

BILLINGSLEY INVESTIGATIONS AND CONSULTING SERVICES
CALIFORNIA STATE LICENSE PI# 189430
ADMINISTRATIVE REVIEW OF G2300034

TO: Alex Gammelgard, Chief of Police
FROM: Randall Billingsley, Private Investigator/Consultant

INVOLVED SUBJECTS: Wallace, Austin Michael (Shooter)
[REDACTED] (Shooting Victim)

INVOLVED OFFICERS: Brown, Jonathan
Roberds, Christopher

ADDITIONAL INVOLVED
OFFICERS: [REDACTED] (CHP)
Hooper, Brian
[REDACTED]

SUBJECT: ADMINISTRATIVE REVIEW OF OFFICER INVOLVED SHOOTING

DATE: January 5, 2023

SUMMARY OF INCIDENT:

On January 4, 2023, Officers from the Grass Valley Police Department were dispatched to a report of parts stolen from a truck at 418 French Avenue in Grass Valley. The reporting party, [REDACTED], stated he was in the process of moving out of the property and came to retrieve his truck. [REDACTED] believed that his tires and other parts from his truck were stolen by his former landlord Austin Wallace. While investigating this incident and interviewing [REDACTED], Officer Hooper saw the subject leave the residence and go out of his personal view. He believed the subject to be Wallace based on information provided by [REDACTED]. Officer Hooper lost sight of both Wallace and [REDACTED] for a brief time while searching the property. During that time, Officer Hooper heard what he believed were gunshot(s) and reported on police radio that "shots" were fired. After a rapid response from Grass Valley Police Officers, California Highway Patrol Officers, and Nevada County Sheriff's Deputies, a search ensued in which multiple shots were fired by Wallace towards officers. Officers engaged in a rapidly evolving active shooter situation in which they exchanged gunfire with Wallace in a nearby open field, thus ending the deadly encounter.

Investigating Agency:
Billingsley Investigations and Consulting

Date Assigned:
January 5, 2023

Date Completed:

Chief's Disposition:

CONCLUR.

Chief's Signature:



Date:

01/02/2024

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Reference List:

There is an extensive list of documents, files, folders, and audio files that were reviewed in the course of this investigation. The following is a list of those files and folders as provided to me by the Grass Valley Police Department via flash drive on February 6, 2023. They are listed in the order they appear on the Flash Drive.

911 calls

2023-01-04_16.52.14_Ch13

2023-01-04_16.52.21_Ch12

2023-01-04_16.53.18_Ch16

2023-01-04_16.57.37_Ch3

Calls for Service and Reports

G2300033-Original Theft Report

G2300033-CAD#230140165 (ORIG CFS)

G2300034-CAD#2301040173 (OIS CFS)

G2300034-OIS REPORT

G2300140-Warrant Arrest

Radio Traffic

1621 34 (Going 1097 ORIG CALL)

1631 06 (ORIG CALL)

1631 17 (STILL ORIG CALL)

1645 15 to 1653 52

1653 52 to 1706 46

Beginning to 1645 15

CHP MVARs Video

1556@20230104164730-0

The following is a list of additional files and folders as provided to me by the Grass Valley Police Department via flash drive on February 17, 2023. They are listed in the order they appear on the Flash Drive.

Grass Valley PD Body Worn Camera Footage

Axon_Body_3_Video_2023-01-04_1645_X60308699

Axon_Body_3_Video_2023-01-04_1655_X6030561E

Nevada County District Attorney Interviews of Involved Officers

Edited Version of Detective ██████ Transcription

Edited Version of Detective Roberd's Transcription

Edited Version of Officer Brown's Transcription

Edited Version of Officer Hooper's Transcription

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Method, Scope, Purpose:

The purpose of this review is to determine if Grass Valley Police Department (GVPD) policies were followed and if there are areas where GVPD can improve their response and handling of future critical incidents. This review is primarily focused on the use of force and issues related to the use of force. It will also address any issue of significance discovered during the review not related to force.

The Nevada County District Attorney's Office, the Nevada County Multi-Jurisdictional Critical Incident Response Team, and the Grass Valley Police Department conducted a comprehensive criminal investigation into this matter. I have been provided access to an extensive list of files/documents, videos, and interviews pertaining to this investigation. This report will not re-interpret the criminal investigation, rather it will summarize facts pertinent to the scope and purpose of the administrative investigation.

In addition, I conducted additional interviews with non-involved parties in the Grass Valley Police Department Administration to clarify some training issues.

Although actions of California Highway Patrol Officers and Nevada County Sheriff's Deputies are mentioned in this report, it was not my role or responsibility to evaluate any of their actions.

I was asked to become involved in this investigation by Chief Gammelgard on January 5, 2023. I agreed to become part of the administrative investigation and observed the interviews of Officers Chris Roberds and John Brown on January 5th, 2023, at the Nevada County District Attorney's Office. I also observed/reviewed the interviews of Officers [REDACTED] and Brian Hooper on January 6th, 2023, at the Nevada County District Attorney's Office.

I subsequently received copies of the additional investigative files from the Grass Valley Police Department on February 6th, 2023, and February 17th, 2023.

Data and Other Information Considered When Forming Opinion

In forming my opinions in this case, I reviewed, studied, and considered materials that are specific to this case as well as materials of general circulation. I have also drawn on the totality of the materials I have read, studied, examined as well as the experiences and instruction I have had regarding digital video evidence, use of force training, and policy compliance over the past 27 years in criminal and administrative investigations. I have also consulted with some of the leading experts in the use of digital video evidence in law enforcement incidents.

All statements and opinions here are to a reasonable, or higher, degree of professional certainty and/or probability. All times, time intervals, measurements, frame numbers, and line references are approximations. Attributions of statements derived from the video evidence are inferred and subsequent evidence may determine corrections.

I reserve the option to modify, amend, and change my opinions expressed in this document should additional information be provided affecting my understanding of the facts or nature of the video

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evidence in this case. I also reserve the right to illustrate the points made in this report with demonstrations, demonstrative exhibits, and/or audio-visual aids.

Foundational Information Regarding the Use of Digital Video Evidence in Law Enforcement Incidents

It is important to understand the limitations of digital media evidence when investigating dynamic incidents involving law enforcement and corrections personnel. This is because digital video evidence does not necessarily reflect the officers' perspectives, especially as how they processed the actual event-in real time- and how that compares to what is or is not depicted in a video file. It is also important to remember that body worn cameras offer different viewing and perception than the naked eye. The camera does not always capture what was seen by the naked eye of observers on scene due to the limitations of body worn cameras, especially at distance.

Digital video evidence can have severe limitations as to its accuracy in recoding events. When compared to how humans detect and perceive visual information, it is important to remember the following limitations of video evidence¹.

1. Due to perspective, and even when a camera is mounted to an officer's head (which most law enforcement agencies do not deem practical), it does not perfectly represent the officer's exact visual perspective.
2. The video is generally limited to the field of view recorded in each frame.
3. The viewer of the video usually knows the outcome of the event, while the officer experiencing the same event in real time does not, thereby failing to accurately represent the fears, emotions, and stressors that might be affecting an officer's reasonable perceptions and decision making.
4. Humans usually perceive their visual worlds in three dimensions; Video is two-dimensional and can have a "flattening" effect that influences the perception of depth, space, and distance.
5. Most humans usually see in clear detail, while recordings that are natively recorded with low resolution, have the potential to obscure detail.

It is also important to note that, when using video evidence in investigating or evaluating peace officer conduct, the same perceptual dynamics that influence how people perceive real-time experiences; their previously held beliefs and biases can influence how they interpret video images.² This also applies to human performance limitations regarding limited visual acuity, which can contribute to viewers looking at only one aspect of the video event, such as only what an officer appears to be doing and not what another officer or a resistant subject might be doing at the exact same moment.

This scene consisted of several different locations over several city blocks as Wallace moved from location-to-location firing at officers. It is also important to remember that timestamps on Body Camera Video (BCV) may be slightly different than the time kept by Nevada County Dispatch (NCD) on automated dispatch records. For the purposes of this report, we will try to note the corresponding times when applicable.

¹ Martin, Jeff. Principal Consultant DSI Consulting (Personal communication, June 13, 2023)

² Blake, David. "Body Worn Cameras: Comparing Human and Device to Ensure Unbiased Investigations." *Law Enforcement Executive Forum*, 15, no. 4 (2015), doi:10.19151/leef.2015.1504c

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Calls to Dispatch

January 4th, 2023, at approximately 1618 hours by Nevada County Dispatch (NCD), [REDACTED] contacted Nevada County Dispatch to report parts stolen from his truck. He described the Truck as a 1985 Chevrolet, Pickup, Orange in color. [REDACTED] believed that his previous landlord (Austin Wallace) was responsible for the theft.

January 4th, 2023, at approximately 1621:34 hours (NCD), Officer Hooper arrived on scene to meet with [REDACTED]

January 4th, 2023, at approximately 1631:17 hours, (NCD), Officer Hooper requested that a license plate "3D2[REDACTED]" be run by Nevada County Dispatch.

January 4th, 2023, at approximately 1645:22 hours (NCD), Officer Hooper advises of "Shots Fired down the street on French" at his location. It should be noted that Officer Hooper's Bodycam video timestamp is approximately 13 seconds faster than the Nevada County Dispatch timestamp in the related log³.

On January 4th, 2023, at approximately 1652:14 hours (NCD), a 911 caller called Nevada County Dispatch and advised that a man had walked up to her window/door with a gun located at [REDACTED] French Avenue in Grass Valley. She advised that a stranger was banging on her window with a gun. She described him as approximately 5'5" tall wearing a sweatshirt and a backpack.

On January 4th, 2023, at approximately 1652:21 hours (NCD), a 911 caller contacted Nevada County Dispatch and waited for over a minute before hanging up without speaking to communications personnel. The male caller while speaking to someone else with him referenced that someone was tapping on "[REDACTED]" window with a gun.

On January 4th, 2023, at approximately 1653:18 hours (NCD), a 911 caller contacted Nevada County Dispatch and reported shots fired just outside his home at [REDACTED] Lamarque Court Grass Valley.

On January 4th, 2023, at approximately 1657:37 hours (NCD), the original 911 caller at 1652:21 hours was recontacted by Nevada County Dispatch to make sure no additional assistance was needed at their location ([REDACTED] French Avenue).

Response

Officer Brian Hooper was on scene for the initial theft call. Upon Officer Hooper declaring "Shots Fired", Officer Brown, Detective Roberds, Detective [REDACTED], and Officer Herrera responded "code 3" with emergency lights and sirens.

Detective Roberds, Detective [REDACTED] responded together in an unmarked Chevrolet Silverado pickup truck equipped with emergency lights and sirens. Officer Brown also responded in an unmarked Chevrolet

³ This was noted based on the timestamp of Officer Hooper's description of an "Orange Sweatshirt" being broadcast at 1646:27 and Dispatch documenting the time as 16:46:40.

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Silverado pickup truck also equipped with emergency lights and sirens. Officer Herrera responded in a fully marked GVPD patrol vehicle.

Corporal Newman and Officer Sara Perry of the Grass Valley Police Department also responded, "code 3". Deputy Cody Johnson of the Nevada County Sheriff's Office and Officers [REDACTED] and Peter Nesinov of the California Highway Patrol also responded to the initial scene. Officers were wearing a variety of uniforms but were all clearly identified as law enforcement officers. They were further identified as police officers by the variety of marked vehicles they responded in and were adjacent to at the time of the event. Body Worn Cameras were engaged only by uniformed officers assigned to patrol for the Grass Valley Police Department and uniformed deputies assigned to patrol by the Nevada County Sheriff's Office.

Additionally, CHP Officer [REDACTED] had an in-car camera video which depicts critical footage of the subject Austin Wallace firing his weapon at responding officers. This video also captures the audio of the final gunfire exchange between Wallace and Grass Valley Police Officers after a brief foot chase.

Summary

Using video and files/documents and interviews from the criminal investigation, I have summarized the event below. Officer Hooper of the Grass Valley Police Department (GVPD) was on duty wearing a full patrol uniform and driving a fully marked patrol SUV. He responded to an area directly in front of [REDACTED] French Avenue to speak with a reporting party, [REDACTED] (1621:34 hours NCD). [REDACTED] advised that he left a vehicle at that location for an extended period of time and that when he returned to retrieve the vehicle, he noticed numerous items missing including but not limited to tires and rims. [REDACTED] suspected that his former roommate/landlord Austin Wallace was responsible for taking the missing items.

Officer Hooper and [REDACTED] walked around the property for several minutes trying to find Austin Wallace so that Officer Hooper could further investigate these allegations. At some point, Officer Hooper and [REDACTED] saw a subject on the property who refused to comply with requests to come over and talk. That subject (later identified as Austin Wallace) escaped from the view of both Officer Hooper and [REDACTED]. While Wallace was out of view of Officer Hooper, Wallace initiated contact with [REDACTED] and fired several shots at him from a revolver, striking him once in the abdomen. Officer Hooper heard these shots and reported them to Nevada County Dispatch Communications stating, "Shots Fired" (1646:54 hours NCD). Shortly thereafter, Officer Hooper rediscovered [REDACTED] in front of 418 French Avenue. [REDACTED] began directing Officer Hooper back towards the rear of 428 French Avenue as [REDACTED] believed Wallace was trying to flee to a vehicle parked near that location (1646:18 BCV of Officer Hooper). Officer Hooper reported via radio communications that Wallace was wearing a grey sweatshirt (1646:20 BCV of Officer Hooper) and then quickly changed it to an incorrect description of an orange sweatshirt (1646:28 BCV of Officer Hooper).

Officer Hooper believed that [REDACTED] was describing himself as having abdominal pain from being shot with what he thought to be a "rubber" projectile. (It was later determined that it was not in fact a rubber projectile, but rather a .22 caliber bullet that struck [REDACTED].) Officer Hooper provided a corrected description of the suspect as wearing a dark hooded sweatshirt and the victim as wearing a

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bright yellow jacket. This description appears to have been distorted/covered on the radio broadcast by numerous incoming units who were trying to broadcast they were responding to the shots fired call⁴.

Officer Hooper maintained contact with [REDACTED] until additional units arrived but strategically put out a direction of travel for subject Wallace and he placed his vehicle in the driveway of the address to prevent Wallace from using his vehicle(s) to flee the scene. Corporal Newman responded to the scene and located [REDACTED] approximately two residences northwest of the initial location in front of 428 French Avenue⁵.

Officer Brown was the second officer on scene to meet with Officer Hooper near the residence located at 418 French Ave. Officer Brown saw Officer Hooper's vehicle parked in the driveway to the rear of the 418 French Avenue address (which is accessed via a private driveway/easement between 544 Jenkins Street and 550 Jenkins Street). Officer Brown, armed with his patrol rifle, briefly met with Officer Hooper who advised him [REDACTED] had been struck by a possible projectile and that he (Officer Hooper) believed the shooter (Austin Wallace) was possibly in a nearby detached garage. Officer Brown and Officer Hooper visually cleared the garage area with flashlights and weapons drawn trying to locate Wallace to no avail.

While Officer Brown and Officer Hooper were clearing the garage structure, Officer Roberds, Officer Herrera, and Corporal Newman arrived on scene as well. Corporal Newman located [REDACTED] on French Avenue near 438 French Avenue and began to provide aid to him Officer Roberds observed video surveillance cameras potentially observing officers' movements in and around the garage area. Officer Roberds determined that the shooter may have access to those cameras and by default the tactical locations of responding officers. Officer Roberds subsequently removed the cameras so they would not track officer movements in and around the garage area(s). Officer Brown located additional cameras and began deactivating those cameras as well to maintain tactical integrity.

While this search was occurring, Austin Wallace gained access to a locked lower-level basement at [REDACTED] French Avenue by forcefully breaching a locked door. This residence is located two properties away from the initial call location⁶. This basement access was not part of the living quarters at that location; however, resident [REDACTED] was home at the time and heard a loud noise when the door was forced open by Wallace and she began to look through windows at the exterior of residence while safely inside her home. While looking around, [REDACTED] received a phone call from a friend/tenant who was working nearby and was concerned about all the police activity near her residence. [REDACTED] was on the phone with her friend/tenant when she saw Wallace walk up to the front porch of her residence holding a silver handgun and she saw him begin tapping the gun on the glass of her front door. [REDACTED] secreted herself in her home and asked her friend to call 911. Shortly thereafter (1652:14 hours NCD), [REDACTED] called Nevada County Dispatch via 911 and advised that a man had walked up to her window/door with a gun. She described the subject (Wallace) as looking startled and nervous.

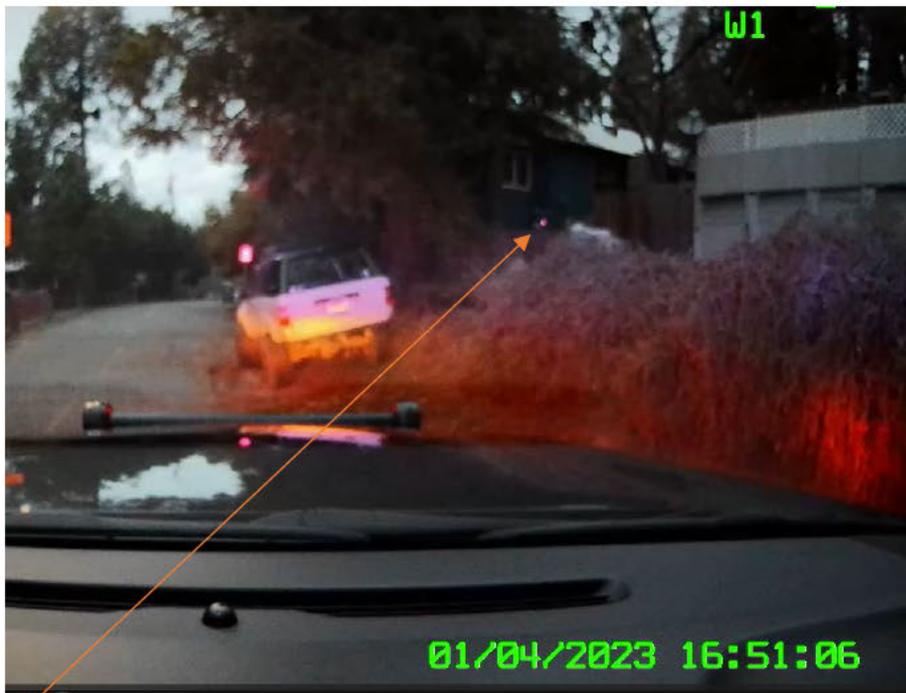
⁴ This was significant as it changed the response to this incident as officers were now responding to a deadly force incident in progress.

⁵ Corporal Roberts had no visual of the other officers arriving to the rear of 418 French Avenue as he was several houses away.

⁶ The distance between the two properties at 428 and [REDACTED] French Avenue was measured at approximately 200 feet via Google Earth.

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While this was occurring, [REDACTED], the resident at [REDACTED] French Avenue, located directly across the street from [REDACTED] French Avenue had arrived home from an afternoon jog. [REDACTED] was also with his [REDACTED]-year-old daughter [REDACTED]. [REDACTED] stated he and his daughter were stretching in their living room when [REDACTED] told her father that there were several police vehicles outside their residence. [REDACTED] stated he and his daughter then walked outside their residence and were standing on the front porch at [REDACTED] French Avenue. Directly across the street at [REDACTED] French Avenue they observed a person, later identified as Wallace, hiding behind a tree in the front yard at that location. [REDACTED] stated he saw the person run up the stairs at 410 French and back down and he observed this same subject wearing dark clothing pull out a handgun while in the front yard. [REDACTED] stated that the subject fired one shot toward a police officer who was walking in the roadway. [REDACTED] stated that the police officer ran back behind his vehicle. [REDACTED] stated he and his daughter quickly ran into their residence and stayed away from windows as much as possible at that time. This shot appears to have been fired by Wallace at Officer [REDACTED] of the California Highway Patrol at approximately 1651:05 hours and was recorded on the dashcam footage from Officer [REDACTED] patrol vehicle⁷. Officer [REDACTED] vehicle was facing westbound on French Avenue just west of the intersection of French Avenue and Jenkins Street. Wallace was in the front/side yard of 410 French Avenue at the time when he fired at Officer [REDACTED]⁸.



(Wallace right after shot was fired).

⁷ Officer [REDACTED] vehicle dashcam appears to have the same synchronization/timestamp as the GVPD bodycam video footage based on the audible report of this shot fired at Officer [REDACTED] is at 1651:05 on both systems.

⁸ Wallace appeared to shoot at Officer [REDACTED] from slightly less than 100 feet (as the south/west corner of the residence at 410 French Avenue was measured at approximately 95.25 feet to the north/west corner of intersection at Jenkins Street and French Avenue and [REDACTED] vehicle was slightly closer than the intersection. These distances were estimated using Google Maps and based on footage from the CHP dashcam. The snapshot above was taken from Officer [REDACTED] dash camera and was captured one second after the audible shot was fired. It appears that Wallace has some sort of light source/flashlight on his person which is seen here.

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As Grass Valley Police Officers heard this shot being fired, they immediately pivoted from searching the rear of 418 French Avenue and began moving towards the sound of the gunfire. Officers Roberds, [REDACTED], and Hooper all ran to the south/west corner of an outdoor deck associated with 550 Jenkins Street and maintained cover at that location for a brief period while they discussed tactical movement (1651:41). The edge of this deck area is adjacent to 410 French Avenue and has a direct line of sight to the yard area where Wallace fired the shot at Officer [REDACTED] approximately 36 seconds earlier.



Location where Wallace was last seen at 1651:06

Officer [REDACTED] (GVPD)

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Officer Brown simultaneously ran to the corner of Jenkins Street and French Avenue and sought cover to the rear of [REDACTED] CHP vehicle.



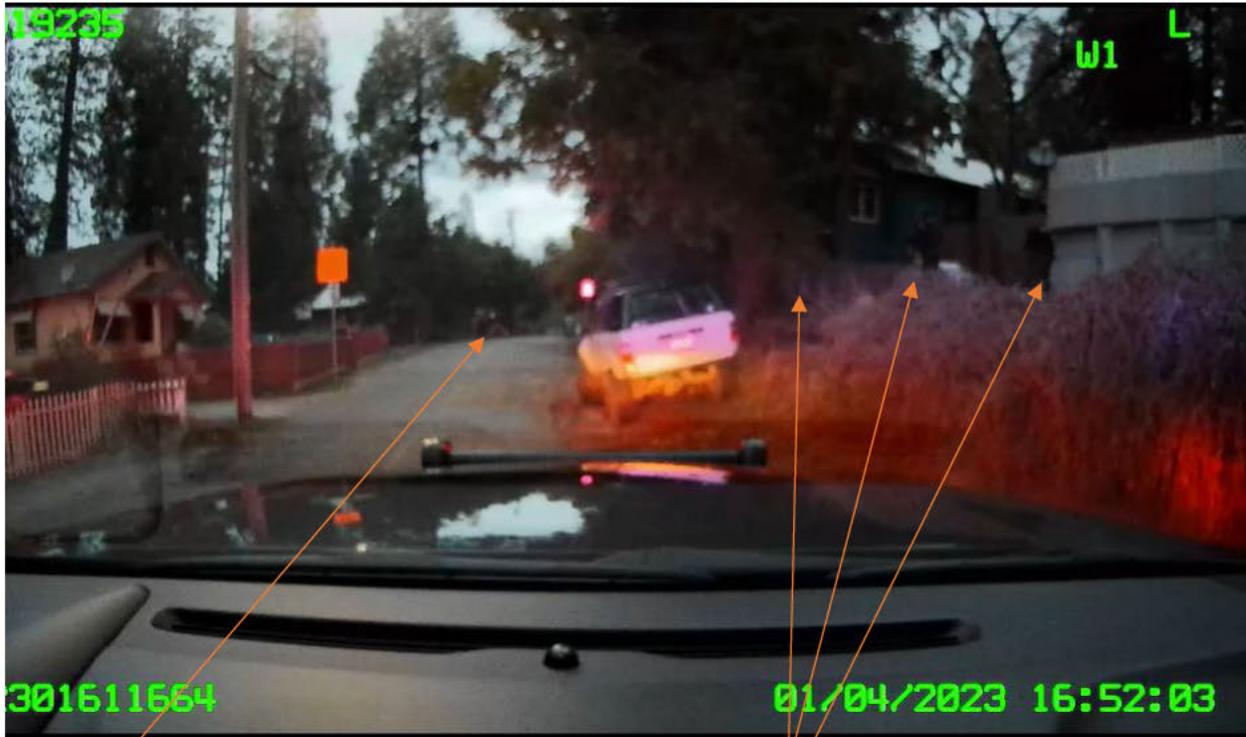
Officer Brown (GVPD)

Officer [REDACTED] (CHP)

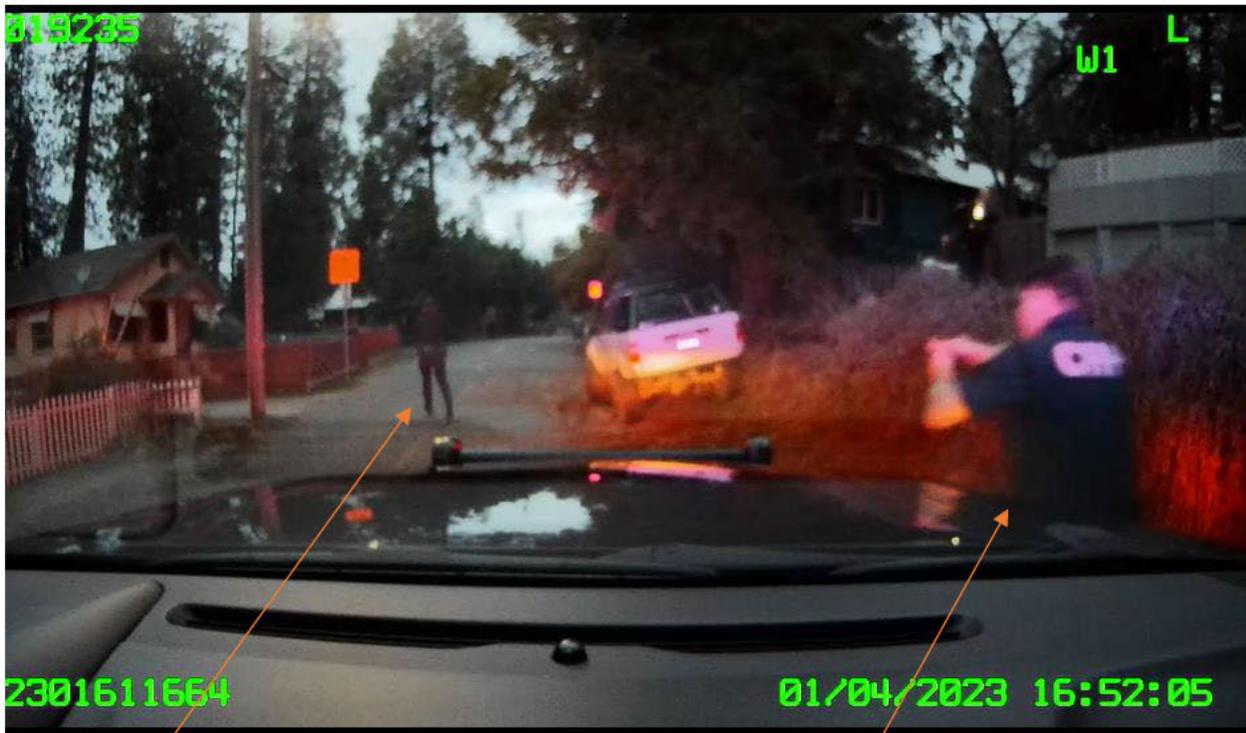
Officer [REDACTED] (GVPD)

Officers [REDACTED], Roberds, and Hooper began tactically approaching westbound in the yard at 550 Jenkins Street adjacent to the deck facing French Avenue (1652:03, CHP Dash Cam Video) to the location where Wallace was last seen. When those officers approached the fence line at 410 French Avenue, Wallace ran out from the yard and across French Avenue and to the rear of 417 French Avenue (1652:04, CHP Dash Cam Video) which is located on the south/west travel direction. Wallace crossed the street and was running to the rear of 417 as Officer Brown, Officer Roberds, Officer [REDACTED], and Officer Hooper pursued him on foot. CHP Officer [REDACTED] returned to his marked patrol vehicle and drove it to the front of 417 French Avenue.

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(Wallace Running toward 417 French Ave) (Officers [REDACTED], Hooper, and Roberds next to 410 French Ave)



(Officer Brown pursuing Wallace)

(Officer [REDACTED], CHP)

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As Officers were pursuing Wallace and arriving in the front yard of 417 French Avenue, there is an audible gunshot that appears to be from a smaller caliber firearm (1652:21 Officer Hooper BCV). At the time of this gunshot by Wallace, Officer Brown was located adjacent to the building/residence at 417 French Avenue, while Officer [REDACTED] was taking cover behind the right rear quarter panel/bumper of a gold Toyota Tacoma parked in the driveway at 417 French Avenue with the front facing toward the street. Officer Roberds was also taking cover behind the same vehicle as Officer [REDACTED] on the same side at about the middle of the truck bed and near rear of the cab structure. Officer [REDACTED] attempted to return fire when fired upon by Wallace, however his rifle malfunctioned, and he was not able return fire at that time. It appears based on Officer [REDACTED] statement and evidence found on scene of a possible failure to seat a magazine properly, (cartridges and a magazine found-on ground near the location of his vehicle and a distance away from the gunfire exchanges) It seems [REDACTED] did not properly seat his magazine in his rifle when he initially arrived on scene. Thus, when he attempted to charge his rifle, no cartridge was placed into battery by the bolt/receiver assembly and his weapon was not fully engaged. [REDACTED] also alluded to having dropped a magazine near his vehicle when he initially arrived on scene which was likely during this process.

Officers fired in response approximately two seconds later (1652:23 Officer Hooper BCV). The first return fire/shot is believed to be from Officer Brown's patrol rifle. Officer Brown's projectile struck Wallace's backpack and went through the backpack without striking Wallace's body. A second shot from officers was fired by Officer Roberds, firing his duty pistol (1652:25 Officer Hooper BCV). A third shot is believed to be Officer Roberds, firing his duty pistol (1652:27 Officer Hooper BCV). One of the two shots fired by Officer Roberds struck Wallace in the torso and Wallace went to the ground. Wallace immediately began screaming and became compliant to officer commands.

Officer Hooper was trailing the pursuit and was coming into view as the shots were being fired. Officer Hooper did not fire his weapon.

Officers Hooper, [REDACTED], Brown and Roberds immediately began to converge on Wallace and repeatedly gave him commands to "show" his hands. Officers also managed each other and moved together tactically while speaking with each other to slow down and use cover such as trees on their approach to detain Wallace (1653:07 Officer Hooper BCV). Officer Hooper maintained tactical communication with other approaching officers and they all repeated key phrases such as "both hands are up" while describing Wallace's movements (1653:12 Officer Hooper BCV).

Shortly thereafter, Officers Roberds and Brown subsequently place Wallace in handcuffs (1653:43 Officer Hooper BCV) while Officer [REDACTED] was providing radio communications to Dispatch in order to direct medical response. This occurred while Officer Hooper was directing all parties involved as to their activities. Officer Hooper was also in direct communication with Wallace trying to determine the location of his wound(s). Once Wallace was detained in handcuffs, Officer Hooper directed all GVPD personnel to put on medical gloves and Officer Hooper continued his medical assessment.

Officer Hooper was able to roll Wallace over to his left side with the assistance of Officer Roberds and he located a bullet wound on Wallace's torso. Officer Hooper then began to apply pressure to the wound (1654:58 Officer Hooper BCV).

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Officer Hooper advised Officer [REDACTED] to secure Wallace's weapon (1655:19 Officer Hooper BCV) as it was still lying adjacent to Wallace while he is lying on the ground and Officers Roberds and Hooper were providing medical aid. The weapon is referenced by Officer Hooper as he indicated its location directly adjacent to where Wallace was lying down but the firearm Wallace possessed was not captured by body camera video at this location⁹.

During Officer Brown's interview, he stated that that Officer [REDACTED] initially secured Wallace's firearm by standing on it while other officers were taking Wallace into custody. After Wallace was secured, Officer Brown subsequently put on gloves and picked up the firearm. Officer Brown indicated that he, accompanied by Officer [REDACTED], later walked the firearm back to their detective vehicle and secured it in a paper bag.¹⁰ It should also be noted that only at this time did Officer Brown realize that his body camera was found to be in "buffering" mode and not actually recording for any of the incident.

It should be noted that it was low light conditions and near dusk. The weapon and Wallace were in an area with knee high weeds and grasses on the ground. While this is occurring, Officer Nesinov of the California Highway Patrol arrived on scene (1655:48 Officer Hooper BCV) with a medical kit and provided gauze to Officer Roberds in order to stop bleeding on Wallace's wound (1656:24 Officer Hooper BCV).

Shortly thereafter, Grass Valley Fire Department personnel arrived on scene while Officers Hooper and Roberds provided them with a report as to the condition of Wallace (1658:25 Officer Hooper BCV). Officers Roberds and Hooper continued to assist Grass Valley Fire Department personnel and check for additional wounds, and they were able to have him stand up and sit on the Fire Department's wheeled gurney (1700:48 Officer Hooper BCV).

As soon as Grass Valley Fire Department personnel took control of Wallace's medical care, a sergeant with the Nevada County Sheriff's Office conducted a public safety statement with Officer Roberds in which Officer Roberds indicated his field of fire and that he fired two shots from his duty pistol (1701:40 Officer Hooper BCV). This same sergeant, then had several of Nevada County Sheriff's Deputies conduct an area check of homes that were down range of the incident.

Officer Hooper continued to stay with Wallace, Grass Valley Fire Department Personnel, and ambulance personnel while trying to get a detective to relieve him. During that time, Firefighters asked Officer Hooper to move Wallace's handcuffs to the front and Officer Hooper obliged once Wallace was in the ambulance. While conversing with Wallace about rolling over to his side in order to remove the handcuffs, Wallace exclaimed, "Just let me die, dude, please" (1704:13 Officer Hooper BCV). Officer Hooper then asked him to "stop" and Wallace again exclaimed, "I'm gonna make you put one in me", suggesting that he was going to make Officer Hooper shoot him (1704:19 Officer Hooper BCV). Wallace again stated, "Please sir, put one in me dude" (1704:46 Officer Hooper BCV).

⁹ As was stated earlier in this report, body worn camera footage only captures a limited field of view. The camera does not follow the officer's eyes or see as an officer sees in real time. At their current level of development, they can photograph a broad scene but cannot document where within a scene an officer is looking at any given instant. If an officer glances away from where the camera is concentrating, the camera may not see action within the camera frame. Also, to be noted, is that the officer's body may block the view of the camera, ultimately masking what a reviewer may see. This can occur due to location and angle of the camera, as well as body parts of the officer(s) involved.

¹⁰ *Transcript of Officer Brown interview, January 5, 2023, page 21.*

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Officer Hooper was subsequently relieved by Officer Perry (1705:48 Officer Hooper BCV) and she accompanied Wallace to Sutter Roseville Hospital for medical treatment.

Foundational Information Regarding the Training of California Peace Officers on the Lawful Use of Force

California Peace Officers are trained that the “goal for the use of force...in any enforcement situation is to gain control of the situation or individuals(s) encountered, when reasonable.”¹¹ California peace officers are further trained that they are authorized to use force in the performance of their duties according to California Penal Code § 835 a(b), which states:

Any officer who has reasonable cause to believe that the person to be arrested as to prevent escape or to overcome resistance [emphasis added].¹²

California peace officers are also trained that, in determining whether their actions are/were objectively reasonable, the following must be considered:

1. The determination of objective reasonableness must be fact specific and based on the totality of circumstances confronting the officer;
2. It must allow for the fact that peace officers are often forced to make split second judgements in circumstances that are tense, uncertain, and rapidly evolving;
3. It must be judged from the perspective of a reasonable officer on the scene rather than with the 20/20 vision of hindsight.¹³
4. Based on the facts and circumstances confronting the officer without regard to the officer’s underlying intent or motivation.¹⁴

California peace officers are also trained that the following major factors, as determined by *Graham v. Connor*, 490 U.S. 386 (1989) will be used to determine whether an officer’s use of force is objectively reasonable:

1. Whether the suspect posed an immediate threat to the safety of the officers or others- the most important factor;
2. The severity of the crime at issue;
3. Whether the suspect was actively resisting arrest;
4. Whether the suspect was attempting to evade arrest by flight; and
5. Split second judgements during circumstances that are tense, uncertain, and rapidly evolving.¹⁵

In addition to the major factors listed above, California peace officers are trained that the following additional factors may determine the objective reasonableness of officers’ force responses:

¹¹ California Commission on Peace Officer Standards and Training, *Learning Domain 20: Use of Force/Deescalation*, v5.4, p.1-3.

¹² *Learning Domain 20*, p1-8.

¹³ A reasonable officer is generally defined as whether another officer, facing like or similar circumstances, act in the same way or use similar judgement? (See *Learning Domain 20*, p. 1-6)

¹⁴ *Learning Domain 20*, p. 1-4.

¹⁵ *Ibid.*

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1. Whether there was an opportunity to warn about the use of force prior to force being used and, if so, was such a warning given;
2. Whether there was any assessment by the officer of the subject's ability to cease resistance and/or comply with the officer's commands;
3. Availability of other objectively reasonable force options;
4. Number of officers/subjects;
5. Age, size, and relative strength of officers/subjects;
6. Specialized knowledge, skills, or abilities of subjects;
7. Prior contact;
8. Injury or exhaustion of officers;
9. Access to potential weapons;
10. Environmental factors, including but not limited to, lighting, footing, sound conditions, crowds, traffic, and other hazards; and
11. Whether the officer had reason to believe the subject is mentally ill, emotionally disturbed, or under the influence of alcohol or drugs.¹⁶

California peace officers are also trained to classify the types of subject behaviors that may influence the officers' force responses, which is listed in Table 1. It is also important to note that this chart **does not imply** that an officer's force options are "limited based upon any single factor, but rather they are based upon the totality of circumstances."¹⁷

¹⁶ *Learning Domain 20*, p1-5.

¹⁷ *Learning Domain 20*, pp. 3-6 to 3-7.

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Table 1. Subject's actions correlated to force options as taken from POST LD 20.

Subject's Actions	Description	Possible Force Options
Compliant	Subject officers no resistance	<ul style="list-style-type: none"> • Mere professional appearance • Nonverbal actions • Verbal requests and commands • Handcuffing and control holds
Passive non-compliant	Does not respond to verbal commands but also offers no physical form of resistance	<ul style="list-style-type: none"> • Officer's strength to take physical control, including lifting/carrying • Pain compliance control holds, takedowns and techniques to direct movement or immobilize a subject
Actively resistant	Physically evasive movements to defeat an officer's attempt at control, including bracing, tensing, running away, or verbally or physically signaling an intention to avoid or prevent	<ul style="list-style-type: none"> • Control holds and techniques to control the subject and situation • Use of personal body weapons to gain advantage over the subject

	being taken into or retained in custody	
Assaultive	Aggressive or combative; attempting to assault the officer or another person, verbally or physically displays an intention to assault the officer or another person	<ul style="list-style-type: none"> • Use of devices and/or techniques to secure compliance and ultimately gain control of the situation • Use of personal body weapons in self-defense and to gain advantage over the subject
Life-threatening	Any action likely to result in serious bodily injury or death of the officer or others	<ul style="list-style-type: none"> • Utilizing firearms or any other available weapon or action in defense of self and others to stop the threat

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California peace officers are also trained that their force options generally fall into the following three categories and generally corresponding levels of resistance, as listed in Table 2.¹⁸

Table 2. Taken from POST LD 20

Force Option	Foreseeable Injury
Non-Deadly Force	Force which creates a minimal risk of injury
Intermediate Force	Force which has a significant risk of injury
Deadly Force	Force which has a substantial risk of serious bodily injury or death

It should be noted that peace officers should recognize that making transitions between force options can be difficult during stressful and rapidly changing conditions. Peace officers must be prepared to transition to another force option if the one being used appears to be ineffective in controlling the subject or situation.¹⁹

In addition to the constitutional standards regarding deadly force as listed above, California peace officers are trained that California Penal Code § 835a (c)(1)(A) states:

A peace officer is justified in using deadly force upon another person only when the officer believes, based on the totality of the circumstances that such force is necessary to defend against an imminent threat of death or serious bodily injury to the officer or another person.²⁰

Additionally, California peace officers are trained that they may also use deadly force when the officer believes, based on the totality of circumstances, that such force is necessary to:

...apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

Where feasible, a peace officer shall, prior to the use of force, make reasonable efforts to identify themselves a peace officer and to warn that deadly force may be used unless the officer has objectively reasonable grounds to believe the person is aware of those facts.²¹

¹⁸ Learning Domain 20, page 3-9.

¹⁹ Ibid.

²⁰ Learning Domain 20, p. 4-4.

²¹ Learning Domain 20, p. 4-6.

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Analysis and Conclusions

As detailed in their interviews with criminal investigators at the Nevada County District Attorney's Office on January 5th and 6th 2023, each officer gave a statement concerning their "state of mind" at the exact moment of gunfire exchange.

Officer Brown stated the following:

"I saw the, the guy in the black sweatshirt that I was chasing, and I'm guessing maybe 40 yards away, 30, 40 yards away, and he turned toward my direction, raised his arm. I heard a gunshot, and I saw white smoke, um in my direction indicating to me that he had just, um, shot at me/and or whoever was with me. Uh, I believe he tried to, uh, kill us."²²

"...I thought if he's already shot one person, and he just tried to kill us that he has to be stopped, or he's gonna kill somebody else, so I, I raised my rifle. I had flipped it off safe and fired one round. Um the suspect took a few more steps and fell down in the field."²³

When investigators interviewed Officer Roberds regarding this same moment in time, he stated:

"...I saw a male subject, a white male subject in a black sweatshirt with a backpack, and he was running in the clearing off of Carnegie, which is the alley off French. Um, he came outside of the bushes. Um, at that time, my mind was racing. I knew Hooper hadn't been shot. I hadn't seen Officer Newman. I didn't know if he had been shot when that other gunshot went off. It was called out that this was the suspect that was running across the street, and I've been in that area. I've patrolled that area before. I know there's additional houses. He was running towards houses. There's a park in the area. There's houses across the street on Carnegie, and there's additional houses on that other side on Lamarque, um so I knew at the time, we had a gunshot victim. I thought one of my partners had possibly been shot, and this person was running, um and I felt like I had no choice but to stop that threat of death or danger to other people, myself, my partners."²⁴

When asked later in the interview what he thought Wallace's intention was when he raised his arm, Officer Roberds stated:

"I thought he was gonna shoot us."²⁵

When asked an additional follow up question of what he was thinking at that time, Officer Roberd's responded:

"I was thinking that I did not want to get shot. I didn't want my partners to get shot. I didn't know if my other partner had already been shot, and I knew he was running towards other houses, and I didn't want a barricaded subject. I didn't know if there was any backstory between the other gunshot victim. I didn't know. I didn't want the potential for

²² *Transcript of Officer Brown Interview*, January 5, 2023, page 12.

²³ *Ibid*

²⁴ *Transcript of Officer Roberd's Interview*, January 5, 2023, page 11.

²⁵ *Transcript of Officer Roberd's Interview*, January 5, 2023, page 22.

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a hostage or any other kinda situation to develop, so in my mind, I needed to stop that potential from happening, and if he was gonna point a gun at me, I, I, I shot him.”²⁶

Officer [REDACTED] also discussed his observations of the moments leading up to the use of force encounter with Wallace:

“...There was a civilian subject in the front, saying he went this way, he went this way through his yard. So that’s -we started ... going through the property. At that point, now I recall that I, there was a pickup there. I was between the, I guess the passenger side back tire and the taillight, looking into the field, and I see the subject in the field. I hear a round and I look and I could see the subject pointing back, firing rounds. At that point, basically, I feared for my life, the life of my two partners, cause I know, um Detective Roberds currently with us was well. Um and then also the civilian, which at the time, for me, I, I, he was still in the yard as we passed him. I had no idea where he went, but at that time, I believed him to still be in the yard, and then based off of the fact that there was another, uh, we already had one victim. I brought up my gun. I put him in my sights, and when I squeezed the trigger it just clicked.”²⁷

Use of Deadly Force-Within Policy

Responding to a call involving a crime in progress is one of several high-risk duties’ peace officers must perform. Reverence for human life is the guiding principle when responding to crimes in progress. Although officer safety is always of paramount concern, there are circumstances when officers must consider placing their safety in jeopardy to protect the innocent. The community has a right to expect that peace officers will “step into harm’s way” on behalf of those endangered by violent crime. While an officer should not sacrifice personal safety merely to apprehend a suspect, the ultimate duty is to protect others²⁸.

Officer Hooper initially responded to a theft investigation call which very rapidly deteriorated into a call of a crime in progress and shots fired with a victim struck by gunfire while Officer Hooper was already on scene. Other officers who responded to the scene (Officers [REDACTED], Brown, and Roberds) were coming with thoughts of an active shooter and responding to a shooting call in progress in which an officer was possibly a victim and certainly an involved party.

California peace officers are trained that they may use force to effect arrests, prevent escape, or overcome resistance. In this case trained and reasonable officers would perceive that Mr. Wallace was armed with a firearm, had used deadly force against a person or person(s), (Initially Mr. [REDACTED], and a second time toward CHP Officer [REDACTED]).

Officers advised him numerous times to stop during this pursuit, when Mr. Wallace turned in an open field in between homes and fired his revolver at them. All three officers immediately attempted to return fire and engaged Mr. Wallace. Officer Brown and Officer Roberds both discharged their firearms

²⁶ Transcript of Officer Roberd’s Interview, January 5, 2023, page 23.

²⁷ Transcript of Officer [REDACTED] Interview, January 6, 2023, page 11.

²⁸ California Commission on Peace Officer Standards and Training, *Basic Course Workbook Series-Learning Domain 23: Officer Safety and Survival* p. 1-1.

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toward Mr. Wallace and Officer [REDACTED] attempted to discharge his firearm toward Mr. Wallace. Wallace was subsequently struck once with a projectile which was fired by Officer Roberds and he ultimately surrendered.

There was an apparent immediacy and severity to the threat to the officers as Mr. Wallace discharged his firearm in their direction. This conduct was reasonably perceived by all three officers at the time of the incident. The officers displayed professional and tactical conduct in their approach and communications in the minutes before and after the shooting incident, showing they were poised to control the situation throughout the chaotic circumstances.

Furthermore, Mr. Wallace showed a complete disregard for human life and was not compliant in any way whatsoever until after he was struck by law enforcement gunfire. Officers were rightfully concerned with the potential for injury to officers, suspects, bystanders and others throughout the incident and were extremely concerned that he was moving rapidly through a residential neighborhood. Officers only fired upon Mr. Wallace when they had a decent field of fire in an open field with a reasonable backdrop. There were very few tactical options available at the point when the officers made the determination to fire upon Mr. Wallace. Officers clearly saw the need for immediate control of the subject and a prompt resolution of the situation.

Officers clearly identified an "imminent" threat of death or serious bodily injury existed based on the totality of circumstances. Thus, the actions of Officers Brown and Roberds were within policy.

Officer [REDACTED] and Officer Hooper's Actions-Within Policy

Officer [REDACTED] and Officer Hooper did not use deadly force under the policy definition, but they did display firearms which is also regulated under the use of force policy. To point a firearm at someone, the policy requires that the officer(s) reasonably believe an imminent threat exists. This requirement was clearly met during this event.

Although Officer [REDACTED] had malfunction issues regarding his patrol rifle, his decision making was succinct and on point. He had decided to fire his rifle at the exact moment other officers fired upon Mr. Wallace based on the same threat. If not for his malfunction, his decision to fire would have been justified.

Officer Hooper was trailing the other officers during the foot pursuit and did not arrive at the location where Officers Roberds, Brown, and [REDACTED] confronted Mr. Wallace until the gunfire exchange had occurred. Officer Hooper led efforts by all involved officers to immediately transition from an active shooter situation to an arrest and provision of first aid. Officer Hooper should be commended for verbalizing commands and instructions to other officers during their tactical approach of Mr. Wallace and subsequent securing of Mr. Wallace, Mr. Wallace's firearm, provision of first aid to Mr. Wallace and rendering the scene safe for medical personnel to quickly arrive and provide lifesaving first aid for Mr. Wallace who was critically wounded.

Officer Brown, Officer Roberds, and Officer [REDACTED] should also be recognized for their professional pivot once the shooting occurred and their subsequent tactical approach, proper securing of Mr. Wallace, Mr. Wallace's weapon, and the quick provision of lifesaving first aid for Mr. Wallace. This is indicative of highly trained officers recognizing the need to de-escalate a situation and begin rescue efforts.

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It should be noted that there was not an opportunity during this incident for officers to deploy less lethal options as Mr. Wallace was using deadly force throughout this encounter. This use of force was clearly within policy.

Nevada County District Attorney's Office Review

The Nevada County District Attorney's Office investigated this shooting incident for any criminal culpability regarding responding officers. Assistant District Attorney Cambria Lisonbee determined in her report that:

"The shooting of Mr. Wallace by Grass Valley Police Officers Chris Roberds and Jonathan Brown was justified within the meaning of California Penal Code section 835a(c)(1)(A). Under the circumstances known to them at the time of this incident, the officers had a reasonable belief that deadly force was necessary to defend against an imminent threat of death or serious bodily injury to themselves and any other residents in the area, including J. Doe. Mr. Wallace had already shot J. Doe, causing injury, and then continued to shoot at police officers who arrived on scene to assist with the incident. Mr. Wallace's actions displayed a lack of regard for the lives of others.

Based on the totality of the circumstances and pursuant to Section 835a of the California Penal Code, no criminal charges will be filed against Grass Valley Police Officers Roberds or Brown."

End of Report.

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Authorities

Grass Valley Police Department Use of Force Policy 300 states as follows:

Use of Force 300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner (Government Code § 7286).

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Techniques and Conducted Energy Device policies.

Retaliation prohibitions for reporting suspected violations are addressed in the Anti-Retaliation Policy.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm (Penal Code § 835a).

Feasible - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person (Government Code § 7286(a)).

Force - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.

Serious bodily injury - A serious impairment of physical condition, including but not limited to the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement (Penal Code § 243(f)(4)).

Totality of the circumstances - All facts known to the officer at the time, including the conduct of the officer and the subject leading up to the use of force (Penal Code § 835a).

300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

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The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

300.2.1 DUTY TO INTERCEDE

Any officer present and observing another law enforcement officer or an employee using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, shall, when in a position to do so, intercede (as defined by Government Code § 7286) to prevent the use of unreasonable force.

When observing force used by a law enforcement officer, each officer should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject (Government Code § 7286(b)).

300.2.2 FAILURE TO INTERCEDE An officer who has received the required training on the duty to intercede and then fails to act to intercede when required by law, may be disciplined in the same manner as the officer who used force beyond that which is necessary (Government Code § 7286(b)).

300.2.3 FAIR AND UNBIASED USE OF FORCE Officers are expected to carry out their duties, including the use of force, in a manner that is fair and unbiased (Government Code § 7286(b)). See the Bias-Based Policing Policy for additional guidance.

300.2.4 DUTY TO REPORT EXCESSIVE FORCE Any officer who observes a law enforcement officer or an employee use force that potentially exceeds what the officer reasonably believes to be necessary shall immediately report these observations to a supervisor (Government Code § 7286(b)).

As used in this subsection, "immediately" means as soon as it is safe and feasible to do so.

300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances known to or perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose (Penal Code § 835a).

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance (Government Code § 7286(b)).

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the approved or authorized tools, weapons, or methods provided

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by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 USE OF FORCE TO EFFECT AN ARREST

Any peace officer may use objectively reasonable force to effect an arrest, to prevent escape, or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape, or to overcome resistance. Retreat does not mean tactical repositioning or other de-escalation techniques (Penal Code § 835a).

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit (Government Code § 7286(b)). These factors include but are not limited to:

- (a) The apparent immediacy and severity of the threat to officers or others (Penal Code § 835a).
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time (Penal Code § 835a).
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The conduct of the involved officer leading up to the use of force (Penal Code § 835a).
- (e) The effects of suspected drugs or alcohol.
- (f) The individual's apparent mental state or capacity (Penal Code § 835a).
- (g) The individual's apparent ability to understand and comply with officer commands (Penal Code § 835a).
- (h) Proximity of weapons or dangerous improvised devices.
- (i) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (j) The availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).

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(k) Seriousness of the suspected offense or reason for contact with the individual prior to and at the time force is used.

(l) Training and experience of the officer.

(m) Potential for injury to officers, suspects, bystanders, and others.

(n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.

(o) The risk and reasonably foreseeable consequences of escape.

(p) The apparent need for immediate control of the subject or a prompt resolution of the situation.

(q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.

(r) Prior contacts with the subject or awareness of any propensity for violence.

(s) Any other exigent circumstances.

300.4 DEADLY FORCE APPLICATIONS

Where feasible, the officer shall, prior to the use of deadly force, make reasonable efforts to identify him/herself as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts (Penal Code 835a).

If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers shall evaluate and use other reasonably available resources and techniques when determining whether to use deadly force. To the extent that it is reasonably practical, officers should consider their surroundings and any potential risks to bystanders prior to discharging a firearm (Government Code § 7286(b)).

The use of deadly force is only justified when the officer reasonably believes it is necessary in the following circumstances (Penal Code § 835a):

(a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person.

(b) An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

Officers shall not use deadly force against a person based on the danger that person poses to him/herself, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or to another person (Penal Code § 835a).

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An “imminent” threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the officer or another person. An officer’s subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require instant attention (Penal Code § 835a).

300.4.2 DISPLAYING OF FIREARMS Given that individuals might perceive the display of a firearm as a potential application of force, officers should carefully evaluate each tactical situation and use sound discretion when drawing a firearm in public by considering the following guidelines (Government Code § 7286(b)):

(a) If the officer does not initially perceive a threat but reasonably believes that the potential for such threat exists, firearms should generally be kept in the low-ready or other position not directed toward an individual.

(b) If the officer reasonably believes that a threat exists based on the totality of circumstances presented at the time (e.g., high-risk stop, tactical entry, armed encounter), firearms may be directed toward such threat until the officer no longer perceives such threat.

Once it is reasonably safe to do so, officers should carefully secure all firearms.