magazines each carry 8 rounds although one of the spare magazines only had 7 rounds.

Officer Mendler said he is right hand dominant. The last shift he worked prior to the incident was Tuesday from 0700-1700 hours. He got approximately 7-8 hours of sleep the night before the incident. He does not have a secondary job and does not currently attend school. He does not take any medication and did not drink alcohol 24 hours before the incident. He does not wear contacts or glasses. He had no significant events occur in his life prior to coming to work the morning of the incident. He suffered no injuries from the incident.

Officer Mendler described the weather at the time of the incident as sunny and hot. He said when he arrived on scene someone had said there was going to be a "standoff" and they were going to ask for a negotiator who was already there. He presumed the call could be extended so he took his helmet off because of the sunny and bright weather.

Officer Mendler said the call came out as the CHP in pursuit of a homicide suspect who was in a black Suburban. He said as the call progressed, the CHP air unit was tracking the black Suburban that had a Fairfield PD homicide suspect in it. He did not locate the black SUV until the termination point of the pursuit. He heard over the radio that Officer Riley located the suspect vehicle in downtown Richmond and the vehicle was seen in the area of Barrett and Roosevelt between 18th and 20th Streets. He said there were several updated locations given. He drove down San Pablo Avenue towards the Richmond Parkway to the area where he thought the suspect vehicle may go. Before he got to the area, the suspect entered onto I-580. He entered I-580 eastbound from Castro Street. He said the traffic was bad when he got near the Bayview Avenue exit. He drove along the right hand shoulder for most of the drive to avoid the traffic. He was using his rear facing emergency lights only so no one would turn into him. He said he arrived on scene before a lot of the officers he saw at the end of the incident.

Officer Mendler said when he arrived on scene he recalled Sgt. Llamas was there and he had been the one calling the pursuit. He saw Officer Riley there on his motorcycle. He also saw K-9 Officer Reina, and Officer Campos who was on the PA trying to

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

negotiate with the suspect. He said the suspect vehicle's windows were all up at the time and the windows were tinted.

Officer Mendler was asked if he received any updates about the suspect on the way to the scene. He said he remembers somebody asking if they could get Fairfield PD on the line. They (dispatch) put out that the suspect was armed, had a firearm in the car, and was not going back to jail. He said there were also updates about the locations. He said Sgt. Llamas gave good updates over the radio to include which tires he thought were blown and how effective the spike strips were. Officer Mendler said he grew up in Berkeley and had a pretty good picture of what was going on in his mind. The speeds were being broadcasted as well as the pursuit being on the right shoulder. Sgt. Llamas also advised of the traffic collision at the end of the pursuit.

Officer Mendler was asked where everyone was when he arrived on scene. He was shown three pictures and said he could reference the pictures if need be. He told the interviewers the suspect had moved and the suspect moved for sure once and maybe twice. He told them the cars in the pictures are in a different position than when he first arrived. When he first arrived he said the suspect's vehicle was in the road and was to the left of the freeway. He said Officer Campos was the car to the far left and he was giving commands over the PA system. He said he was positioned either to the right of Officer Campos's patrol car or to the right of the K-9 car. He said almost immediately when he got on scene, Sgt. Llamas asked him if he had his rifle and to deploy it. He immediately grabbed his rifle from his motorcycle. He put a round in the chamber and conducted a "press-check" to ensure a round was in the chamber.

Officer Mendler said he had a pretty good view of the driver's side of the Suburban from where he was positioned. He said during the negotiations the suspect's vehicles brake lights came on and it started moving. He put his rifle in Officer Campos's passenger seat because he did not know if the suspect was going to flee again and possibly a long pursuit would follow. He put his helmet back on and got back on his motorcycle. He said the suspect only traveled a short distance and stopped again. Sgt. Llamas then instructed everyone to stop. He stopped his motorcycle and got his rifle from Officer Campos's car. He stood next to the K-9 car. Other officers started to arrive. He said somebody was asking for a shield. He also saw Sgt. Pomeroy and Assistant Chief French on scene.

Officer Mendler said he was in the kneeling position at this time and somebody, he thought could've been Sgt. Pomeroy, handed him a shield. He had the shield and his rifle. He said there was more of an extended period of time with negotiations. Sgt. Llamas told Officer Mendler to go to the driver's side of Sgt. Llamas's car. He moved to that position and put the shield standing on the ground and he knelt behind the shield.

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

He was looking right down the drivers' side of the Suburban. He could see the driver's side door. He saw the backdrop which he described as better than the one he had from his previous position. He described seeing a "K" rail, clear roadway, and some vegetation off on the right side of the road.

Officer Mendler estimated the negotiations occurred for approximately 15 minutes. During the negotiation, a lot was going on behind him such as officers arriving on scene and coordinating taking place. He kept his attention forward to the suspect vehicle. He stated, "It's kind of alarming because the guy is armed, says he's not going back to jail, he's wanted for homicide, and it's (vehicle) completely tinted out. So based on what I know and past incidents, he could just be lying in wait. If I'm right behind the car he could have a rifle pointed at me through the window. So, I was listening to what was going on next to me but I was focused down there...on the car. Several times the window came down and the hands came out and the commands said you know, "use your left hand open the door" and it seemed like he was playing stupid...you know playing a game." He said the window would then go back up and the brake lights would come on and go off. He said there was a lot of "messing around" going on there. And since the vehicle had tinted windows he said "who knows what he's getting in position to do in the back of that car." Officer Mendler said it was the driver's window that kept going down and back up again.

Officer Mendler was asked if there was any less-lethal out there. He stated, "I heard chatter from my sergeant who's one of the less-lethal guys looking for a bean-bag and then I heard chatter about Fairfield PD arriving on scene and having tactical guys and they were going to take tactical command. Then someone said "less-lethal, less-lethal, less-lethal" and a first shot was fired from my left. I relayed "less-lethal" you know, just so that there wasn't any question about whether we were shooting. There wouldn't be any sympathetic fire or anything like that." He said no windows broke on the first round. Another round or two were fired and the back window was broken out. And I could see that whoever's in the driver's seat sort of jumped like startled. But then we could see in the back window. I did not have a good view of...just cause my angle I was looking. Only the back window was broken out. So you couldn't see the driver's seat from where I was. And then somebody said "gas" and then another round was fired. And then I recall hands came out of the window. And then someone said he's coming out. Two hands disappeared. The door came open and I saw...you know...him stepping out. And then it went from two hands to door open to him stepping out and I got...I was watching...my trigger finger was indexed in the kneeling position. And I remember him just turning from...It would probably be more than 90 degrees just coming up like that. And I don't know what kind of gun it was but I remember seeing the muzzle and it looked like it was right in my direction. End of the gun. Turn, end of the gun. And I saw a flash, I heard two pops before I could even get my...my trigger finger on the trigger. I

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

fired three rounds, what I believed is center mass. I heard other gunfire. I couldn't tell who was shooting. But I saw...I felt...well actually I felt a brush on my left side and I saw Daniel Reina's dog go shooting out. I was still on point and then I remember distinctly being afraid the dog was going to get hit by gunfire. I yelled "hold your fire". The suspect...It's pretty slow in my mind. The suspect went down, the dog...I heard Daniel yelling commands like at the top of his lungs behind my head. Again, I had a helmet on so none of the stuff is really loud. The gunfire wasn't loud to me. The dog turned, as if it was going to listen, did a little circle or two, and then shot out there and fortunately the gunfire stopped. The dog grabbed clothes or an arm or something and then I stayed in my position until I guess they put together a react team. I knew that Fairfield, from what I was told Fairfield...there was a lot of guys that have a lot of tactical experience that were out there. They assembled a team and rolled a car, I believe it was our S.I.S. (Special Investigations Section) marked car up to the...where the suspect was laying in the roadway."

Officer Mendler said he could hear the officers "bluffing" giving commands to any potential passengers in the suspect car. They cleared the car and got to the suspect. Somebody yelled "tourniquet", somebody said "start CPR" and somebody said on the radio to get Code 3 AMR/Medical to the scene. He gave thumbs up that he wasn't hit. He looked to his left and his right and everyone he saw had their thumbs up.

Officer Mendler said he was told by Sgt. Pomeroy "if you shot go to one side..." He said he gave a public safety statement to Sgt. Lonso who asked if he fired, how many rounds he fired, and what direction he fired. He said he believes his rounds hit the suspect. He said he never transitioned to his sidearm.

Officer Mendler said after the shooting he slung the rifle over his shoulder and sat on the median. He said there were issues on scene as to how his motorcycle would get back to the police department. Eventually they decided he could ride his motorcycle back to the police department and his rifle went with Det. Ruffin in his car. As soon as he parked at the police department he retrieved his rifle and responded to the break room where pictures were taken of him by the C.S.I. and he relinquished his rifle. He said the only thing he did to his rifle after the shooting was to put it in "safe". He did not unload the rifle and left a round in the chamber.

Officer Mendler was asked if he was wearing a body camera. He said yes and said he activated his camera somewhere on the "way down the hill". He remembered thinking to himself that he's rolling "Code-3" emergency mode and I'm on a motorcycle and someone's gonna clobber me so I should probably turn his camera on. He remembers asking Sgt. Lonso if he could turn it off after the shooting and he was told he could turn it off.

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

Officer Mendler was asked the distance from his cover position to the suspect at the time he discharged his rifle. He looked at the provided photos, marked where he was, and said he was approximately 35-40 yards away.

Officer Mendler was asked at the point he fired his weapon, why did he fire. He stated, "I fired my weapon because...well, number one I saw the end of a muzzle of a gun pointed directly in my direction. I knew that he was wanted for a dangerous felony. There was information put out over the radio that he wasn't going back to jail which tells me that he's going to do something deadly to you know...or he's going to fight before he goes back. Doesn't care what the cost is. And then I knew that there were hundreds of people behind me in addition to myself which are, consisted of my colleagues, colleagues from Fairfield PD, Command Staff from the police department, as well as the public which was very...I knew was very close behind me cause I had to ride through it to get to the scene. I had to part the Red Sea to get there. And then the weapon was discharged in my direction so I had to neutralize the threat to myself, my fellow officers, and the public at that point."

Officer Mendler said after the incident the C.S.I. took pictures of him and collected his rifle and ammunition.

The interview concluded at approximately 1634 hours.

Detective Michael Ricchiuto:

On September 28, 2017, at approximately 1719 hours, Detective Michael Ricchiuto (hereafter referred to as Det. Ricchiuto) was interviewed by Emeryville Police Department Det. Edward Mayorga at the Richmond Police Department. In the room with Detective Ricchiuto and Det. Mayorga were Alameda County Deputy District Attorney Kevin Muong, Alameda County Inspector Jason Rikers, Inspector Caesar Basa with the Alameda County District Attorney's Office, and Rains Lucia & Stern Attorney Jonathan Murphy.

Detective Ricchiuto has been a police officer for the City of Richmond since approximately March 2011. Prior to working for the City of Richmond he was a sworn officer for the City of Oakland for approximately 2 years. His call sign at the time of the incident was G31 (George 31). His current assignment is as a Gang Detective with the Special Investigations Section (S.I.S.) of the Richmond Police Department. He works Monday through Thursday from 0900-1900 hours. His supervisor is Sgt. Donovan Decious.

OFFICER INVOLVED SHOOTING OPA 2017-033

INVESTIGATOR: SERGEANT JOSH CLARK

Detective Ricchiuto was asked about his knowledge of the area where the incident took place. He said he commuted through the area numerous times and he has grown up in Richmond. He said he is very familiar with that area.

Detective Ricchiuto was asked about any law enforcement training he's received. He said he graduated police academy in November 2008. He went through and completed a field training program with the Oakland Police Department in March 2009. He attended several firearms update training through the Oakland Police Department. He also had classes regarding citizen informants and gang training. He lateraled to the Richmond Police Department. He has taken a one week firearms training course, a 40 hours California Gang Investigator's Association Class, 24 hours of training from the California Department of Corrections related to prisons and prison gangs, 16-hour training for violence reduction training, 16-hour training with the Contra Costa County Violence Reduction task Force, all Richmond POST mandated trainings, and monthly firearms training.

Detective Ricchiuto said he is right hand dominant. The last shift he worked was his regular shift on Monday. He does not have any secondary jobs. He does not take any medications. He did not drink any alcoholic beverages within 24 hours prior to the incident. He does not have any medical conditions that would impact his ability to make decisions. He does not wear glasses or contacts. He last slept the night before from 2300-0700 hours. He did not have any significant events occur in his life prior to the incident.

Detective Ricchiuto described the uniform he was wearing at the time of the incident as green and black tennis shoes, blue pants, black belt, green shirt, and a "Richmond Raid" jacket over his shirt which has Richmond Police patches on both shoulders, his name on the left chest, and "Richmond Police" on the back. He said over that he was wearing a "raid vest". The vest has a badge over the left chest and says "Police" on the back and the only thing attached to his vest is a handcuff carrier. He was wearing a ballistic vest at the time of the incident. He was not wearing a "duty belt". He was wearing black "under" belt. During the incident he did not suffer any injuries and none of his equipment was damaged. He did not lose or discard any of his equipment during the incident. He said he had his handgun tucked into his waist.

Detective Ricchiuto described the firearm he was carrying at the time of the incident as a grey framed Glock 17 RTF2 model 9mm. He said he purchased this firearm and it was not department issued but both his firearm and ammunition were department approved. He said he had Hornady Critical Duty ammunition loaded in his firearm. He said there were 18 rounds loaded in his firearm at the time of the incident. He did not have any spare magazines. He believes the firearm was fully loaded with 17-round in the

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

magazine and one round in the chamber. He qualified with this firearm with the Richmond Police Department. He said he also trained with a different Glock but it had the same style frame in the police academy. He last qualified with the firearm at the last department qualification but he did not know the date. He confirmed this was the gun he discharged during this incident.

Detective Ricchiuto said he drove in vehicle #40 when he responded to the incident. He described the vehicle as a fully marked black and white Richmond Police vehicle with forward facing blue and red lights with lights on the sides as well. He said he was the third occupant. He was in the rear seat on the passenger side. Sgt. Donovan Decious was the driver and Det. Tony Diaz was seated in the front passenger seat.

Detective Ricchiuto described the location where the incident took place as I-580 eastbound just before the 580/880 interchange. He described the weather as clear.

Detective Ricchiuto was asked to give detail of what occurred starting from the time he arrived at work until the incident.

Detective Ricchiuto said they had an operation with a briefing at 0900 hours. He arrived at work at approximately 0830 hours. He began to work around his office. He overheard on Channel 1 that the CHP had eyes on a black Suburban with a subject inside that had a warrant for murder. He believed it started at 23rd Street and Andrade Avenue and the vehicle was southbound. RPD Officers began to respond to initiate a traffic stop on that vehicle. He believes a motor officer picked up the vehicle first near 22nd Street and Barrett Avenue or 22nd Street and Roosevelt Avenue. A pursuit ensued after that.

Detective Ricchiuto said Sgt. Llamas was calling the pursuit. They ended up on Harbour Way South and then onto I-580 east. He contacted his sergeant and asked what the plan was because he didn't know if their original operation was going to happen due to the pursuit going on. The sergeant told him they were going to do their best to assist patrol in the pursuit. He went downstairs with Det. Diaz. Once downstairs, he contacted Sgt. Decious who said they would get into car 40 and go out to assist. He went to the trunk of his own vehicle and grabbed his raid jacket and entry vest. He entered the car and Sgt. Decious began to drive in the direction of the detail. They took Regatta Blvd. to eventually getting on 580 eastbound.

When they arrived on scene there were approximately 5 or 6 Richmond Police vehicles already there. He said they were in a "standoff" position. He spoke with the Assistant Chief and then took cover behind a car. He said on the way to the scene, he heard over the radio the subject was armed with a handgun and the subject had made statements that he was not going back to jail. On scene he was advised Fairfield SWAT was on the way and to stand-by. When Fairfield SWAT arrived, he saw one of their DM's

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

(Designated Marksman) take position essentially in the number one lane behind vehicle 9. He noticed no one was covering this officer so he went and told the officer he would cover him. He stood to the right of the officer in the "A" pillar of vehicle #9. He believes Officer Campos was sitting in that vehicle. Officer Campos was part of the negotiating team and was attempting to talk to the subject over the loudspeaker. He believes the subject rolled his car forward about 5 feet and then stopped. He noticed three out of the four tires were either gone or flat. The vehicle looked like it wasn't going to be able to move very well. Once the subject moved the vehicle forward 5 feet, he assisted the DM in moving his equipment. After they moved he covered the officer while he set up. Officer Ricchiuto set up in the "A" pillar of the vehicle again.

Detective Ricchiuto said there was a bit of communication the subject rolled down his window. Officer Campos gave him instructions to put his hands out of the vehicle and open the vehicle door from the outside. Officer Ricchiuto heard the subject yell "Don't let the dog out, don't let the dog out". He heard Officer Campos say, "We're not gonna let the dog out". Fairfield SWAT then deployed their 40mm. He saw a round bounce off the rear window of the subject's car and it did not break the glass. A second round was fired which did break the glass but didn't break the glass all the way out. The next round that was shot, he had overheard them say something about gas which he believed they were going to "pump up" the gas in the gun to be able to completely break the window. The next round was fired and he saw it hit the tailgate of the subject's car. After that happened, he saw the subject in the vehicle put both his hands out, back in, and both hands out again.

Detective Ricchiuto stated, "At this time again I was at the "A" pillar. The subject opened the door and abruptly came out. Two hands on the pistol. Raised the pistol up in my direction, fired a round. I returned fire until the subject was no longer a threat to me. I fired because I was in fear for my life, the public safety, and the safety of the officers around me. Once we determined the subject was no longer a threat and I determined the subject was no longer a threat, we approached the subject and cleared the vehicle. I observed officers then attempt to revive the subject and offer CPR and medical aid." He said he was anywhere from 20-30 yards from the subject at the time of the incident.

Detective Ricchiuto was asked what knowledge he had of the subject prior to arriving on scene. He said he knew that Richmond PD was involved in a pursuit. He knew there was a collision. He knew the driver had a warrant for murder, he was armed with a handgun, and he had made statements that he was not going back to jail. He remembered the subject's name being mentioned but did not recall it at the time of the interview. He did not know who the subject was prior to arriving on scene.

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

Detective Ricchiuto was asked what he saw when he took position behind the vehicle and if he could see the suspect. He said he could see the suspect's face when he rolled down the window. He was asked if the subject was making any motions in the car. He said several times the subject would put one hand out, two hands out, one hand down, both hands up, in and out, in and out." He was asked what he thought when the subject was doing that. He said he thought the subject wasn't cooperating with the commands he was being given. He said Officer Campos was giving the commands and he didn't hear anyone else giving any commands.

Detective Ricchiuto was asked what his backdrop was. He said his backdrop was the freeway barrier, part of the bay, another 4 lanes, and overpasses. He didn't see any pedestrians west or south of him.

Detective Ricchiuto was asked a clarifying question in the interview as to the subject's actions after he was putting his hand inside and out of the vehicle. Det. Ricchiuto stated, "He opened the door very abruptly and jetted out of the Suburban with two hands on a firearm, both hands, both arms in a shooting position, and he raised his hands up and looked like he shot right at me. And then shot right at me again." He was asked what he thought was happening as soon as that occurred. He stated, "I thought he was trying to shoot and kill me." He thought the suspect fired twice and thought it was rapid fire, one right after the other.

Detective Ricchiuto was asked what he was targeting when he aimed at the suspect. He stated, "His chest". He doesn't know the exact amount of rounds he fired. He fired with two hands. He was asked if he was scared during the incident and he said, "Yes". He was asked if he believed he fired more than 1 round and he said, yes. He was asked if he fired less than 10. He stated, "I believe around 10." He said it was a sequence of shots with no pauses. He fired his last round at the subject when the subject was falling to the ground. He was asked if the subject was still armed. He stated, "At that point, he appeared to have not had the capacity to return any fire." He said the gun was kind of coming out of his hand at that time. He was asked why he fired 9 rounds or approximately. He stated, "For my safety, the safety of the public, and the safety of my fellow officers, to diminish the threat." He was asked why he stopped firing. He stated, "There was no longer a threat."

Detective Ricchiuto was asked if a K-9 was deployed. He said a K-9 was deployed once there was no longer a threat. The K-9 wasn't deployed before that.

Detective Ricchiuto was asked to clarify exactly what he saw when he said he saw "two shots". He stated, "I observed an initial muzzle blast, and then the second...the follow-up shot I believe just audible. It sounded like another shot." He clarified that he saw at

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

least one flash and heard what he believed was a second shot. He said the situation was scary because, "A man was shooting at me with a handgun."

Detective Ricchiuto said he looked at his vest after the shooting because he did not know where the suspect's round went that he fired.

He was asked if he talked to anyone about this incident other than his attorney. He said, "No". He did not record or take any pictures from the incident. He hasn't seen any videos related to the incident. He said he did see still photos on KRON 4 news but has not seen any live videos. He was not wearing a body camera at the time of the incident.

After the incident, pictures were taken of him wearing this uniform by the C.S.I. and he also gave his firearm to the C.S.I. He said he unloaded his firearm and attempted to hand it to the C.S.I. The C.S.I. did not want the firearm given in that fashion so he reloaded the firearm and then gave it to the C.S.I.

The interview was concluded at approximately 1806 hours.

Use of Force-Canine

Officer Daniel Reina:

On October 4, 2017, at approximately 1525 hours, Officer Daniel Reina (hereafter referred to as Officer Reina) was interviewed by Emeryville Police Department Officer Jason Krinsky at the Richmond Police Department. In the room with Officer Reina and Officer Krinsky was Det. Lance Goodfellow with the Emeryville Police Department.

Officer Reina was hired with the Richmond Police Department in September 2006. His call sign on the date of the incident was 2K5 (two-king-five). His normal shift hours are 0630-1630 hours Tuesday through Friday. His supervisor on the date of the incident was Sgt. Rivera and the other sergeant on duty was Sgt. Llamas. He said the on-scene sergeant on the date of the incident was Sgt. Llamas. Officer Reina is currently assigned as a K-9 handler and has been a K-9 handler for approximately two and a half years.

Officer Reina said at the time of the incident he was wearing a full Richmond Police "BDU" uniform which is black with shoulder patches that say Richmond Police. He was wearing a silver badge over his left chest. He was wearing a full duty belt. He was in vehicle #1131 at the time of the incident. Officer Wright was his trainee and was driving the vehicle at the time of the incident. At the time of the incident he was carrying a department issued AR-15.

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

Officer Reina said he heard Richmond Dispatch broadcast CHP was in pursuit of a homicide suspect and they were asking for assistance. He said he and Officer Wright were the second officers to answer on the radio that they were in route to the call. They started to head towards the last known direction the suspect was going which was 23rd and Rheem Avenue or similar. He said they caught up and saw the vehicle at Barrett Avenue and 6th Street. He saw and heard that Sgt. Llamas was behind the vehicle. He said they were the number 3 or 4 car behind the suspect vehicle.

Officer Reina said the vehicle did not yield to their lights and sirens and sped away. They continued southbound on 6th Street to eastbound Bissell Avenue to southbound 8th Street to eastbound Ohio Avenue to southbound Harbour Way South and then they merged onto eastbound I-580. The suspect vehicle first took the #1 lane then moved to the far right lane and then onto the shoulder possibly around Bayview Avenue and drove on the shoulder due to traffic. He heard dispatch advise CHP was putting out a spike strip at the University Avenue exit. The suspect vehicle struck the spike strips. The suspect vehicle continued eastbound I-580 and merged onto westbound I-80. Sgt. Llamas was radioing that the vehicle was losing its tires and coming to a slow speed.

Officer Reina said the vehicle eventually came to a stop in the middle of the freeway. The patrol vehicles "fanned out" behind the suspect vehicle similar to a felony traffic stop. He was right behind the drivers' side area of the suspect vehicle. He got out of the patrol vehicle and started giving commands but no response from the suspect. Officer Campos got on the radio and was giving verbal commands over the PA. He brought his dog out in case the suspect chose to run. After some time he put his dog back in the back of the patrol vehicle because the suspect wasn't moving.

Officer Reina said at some point the suspect rolled down the windows, the passenger side and drivers' side. He could see the suspect looking back through the mirror. Then the suspect rolled up the windows. He said at one point after the suspect rolled down the windows, the back hatch of the SUV opened. They gave more commands like "step out" and "show us your hands". The suspect did not comply and shut the rear hatch. A short time after that the vehicle started to roll forward like the suspect was trying to drive it away but it came to stop again approximately 40 yards away. He said the same thing happened with the windows coming down and the suspect saying and doing something, looking back in the mirror. Officer Reina could see the suspect's eyes in the mirror looking back at them. He said his firearm was drawn in case the suspect came out and presented a weapon.

Officer Reina said Fairfield PD's tactical team arrived on scene. Sgt. Llamas asked Officer Reina to assist Fairfield PD with the tactical brief to come up with a plan. The plan was to break out the windows of the suspect vehicle and deploy gas into the car to

OFFICER INVOLVED SHOOTING OPA 2017-033

INVESTIGATOR: SERGEANT JOSH CLARK

get the suspect to come outside. Shortly after, the suspect vehicle started to move again but stopped after approximately 20-30 yards. More verbal commands were given to the suspect but he did not comply. He said he was holding onto his dog outside of the car at this time. He stated, "The suspect exits the driver's side door, reaches to his waistband and pulls out a gun. I see a flash. At that time I knew I was being shot at. I went to grab my rifle that was slinged across my chest. Pulled my rifle up...By the time I got it up on target the suspect was already down on the ground. I did not deliver any shots. At that time my dog was sent. Did confirm that the suspect was completely down and not lying in wait. Once my dog was on the bite, confirmed the suspect was not moving, I recalled him off, came back to my side. At that time I placed him in the back seat of the patrol car." He later confirmed that he saw one "flash" when the suspect fired. He heard a "pop" followed by a lot of gunfire. His ears were ringing after that.

Officer Reina said Fairfield's tactical team, Sgt. Llamas, Det. Ricchiuto, and Officer Reina approached the suspect's vehicle. They went to the passenger side. They verified it was clear as best they could. They then backed off to the rear of the suspect's vehicle and the tactical team cleared the rest of the car to make sure no one was inside. After the suspect vehicle was cleared he walked back to his patrol car and checked on his dog. He then stood by as scene security. He stayed at the scene until another K-9 car was brought to transport his K-9 since his K-9 car was going to be left at the scene. He drove back to the police department 5 [REDACTED] and sequestered.

Officer Reina clarified that he did give his dog a verbal command to go. He said his ears were ringing pretty badly with all of the gunfire so he didn't think his K-9 heard him. He said when his rifle came up, the motion he made was the same motion he gives for a non-verbal command for the dog to go. He said his K-9 keyed on the non-verbal hand/arm motion and he went. He said his dog had been positioned on his left side. He said as he was holding his dog with his left hand, he heard the shot and saw the flash. He let go of his dog to transition to his rifle. He grabbed his rifle and brought it up to point downrange to address the threat, which was him shooting at them. At that time his left hand motion coming up towards the forward grip of the rifle was the non-verbal queue for the dog to go. He said when his K-9 was down by his side the K-9 was "locked on the threat". He said he had communicated with the Fairfield PD tactical team regarding the use of his K-9. They had formulated a plan if the suspect came out of the car unarmed after the gas was deployed into the car then Officer Reina would send his dog in for the apprehension. He said his K-9 did not suffer any injuries from this incident.

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

Officer Reina said his AVR was on at the time of the incident and when he drove to the police department after the incident he “docked” his camera so the video would be downloaded.

Officer Reina said he was photographed By Det. Walker 5 [REDACTED]
[REDACTED] his rounds (ammunition) were also counted.

The interview was concluded at approximately 1544 hours.

Credibility Determinations

Sergeant Llamas:

Sergeant Llamas has been a police officer for approximately 15 years. He has been a member of the SWAT Team for approximately 10 years. His recollection of the events was good. He was deemed credible.

Sergeant Decious:

Sergeant Decious has been a police officer for approximately 16 years. He is a member of the SWAT Team. His recollection of the events was good. He was deemed credible.

Detective Diaz:

Detective Diaz has been a police officer for approximately 9 years. He is a member of the SWAT Team. His recollection of the events was good. He was deemed credible.

Officer Tagorda:

Officer Tagorda has been a police officer for approximately 10 years. His recollection of the vents was good. He was deemed credible.

Officer O. Guzman:

Officer Guzman has been a police officer for approximately 3 years. His recollection of the vents was good. He was deemed credible.

Officer Mendler:

Officer Mendler has been a police officer for approximately 14 years. His recollection of the vents was good. He was deemed credible.

Detective Ricchiuto:

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

Detective Ricchiuto has been a police officer for approximately 8.5 years. His recollection of the vents was good. He was deemed credible.

Sergeant Pomeroy:

Sergeant Pomeroy has been a police officer for approximately 23 years. His recollection of the vents was good. He was deemed credible.

Officer Joseph:

Officer Joseph has been a police officer for approximately 11 years. Her recollection of the vents was good. She was deemed credible.

Sergeant Parker:

Sergeant Parker has been a police officer for approximately 15.5 years. Her recollection of the vents was good. She was deemed credible.

Officer Tyner:

Officer Tyner has been a police officer for approximately 23 years. His recollection of the vents was good. He was deemed credible.

Officer Wright:

Officer Wright has been a police officer for approximately 3 years. His recollection of the vents was good. He was deemed credible.

Officer Reina:

Officer Reina has been a police officer for approximately 11 years. He is a member of the SWAT Team. His recollection of the vents was good. He was deemed credible.

Officer Campos:

Officer Campos has been a police officer for approximately 10 years. His recollection of the vents was good. He was deemed credible.

Officer Finley:

Officer Finley has been a police officer for approximately 3.5 years. Her recollection of the vents was good. She was deemed credible.

Ofc. Walker:

Officer Walker has been a police officer for approximately 11.5 years. His recollection of the vents was good. He was deemed credible.

Findings and Analysis

Use of Force Review – Lethal Force

After a review of all evidence to include investigator's reports, operations orders, coroner's report, ballistics report, AVR footage, News footage, CHP helicopter footage, radio log, statements of witness officers and statements of involved shooter officers, this investigator concludes that there is sufficient evidence to exonerate all seven active participant officers from allegations that they used excessive deadly force against Demilo Hodge on September 27, 2017, and violated the Richmond Police Department Policy 300 – Use of Force, specifically Richmond Police Department Policy 300.4 Deadly Force Applications. This investigator finds the use of deadly force by all officers in the shooting of Demilo Hodge on September 27, 2017 was justified and within Department policy, therefore all officers are **Exonerated**.

The investigator makes the following findings:

On September 27, 2017, at approximately 0841 hours, the Richmond Police Department received a call from the CHP regarding a vehicle pursuit of a black Suburban being driven by a suspect (later identified as Demilo Hodge) who was wanted for murder. Richmond PD officers located the vehicle and attempted a traffic enforcement stop. Hodge failed to yield and a pursuit ensued. The CHP advised the driver was known to be armed and dangerous. The Fairfield PD also advised Richmond PD Dispatch that Hodge was in possession of a firearm.

The pursuit would continue onto eastbound I-580. Near the University Avenue off-ramp, the CHP deployed a spike strip which was successfully run over by Hodge's vehicle. The pursuit culminated on eastbound Interstate 80 in the City of Emeryville. Multiple Richmond PD patrol vehicles converged on Hodge's vehicle. Hodge refused to exit the vehicle after a lengthy standoff and PA requests to exit the vehicle.

Fairfield PD arrived on scene and took tactical command of the scene. Fairfield PD deployed less-lethal rounds into the back of Hodge's vehicle in order to break the glass and to follow up by deploying gas into the vehicle. After the less-lethal rounds were deployed at Hodge's vehicle, Hodge opened the driver's door and exited the vehicle. Hodge turned towards the officers and raised a Glock semi-automatic firearm, pointing the weapon towards officers and firing one round. Seven Richmond Police Officers and multiple Fairfield PD officers returned fire. Hodge was struck with multiple rounds and was transported to Highland Hospital in San Francisco where he was pronounced deceased by hospital staff. The following officers and their decision to use lethal force are summarized. Refer to audio interviews for full details.

Sgt. Llamas

During the pursuit, Sgt. Llamas knew Hodge's was wanted for murder, was armed with a pistol and said he wasn't going back to jail. The pursuit ended when Hodge's vehicle was forcibly disabled. He refused to exit his vehicle to be taken into custody. Sgt. Llamas and other officers used their police vehicles to maintain positions of cover directly behind Hodge's vehicle while attempting to negotiate his safe surrender.

After a lengthy standoff and negotiations with other police personnel, Hodge's exited the driver's door and was holding a black semi-automatic handgun in his right hand. He raised and pointed it directly at Sgt. Llamas. Sgt. Llamas saw a flash and heard a shot coming from the gun. Sgt. Llamas knew Hodge's just shot at him.

When Hodge's stepped out of his vehicle and pointed the gun at him he was in fear for his life and after he saw the flash and heard the shot, he had no doubt Hodge's was trying to kill him and other officers. Perceiving this deadly threat, Sgt. Llamas fired two rounds at Hodge's. The deadly threat that Hodge's presented ceased.

Sgt. Decious

Sgt. Decious arrived on scene after the pursuit had ended. He heard Hodge was wanted for murder, was armed with a firearm and said he wasn't going back to jail and was going to die today. The pursuit ended when Hodge's vehicle was forcibly disabled. He refused to exit his vehicle to be taken into custody. Sgt. Decious and other officers used their police vehicles to maintain positions of cover directly behind Hodge's vehicle while attempting to negotiate his safe surrender.

After a lengthy standoff and negotiations with other police personnel, Hodge's exited the driver's door and was holding a black semi-automatic handgun in his right hand. It looked like Hodge raised and pointed it directly at Decious. Sgt. Decious heard a distinct pop and saw smoke coming from the gun. Sgt. Decious knew Hodge's just shot at him.

When Hodge's stepped out of his vehicle and pointed the gun at him he was in fear for his life and after he saw the flash and heard the pop, he had no doubt Hodge's was trying to kill him and other officers. Perceiving this deadly threat, Sgt. Decious fired four or five rounds at Hodge's. The deadly threat that Hodge's presented ceased.

Det. Diaz

Det. Diaz arrived on scene after the pursuit had ended. He heard Hodge was wanted for murder, was more likely than not armed with a firearm and said he wasn't going back to jail alive or would not go back to jail. The pursuit ended when Hodge's vehicle was

OFFICER INVOLVED SHOOTING OPA 2017-033

INVESTIGATOR: SERGEANT JOSH CLARK

forcibly disabled. He refused to exit his vehicle to be taken into custody. Det. Diaz and other officers used their police vehicles to maintain positions of cover directly behind Hodge's vehicle while attempting to negotiate his safe surrender.

After a lengthy standoff and negotiations with other police personnel, Hodge exited the driver's door and was holding a black semi-automatic handgun in his right hand. It looked like Hodge raised and pointed it at Det. Diaz. He saw Hodge shoot one round. He returned fire with his rifle.

When Hodge stepped out of his vehicle and pointed the gun at him he thought Hodge was going to shoot him and was in fear for his life. He shot because he felt he needed to protect his own life. The deadly threat that Hodge presented ceased.

Officer Tagorda

During the pursuit, Officer Tagorda knew Hodge was wanted for murder and was still possibly armed with a firearm. The pursuit ended when Hodge's vehicle was forcibly disabled. He refused to exit his vehicle to be taken into custody. Officer Tagorda and other officers used their police vehicles to maintain positions of cover directly behind Hodge's vehicle while attempting to negotiate his safe surrender.

After a lengthy standoff and negotiations with other police personnel, Hodge exited the driver's door with his arms extended with a firearm. It looked like Hodge was pointing the gun right at Officer Tagorda.

When Hodge stepped out of his vehicle and pointed the gun at him he was in fear for his life and fired to protect himself and his fellow officers. Perceiving this deadly threat, Officer Tagorda fired two rounds at Hodge. The deadly threat that Hodge presented ceased.

Officer Guzman

During the pursuit, Officer Guzman knew Hodge was wanted for murder and was armed with a firearm. The pursuit ended when Hodge's vehicle was forcibly disabled. He refused to exit his vehicle to be taken into custody. Officer Guzman and other officers used their police vehicles to maintain positions of cover directly behind Hodge's vehicle while attempting to negotiate his safe surrender.

After a lengthy standoff and negotiations with other police personnel, Hodge exited the driver's door and had a firearm in his hand. When Hodge's stepped out of his vehicle and turned towards him and the other officers, with the gun, he said it was like Hodge was going to shoot them. Officer Guzman thought Hodge was going to kill them. He felt

OFFICER INVOLVED SHOOTING OPA 2017-033

INVESTIGATOR: SERGEANT JOSH CLARK

like Hodge was going to point the firearm at him. Perceiving this deadly threat, Officer Guzman fired 2-3 rounds at Hodges. The deadly threat that Hodge presented ceased.

Officer Mendler

During the pursuit, Officer Mendler knew Hodge was wanted for murder, was armed and said he wasn't going back to jail. The pursuit ended when Hodge's vehicle was forcibly disabled. He refused to exit his vehicle to be taken into custody. Officer Mendler and other officers used their police vehicles to maintain positions of cover directly behind Hodge's vehicle while attempting to negotiate his safe surrender.

After a lengthy standoff and negotiations with other police personnel, Hodge exited the driver's door, turned and Officer Mendler saw the muzzle of a firearm pointed in his direction. Officer Mendler saw a flash and heard two pops.

When Hodge stepped out of his vehicle and pointed the gun at him he was in fear for his life and the lives of his colleagues and the public. Perceiving this deadly threat, Officer Mendler fired three rounds at Hodge. The deadly threat that Hodge presented ceased.

Det. Ricchiuto

During the pursuit, Det. Ricchiuto knew Hodge had a warrant for murder, was armed with a handgun and said he wasn't going back to jail. The pursuit ended when Hodge's vehicle was forcibly disabled. He refused to exit his vehicle to be taken into custody. Det. Ricchiuto and other officers used their police vehicles to maintain positions of cover directly behind Hodge's vehicle while attempting to negotiate his safe surrender.

After a lengthy standoff and negotiations with other police personnel, Hodge exited the driver's door and was holding a pistol with two hands. He raised the pistol in Det. Ricchiuto's direction and fired a round. Det. Ricchiuto returned fire.

When Hodge stepped out of his vehicle and pointed the gun at him he was in fear for his life, the public's safety, and the lives of the officers around him. He thought Hodge was trying to shoot and kill him. Perceiving this deadly threat, Det. Ricchiuto fired approximately 10 rounds at Hodge. The deadly threat that Hodge's presented ceased.

Alameda County District Attorney's Office Findings

On April 16, 2019, Richmond Police Chief Brown received a letter from Nancy E. O'Malley, District Attorney for Alameda County. In the letter, O'Malley states:

"I have reviewed the report and agree with the conclusion that the evidence does not justify criminal charges against Richmond Police

OFFICER INVOLVED SHOOTING OPA 2017-033

INVESTIGATOR: SERGEANT JOSH CLARK

Department Sergeant Donovan Decious, Sergeant Chris Llamas, Officer Cedric Tagorda, Officer Benjamin Mendler, Officer Orlando Guzman, Detective Anthony Diaz and Detective Michael Ricchiuto.”

The letter also reads:

“As Indicated in the report, no further action will be taken in this case.”

Alameda County Coroner’s Office Findings

On September 29, 2017, Alameda County Coroner’s Bureau performed an autopsy on Hodge. The autopsy was performed by Coroner’s Pathologist Doctor M. Ferenc. Hodge’s cause of death was determined to be “Multiple Gunshot Wounds”.

Central Valley Toxicology completed a medical screen of Hodge’s blood and urine samples. The screen detected .02% of ethyl alcohol and 15.5 mg/L of Ibuprofen. Refer to Coroner’s Investigative Report in IAPro for details.

Firearms Review

A review of all involved officer firearms and qualification records showed that each officer was properly qualified with the same duty firearm used during this incident.

An examination of all involved officer’s firearm used in this incident was conducted by the Contra Costa County Sheriff’s Forensic Services Division. The examination showed no unusual wear, damage, or alterations of any of the involved officer’s firearms. The firearms were test fired and functioned normally. Refer to the Forensic Services Report in IAPro for details.

The Forensics Services Division of the Contra Costa County Office of the Sheriff conducted a function test of Hodge’s firearm on September 9, 2017. The test was conducted by Criminalist Abby O’Rourke (hereafter referred to as O’Rourke).

The firearm was a Springfield Armory Pistol, model SA-XD-40, .40 caliber handgun. The test revealed the firearm’s safety and controls were functioning. Two rounds were test fired from the firearm and the firearm functioned normally when test fired.

[REDACTED]

7 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

[REDACTED]

Use of Force Review – K-9 Contact (Officer Reina)

During the standoff on the freeway with Hodges, Officer Reina was standing outside of a patrol vehicle with his K-9 partner down by his side. When Hodge exited the vehicle and turned with a firearm, Officer Reina lifted his arm with the rifle to aim towards Hodge. He said when his rifle came up, the motion he made was the same motion he gives for a non-verbal command for the dog to go. He said his K-9 keyed on the non-verbal hand/arm motion and he went. He said his dog had been positioned on his left side. He said as he was holding his dog with his left hand, he heard the shot and saw the flash. He let go of his dog to transition to his rifle. He grabbed his rifle and brought it up to point downrange to address the threat, which was him shooting at them. At that time his left hand motion coming up towards the forward grip of the rifle was the non-verbal queue for the dog to go. He said when his K-9 was down by his side the K-9 was “locked on the threat”.

After a review of all evidence to include investigator’s reports, operations orders, coroner’s report, ballistics report, AVR footage, News footage, CHP helicopter footage, radio log, statements of witness officers and statements of involved shooter officers, this investigator concludes that there is sufficient evidence to exonerate Officer Daniel Reina from allegations that he used excessive force when he deployed his K-9 against Demilo Hodge on September 27, 2017, and violated the Richmond Police Department Policy 300 – Use of Force or 318 – K-9 Policy. This investigator finds that the decision to use K-9 force by Officer Reina on Demilo Hodge on September 27, 2017 was justified and within department policy, therefore Officer Reina is **Exonerated**.

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

[REDACTED]

7 [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] [REDACTED]
[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] [REDACTED]
[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

OFFICER INVOLVED SHOOTING OPA 2017-033
INVESTIGATOR: SERGEANT JOSH CLARK

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]