

**REPORT ON THE FATAL SHOOTING  
OF GABRIEL DEAN WILSON ON  
OCTOBER 10, 2019**



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## I - REVIEW OF THE EVIDENCE

### **1. Items Reviewed**

I reviewed the following items along with attached recordings, transcripts, diagrams and photographs:

- Yuba Sutter Officer Involved Shooting Investigation Team member reports
- California Department of Justice, Bureau of Forensic Services Field Investigation Report CH-19-000254-0001
- California Department of Justice, Bureau of Forensic Services Physical Evidence Examination Report CH-19-000254-0002
- Yuba County Sheriff's Department reports for Incident No. 1-19-003809
- Yuba County Sheriff's Department reports for Coroner Case No. 1-19-003810
- Autopsy Report Y19-108; Gregory D. Reiber, MD, Pathologist
- National Medical Services, Inc. toxicology report 19319587
- California driver record and criminal history information of Gabriel Dean Wilson

### **2. Initial Call for Service & Response**

On October 10, 2019, at 11:05 p.m., Yuba County Sheriff's Public Safety Dispatcher Samantha Thomas received a 911-call from Yuba County Sheriff's Deputy Shane Bronson. Deputy Bronson was off-duty and at home at the time of the call. The call was audio recorded. Bronson identified himself and said "get someone to my house right now, I've got an intruder." Deputy Bronson explained he had someone at gunpoint on his back porch. Deputy Bronson's rapid breathing and tone evidenced his excited state.

Approximately 15 seconds into the call Deputy Bronson can be heard assertively commanding someone "let me see your hands." Deputy Bronson announced "Sheriff's Department," warned the intruder he was at gunpoint, and continued to command him to keep his hands up and stay seated. Another male voice is audible on the recording, but the words are not understandable. The emotion and insistence in Deputy Bronson's voice noticeably increased around 66 seconds into the call, as he commanded the person to "stay there," "do not move," and to "get down" or on his knees.

Two minutes into the call, the sounds indicate Deputy Bronson began moving. It is apparent that Deputy Bronson and the intruder moved inside the residence based on the slight echo present in the audio after the sounds of movement. Deputy Bronson continued to command the intruder to

“get on your knees” or to “freeze.” The voices of both Deputy Bronson and the other male become more distant. Possible sounds of a struggle and one or more muffled gunshots follow. The intruder can be heard coughing or possibly moaning. At two minutes and 37 seconds, a gunshot can be distinctly heard, and Deputy Bronson yells urgently again, “Get on your knees.” A few seconds later, an additional two or more gunshots are heard. A baby can be heard crying. Sounds like someone is picking up the phone are heard just before the call disconnected three minutes after it began.

Approximately 30 seconds later Deputy Bronson called back. Yuba County Sheriff’s Dispatcher Paricia Rodney answered the call at 11:08 p.m. The second call was also audio recorded. Deputy Bronson told Dispatcher Rodney he had “one down” in his house.

Yuba County dispatched multiple deputies to Bronson’s home, located in a relatively remote area of the Yuba County foothills. Deputy Brandon Charter arrived first at 11:24 p.m. Deputy Charter located Deputy Bronson inside. Deputy Bronson’s wife and three minor children were safe in a bedroom. Deputies Bronson and Charter waited for additional backup. Deputy Davis and Sergeant Whiteaker arrived at 11:40 p.m. Sergeant Whiteaker and the two on-duty deputies cleared the interior and exterior of the residence to make sure there were no other intruders. Once the scene was determined to be safe, personnel from Bi-County Ambulance and Cal-Fire entered the scene to examine the person, who was later identified as Gabriel Dean Wilson. Paramedic Farrah Bailey pronounced Mr. Wilson deceased at 11:56 p.m.

Deputy Bronson made spontaneous statements about the incident to the dispatchers, Sergeant Pecs, Sergeant Whiteaker, and Deputy Charter. The statements to Sergeant Pecs and the dispatchers were audio recorded. These initial spontaneous statements conveyed that Deputy Bronson discovered an intruder smoking on his back porch, that the intruder became aggressive in the hallway of the residence, and that Deputy Bronson was afraid for his life when he shot the intruder. Deputy Bronson and his family dressed and departed their home with bags and enough clothes for a few days. Deputy Davis escorted them to another location where formal interviews could be conducted. Before departing, Deputy Bronson provided his 9mm Glock handgun to Sergeant Whiteaker and affirmed he had used it in the shooting.

The deputies remained at Deputy Bronson’s home and secured the scene until the investigation team arrived.

### **3. Field Investigation**

Yuba County Sheriff Wendell Anderson requested that the Yuba Sutter Officer Involved Shooting (“OIS”) Investigation Team respond to investigate the incident. The Chief Investigators from the offices of the Yuba and Sutter County District Attorneys lead the team, which is comprised of investigators from each of the member agencies, including the Yuba City Police Department, Sutter and Yuba County Sheriffs’ Offices, and the Sutter and Yuba County District Attorneys’ Offices. The purpose of the team is to provide an unbiased and professional investigation into officer involved shooting incidents. Investigators on the team are all experienced officers with specialized training in investigating critical incidents.

The OIS investigation team members began arriving at the incident scene at approximately 3:30 a.m. on October 11, 2019.

Sutter County District Attorney Investigator Mercey Garcia collected Bronson's handgun from Yuba County Sheriff's Detective Andrew Thomas. Detective Thomas indicated he had already rendered the firearm safe by removing the magazine and ejecting a live cartridge from the chamber of the pistol. Investigator Garcia examined the Glock handgun, noting the presence of blood on the barrel and slide of the weapon. Investigator Garcia unloaded the magazine, counting 11 rounds plus the live round that Detective Thomas ejected, for a total of 12. The magazine had a capacity of 17 rounds.

Team members from the Yuba City Police Department, Detective David Krause and CSO Davis utilized a specialized laser scanner to photograph and measure the scene, creating a 3-dimensional image.

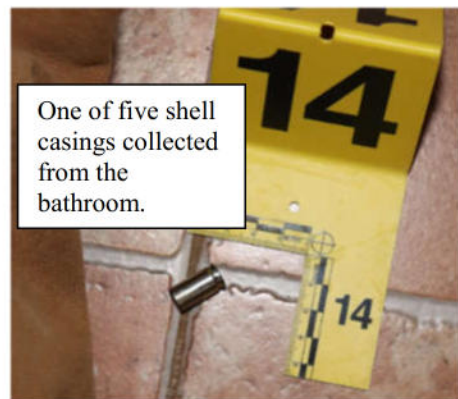
The OIS investigation team also requested assistance from crime scene experts from the California Department of Justice Bureau of Forensic Services ("DOJ"). California DOJ Senior Criminalist Brandi Spas arrived at approximately 6:50 a.m. The OIS team members and DOJ criminalists processed the scene, photographing each item of evidence before collecting it. The team collected more than a dozen items of evidence, including a partially burned marijuana cigarette located on the back porch, a small baggie of marijuana, five fired 9mm cartridge cases and some bullet fragments from the bathroom, and a black and red hat from the floor of the hallway.



Marijuana cigarette recovered from back porch.



Mr. Wilson's hat collected from hallway floor.



One of five shell casings collected from the bathroom.



Bronson's Glock 9mm Pistol.



Blood on floor of hallway. DOJ Criminalists collected multiple samples.

A white male adult was located facedown in a bathroom off the hallway on the second floor of the residence. The male was fully dressed, wearing Carhartt pants, a flannel shirt, and boots. A pool of blood spread from under the male. Team members secured the male body in a body bag, and Yuba County District Attorney Investigator James Perin sealed it. Staff from Lakeside Colonial Chapel removed the body from the scene.

It was determined that the male may have entered the residence through an unlocked downstairs door or climbed onto a second floor balcony from outside.

#### **4. Follow-Up Investigation**

##### **Interview of Mrs. Bronson**

On October 11, 2019, at 2:34 a.m., Yuba City Police Detective Scott Rounds interviewed Deputy Bronson's wife, Mrs. Bronson. The interview was video and audio recorded.

Mrs. Bronson reported that she, Deputy Bronson, and three of their six children were home. The children at home were 15 years old, 5 years old, and 2 months old. Mrs. Bronson said that during the evening of October 10, they ate dinner and watched some television before going to bed. The 15-year-old child slept in her own room. The other children fell asleep in the master bedroom with Deputy and Mrs. Bronson. Mrs. Bronson said she put the 5-year-old child in the child's room around 10:00 p.m., and then went back to sleep herself.

Only a few soft interior lights remained on in the house after 10:00 p.m. Mrs. Bronson explained the exterior of the house was normally well lit, but they were running on generator power on October 10 due to a PG&E fire safety power shutoff.

Mrs. Bronson said she was awakened by a noise. It sounded to her like their generator was going to shut off. She awakened Deputy Bronson and asked him to check on the generator. A short time later, she heard Deputy Bronson yell at someone. Deputy Bronson ran to their bedroom, retrieved his handgun, asked Mrs. Bronson to find a flashlight, and ran back the other way. Mrs. Bronson could hear Deputy Bronson yelling at someone on the back porch. She retrieved her five-year-old from the child's bedroom and returned to the master. She could hear Deputy Bronson yelling things like "put your hands up". She could hear the voice of another person. Mrs. Bronson looked out the glass door from her bedroom to the back porch. She could see a man sitting on the patio couch with his back to her. Mrs. Bronson locked the glass door that leads from her bedroom out to the back porch. She gathered the infant and five-year-old, ran with them to her 15-year-old daughter's bedroom, and locked the door.

Mrs. Bronson could still hear Deputy Bronson yelling and the other man talking. She heard her husband say "come on I don't want to have to shoot you," and "please get down on the ground" multiple times. She heard the other man arguing with Deputy Bronson, saying that it was his house, or his mother's house. She heard a struggle in the hallway. Someone slammed into the door of the bedroom where she was with her children. The commotion moved passed the bedroom and headed further down the hallway. Mrs. Bronson then heard a gunshot, followed by two more

shots. The next thing she heard was Deputy Bronson asking if they were okay. He then said “I had to shoot him.”

Mrs. Bronson and the children stayed in the 15-year-old daughter’s room until other deputies arrived. Mrs. Bronson did not recognize the male, but thought he looked similar to a utility worker who had been on their property earlier in the day.

### **Interview of Bronson Children**

On October 16, 2019, Yuba County District Attorney Investigator James Perin interviewed the Bronsons’ five-year-old child (CW2) and 15-year-old child (CW3). The interviews were audio and video recorded. CW2 said she remembered being awakened by her mother because of something dangerous. She could hear Deputy Bronson saying “get down!” She was in her sister’s room with her mother when she heard “huge shots.” CW3 was awakened by shouting. She could not see her dad, but she could hear him yelling. CW3 was joined in her bedroom by her mother and sisters. She heard struggling/fighting noises that lasted a couple of seconds. She heard the sounds move down the hallway and then two gunshots. The next thing she heard was Deputy Bronson telling them to stay in the room.

### **Interview of Deputy Bronson**

Yuba County Sheriff’s Lieutenant Nathan Lybarger interviewed Deputy Bronson on October 18, 2019. Deputy Bronson invoked his constitutional right to remain silent and declined to provide a voluntary statement. Lieutenant Lybarger then ordered Deputy Bronson to provide a compelled administrative statement. Deputy Bronson’s attorney, Brett Sherman, provided a transcript of the compelled interview to the Yuba County District Attorney’s Office on January 23, 2020.

Deputy Bronson had been a deputy for approximately 16 years with the Yuba County Sheriff. During that entire period he has carried a Glock handgun and is very familiar with it. On October 10, 2019, Deputy Bronson did some training and worked on some investigations. He went home around 6:00 p.m. and had dinner with his family. Around 9:00 p.m., the family began going to bed, to include himself, Mrs. Bronson, and three of their six children.

Sometime during the night Deputy Bronson awakened to his wife telling him she heard a noise. She said there may be something wrong with the generator. The generator was located on their second-floor back porch. The master bedroom had a door out to the porch with a large glass window in the door. The Bronsons did not use that door frequently, and had a blanket pinned over it. Bronson went through the house to the French doors that lead from the great room to the back porch.

Deputy Bronson noticed the doors were open and then smelled a sweet cigarette smoke, like a cigar. He looked out onto the dark porch and could see the lit end of a cigarette glowing. Deputy Bronson asked, “Who is that?” A man on the porch replied, “Who is that?”

Having confirmed there was someone in his house, Deputy Bronson ran back to his bedroom. He grabbed his loaded Glock 9mm duty weapon, and asked his wife to find his flashlight. The

magazine was fully loaded and there was a round in the chamber. He then grabbed his cell phone to use as a flashlight and grabbed the portable house phone.

Deputy Bronson dialed 911 and cradled the house phone between his shoulder and his head. He told dispatch he had an intruder at gunpoint and needed units to respond. Deputy Bronson illuminated the intruder with his cell phone flashlight and instinctively announced “Sheriff’s Department,” telling him he was at gunpoint and to show his hands. The man sat back and put both his hands in the air. The man in a mumbled voice said, “This is my mom’s house,” and “You know who I am.” Deputy Bronson did not recognize the man. The Bronsons had lived in the home for seven years and knew the previous owners. Deputy Bronson told the man to keep his hands up, thinking he would hold him there until deputies could arrive and sort the situation out.

The man then stood up and began walking towards the banister. Deputy Bronson thought for a moment the man would jump, but then the man turned and began walking towards Bronson, who was standing in the doorway. The man stopped and started again towards Bronson several times. When the man got within about five feet, Deputy Bronson began backing up into the house. The phone fell off Bronson’s shoulder, but he picked it up. Deputy Bronson then tossed the phone back down to focus on dealing with the intruder.

During this time, Deputy Bronson continued issuing commands to the man to “get on the ground” or “get on his knees.” The man did not comply and followed Deputy Bronson into the home. The man stopped in the great room and said something to the affect that he was not armed. Deputy Bronson told him he did not care and that he needed to “get on the ground.” The man then began walking towards Bronson again. Deputy Bronson did not know if the man was armed or not.

The man continued to follow Deputy Bronson as he backed through the house. At one point the man walked near the front door and Deputy Bronson hoped the man was going to leave, but he did not. The man continued towards Deputy Bronson. Bronson believed his wife had gathered the kids. He glanced behind, and seeing two closed doors knew they were in one of two bedrooms. Deputy Bronson continued to retreat down the hallway where the bedrooms are located. The man suddenly began walking faster, rapidly closing the distance between them. The man bumped into Bronson.

Deputy Bronson sped up his retreat to draw the man further down the hallway, passed the closed doors where he believed his wife and children were likely together. Deputy Bronson realized he was nearly out of room to retreat further and was going to have to deal with the man. Bronson saw the man was big and would likely be able to physically overpower him in a fight. Deputy Bronson told Lieutenant Lybarger, “I kept thinking to myself . . . if he gets my gun and he overpowers me, my kids are in this house, they’re dead, or they’re whatever, I’m dead, he’s going to kill us. . . . I have a gun and I have myself and I have this big-ass guy who’s coming after me.” Deputy Bronson decided he would have to use his firearm – “If I go hands on and I lose that fight, I’m dead and my kids are dead.”

Deputy Bronson continued ordering the man to get on the ground, but the man kept coming. The man collided with Bronson again, knocking him off balance and nearly causing him to fall backwards. Deputy Bronson fired one time at the man, catching himself on the doorframe that led



from the hallway to a bathroom. The man grabbed at his midsection and fell back on his posterior. The man's hat fell off onto the hallway floor. The man got right back up and charged at Deputy Bronson.

Deputy Bronson backed into the bathroom. The man kept charging him. Deputy Bronson recalled shooting the man as he charged two to four times. As he fired, Deputy Bronson stepped to the side and around the man. The man fell forward to the floor facedown, coming to rest next to the toilet.

Deputy Bronson was now behind the man. He watched the man to see if he was moving. When it appeared he was not moving, Deputy Bronson ran to where he had dropped the phone. He picked it up, ran back to the bathroom to watch the man, and called 911 again. Until the other deputies arrived, Deputy Bronson continued to watch the man to make sure he did not get back up.

### **Identification and History of the Decedent<sup>1</sup>**

Investigators were initially unable to identify the man shot by Deputy Bronson. They found no identification for the man, and did not find a vehicle at or around the Bronson home.

On October 11, 2019, Investigator James Perin obtained fingerprints from the man's body and uploaded them into a law enforcement database. Also on that date, Deputy Bronson called OIS Investigation Team investigators to notify them he had discovered a backpack that did not belong to any of his family members. Deputy Bronson said he picked the bag up off the couch in his residence believing it belonged to one of his six children. He called after determining the bag did not belong to any of them. He turned the bag over to Yuba County Sheriff's Deputy Zepeda. Investigator James Perin processed the backpack, discovering Gabriel Dean Wilson's wallet with identification, and his cell phone. Results also returned from the fingerprint database, confirming the deceased male was Gabriel Dean Wilson.

Gabriel Dean Wilson was 43 years old on the date of his death. Information taken during his autopsy reflected that he was a well-developed Caucasian male; 6' 5" tall; and weighing 237 pounds.

According to records from the California Department of Motor Vehicles and Department of Justice, Mr. Wilson had a significant criminal history, including prison terms for causing injury while driving under the influence, possession of stolen property, and driving recklessly while evading the police. Mr. Wilson paroled in 2018 after his most recent prison commitment.

Investigators spent days interviewing witnesses and following leads to piece together Mr. Wilson's last days, trying to determine why he entered the Bronsons' home on the evening of October 10, 2019. Yuba County District Attorney Chief Investigator Stephanie Johnson and Investigator James Perin interviewed a series of witnesses familiar with Mr. Wilson, including his mother

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<sup>1</sup> The information regarding Mr. Wilson's history is not relevant to determining whether the homicide was justified. Only information known to the shooting officer at the time of the shooting is relevant to determining whether his or her actions were justified. The information regarding Mr. Wilson's history is provided here to aid the public in seeing the entire picture and understanding the circumstances and choices that led to his tragic death.

Marjay Huber, his sister Registi Huber, his employer Kristine Farrell with Alliance for Workforce Development, his supervisor Mike Townshend with Butte County Public Works, his parole agent, and his girlfriend Angelina Torres.

Investigators learned that Mr. Wilson had a history of mental illness. He had abused methamphetamine in the past, but had gotten clean after he paroled in 2018. He lived with his sister in Chico for much of the time after he paroled, and was working as a laborer for the Butte County Public Works Department through the Alliance for Workforce Development.

Investigators spoke with Mr. Wilson's supervisor, Mike Townshend with Butte County Public Works. Mr. Townshend said he noticed in September 2019, that Mr. Wilson began showing up late for work. He also noticed during this period that Mr. Wilson's eyes were sometimes "blank" and he seemed to be mentally absent. On October 8, 2019, Mr. Townshend observed Mr. Wilson being unsafe while operating a wood chipper. They had a conversation and Mr. Wilson mentioned he had stopped taking his mental health medication. Based on his unsafe behavior, Mr. Townshend sent Mr. Wilson home until he could be cleared to safely return to work.

Investigators spoke with Mr. Wilson's girlfriend, Angelina Torres. She told them she and Mr. Wilson were coworkers who moved in together in August 2019. They began dating soon after. Ms. Torres told investigators that Mr. Wilson had been drinking too much alcohol and exhibiting mentally ill behaviors. They had a falling out the week of October 7, 2019. Ms. Torres said that Mr. Wilson left her stranded at work after being sent home by their supervisor. They argued later and Ms. Torres told Mr. Wilson he needed to move out. She admitted that she struck Mr. Wilson in the head during the argument. On the morning of October 10, 2019, Mr. Wilson moved out.

Investigators spoke with Mr. Wilson's sister, Registi Huber. She said Mr. Wilson came to her house on October 10, 2019. She said that Mr. Wilson had been in an argument with his girlfriend. He had a bump and bruise on his forehead from being hit by Ms. Torres. Mr. Wilson complained of dizziness and nausea. Registi believed the symptoms were a result of his head injury from Ms. Torres. Registi said that Mr. Wilson behaved bizarrely all day. She admitted that Mr. Wilson had used methamphetamine in the past, but believed his bizarre behavior that day resulted from his injury. Mr. Wilson left her Chico home around 4:00 p.m. on October 10, 2019.

Investigators spoke with Mr. Wilson's coworker, Russel Landsborough. Around dinnertime on the evening of October 10, 2019, Mr. Wilson stopped by Landsborough's Oroville home. Mr. Landsborough knew that Mr. Wilson was sad and had been having difficulties in his relationship with his girlfriend. The Landsboroughs invited Mr. Wilson to stay for dinner, but he declined. Mr. Wilson asked to stay with Russell and his wife for a while. Mr. Landsborough explained he could not offer that at the time because he had his granddaughter staying. Mr. Wilson said he was going to a friend's house near a lake about 30 minutes away to pitch a hammock. Mr. Wilson stayed for about an hour and then left.

Mr. Wilson's Subaru was eventually discovered parked 30' to 40' down a driveway in the vicinity of the Bronson residence. Investigators processed Mr. Wilson's Subaru for evidence, and noticed the vehicle was equipped with an ignition interlock device. The device requires the driver to provide a breath sample for the engine to start. The servicer for the device provided investigators

a data log for the device. The log showed the engine came on at 7:07 p.m. on October 10, 2019. A rolling retest was passed at 7:23 p.m. The vehicle shut off at 8:06 p.m. Multiple attempts were made to restart the car between 8:17 p.m. and 9:03 p.m., but the car remained on for only about 30 seconds each time. It is unknown why the engine kept shutting down and whether it was disabled.

██████████ lived in the closest house to the driveway where Mr. Wilson's Subaru was found. Mr. ██████████ told investigators that around 8:30 p.m. on October 10, 2019, a man knocked at his door and asked if he could leave the Subaru at the top of his driveway. Mr. ██████████ invited the man inside for a beer. The man declined the beer, but came in and sat on the couch. They spoke for about five minutes. The man said he would be back for the vehicle in a few days and left.

## **5. Forensic Autopsy**

On October 17, 2019, Forensic Pathologist Dr. Gregory Reiber performed a forensic autopsy of Mr. Wilson's body at the Placer County Coroner's Office. The autopsy involved the external and internal examination of Mr. Wilson's body to document any injuries and determine the cause of his death. Dr. Reiber determined Mr. Wilson died from a gunshot wound of the head. He documented four gunshot wounds in Mr. Wilson's chest and abdomen, one gunshot wound in the posterior scalp, and one gunshot wound on the dorsal-radial surface of the right forearm. Two of the gunshot wounds to the torso were inflicted at close range based on the presence of soot, searing, and/or stippling around the entrance wounds. Dr. Reiber recovered four projectiles and some fragments from Mr. Wilson's body.

Dr. Reiber also collected samples of Mr. Wilson's blood. The samples were sent to NMS Labs for analysis. The report from NMS Labs indicates that Mr. Wilson's blood tested positive for compounds associated with use of marijuana and methamphetamine. Mr. Wilson had 820 ng/mL of methamphetamine in his blood; an amount that has been reported in methamphetamine abusers who exhibited violent and irrational behavior. The report notes that high doses of methamphetamine can also elicit restlessness, confusion, and hallucinations.

## **6. Forensic Analysis of Physical Evidence**

On December 9, 2019, DOJ Senior Criminalist Brandi Spas authored a report regarding her analysis of the fired cartridge cases recovered from the scene. She microscopically compared the spent cartridge cases recovered from the scene with test-fired cases she created by test-firing the Deputy Bronson's duty weapon. She verified that the 9mm caliber cartridge cases recovered from the scene were fired from Deputy Bronson's 9mm Glock pistol.

## **II - LEGAL PRINCIPLES IN OFFICER-INVOLVED USE OF FORCE CASES**

The California Legislature made major changes in 2019 to the laws regarding the justification of deadly force by peace officers. The new law, Assembly Bill 392, was signed by the Governor on August 19, 2019, but did not go into effect until January 1, 2020. Put simply, AB 392 does not apply to this case because it was not the law at the time of the incident. This report analyzes the incident under the law in effect on October 10, 2019.

Possible criminal charges against an officer involved in a fatal use of force event include murder [Penal Code Section 187]; voluntary manslaughter [Penal Code Section 192(a)]; assault with a deadly weapon [Penal Code Section 245]; and assault by a police officer [Penal Code Section 149].

In order to convict an officer of any of these charges, however, it would be necessary to prove beyond a reasonable doubt that no legal justifications existed for the officer's actions. Several such justifications may apply in any given case and they are set forth in Penal Code Sections 196, 197 and 835a.

### **California Penal Code 196**

Police officers may use deadly force in the course of their duties under circumstances not available to members of the general public. California Penal Code Section 196 provides that use of deadly force by a public officer is justifiable when necessarily used “in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty” or when necessarily committed when “arresting persons charged with felony, and who are fleeing from justice or resisting such arrest.” Formal written charges are not required for this rule to apply; it is sufficient that an officer have probable cause to believe the suspect committed the offense. (*People v. Kilvington* (1894) 104 Cal. 86, 92.)

When a police officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or others, it is not constitutionally unreasonable to prevent escape by using deadly force. (*Tennessee v. Garner* (1985) 471 U.S. 1, 11.) This requirement that a suspect poses a threat of physical harm can be satisfied where there is probable cause to believe the suspect has committed a crime involving the infliction of serious physical harm and deadly force is necessary to prevent escape. (*Id.* at 11-12.)

These holdings from *Garner* were subsequently clarified by the United States Supreme Court in *Graham v. Conner* (1989) 490 U.S. 386, where the Supreme Court explained that an officer's right to use deadly force is to be analyzed under the Fourth Amendment's “objective reasonableness” standard. The test of reasonableness in this context is an objective one, viewed from the vantage of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. (*Graham, supra*, 490 U.S. at 396.) It is also highly deferential to the police officer's need to protect himself and others. The calculus of reasonableness must embody allowance for the fact that “police officers are often forced to make split-second judgments-in circumstances that are tense, uncertain, and rapidly evolving-about the amount of force that is necessary in a particular situation.” (*Id.*) The “reasonableness” inquiry in an excessive force case is an objective one: the question is whether the officers' actions are “objectively reasonable” in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. (*Id.*)

Courts recognize “under *Graham* we must avoid substituting our personal notions of proper police procedure for the instantaneous decision of the officer at the scene. We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day. What constitutes ‘reasonable’ action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure.” (*Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334, 343, citing *Smith v. Freland* (6th Cir. 1992) 954 F.2d 343, 347.)

The Supreme Court’s definition of reasonableness is, therefore, “comparatively generous to the police in cases where potential danger, emergency conditions or other exigent circumstances are present.” (*Martinez, supra*, 47 Cal.App.4th at 343-344, citing *Roy v. Inhabitants of City of Lewiston* (1st Cir. 1994) 42 F.3d 691, 695.) In effect, the Supreme Court intends to surround the police who make these on-the-spot choices in dangerous situations with a fairly wide zone of protection in close cases. (*Martinez, supra*, 47 Cal.App.4th at 343-344.)

A homicide is justifiable under Penal Code Section 196 when the circumstances reasonably created a fear of death or serious bodily harm to the officer or to another. (*Martinez v. county of Los Angeles* (1996) 47 Cal.App.4th at 334.) This test is satisfied when deadly force is necessary to stop a fleeing felony suspect where the felony is forcible or atrocious. (*Kortum v. Alkire* (1997) 69 Cal.App.3d 325, 333.) Forcible and atrocious felonies are generally those crimes whose character and manner reasonably create a fear of death or serious bodily harm, such as murder, mayhem rape, and robbery. (*Id.*)

This standard under Penal Code Section 196 is consistent with the Supreme Court standard for reasonable force as stated in *Garner, supra*, 471 U.S. at 11-12. California courts have held that when a police officer’s actions are reasonable under the Fourth Amendment, the requirements of Penal Code Section 196 are satisfied. (*Martinez v. City of Los Angeles*, 47 Ca.App.4th 334, 349.)

Courts recognize that criminal suspects who flee or attempt to flee from police in a vehicle present a heightened danger to the public. (*See e.g., Scott v. Harris* (2007) 550 U.S. 372, 386 [holding that a “police officer’s attempt to terminate a dangerous high-speed car chase that threatens the lives of innocent bystanders does not violate the Fourth Amendment, even when it places the fleeing motorist at risk of serious injury or death”].) *Plumhoff v. Rickard* is another example. In *Plumhoff*, officers pursued Mr. Rickard, who appeared to have been drinking, and drove recklessly while fleeing a traffic stop. (*Plumhoff v. Rickard* (2014) 572 U.S. 765, 768-770.) The Court found that Mr. Rickard’s driving posed a grave risk to public safety and held it was reasonable for the officers to terminate the pursuit by shooting into the vehicle 15 times, killing both Mr. Rickard and his passenger. (*Id.* at 776.) In addressing the question of the number of shots fired in relation to the public safety risk, the Court stated it “stands to reason that, if police officers are justified in firing at a suspect in order to end a severe threat to public safety, the officers need not stop shooting until the threat has ended.” (*Id.* at 777.)

### California Penal Code 197

California law permits *all persons* to use deadly force to protect themselves from the imminent threat of death or great bodily injury. Penal Code section 197 provides that the use of deadly force by any person is justifiable when used in self-defense or in defense of others. The relevant criminal

jury instruction is set forth in CALCRIM 505, stating that a person acts in lawful self-defense or defense of another if (1) he reasonably believed that he or someone else was in imminent danger of being killed or suffering great bodily injury, and (2) he reasonably believed that the immediate use of deadly force was necessary to defend against that danger. A person may use no more force than is reasonably necessary to defend against the danger. (CALCRIM 505.)

A person may resort to the use of deadly force in self-defense, or in defense of another, where there is a reasonable need to protect oneself or someone else from an apparent, imminent threat of death or great bodily injury. Perfect self-defense requires both subjective honesty and objective reasonableness. (*People v. Aris* (1989) 215 Cal.App.3d 1178, 1186.) Additionally, “[i]mminence is a critical component of both prongs of self-defense.” (*People v. Humphrey* (1996) 13 Cal.4<sup>th</sup> 1073, 1094.) In *Aris*, the trial court’s clarifying instruction to the jury on the subject was to the point and later cited with approval by the California Supreme Court: “An imminent peril is one that, from appearances, must be instantly dealt with.” (*In re Christina S.* (1994) 7 Cal.4<sup>th</sup> 768, 783.)

A person’s right of self-defense is the same whether the danger is real or merely apparent. (*People v. Jackson* (1965) 233 Cal.App.2d 639.) If the person’s beliefs were reasonable, the danger does not need to have actually existed. (CALCRIM 505.) What constitutes “reasonable” self-defense or defense of others depends on the circumstances. The question is whether action was instantly required to avoid death or great bodily injury. In this regard, there is no duty to wait until an injury has been inflicted to be sure that deadly force is indeed appropriate. In one case, a robber pointed a gun at his victim and a deputy sheriff was called to the scene of the robbery. Before the robber could get off a shot, the deputy fired his weapon, wounding the robber. The appellate court remarked that “[s]uch aggressive actions required immediate reaction unless an officer is to be held to the unreasonable requirement that an armed robber be given the courtesy of the first shot.” (*People v. Reed* (1969) 270 Cal.App.2d 37, 45.)

There is no requirement that a person (including a police officer) retreat even if safety could have been achieved by retreating. (CALCRIM 505.) In addition, police officers are not constitutionally required to use all feasible alternatives to avoid a situation where the use of deadly force is reasonable and justified. (*Martinez v. County of Los Angeles* (1996) 47 Cal.App.4<sup>th</sup> 334, 348.)

When deciding whether a person’s beliefs were reasonable, a jury considers all the circumstances as they were known to and appeared to the person, and considers what a reasonable person in a similar situation with similar knowledge would have believed. (CALCRIM 505.)

In the related context of cases alleging excessive force by police, the test of reasonableness is an objective one, viewed from the vantage of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. (*Graham v. Conner* (1989) 490 U.S. 386, 396.) It is also highly deferential to the police officer’s need to protect himself and others. The calculus of reasonableness must embody the allowance for the fact that “police officers are often forced to make split-second judgments-in circumstances that are tense, uncertain, and rapidly evolving-about the amount of force that is necessary in a particular situation.” (*Id.* at 396-397.)

California law provides further protection for those using deadly force against intruders within their home. Penal Code section 198.5 legally presumes that a person who uses deadly force against

an intruder within their home held a reasonable fear of imminent peril of death or great bodily injury.

### **III - LEGAL ANALYSIS**

I have carefully examined the recorded statements, the reports of law enforcement officers who investigated the officer-involved shooting, the statements of civilian witnesses, the audio recordings and CAD records from the agency dispatch centers, as well as the other materials described herein.

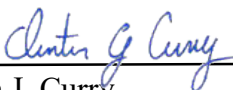
On the evening of October 10, 2019, Deputy Bronson met an intruder in his home in the middle of the night. Based on this alone, Penal Code section 198.5 requires us to presume that Deputy Bronson held a reasonable fear of imminent peril. Deputy Bronson could have stood his ground right there and been justified in the use of deadly force. Deputy Bronson showed great restraint by instead confronting Mr. Wilson and attempting to detain him until deputies could arrived.

Mr. Wilson ignored Deputy Bronson's commands to stay seated and wait for deputies. Mr. Wilson chose to advance on Deputy Bronson. Deputy Bronson again showed great restraint by tactically retreating further into his home. Mr. Wilson could have fled from the house when he walked passed the front door. Mr. Wilson's choice to pursue rather than flee would suggest to any homeowner that he had an intent beyond mere burglary or theft. Deputy Bronson was nearly out of room to retreat when Mr. Wilson collided with him in the hallway. Deputy Bronson's wife and minor children were in the home. Deputy Bronson was all that stood between them and Mr. Wilson. Deputy Bronson reasonably believed that he and his family were in imminent danger of being killed or suffering great bodily injury. Being significantly smaller than Mr. Wilson, Deputy Bronson also reasonably believed that deadly force was necessary to defend against the imminent threat.

### **IV - CONCLUSION**

There is overwhelming evidence that Deputy Bronson's use of force was legally justified under California law based on the facts known to Deputy Bronson at the time of the incident. The Yuba County District Attorney's Office is closing its inquiry into this incident and no further action is contemplated.

DATED: August 14, 2020

  
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Clinton J. Curry  
District Attorney