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Report of the Law Enforcement Involved Fatal Incident In-Custody Death of Jose Luis Lopez on
March 17, 2020

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Privacy Statement

This report includes redactions of the names and other identifying information of victims, witnesses, and Mr. Lopez's family members. Specific addresses are also not provided in this report. The public interest in such information is limited as it is not necessary to gain an understanding of the incident. Thus, the interest in nondisclosure clearly outweighs any public interest in disclosure.

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

- Witness 1 (W-1), is Lopez's fiancé.
- Witness 2 (W-2), is the daughter of W-1.
- Witness 3 (W-3), is civilian witness present inside the residence at the time of the incident.
- Witness 4 (W-4), is an additional civilian witness present inside the residence at the time of the incident.
- Location #1 is Lopez's residence, which is located in Richmond, Ca

Executive Summary

On March 17, 2020, at approximately 2:37 p.m., Richmond Police Department (RPD) Dispatch Center received a call from Witness #2 (W-2) who stated her mother's boyfriend, Jose Luis Lopez, was high on drugs, fighting with her mother (W-2) and he was trying to take her clothes off. The location was identified as a residence in the city of Richmond, California (CA) [hereinafter referred to as Location #1]

Within minutes, multiple Richmond Police Officers arrived at location #1 and entered the home. Once inside, Officer Ferraro saw W-1 was crying hysterically and was naked from the waist up except for a blanket wrapped around her shoulders.

Officer Ferraro saw Lopez, who was sweating profusely and appeared extremely agitated, exit a nearby room. Officer Ferraro attempted to detain Lopez in a narrow hallway and was able to secure one handcuff on his wrist. Lopez then tensed up and rotated away from Officer Ferraro. Officer Ferraro took Lopez to the ground and attempted to secure both handcuffs. A nearby officer, Officer Parker, assisted Officer Ferraro as Lopez continued to resist being detained.

During the struggle on the ground, Officer Ricchiuto, who was standing nearby, struck Lopez in the legs with a baton multiple times and issued him various commands. Lopez did not comply and continued to struggle with officers Ferraro and Parker, who were on the ground with Lopez.

Officer Ricchiuto then transitioned from the non-lethal use of a baton to the non-lethal use of his taser, but the taser did not deter Lopez from resisting. Instead of complying with commands, Lopez grabbed hold of Officer Ferraro's duty firearm, which was in his holster. Officers were able to assist Officer Ferraro in keeping his firearm secured in his holster.

Lopez continued to struggle with officers and bit Officer Ferraro in his stomach. Officers were able to place both handcuffs onto Lopez, who continued to resist. Moments later, Officer Galt and his canine arrived at the Location #1, but the canine was not deployed.

Officers then pulled Lopez from the narrow hallway and into the nearby living room so multiple officers could assist in detaining him. Once in the living room approximately 5-6 officers held Lopez down on the floor. Officer waited for a WRAP restraint to be brought in the room, and once it arrived, multiple officers assisted in securing Lopez in the restraint.

Paramedics tended to Lopez shortly after he was secured in the WRAP restraint. The length of time from when officers first made contact with Lopez, to when he was secured in the WRAP restraint, was approximately 15 minutes. Approximately 11 officers assisted in detaining Lopez.

When paramedics arrived, Lopez was still agitated and either yelling, speaking, or making audible noises as he lay on his side. Paramedics gave Lopez an injection of a sedative called, “Versed” in order to calm Lopez down.

Lopez was then removed from the residence and placed in an ambulance. Once in the ambulance, Lopez stopped breathing and paramedics were unable to find a pulse. Lopez was transported to the hospital where he died on March 19th, 2020.

On March 20, 2020, the Contra Costa County Sheriff’s Coroner’s Office conducted an autopsy on Lopez’s remains. The forensic pathologist determined the cause of death to be complications of acute cocaine toxicity (Excited Delirium Syndrome) due to substance abuse. Other significant conditions included evolving acute pneumonia, acute urinary tract infection, subphrenic abscesses and soft tissue injuries.

A thorough review of all of the evidence available in this case reveals that under the totality of the circumstances the officers’ use of force was reasonable. As such, no further action will be taken in this case.

Introduction:

This report is the final step in the Contra Costa County District Attorney’s Office (CCDAO) investigation of the Richmond Police Department’s in-custody death of Jose Luis Lopez on March 17, 2020, in Richmond, California.

The CCDAO and every law enforcement agency in Contra Costa County follow the Law Enforcement Involved Fatal Incident Protocol (“the Protocol”)¹ to investigate incidents when officers or civilians are shot, killed, or die during an encounter with law enforcement. Under the Protocol, the CCDAO investigates all in-custody deaths in Contra Costa County for the purpose of making an independent determination of criminal liability. The sole purpose of the District Attorney investigation is to determine if there is proof beyond a reasonable doubt that an individual involved in the law enforcement involved fatality committed a crime.

Pursuant to the Protocol, immediately after an in-custody death, the involved law enforcement agency is required to notify the appropriate district attorney personnel. Once notified, trained and experienced members of the District Attorney’s Office respond to the scene and begin the criminal investigation. In addition, criminal investigators from the law enforcement agency involved in the incident and from the jurisdiction where the incident occurred, if different,

¹ Contra Costa County was one of the first counties in the country to adopt a fatal incident protocol between the District Attorney and the law enforcement agencies within the county. The complete LEIFI protocol document can be located on the Contra Costa County District Attorney’s Office website.

respond to the scene as well. It is important to note that although these investigations happen simultaneously, each agency conducts its own independent investigation.

As part of the criminal investigation, law enforcement officers and civilians who witnessed the incident may be interviewed. Evidence is collected at the scene and may be submitted to the county crime lab for testing and analysis, in addition to any other relevant investigative work necessary to complete the investigation. The Contra Costa County Sheriff's Office Crime Lab responds to every incident and collects evidence in all in-custody deaths.

During the course of the criminal investigation, an officer or deputy has the right to be represented by an attorney. They may voluntarily choose to provide a statement, physical evidence, or other relevant information during the criminal and administrative investigations. Under the law, neither an officer nor civilian can be compelled to give a statement as part of a law enforcement agency administrative investigation only. (See, Public Safety Officers Procedural Bill of Rights Act, Government Code Sections 3300 et seq.). In accordance with the law, the CCCDAO does not participate in compelled administrative investigation interviews and does not review them as part of the independent criminal investigation. There are very narrow circumstances where an exception to this rule is allowed.

Independent of the CCCDAO, and in accordance with the Protocol, the Coroner's Division of the Contra Costa County Sheriff's Office (CCCSO) conducts a Coroner's Inquest following most deaths that involve law enforcement personnel or law enforcement operations or activities within Contra Costa County.

The Coroner's Inquest is open to the public, conducted by a hearing officer (a private attorney hired by the Coroner's Division) and is held in front of a jury of citizens randomly selected from the Contra Costa County Superior Court jury pool. During the inquest, the hearing officer questions witnesses, and additional evidence may be presented. After hearing all of the evidence, the role of the jury is to decide whether the death was by (1) natural causes, (2) suicide, (3) accident, or (4) at the hands of another person other than by accident (i.e., homicide). The jury's decision has no legal bearing on the civil or criminal investigations or liability of any person(s) involved in the incident.

The Contra Costa County Sheriff's Department did not conduct a Coroner's Inquest into this matter.

INVESTIGATION

Overview

On March 17, 2020, the Contra Costa County District Attorney's Office (CCDAO) was notified by the Richmond Police Department that an incident had occurred in their city and they were invoking the Protocol. Representatives from the District Attorney's Office responded to the scene to conduct an investigation on behalf of the CCDAO.

When the CCDAO investigative team arrived at Location #1, the crime scene was being physically guarded by Richmond PD personnel and the entire surrounding area was marked off with crime scene tape to aid the preservation of any physical evidence. After CCDAO investigators reviewed the scene, the CCCSO Forensics Division (Crime Lab) was notified and arrived on scene to document their findings and collect evidence.

After walking through the crime scene and reviewing the associated evidence, the CCDAO investigative team joined the Richmond PD Detectives at the Richmond Police Department. A joint briefing with both agencies was held to give an overview of the incident to ensure everyone with an active role in the investigation had the same information before any further steps were taken in the investigation.

After the briefing, multiple inspectors were assigned different tasks. The investigative assignments were as follows:

- Senior Inspector Fraser Ritchie – Interview Richmond PD Officers
- Senior Inspector John Garcia – Interview Richmond PD Officers
- Senior Inspector Sean Eriksen – Interview Richmond PD Officers
- Senior Inspector Steve Cheatham – Search Location #1 for Evidence
- Senior Inspector Eddie Sousa – Interview civilian witnesses

Consistent with the Protocol, each inspector was accompanied by a Richmond Police Detective when performing the assigned investigative tasks. The officers involved in the incident were interviewed separately and were represented by an attorney after having been sequestered².

Evidence Reviewed:

- The crime scene (Location #1)
- Dispatch records and logs of the incident
- 9-1-1 audio recordings
- California Department of Justice criminal history information involving Lopez

² The process where the involved officer(s) are physically separated and isolated from others immediately following a use of force incident and are ordered to not discuss the incident with anyone, except their attorney.

- Interviews of all police officers categorized as actors and witnesses
- Interviews of all civilian witnesses associated with this incident
- Interviews of the responding support personnel
- All photographs taken during the investigation
- Autopsy of Lopez, by CCC Sheriff's Coroner's Office
- All CCC Forensics Services Division Report
- All body worn camera footage

Crime Scene Description

The incident took place at Location #1 which is located in a residential neighborhood in the city of Richmond. Location #1 is a single-story three-bedroom two-bathroom residence. According to Zillow, the residence is approximately 1,188 square feet. The entry of the house leads immediately to the main living room area and a nearby hallway leads to multiple bedrooms.

Crime Scene Evidence Recovery

The evidence at the crime scene was processed by criminalists from the Contra Costa County Sheriff's Office Crime Lab (CCCSO Crime Lab) and the Richmond Police Department. Evidence recovery, scene documentation, and photographs were completed during the investigation. The evidence collected included photographs of Officer Ferraro, Officer Caston, Officer Ricchiuto, Officer Parker, Officer Santana, Officer Frevele, Officer Campos, Officer Galt, Officer Tagorda, Officer Purcell, and Sergeant Dean. Additional photographs were taken of the residence, Jose Luis Lopez, W-1, and taser equipment used in the incident.

Physical evidence collected at the scene included the taser equipment used in the incident and a can of Budweiser beer collected from inside the residence. All available body worn camera was collected as evidence.

Jose Luis Lopez – Prior History

A review of LOPEZ's prior criminal history reveals the following:

- 8/9/2006 Arrest by the Concord Police Department for PC 243(e)(1) [Battery Against Cohabitant, Fellow Parent, Spouse, etc.] and PC 236 [False Imprisonment]
- 10/7/2008 Arrest by the Contra Costa County Sheriff's Department (CCCSO) for PC 243(e)(1)
- 10/24/2015 Arrest by the Richmond Police Department for PC 148(a)(1) [Resisting, Delaying or Obstructing a Police Officer]
- 4/2/2018 Arrest by the CCCSO for PC 273.5 [Corporal Injury to a Spouse or Cohabitant] and PC 422 [Criminal Threats]

7/26/2018 Conviction out of Contra Costa County for PC 243(d) [Battery Causing Serious Bodily Injury]; PC 243(e)(1); and PC 166(a)(4) [Violating a Court Order].

Factual Summary

On March 17, 2020, at approximately 2:37 p.m., Richmond Police Department (RPD) Dispatch Center received a call from Witness #2 (W-2) who stated her mother's boyfriend, Jose Luis Lopez, was "high on crack." W-2 further advised that Lopez was "fighting" with her mother, and was, "trying to get her naked". The location was identified as a residence in the city of Richmond, California (CA).

Officers were informed over dispatch that the suspect was hitting the reporting party's mother and taking her clothes off. Officers were further advised that the suspect was, "high." At approximately 2:38 p.m., Officer Lacquanna Caston, RPD, was assigned as the primary officer and Officer Kenneth Ferraro, RPD, was assigned as the backup officer. Officer Carmen Santana was also dispatched as a backup officer.

At approximately 2:39 p.m., Officers Timmy Parker and Officer Stephen Purcell were also dispatched to Location #1. The dispatcher broadcasted that he/she can hear the victim (W-1) screaming in the background.

At approximately 2:40 p.m., Sergeant Carl Dean, Officer Douglas Frevele and Officer Douglas Galt were dispatched to the Location #1.

At approximately 2:41 p.m., RPD Officers arrived in the area and observed W-2 in the driveway of Location #1. Officer Ferraro could hear someone yelling inside of Location #1. W-2 told Officer Ferraro and the other officers that W-1 and Lopez were inside the residence. Officers Santana and Ferraro entered the residence after knocking on the front door. Officer Ferraro walked down the hallway and he observed W-1 sitting on a bed in the bedroom to his right. Officer Ferraro stated W-1 was crying hysterically and she had a blanket wrapped around her shoulders. Officer Ferraro stated W-1 was naked from the waist up.

Officer Ferraro observed Lopez exit a bedroom on the left side of the hallway. Officer Ferraro observed Lopez was sweating profusely and appeared extremely agitated. Officer Ferraro grabbed Lopez's hands and placed them on his head while giving him instructions in Spanish. Officer Ferraro removed his handcuffs and placed one handcuff on Lopez's wrist. Officer Ferraro stated Lopez tensed up, pulled his arms into his chest, and began to rotate away from Officer Ferraro.

Officer Ferraro grabbed Lopez's shoulders, conducted a leg sweep, and took him to the ground in the narrow hallway. Officer Ferraro fell to the ground with Lopez during the leg sweep and tried to gain control of Lopez. Officer Parker, who was standing next to Officer Ferraro, quickly went to the floor to assist Officer Ferraro.

Lopez continued to struggle and resist being detained by Officers Ferraro and Parker. Lopez tucked his hands underneath his body, thereby preventing officers from handcuffing him. One handcuff was secured to Lopez's right wrist, but the left wrist was not handcuffed, and Lopez could use the handcuff as a weapon to swing at officers.

At this time, Lopez had not been searched by officers to determine if he possessed any weapons. Officers were unable to successfully detain Lopez, therefore additional officers were dispatched to the Location #1 as the struggle to detain Lopez continued.

During the struggle on the floor, Officer Ricchiuto, who was standing nearby, struck Lopez in the legs approximately 4-5 times with his baton and ordered him to, "put your hands behind your back, now." Lopez did not comply and continued to struggle with officers Ferraro and Parker, who were on the ground with Lopez.

An additional officer, Officer Frevele, attempted to assist Officers Ferraro and Parker by trying to place Lopez's legs into a figure four leg lock³. Officer Frevele was unable to secure a figure four leg lock hold.

While Officer Ferraro and Officer Parker continued to struggle with Lopez on the floor, Lopez twisted his body and positioned himself with his chest facing upwards. Officer Ricchiuto delivered approximately two additional baton strikes at what appeared to be Lopez's legs and ordered him to, "roll over." Officer Ricchiuto stated that at one point he used his baton as a downward punching tool. During the struggle, Officer Ferraro was inadvertently struck with the baton in the right thigh.

The baton strikes administered by Officer Ricchiuto did not deter Lopez from continuing to resist officers. Officer Ricchiuto stated that after he struck Lopez with his baton, Lopez just "grit" his teeth, opened his eyes wider, and continued to fight even harder.

Officer Ferraro momentarily grabbed Lopez around the head and neck area, enabling Officer Ricchiuto, who was standing feet away, to fire taser darts into Lopez's mid-section. The taser darts did not appear to effect Lopez, and Lopez continued to struggle with officers Ferraro and Parker on the floor.

³ Figure four leg lock – A secure hold used in law to secure a subject's legs/lower body by folding one leg into the posterior crease of the other leg and applying pressure to the upper leg to control the lower body.

Officer Ricchiuto then performed multiple “drive” stuns with his taser device into Lopez’s mid-section, which did not appear to deter Lopez from resisting.

While being tased, Lopez grabbed hold of Officer Ferraro’s duty weapon, which was in his holster. Officer Ferraro heard the very distinct sound of the primary safety on his duty weapon being disengaged and could feel his leg holster being twisted out of its position, due to Lopez’s grip on the firearm. Officer Ferraro yelled out, “He’s got my gun!” Officer Ferraro stated that a Richmond Police Officer removed Lopez’s grip from the firearm and secured the firearm back into the holster.

Shortly after Officer Ferraro stated that Lopez had his firearm, Officer Frevele, who was standing nearby, then elbowed Lopez multiple times on the side of his body. At one point, Officer Frevele pushed Lopez’s head to the ground in an attempt to stun him. Lopez did not appear stunned and continued to struggle with officers. Officers described Lopez as having, “super-human” strength.

Lopez bit Officer Ferraro in his stomach, near his waistline. Officer Ferraro struck Lopez several times near his face to stop Lopez from biting him.

Officer Ferraro attempted to disengage Lopez and he heard a “pop,” felt a sharp pain in his hip area, crawled to a nearby room and closed the door. Officer Ferraro believed that he dislocated his hip. Officers continued to struggle with Lopez, and they were finally able to place the second handcuff on Lopez’ hand. At this point, both of Lopez’s hands were handcuffed in front of his body.

Moments later, Officer Galt and his canine arrived at Location #1. An officer announced, “Dog, dog,” and the officers that were struggling with Lopez disengaged and stepped away from the Lopez. Lopez, who was now alone in the hallway and facing the barking canine, was issued multiple commands -- in both English and Spanish -- by an officer. The commands given to Lopez included, “put your hands up or I will send the dog,” and, “crawl towards me.” Lopez did not follow the multiple orders issued by the officers. At no time was the canine unit deployed.

Sergeant Dean, who was present at the scene, decided to move Lopez from the confined hallway to the nearby open living room area, so multiple officers could be used to safely complete the arrest. Sergeant Dean grabbed Lopez and pulled him to the living room.

Once in the living room, multiple officers positioned themselves to keep Lopez laying down on the floor. At the time, Lopez was handcuffed in front of his body, and therefore still able to use his hands and arms. Sergeant Dean requested that another officer get a WRAP restraint and began coordinating with multiple officers to re-handcuff Lopez so he would be handcuffed behind his body, instead of in front of his body.

While waiting for the WRAP restraint, at various points in time, four to five officers remained positioned over Lopez and were giving him commands to stop resisting. The officers who attempted to hold down Lopez, during this period of time, included Sergeant Dean, Officer Campos, Officer Frevele, Officer Parker, Officer Caston, and Officer Ricchiuto.

Initially, Sergeant Dean held down Lopez's arms, which were later held down by Officer Ricchiuto. Officers Caston and Campos attempted to hold down Lopez by his legs/torso. Officer Parker was near Lopez's side. Lopez repeatedly attempted to "buck" officers off him.

In order to deter Lopez from continuing to resist, Officer Parker kned and elbowed Lopez approximately 3 times. In addition, at one point, Officer Frevele placed his knee on Lopez's shoulder/neck/head area while Lopez was laying on his stomach. Officer Frevele applied pressure to Lopez's head/shoulder/neck area for approximately 1 minute and 30 seconds.

Once officers were able to retrieve the WRAP restraint, the restraint was placed on the floor near Lopez and officers pulled Lopez towards the restraint. Approximately 4 – 5 officers assisted in applying the WRAP restraint. During this process, officers re-handcuffed Lopez, as he lay face down on his stomach, in order to move his handcuffs from the front of his body, to behind his back.

Officers secured Lopez's legs into the WRAP restraint and then sat Lopez up into a seated position in order to secure the upper half of the restraint. As they applied the upper portion of the restraint, Lopez attempted to bite Officer Caston's hand, who was wearing gloves at the time, but Lopez was only able to get his teeth on the glove material. In addition, Lopez attempted to bite Officer Tagorda who was also assisting in holding down Lopez and securing the WRAP restraint.

As the WRAP restraint was applied, multiple officers were either pushing, pulling, or holding Lopez down during the process. The Officers assisting in the application of the WRAP restraint, at various points in time, included Officer Parker, Officer Frevele, Officer Ricchiuto, Officer Santana, Officer Caston, Officer Tagorda, Sergeant Thomas, and Sergeant Dean. During the application of the WRAP restraint, a spit guard was placed on Lopez's head. Lopez was laid onto his side once fully secured in the restraint.

During the entire encounter with police, Lopez spoke in both English and Spanish. At various points, Lopez would make statements such as, "Listen to me (in Spanish)," "They are trying to kill me," as well as various other statements. In addition, during the entire encounter, officers issued various commands, in both English and Spanish, such as, "Stop resisting," "Roll over," "put your hands behind your back," as well as other commands.

Paramedics tended to Lopez shortly after he was secured in the WRAP restraint.

The length of time from when officers first made contact with Lopez, to when he was secured in the WRAP restraint, was approximately 15 minutes.

At approximately 2:58 p.m., Paramedic Supervisor Ansari, American Medical Response (AMR), stated Paramedic Rob Hirsch gave Lopez a sedative injection. Specifically, Lopez was given a 5 mg. dose of "Versed," via inner muscular injection based on treatment guidelines and due to Lopez being, "grossly combative." Shortly after the injection, Lopez appeared to calm down.

Prior to being administered a dose of "Versed," Lopez appeared conscious, in an excited state, and was either yelling, speaking, or making audible noises.

At approximately 3:00 p.m., Paramedics removed Lopez from the residence via the front door and placed him on the gurney in front of Location #1.

At approximately 3:07 p.m., paramedic personnel placed Lopez in an ambulance. Lopez went into medical distress and needed to be resuscitated. Officers assisted in removing Lopez's WRAP restraint and handcuffs.

At approximately 3:09 p.m., paramedics placed an AED machine on Lopez's chest.

At approximately 3:12 p.m., the ambulance left the area of Location #1 enroute to Kaiser Hospital, at 901 Nevin Avenue, Richmond, CA. During the transport, Paramedic Rob Hirsch administered the suspect with a dose of epinephrine in an attempt to re-start the heart, which produced negative results.

At approximately 3:16 p.m., the ambulance arrived at Kaiser Hospital. Lopez was removed from the ambulance and rolled inside the hospital on the gurney. Lopez's condition did not change, at which time the medical staff at Kaiser took custody of Lopez and continued medical treatment. After approximately 10 to 15 minutes of treatment, the staff at Kaiser was able to regain a steady rhythm from Lopez's heart and breathing.

At approximately 4:38 p.m., Officer Katie Cubit, RPD, contacted the Contra Costa County Crime Laboratory for them to respond to the Location #1.

On March 19, 2020, at approximately 10:45 a.m., Dr. Kreck, Kaiser Hospital, reported Lopez's condition had deteriorated, and that he succumbed to his injuries.

On March 20, 2020, the Contra Costa County Sheriff's Coroner's Office conducted an autopsy on Lopez's remains. The forensic pathologist determined the cause of death to be complications of acute cocaine toxicity (Excited Delirium Syndrome) due to substance abuse. Other significant conditions included evolving acute pneumonia, acute urinary tract infection, subphrenic abscesses and soft tissue injuries.

Body Worn Camera Footage

The body worn camera footage recovered from the officers involved in this incident includes:

1. Richmond Police Officer Kenneth Ferraro
2. Richmond Police Officer Carmen Santana
3. Richmond Police Officer Michael Ricchiuto
4. Richmond Police Officer Timmy Parker
5. Richmond Police Officer Douglas Frevele
6. Richmond Police Officer Lacquanna Caston
7. Richmond Police Officer Stephen Purcell
8. Richmond Police Officer Cedric Tagorda
9. Richmond Police Officer Douglas Galt
10. Richmond Police Officer Daniel Campos
11. Richmond Police Sergeant Carl Dean
12. Richmond Police Sergeant Virgil Thomas

Interviews of Involved Officers

There were multiple Richmond Police Officers who responded and were involved in this incident. This report will detail the interviews of the actors and those who witnessed a key portion of this incident and can help provide a more complete picture of what occurred⁴. The interviews will describe the incident from the perspective of the involved officers. There may be information, statements, or recollections of events that are inaccurate or inconsistent with the facts of this incident as they are currently understood. The information is being listed in the manner in which it was relayed to the investigators during the interviews⁵.

During the course of the investigation, an officer has the right to be represented by an attorney. They may choose to provide a statement, physical evidence, and other relevant information. It's important to note that, neither an officer or civilian can be compelled to provide a statement or other relevant information during an internal administrative investigation by the officer's employer⁶. In this investigation, all the involved officers provided voluntary statements to the CCCDAO and the RPD with their attorney present. Each officer was interviewed separately from others within hours of the incident after being subject to sequestration.

⁴ The original records are retained by agencies involved in this incident. Copies can be obtained by contacting them directly.

⁵ The authors of this report did not participate in the interviews of the involved officers.

⁶ Public Safety Officers Procedural Bill of Rights Act, Government Code sections 3300 et seq.

Officer Kenneth Ferraro

Officer Kenneth Ferraro was interviewed on March 17th, at approximately 11:05 pm, by Richmond Police Detective Mandell, Senior Inspector John Conaty (CCDAO), and Deputy District Attorney Kevin Bell from the Contra Costa County District Attorney's Office. Officer Ferraro's attorney, Julia Fox, was present for the interview.

The following is a summary of Officer Ferraro's interview:

Officer Ferraro has been a sworn police officer for approximately 9 years. On the date of the incident, he responded to location #1 after being advised by both dispatch and his mobile data computer of a felony domestic violence incident where the suspect was removing the victim's clothing.

Officer Ferraro approached the front yard of the residence and heard arguing coming from the inside. In the front yard was a young woman who advised him that the involved parties were inside the residence.

Officer Ferraro knocked on the front door and announced himself as a police officer several times. Officer Ferraro entered the home, followed by Richmond Police Officer Santana. Officer Ferraro walked through the living room and down a hallway which led towards the back of the residence. While in the hallway, he saw a woman, W-1, sitting on a bed in a bedroom to the right.

W-1 was crying hysterically and was naked from the waist up, except for a blanket wrapped around her shoulders. At approximately the same time, Officer Ferraro saw a man, later identified as LOPEZ, exit a door from the left side of the hallway. Officer Ferraro noticed LOPEZ was sweating and appeared agitated.

Officer Ferraro grabbed LOPEZ's hands and put them over LOPEZ's head while telling him, in Spanish, to put his hands over his head. Officer Ferraro placed one of LOPEZ's hands on top of his head and was able to put one of LOPEZ's hands into a handcuff. Officer Ferraro noticed LOPEZ tensed up and began to pull his arms into his chest before the second handcuff could be applied.

Officer Ferraro attempted to move LOPEZ's hands behind his back to secure both handcuffs, but LOPEZ tensed up even more and began to rotate his body. Believing that LOPEZ was about to strike him, Officer Ferraro grabbed LOPEZ's shoulders and took LOPEZ down to the floor in the hallway.

While on the floor, LOPEZ continued to struggle with Officer Ferraro and tucked his hands under his body, preventing Officer Ferraro from handcuffing him. Officer Ferraro expressed concern that LOPEZ was not searched at this point and could have a concealed weapon on his

person. Officer Ferraro expressed further concern that with one hand cuffed, LOPEZ could use that handcuff as a weapon to strike him.

While struggling with LOPEZ, Officer Ferraro received assistance from Richmond Police Officer Parker, who was also attempting to gain control of LOPEZ. Officer Ferraro gave LOPEZ numerous commands to show his hands, but LOPEZ refused to do so. Officer Ferraro wrapped his arms around LOPEZ's upper body and head in an attempt to keep him under control and restrict his movements.

While they were on the floor, LOPEZ grabbed Officer Ferraro's duty weapon, which was in his holster. Officer Ferraro heard the distinct sound of the primary safety on the holder being disengaged and felt his leg holster being twisted out of position. Officer Ferraro said something similar to "He's got my gun," or "He's going for my gun." Officer Ferraro then noticed one of the officers assisting him removed LOPEZ's grip on the firearm and put the holster safety back into a position where his firearm was safely in his holster.

LOPEZ and Officer Ferraro continued to shift positions during the struggle. At one point, Officer Ferraro felt LOPEZ bite him in the stomach. Officer Ferraro struck LOPEZ near his face several times to get him to stop biting him. Officer Ferraro believed that nothing he or the other officers were doing appeared to have an effect on LOPEZ, which made him believe LOPEZ may have been under the influence of a controlled substance.

At one point, Officer Ferraro heard another officer yell, "Taser," which led him to believe that another officer was going to deploy a taser on LOPEZ. In response, Officer Ferraro grabbed LOPEZ around the head and shoulders to expose LOPEZ's torso in order to give the officer a more effective target area. A taser was deployed on LOPEZ -- but appeared not to have any effect upon him.

During the struggle, Officer Ferraro saw Officer Ricchiuto strike at LOPEZ multiple with his baton. None of the baton strikes appeared to affect LOPEZ. In addition, due to the close quarter nature of the hallway, one of the baton strikes inadvertently struck Officer Ferraro in the right thigh.

Officer Ferraro yelled out to fellow officers to get a canine unit to the scene in order to help gain control over LOPEZ. With other officers assisting in the arrest, Officer Ferraro attempted to stand up. While standing up, Officer Ferraro heard his hip, "Pop" and felt a sharp pain, which caused him to fall to the floor. Due to the injury, Ferraro realized he would be unable to assist and crawled to a nearby room.

Officer Ferraro stated that his body camera was knocked off his person during the struggle, causing it to fall to the ground.

Officer Michael Ricchiuto

Officer Michael Ricchiuto was interviewed on March 18th, at approximately 12:15 am, by Richmond Police Detective Mandell, Senior Inspector John Conaty (CCDAO) and Deputy District Attorney Kevin Bell. His attorney, Julia Fox, was present for the interview.

The following is a summary of Officer Ricchiuto's interview:

Officer Ricchiuto was informed over police radio about a domestic violence incident that was occurring at location #1. Dispatch further advised that the suspect was ripping the clothes off his girlfriend.

Officer Ricchiuto responded to location #1 and saw a young juvenile in the front of the residence who appeared frantic and excited. Officer Ricchiuto entered the residence and saw Officer Ferraro and Officer Parker in the process of attempting to detain a suspect, later identified as LOPEZ.

Officers Ferraro and Parker were giving LOPEZ commands and attempting to place LOPEZ into handcuffs. LOPEZ yelled and became more aggressive, at which point Officer Ferraro took LOPEZ to the ground with a leg sweep. Both Officer Ferraro, Officer Parker and LOPEZ fell to the ground in the hallway at approximately the same time.

Initially, Officer Ricchiuto did not assist in attempting to handcuff LOPEZ due to the close quarter nature of the hallway. Officer Ricchiuto saw LOPEZ grab onto Officers Ferraro and Parker, and it appeared to Officer Ricchiuto that LOPEZ began to fight the officers as opposed to simply resisting them. Officer Ricchiuto heard LOPEZ state in Spanish, at a later point, something similar to, "Listen to me."

Due to LOPEZ continuing to fight Officers Ferraro and Parker while on the floor, Officer Ricchiuto removed his baton and ordered LOPEZ to stop resisting. Ricchiuto then struck LOPEZ multiple times in the lower leg area, but it seemed to have no effect on him. Ricchiuto stated that LOPEZ would grit his teeth and fight harder in response to the baton strikes. Officer Ricchiuto then delivered a second volley of baton strikes to LOPEZ's lower legs while issuing orders, and then used the baton as a downward punching tool, but none of the strikes appeared effective.

At some point during the struggle, Officer Ricchiuto heard Officer Ferraro state that LOPEZ had his firearm. In response, Officer Ricchiuto removed his firearm in the event that LOPEZ gained control of Officer Ferraro's gun. Officer Ricchiuto repositioned himself and saw what he believed was an unknown hand on top of Officer Ferraro's firearm. Officer Ricchiuto saw the unknown hand push the gun firmly back into Officer Ferraro's holster until he heard a clicking sound, and it appeared the firearm was safely back in the holster.

Officer Ricchiuto noticed Officer Ferraro was struggling to maintain control of LOPEZ. In response, Office Ricchiuto removed his taser and announced that he was going to discharge his taser. The officers trying to maintain control of LOPEZ adjusted their position to give Officer Ricchiuto a larger target area on the suspect. Officer Ricchiuto then discharged the taser darts into LOPEZ's abdomen area. Officer Ricchiuto noticed that the taser darts did not have their desired effect, but instead only appeared to anger LOPEZ even more.

Officer Ricchiuto then attempted to "drive" stun LOPEZ multiple time in the torso area with his taser. In response, LOPEZ reached for the areas being tased. Officer Ricchiuto was issuing LOPEZ commands during this time, but LOPEZ did not comply and the taser did not seem to deter LOPEZ from fighting or resisting.

Once Officer Ricchiuto realized the taser was having no affect, he holstered his taser and noticed that officers were becoming fatigued as a result of the struggle. Officer Ricchiuto did not believe use of pepper spray was appropriate due to the confined area of the struggle and the likelihood that the officers would be affected by the pepper spray.

At one point during the struggle, Officer Ricchiuto heard Officer Ferraro state that LOPEZ bit him.

Officer Ricchiuto heard the canine unit enter the residence, prompting Officer Ricchiuto to go into a nearby bedroom to give the canine room to operate. Officer Ricchiuto saw that officers were able to secure both of LOPEZ's hands into handcuffs, but LOPEZ was cuffed in the front, which would allow him to continue struggling with the officers.

Officer Ricchiuto heard Officer Galt, the canine handler, give LOPEZ commands. Officer Ricchiuto believed the canine was brought into the house to assist in gaining compliance from LOPEZ. However, despite the presence of the canine, LOPEZ did not follow commands.

Officer Ricchiuto saw Sergeant Dean, who was also present in the house at this time, grab LOPEZ and pull him from the hallway, into the living room, in order to provide additional room for the officers to try and control LOPEZ, who was still handcuffed in front of his body.

After LOPEZ was moved to the living room, multiple police officers were able to secure both of LOPEZ's hands and re-position his handcuffs behind his back. After being re-handcuffed, multiple officers attempted to put him into a WRAP⁷ restraint. While in the living room, LOPEZ continued to resist and was very slippery from sweating. Officer Ricchiuto retrieved a spit mask from paramedics who arrived at Location #1, and the spit mask was placed on LOPEZ's head.

⁷ The WRAP – A lower body safe restraint system, designed to protect subjects and personnel by reducing the possibility of injury and death.

Officer Ricchiuto felt that LOPEZ likely worked with his hands for a living because he was much stronger than the average man. Officer Ricchiuto suspected that LOPEZ was on some sort of substance due to his high pain threshold and extreme strength.

Officer Ricchiuto recalled asking paramedics if they intended to give LOPEZ something to calm him down. Officer Ricchiuto believed paramedics administered some sort of medication to LOPEZ -- but did not witness it himself.

Officer Douglas Frevele

Officer Douglas Frevele was interviewed on March 18th, at approximately 1:15 am, by Richmond Police Detective Mandell, Senior Inspector John Conaty (CCDAO), and Deputy District Attorney Kevin Bell. Officer Frevele's attorney, Julia Fox, was present for the interview.

The following is a summary of Officer Frevele's Interview:

Officer Frevele was a sworn Richmond Police Officer for approximately 1 year and 6 months. On the date of the incident, he responded to a dispatch of a domestic violence call where the reporting party stated that her mom's boyfriend was hitting her mom and trying to take her clothes off.

Officer Frevele arrived at the Location #1, and while outside, heard what appeared to be officers yelling commands such as, "get on the ground," or "turn around." Upon entering the home, he saw Officers Ferraro and Parker struggling with a suspect, who was later identified as LOPEZ. Officers Ferraro and Parker were down on the floor, struggling with LOPEZ, and attempting to place LOPEZ into handcuffs. During the struggle in the hallway, Officer Frevele recalled that only one of LOPEZ's handcuffs were secured.

At one point during the struggle, Officer Frevele saw Officer Ricchiuto deliver multiple baton strikes to LOPEZ's lower legs. Officer Frevele noted that the baton strikes did not seem to have any effect on LOPEZ, and LOPEZ did not appear injured after being struck.

While in the hallway, LOPEZ kicked Officer Frevele in the thigh. Officer Frevele attempted to "twist" LOPEZ's feet to assist the officers in detaining him, but was unable to secure LOPEZ's legs.

Officer Frevele was uncertain of timeline but recalled a taser being deployed during the struggle in the hallway. Officer Ferraro was able to turn LOPEZ over, as he was on the floor, so that LOPEZ's chest was facing Officer Ricchiuto. Officer Ricchiuto removed his taser and deployed his taser on LOPEZ, but it appeared to have little effect. Officer Ricchiuto then used his taser to "drive" stun LOPEZ in the torso, which also did not appear to effect LOPEZ in gaining compliance.

Officer Frevele was not certain of the timeline but recalled an Officer stating that LOPEZ bit him during the struggle in the hallway.

Officer Frevele recalled that at one point, he heard Officer Ferraro say that LOPEZ had grabbed at, or for, his gun. Officer Frevele recalled Officer Ricchiuto stating something similar to, "Really," as if he were surprised that LOPEZ would try to grab for Officer Ferraro's gun. Officer Frevele noticed that Officer Ferraro's firearm was in his holster, but the safety was moved forward, enabling the gun to be removed with slight movement. Officer Frevele heard the sound of the safety lock re-engaging.

Officer Frevele stated that during the struggle in the hallway LOPEZ would attempt to bite him whenever he got his hands near LOPEZ's face. Officer Frevele would hold onto LOPEZ's head in order to avoid being bitten and to help officers handcuff LOPEZ.

At one point, while holding LOPEZ's head approximately 6 inches above the floor, LOPEZ again tried to bite him. In response, Officer Frevele pushed LOPEZ's head down to the ground in order to stun him, but it appeared to have no effect on LOPEZ. Officer Frevele recalled elbowing LOPEZ a couple of times on the back, side, and head area to get LOPEZ to comply with the officers.

At one point during the struggle in the hallway, a canine officer entered the residence. In response, Officer Ferraro and the officers who were struggling with LOPEZ, separated from LOPEZ momentarily and left him alone in the hallway where the canine officer then issued LOPEZ various commands to comply.

Officer Frevele saw Sergeant Dean pull LOPEZ into the nearby living room, where there was more room for officers to arrest LOPEZ. When LOPEZ was pulled into the living room, both of his handcuffs were on, but they were positioned in front of his body instead of behind his back.

Sergeant Dean formulated a plan to momentarily un-handcuff LOPEZ so he could be re-handcuffed behind his back. Between 5 and 7 officers held LOPEZ down and maintained control of each arm so they could handcuff LOPEZ from behind. Once LOPEZ was handcuffed, multiple officers secured LOPEZ into a WRAP restraint. During the entire period of time, and even during the application of the WRAP restraint, LOPEZ continued to resist officers.

AMR personnel entered the house once LOPEZ was secured in the WRAP restraint. AMR transported LOPEZ outside to a gurney, and eventually placed him inside an ambulance. Officer Frevele recalled AMR administering some sort of sedative to LOPEZ so that he would calm down.

Officer Frevele could see LOPEZ inside the ambulance as he was laying in the WRAP restraint. Officer Frevele heard AMR personnel state, "He's coding," which he believed to mean that

LOPEZ was dying. Officer Frevele notified his supervisor and assisted in removing LOPEZ's WRAP restraint so that LOPEZ could be rendered aid.

Officer Timmy Parker

Officer Timmy Parker was interviewed on March 17th, at approximately 11:05 pm, by Richmond Police Detective Chris Decious and Senior Inspector Ritchie (CCDAO). Officer Parker's attorney, John Murphy, was present for the interview.

The following is a summary of Officer Parker's interview:

Officer Parker has been a police officer for approximately five months and is currently assigned to Richmond Police Officer Stephen Purcell as part of the field training program. While responding to a separate incident, Officer Parker heard a radio broadcast of a domestic violence incident in process. Officer Parker responded to the Location #1, exited his patrol car, and heard an officer yelling commands from inside the residence.

Once inside the house, Officer Parker saw Officer Ferraro standing in the hallway with a suspect, later identified as LOPEZ. It appeared that Officer Ferraro was attempting to put LOPEZ into handcuffs, but the suspect was resisting. Both Officer Ferraro and LOPEZ went to the ground.

Officer Parker went to assist and noticed that only one of LOPEZ's hands were handcuffed. Officers Parker and Ferraro attempted to handcuff LOPEZ's hands together above his head -- but were unsuccessful in controlling LOPEZ.

Officer Ricchiuto yelled, "watch out," and proceeded to strike LOPEZ with his baton. Officer Ricchiuto struck LOPEZ in the lower leg area multiple times, but Officer Parker was still unable to secure LOPEZ into the handcuffs. The officers attempted to position LOPEZ in a way that would make it easier for them to gain control -- but were unable to do so.

During the struggle, Officer Parker heard Officer Ferraro state that he was being bitten by LOPEZ. Officer Ricchiuto used his taser on LOPEZ, but LOPEZ continued to resist by turning over and trying to move away from the officers.

At one point during the struggle, Officer Parker heard Officer Ferraro state that LOPEZ was grabbing for his gun. Officer Parker pulled Officer Ferraro's gun towards him where he could see the hood of the holster had been slid forward, but the gun was still positioned inside the holster. Officer Parker pushed the holster hood back into position.

At one point during the struggle, officers were able to secure both handcuffs onto LOPEZ's hands, however the handcuffs were positioned in the front of LOPEZ's body. In addition, the handcuffs were not yet double locked, therefore LOPEZ was still able to grab with his hands.

Officer Parker heard Richmond Police Officer Galt enter the residence with his canine unit. After Officer Galt and the canine unit arrived, Officers Ferraro, Frevele, and Parker entered a nearby rear bedroom and closed the door while LOPEZ remained in the hallway where the struggle initially began.

While inside the bedroom, Officer Ferraro told him he was in pain and did not feel well. Officer Parker could hear the canine unit barking and opened the bedroom door to see what was happening outside. Officer Parker saw Sergeant Dean was inside the house and heard Sergeant Dean tell the officers to move LOPEZ out of the hallway, and into a bigger room in the house.

With the assistance of additional officers, they were able to move LOPEZ into the large room and place him on his stomach. Officers Caston and Campos positioned LOPEZ's legs into a figure four control hold to prevent him from kicking. Officer Parker positioned himself on the right side of LOPEZ, holding him down. Sergeant Dean was assisting in holding down LOPEZ.

LOPEZ continued to try and twist and get up. Sergeant Dean asked that one of the officers get the WRAP restraint out of his vehicle. LOPEZ continued to resist, and on three occasions while waiting for the WRAP, Officer Parker told LOPEZ to stop resisting.

As LOPEZ continued to resist, Officer Parker delivered a knee strike to LOPEZ's ribs at 60% force in order to get LOPEZ to lay back down. On two occasions, Officer Parker gave the same command to stop resisting because LOPEZ was trying to roll towards him. On each occasion, Officer Parker delivered an elbow strike to LOPEZ's ribs at 50% - 60% force in order to get LOPEZ to lay back down.

Sergeant Dean began setting up the WRAP, but when officer started to move LOPEZ to the WRAP, he continued to resist. Officers were able to strap LOPEZ's legs into the WRAP. LOPEZ's hands were still handcuffed in front of this body, but the officers were able to remove the handcuffs and reposition the handcuffs behind his body.

Officers attempted to sit LOPEZ up into a seated position, but LOPEZ resisted again. Officer Parker used the back of LOPEZ's head to push him forward so the harness could be applied. After the WRAP device was secure, Officer Parker used no further force on LOPEZ.

Officer Parker recalled LOPEZ stating that the officers were going to kill him and that they have the wrong guy. Officer Parker recalled numerous times when either himself, Officer Ferraro, or Officer Ricchiuto ordered LOPEZ to give them his hands or stop resisting.

Officer Parker stated that LOPEZ had more energy than any person he has ever seen. Officer Parker believed, that based on his training and experience, that LOPEZ was on some sort of drug due to his level of strength and stamina.

Sergeant Carl Dean

Sergeant Carl Dean was interviewed on March 18th, at approximately 12:30 am, by Richmond Police Detective Chris Decious and Senior Inspector Ritche (CCCDAO). Sergeant Dean's attorney, Nicole Pifari, was present for the interview.

The following is a summary of Sergeant Dean's interview:

Sergeant Dean has worked as a sworn police officer for 15 years. On the day of the incident, he heard dispatch broadcast a call of a domestic violence incident in progress. Sergeant Dean was advised that the daughter of a woman called to report that her mother's boyfriend was ripping the clothes off of her mother and that there was screaming in the background.

Once he arrived at the residence, he saw officers engaged in a struggle with a suspect, later identified as LOPEZ. The officers were in the hallway of the residence, and he heard one of the officers request a canine for assistance. Sergeant Dean saw the canine handler, Officer Galt, and positioned himself behind the canine unit. Sergeant Dean then saw the officers, who were struggling with LOPEZ, move away from LOPEZ in response to the presence of the canine.

Sergeant Dean saw LOPEZ lying on the floor with his hands handcuffed in front of him. LOPEZ sat up and Sergeant Dean ordered LOPEZ to crawl from the hallway to the living room where it would be easier to control LOPEZ, due to the larger size of the room. LOPEZ did not come towards Sergeant Dean. Officer Galt gave additional commands in Spanish, but LOPEZ did not move into the living room area.

Sergeant Dean told officers he was going to pull LOPEZ into the living room area. Sergeant Dean then grabbed LOPEZ and pulled him into the living room. Additional officers attempted to grab LOPEZ, but LOPEZ kicked, pulled away, and flipped onto his back. Sergeant Dean told the officers to roll LOPEZ onto his stomach. While trying to turn LOPEZ over, LOPEZ grabbed Sergeant Dean's hands and continued to resist.

Sergeant Dean heard an officer state that LOPEZ tried to bite one of the officers. Sergeant Dean felt LOPEZ's mouth near his hand, so he pulled LOPEZ's arms further away to keep LOPEZ from biting him. One of the assisting officers was able to place LOPEZ in a figure four leg lock.

Sergeant Dean felt LOPEZ needed to be secured in a WRAP restraint. Officer Santana went to Sergeant Dean's car and retrieved a WRAP restraint. Officers were able to secure the lower portion of the WRAP on LOPEZ's legs, but LOPEZ's hands were still handcuffed in the front. Officers removed LOPEZ's handcuffs, one at a time, to properly handcuff LOPEZ behind his body.

Officers then rolled LOPEZ into a seated position in order to secure the upper portion of the WRAP. LOPEZ continued to resist, and as result, the WRAP became twisted, and it looked as if the WRAP was starting to strangle LOPEZ. Sergeant Dean saw the problem and immediately told Officer Caston to loosen the WRAP so it could be reapplied correctly. The WRAP was then reapplied, and a spit hood was placed on LOPEZ's head.

Once the WRAP was secure, officers placed LOPEZ onto his side and asked paramedics to come inside and check on LOPEZ. Even with a secured WRAP, LOPEZ appeared to be still resisting. Sergeant Dean told the paramedics about the struggle and LOPEZ's attempt to bite officers.

One of the paramedics said they were going to sedate LOPEZ. A few moments after receiving the sedative, LOPEZ appeared to fall asleep. Paramedics and firefighters used a blanket to carry LOPEZ, who was still in the WRAP, to an ambulance.

Within minutes of being placed in the ambulance, a firefighter stated that LOPEZ was going into cardiac arrest.

Officer Lacquanna Caston

Officer Lacquanna Caston was interviewed on March 17th, at approximately 11:02 pm, by Richmond Police Detective Michael Sagan and Senior Inspector Sean Eriksen (CCCDAO). Officer Caston's attorney, Nicole Pifari, was present for the interview.

The following is a summary of Officer Caston's interview:

Officer Caston has been a sworn police officer for the City of Richmond for 13 years. On the date of the incident she heard, via dispatch, that a female caller stated her mother was being assaulted by her ex-boyfriend and that the suspect was possibly high and attempting to remove the victim's clothing.

Officer Caston responded to the Location #1, entered the residence, and saw multiple officers were in the hallway attempting to detain the suspect, later identified as LOPEZ. Officer Caston heard an officer request a canine unit. Officer Caston stepped outside and radioed dispatch requesting that a canine unit respond.

Officer Caston re-entered the residence and saw LOPEZ laying on his stomach on the floor of the hallway. Multiple officers were attempting to detain LOPEZ. Officer Ferraro was sitting on the floor, leaning up against a wall in the hallway. Officer Ferraro's face was flush and pale, and Officer Ferraro appeared to be injured.

The canine handler, Officer Galt, entered the residence, prompting Officer Caston to notify officers that a canine officer arrived. Officer Galt gave LOPEZ commands to show his hands and to crawl towards him. LOPEZ did not follow Officer Galt's commands.

Officer Caston heard Sergeant Dean tell officers that he was going to pull LOPEZ out of the hallway and into the living room. Sergeant Dean then pulled LOPEZ to the living room and Officer Caston attempted to control LOPEZ's legs by placing them into a figure four leg lock.

Caston applied a figure four leg lock, but she was having a difficult time controlling LOPEZ because he was, "ridiculously strong." Officer Caston yelled for help and Officer Campos came to assist in controlling his legs, but LOPEZ was still able to buck them off. Multiple officers were attempting to control LOPEZ's upper body, but they were being bucked off by LOPEZ as well. During this time period, multiple officers were telling LOPEZ to stop resisting.

A WRAP restraint was brought into the house and officers began to secure LOPEZ in the restraint. While Caston was applying the upper chest portion of the WRAP, LOPEZ bit at her left hand, but LOPEZ's teeth were only able to grasp onto her glove. It took multiple officers to secure LOPEZ into the WRAP and apply a spit mask.

After LOPEZ was secured in the WRAP restraint, Officer Caston was physically exhausted, and she exited the home. Officer Caston remarked that LOPEZ's strength was "ridiculous," and she had never seen anything like that before. Once outside, Officer Caston saw Officer Ferraro, who appeared unable to walk. Officer Caston transported Officer Ferraro to the hospital.

Sergeant Virgil Thomas

Sergeant Virgil Thomas was interviewed on March 17th, 2020, by Richmond Police Detective Villalobos and Senior Inspector John Garcia (CCDAO).

The following is a summary of Sergeant Thomas' interview:

Virgil Thomas is a Sergeant for the Richmond Police Department. On the date of the incident, Sergeant Thomas responded to the Location #1 because he was advised that officers were struggling with a suspect, who was later identified as LOPEZ.

When he arrived at Location #1 he was advised by Officer Santana that the involved officers needed a WRAP restraint. Sergeant Thomas gave Officer Santana a WRAP restraint and approached the residence.

Sergeant Thomas saw LOPEZ on the floor with four officers attempting to restrain him, but they were being met with a great amount of resistance. LOPEZ was handcuffed and officers were attempting to place him in the WRAP restraint.

Sergeant Thomas assisted by using his weight to push LOPEZ's upper torso down to secure the WRAP. At one point, LOPEZ's legs were restrained, but Officer Caston was having difficulty securing the top half of the restraint. Sergeant Thomas had Officer Caston move out of the way, and he tightened one of the upper torso straps.

Officer Carmen Santana:

Officer Santana was interviewed on March 18th, at approximately 12:13 am, by Richmond Police Detective Michael Sagan and Senior Inspector Sean Eriksen (CCDAO). Officer Santana's attorney, Johnathan Murphy, was present for the interview.

The following is a summary of Officer Santana's interview:

Officer Santana has been a sworn Richmond Police Officer for six years. On the date of the incident, dispatched advised that an 18-year-old female called in stating that her father, who was "high," was hitting his mother. Officers Santana and Ferraro were the first officers to respond to Location #1.

Upon arriving, she saw the reporting party standing in the front yard, pointing inside the residence, with a blanket wrapped around her body. Officer Santana and Officer Ferraro entered the home and announced, "Richmond Police Department," multiple times in both English and Spanish.

Once inside, officer Santana saw the suspect, later identified as LOPEZ, stick his head out of an open bedroom door. Officer Santana and Officer Ferraro attempted to detain LOPEZ, but during the process, Officer Ferraro and LOPEZ fell to the floor.

As they fell to the floor, Officer Santana saw W-1 in the adjacent bedroom. Inside the bedroom were pieces of clothing strewn on the ground, and W-1 was only wearing a blanket around her body. W-1 began moving to the bedroom door, but officer Santana kept W-1 in the bedroom and out of the way of officers attempting to detain LOPEZ.

While in the bedroom, Officer Santana heard an officer yell that LOPEZ had his gun. Shortly afterwards, Officer Santana heard the canine unit arrive.

During the struggle, Officer Santana was told to retrieve the WRAP restraint from Sergeant Dean's patrol vehicle. Officer Santana ran out of the house, retrieved the WRAP, and returned to the residence.

Upon returning to the house, Officer Santana saw officers were still struggling to detain LOPEZ. As officers were attempting to put on the WRAP restraint, Officer Santana noticed LOPEZ was very strong and kept pulling away from the officers. While LOPEZ was being secured in the WRAP restraint, LOPEZ bit officer Caston on the hand. Ultimately officers were able to place LOPEZ into the restraint.

Officer Stephen Purcell

Officer Stephen Purcell was interviewed on March 17th, 2020, by Richmond Police Detective Michael Sagan and Senior Inspector Sean Eriksen (CCDAO). Officer Purcell's attorney, Johnathan Murphy, was present for the interview.

The following is a summary of Officer Purcell's interview:

Officer Purcell has been a sworn Richmond Police Officer for sixteen years. On the date of the incident Officer Purcell, who was with trainee Officer Timmy Parker, overheard a call broadcasting that a female victim was screaming for help and possibly naked at a residence.

Officers Purcell and Parker responded to location #1 and arrived at approximately the same time as two other Richmond Officers. Officer Purcell went inside the residence and saw other officers were engaging a suspect, later identified as LOPEZ, in a narrow hallway. Officer Purcell heard the officers repeatedly give LOPEZ numerous commands.

Officer Purcell was then directed to a civilian standing in the kitchen. Officer Purcell decided to move the civilian to the garage and saw three other residents inside. While in the garage, Officer Purcell could hear Richmond Police officers give LOPEZ additional commands to stop resisting. Officer Purcell looked into the hallway and saw LOPEZ was still resisting officers.

Officer Purcell saw multiple officers attempt to place LOPEZ into a WRAP restraint. While the WRAP was being applied, Officer Purcell saw a woman, later identified as W-1, begin to emerge from one of the bedrooms with nothing but a towel around her torso. Officer Purcell ordered the woman to remain in the bedroom.

Once LOPEZ was restrained, he called on Officer Parker to interview witnesses inside the home.

Officer Purcell stated that he did not use any force on LOPEZ.

Officer Cedric Tagorda

Officer Cedric Tagorda was interviewed on March 17th, 2020, by Richmond Police Detective Decious and Senior Inspector Ritchie (CCDAO). Officer Tagorda's attorney, Nicole Pifari, was present for the interview.

The following is a summary of Officer Tagorda's interview:

Officer Tagorda has been a sworn Richmond Police officer for 12 years and worked as a sworn peace officer for additional agencies prior to working for the City of Richmond. On the date of the incident, he responded to location #1 to assist on a reported domestic violence incident.

Once he arrived at Location #1, he saw Officer Ferraro limping away from the residence. Officer Tagorda went inside the house and saw the suspect, later identified as LOPEZ, on the floor of

the living room. Officer Tagorda saw multiple officers on top of LOPEZ as they were ordering him to stop resisting.

Officer Tagorda attempted to assist by placing a WRAP restraint on the floor near LOPEZ. Officer Tagorda assisted in apply the WRAP restrain on LOPEZ, but as he tried to place the WRAP over LOPEZ's torso, LOPEZ attempted to bite Officer Tagorda's hand. Officer Tagorda warned other officers to be careful.

Officer Tagorda noted that LOPEZ was kicking at officers while they attempted to secure the WRAP restraint and continued to resist while in the restraint.

Officer Tagorda believed LOPEZ was under the influence of an unknown substance and stated that LOPEZ was very strong and combative during the altercation. Officer Tagorda described LOPEZ's strength as, "super-human."

Officer Tagorda saw LOPEZ was sedated by AMR personnel after the WRAP restraint was secured. Officer Tagorda escorted LOPEZ to the ambulance and noted that LOPEZ lost consciousness when he was placed into the ambulance. Medical staff checked on LOPEZ and immediately began resuscitating him. Officer Tagorda followed the ambulance to the hospital.

Officer Daniel Campos

Officer Daniel Campos was interviewed on March 17th, 2020, by Richmond Police Detective Michael Sagan and Senior Inspector Sean Erikson (CCDAO). Officer Campos' attorney, Johnathan Murphy, was present for the interview.

The following is a summary of Officer Campos' interview:

Officer Campos has been a sworn police officer for 12 years. On the date of the incident, he heard a call over dispatch of an 18-year-old reporting that her mother was being hit by her boyfriend and that her mother's clothes were being torn off. Officer Campos responded to Location #1.

Once inside, Officer Campos saw Officer Purcell trying to keep residents away from what appeared to be a physical altercation in the hallway between officers and a suspect, later identified as LOPEZ. Officer Campos heard officers order LOPEZ to turn around and put his hands behind his back.

Officer Campos saw Officer Ricchiuto deliver two baton strikes to LOPEZ's legs. Officer Campos then heard an officer state that he was going to discharge a taser. Officer Campos did not see which officer discharged the taser or where the taser darts struck LOPEZ.

Officer Campos heard an officer call for a canine unit. Officer Campos went outside to notify the canine officer, but the canine officer was not yet on scene. Officer Campos re-entered the

house and began translating the English commands being given by officers, to LOPEZ, into Spanish. LOPEZ, who was still in the hallway, did not comply with any of the commands, but instead spoke in Spanish, referring to, “the Devil.”

Officer Campos saw officer Galt arrived at the house with his canine partner. In order to avoid being bit by the canine, Officer Campos stepped out of the way and into a bathroom. Officer Campos lost sight of LOPEZ, but heard officers continue to give LOPEZ commands.

Officer Campos saw Sergeant Dean pull LOPEZ out of the hallway and into the nearby living room. LOPEZ kicked at officers. Officer Campos grabbed a hold of LOPEZ’s feet to prevent him from kicking. Officer Campos saw an unknown officer punch LOPEZ on the side of the body. Officer Caston asked for additional assistance in holding LOPEZ’s feet in place and he assisted her in the process.

Officer Campos heard Sergeant Dean tell one of the officers to get a WRAP restraint. Officers were able to secure LOPEZ’s legs into the restraint, but LOPEZ continued to resist with his arms despite 4-5 officers attempting to restrain him. During the WRAP process, LOPEZ tried to bite Officer Caston’s hand. Eventually LOPEZ was successfully placed into the WRAP restraint.

Officer Campos recalled the paramedics responding to Location #1 and delivering a “shot” to LOPEZ, which caused LOPEZ to go unconscious.

Officer Campos stated that he did not use force beyond attempting to control LOPEZ’s movements during the struggle.

Officer Douglas Galt:

Officer Douglas Galt was interviewed on March 18th, 2020, by Richmond Police Detective Decious and Senior Inspector Ritchie (CCDAO). Officer Galt’s attorney, Nicole Pifari, was present for the interview.

The following is a summary of Officer Galt’s interview:

Officer Galt has been a sworn police officer with the City of Richmond for 11 years.

On the date of the incident, he heard a call of a domestic violence incident and a possible rape in progress.

Officer Galt responded to Location #1 with his canine partner and approached the residence. Officer Galt could hear several officers yelling commands at a suspect, later identified as LOPEZ. LOPEZ was ordered to stop resisting and to comply with their directions.

Officer Galt entered the home and saw LOPEZ inside the residence. Officer Galt yelled commands to LOPEZ in both English and Spanish, but LOPEZ did not follow any commands.

Officer Galt watched as LOPEZ was placed into a WRAP restraint. At no time did Officer Galt release his canine and at no time did officer Galt use force on LOPEZ.

Interviews of Civilian Witnesses

Paramedic Supervisor Teymour Anasari

Paramedic Supervisor Teymour Anasari was interviewed on March 17th, 2020, by Richmond Police Detective Byron Macrenato, Senior Inspector Robert Pamplona (CCDAO) and Deputy District Attorney Kevin Bell.

The following is a summary of Teymour Anasari's interview:

Teymour Anasari has been a paramedic for 15 years and a supervisor for one year. At approximately 2:50 pm, paramedic Anasari heard a call come out that medical aid may be needed at location #1 for multiple patients.

Paramedic Anasari arrived at Location #1 shortly thereafter and tended to an officer that was limping. The officer advised him that he dislocated his hip and received a bite mark to his abdomen. Paramedic Anasari tended to his injuries.

After tending to the officer, Paramedic Anasari approached the front door of the residence at location #1. Paramedic Anasari saw an individual, later identified as LOPEZ, in a WRAP restraint and wearing a spit mask. LOPEZ was breathing and vital signs were normal for his condition, which appeared to be combative. Based on treatment guidelines, he was given a 5 mg dose of "Versed." Shortly after the injection, LOPEZ became very calm. LOPEZ was then transported to an ambulance.

Approximately five minutes after being transported to the ambulance, paramedic crews advised that LOPEZ was no longer breathing. Paramedics began immediately administering CPR. LOPEZ was given an intravenous dose of sodium bicarbonate and was placed on a Lucas CPR device. LOPEZ was then transported to the nearest hospital.

Paramedic Rob Hirsch:

Paramedic Rob Hirsch was interviewed on March 17th, 2020, by Richmond Police Detective Byron Macrenato, Senior Inspector Robert Pamplona (CCDAO) and Deputy District Attorney Kevin Bell.

The following is a summary of Rob Hirsch's interview:

Rob Hirsch has been a paramedic for approximately 8 years. On March 17th, 2020, Hirsch and his partner were dispatched to Location #1 for an unknown medical issue. Upon arriving at

Location #1, he was directed to the residence. A Richmond Police Officer requested a spit mask, which was provided to the officer.

Shortly thereafter, Paramedic Hirsch was directed to come inside the residence. Once inside, he saw a person, later identified as LOPEZ, on the floor in a body WRAP restraint. LOPEZ was laying on his side. While on the floor, LOPEZ was attempting to “buck,” and appeared aggressive and agitated. Paramedic Hirsch was advised that LOPEZ had bitten, spit, and attempted to grab an officer’s firearm. Paramedic Hirsch was further advised that LOPEZ was involved in a domestic dispute and that he may be on drugs.

Paramedic Hirsch injected a 5 mg does of “Versed” into LOPEZ’s buttocks. Paramedic Hirsch stated that “Versed” is a safe drug that has assisted medical staff treat violent patients.

After receiving a dose of “Versed,” LOPEZ was then placed on a tarp and transported to a nearby gurney. Paramedic Hirsch noted that LOPEZ was breathing and moving while in the WRAP restraint.

LOPEZ was moved to a nearby ambulance and his vital signs were checked. Paramedic Hirsch discovered LOPEZ stopped breathing was unable to locate a heartbeat. CPR was started immediately, and LOPEZ was given an intravenous dose of sodium bicarbonate. LOPEZ was transported to the hospital for further treatment. During transport, LOPEZ was administered a dose of epinephrine in an attempt to restart his heart, which produced negative results.

Once at Kaiser Hospital, after approximately 10 to 15 minutes of treatment, staff at Kaiser was able to regain a steady rhythm to LOPEZ’s heart and breathing.

(W-2) Witness #2

(W-2) was interviewed on March 17th, 2020, by Senior Inspector Eddie Sousa (CCDAO) and Richmond Police Detective Canelo.

The following is a summary of her statement.

W-2 is 18 years old. Her mother is W-1 and her mother’s boyfriend is Jose Lopez. On the date of this incident, LOPEZ smoked cocaine and marijuana. LOPEZ was high for the last three days and had not slept during that time.

Prior to the police arriving, LOPEZ and her mother were arguing at the house. W-2 was in her room when she heard screaming, and she eventually walked into her mother’s room. When she entered the room, she saw LOPEZ trying to take her mother’s shirt off. W-2 told LOPEZ she was going to call the police, but LOPEZ told her not to.

W-2 walked back to her room and heard the screaming get worse. She walked back into the bedroom and saw her mother sitting on the floor, naked. LOPEZ accused her mother of

cheating on him. W-2 told them she was going to call the police and she went back to her room.

W-2 could hear her mother yelling for her to call the police, so W-2 walked back to her mother's room for a 3rd time. W-2 said when she walked in, her mother was still on the floor, naked, and LOPEZ was still accusing her of cheating on him. W-2 said she called the police and waited outside for them to show up.

Once police arrived, they took LOPEZ to the ground, and they began fighting. W-2 said there were at least five police officers trying to take LOPEZ into custody. LOPEZ told the police they were not going to arrest him, and LOPEZ tried to keep his arms away from the police. W-2 said one of the officers hit LOPEZ with a stick.

W-2 said a police officer then told her to wait in the garage with the other residents.

Witness #1 (W-1)

W-1 was interviewed on March 17th, 2020, by Richmond Police Detective Canelo and Senior Inspector Eddie Sousa (CCDAO).

The following is a summary of her interview:

W-1 has lived together with LOPEZ at location #1 for 8 months and they are engaged to be married. W-1 and LOPEZ rented two of the rooms at the residence. She has a daughter (W-2) and a son. Her son was not at the house at the time of the incident.

On the day of the incident her daughter called the police because W-1 was screaming. W-1 was screaming because she was nervous that LOPEZ was using cocaine and drinking beer. W-1 stated that LOPEZ started smoking cocaine since Saturday and has not slept since.

At approximately noon today, W-1 told LOPEZ that she wanted to separate from him because she was tired of their toxic relationship. Every time he used drugs, he became a different person. He would become paranoid and follow her everywhere.

LOPEZ believed W-1 was cheating on him. LOPEZ started to take off all of her clothes and smell them, but LOPEZ did not hit her. W-1 let LOPEZ take off her clothes because she was afraid LOPEZ was going to do something to her.

LOPEZ used his body weight to hold her down as he took off her clothes. LOPEZ would not let her go, which caused W-1 to be afraid and scream. W-1 told LOPEZ to stop, but he did not stop until her daughter, W-2 entered the room. W-1 yelled out to W-2 to call the police. W-2 told them she was going to call the police, but LOPEZ told her not to. Eventually W-2 called the police, but after she did so, LOPEZ backed off and asked W-1 for forgiveness.

The police arrived at the house as LOPEZ stood in the hallway. When police arrived, LOPEZ became angry and would not let himself be handcuffed. W-1 saw that LOPEZ was taken to the floor and saw an officer hit LOPEZ with his baton. W-1 heard LOPEZ screaming and saw one of the officers kick LOPEZ multiple times. Due to where W-1 was positioned in the bedroom, she was not able to see everything that happened between LOPEZ and the police.

W-1 heard the police tell LOPEZ in English and Spanish, to stop resisting.

W-1 stated that LOPEZ resisted the police because LOPEZ was afraid due to an arrest warrant in the past for a domestic violence incident against another person.

When asked about the officer's conduct in this incident, W-1 stated that LOPEZ should not have resisted -- but did not believe the police responded correctly. She felt that there was no reason to hit LOPEZ and kick him the way that they did if he wasn't doing anything, and his behavior was due to the fact that he was on drugs.

W-1 stated that she did not want LOPEZ to go to prison because LOPEZ did not hit her, threaten her, or assault her.

Witness #3 (W-3)

W-3 was interviewed on March 17th, 2020, by Senior Inspector Eddie Sousa (CCDAO) and Richmond Police Detective Canelo.

The following is a summary of her statement:

W-3 has two children and lives at location #1. On the date of the incident, she was present inside the house with her two children, as well as a friend (hereinafter referred to as W-4).

Prior to the incident, at 3 am, she heard LOPEZ and W-1 arguing outside the residence. The arguing lasted a long time, and she heard sounds of physical contact but did not see what was happening.

W-3 heard LOPEZ say that he wanted to go somewhere, but W-1 would not let him leave. When LOPEZ told W-1 to go with him, she refused to give LOPEZ the car keys and did not want to go with LOPEZ because he would kill them. W-3 heard them argue for a long time, but she eventually went to sleep. After she woke up, W-3 heard W-1 and LOPEZ continue their arguing in the morning, and they kept arguing into the afternoon.

At approximately 2 pm, she heard what sounded like a physical altercation in the house and heard W-1 yell, "Don't hit me, you're hurting me." W-1 continued yelling, "He's hitting me, he's hurting me, call the police." W-3 heard W-1 state, "He's going to kill me," and she heard W-1 tell her daughter, W-2, to call the police.

Moments later, W-3 stepped out of her room and saw the police had arrived. She was told by officers to stay in her room and did not see what happened between LOPEZ and the police. W-3 heard what sounded like a physical altercation. She heard LOPEZ screaming and saying something like he was dying or was hurt. W-3 heard police telling LOPEZ to show them his hands and to calm down.

Witness #4 (W-4)

W-4 was interviewed on March 17th, 2020, by Richmond Police Detective Canelo and Senior Inspector Eddie Sousa (CCDAO).

The following is a summary of his interview:

W-4 is a friend of W-3 and was present at location #1 on the date of the incident. He was in a room with W-3 and her two children when he heard W-1 and LOPEZ arguing. W-4 heard W-1 ask someone to call the police and then heard banging in the nearby room.

W-4 heard the police arrive and a police officer told him to stay inside the room. He did not see what happened with the police but heard yelling from inside the house.

AUTOPSY:

Jose Luis Lopez was pronounced dead on March 19th, 2020, at 10:45 am.

Dr. Ikechi Ogan (Forensic Pathologist) performed an autopsy on March 20th, 2020, at the Contra Costa County Coroner's Office. In summary, the autopsy⁸ results are as follows:

External Injuries:

There were bilateral subscleral ecchymotic hemorrhages in the eyes, consistent with increased intraabdominal or thoracic pressures. ¼ to ½ inch lacerations were noted in the inner lower lip and the right side of the chest. Both forearms showed linear abraded contusions ranging from 1 to 4 inches in length, consistent with being struck with a baton. The left wrist ulnar margin showed a 3-inch abraded contusion while the right shin shows 2 shallow lacerations measuring ½ to 1 inch, respectively. There were 2 linear contusions on the right lower thigh and right knee, and 1 linear contusion on the back of the left hand. These injuries also appeared consistent with those due to a baton. No other significant external injuries were identified.

Internal Injuries:

Reflection of the scalp revealed biparietal-occipital scalp contusions. On the left side, a 2-inch by 2-inch contusion was noted, while on the right side a 1 inch by 1 inch contusion was present.

⁸ For further details regarding the Autopsy, the original records are retained by the Contra Costa County Sheriff Office, Office of the Sheriff-Coroner, under autopsy report number 20-1497.

No fractures of the skull were identified. There were no intracranial hemorrhage or parenchymal brain injury.

The torso revealed a 5-inch X 3-inch chest wall contusion on the left inner ribs. A similar contusion measuring 4-inches was visible on the right posterior of the back. Both injuries appeared consistent with impacts with blunt force applied to the torso.

The mid back showed bilateral contusions ranging from 1 to 3 inches, extending from the neck region to the level of the nipples. There were no fractures identified of the axial or appendicular skeleton. No other pattern of injuries was identified.

Toxicology Report:

The toxicology report was positive for the presence of cocaine, benzoylecgonine, and Delta – 9 THC.

Cause of Death:

Complications of Acute Cocaine Toxicity (Excited Delirium Syndrome⁹)

Other significant conditions included evolving acute pneumonia, acute urinary tract infection, subphrenic abscesses and soft tissue injuries.

Injuries to Involved Officers:

Five of the involved police officers reported on duty injuries as a result of this incident. Due to concerns of medical privacy, the individual names and the specific injuries sustained have been omitted from this document.

LEGAL PRINCIPLES

The California District Attorneys Association Uniform Crime Charging Standards Manual directs that criminal charges shall not be brought unless the prosecutor, based upon a complete investigation and thorough consideration of all the pertinent information readily available to him or her, believes there is evidence that proves beyond a reasonable doubt, that the accused is guilty of the crime to be charged. Additionally, the charging standards direct that there must be legally sufficient admissible evidence to prove each element of the crime. The admissible evidence must be of such convincing force that it would warrant conviction of the crime charged by a reasonable and objective fact finder after the fact finder

⁹ The excited Delirium Syndrome (EDS) is a poorly understood physiologic response seen in arrest related deaths (ARD) scenarios, in which the decedents experiencing drug intoxication, exhaustion, pre-existing physical or psychiatric conditions, all of which may trigger fatal cardiac arrhythmias.

has heard all the evidence and after considering the most plausible, reasonable, and foreseeable defenses that could be raised under the evidence.

The applicable California Penal Code Sections are as follows:

Section 187: Murder is the unlawful killing of a human being or fetus with malice aforethought.

Section 188: Such malice may be express or implied. It is express when there is manifested a deliberate intention unlawfully to take away the life of a human being. It is implied when the killing resulted from an intentional act, the natural consequences of the act are dangerous to human life, and the act was deliberately done with knowledge of the danger to and with conscious disregard for human life.

Section 192: Manslaughter is the unlawful killing of a human being without malice.

Section 196: Homicide is justifiable when committed by peace officers and those acting by their command in their aid and assistance, under either of the following circumstances:

- (a) In obedience to any judgment of a competent court.
- (b) When the homicide results from a peace officer's use of force that is in compliance with Section 835a.

Section 835a: (a) The Legislature finds and declares all of the following:

(1) That the authority to use physical force, conferred on peace officers by this section, is a serious responsibility that shall be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life. The Legislature further finds and declares that every person has a right to be free from excessive use of force by officers acting under color of law.

(2) As set forth below, it is the intent of the Legislature that peace officers use deadly force only when necessary in defense of human life. In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case, and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.

(3) That the decision by a peace officer to use force shall be evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force by peace officers, in order to ensure that officers use force consistent with law and agency policies.

(4) That the decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force.

(5) That individuals with physical, mental health, developmental, or intellectual disabilities are significantly more likely to experience greater levels of physical force during police interactions, as their disability may affect their ability to understand or comply with commands from peace officers. It is estimated that individuals with disabilities are involved in between one-third and one-half of all fatal encounters with law enforcement.

(b) Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance.

(c) (1) Notwithstanding subdivision (b), a peace officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons:

(A) To defend against an imminent threat of death or serious bodily injury to the officer or to another person.

(B) 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 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.

(2) A peace officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the peace officer or to another person.

Section 197: Homicide is also justifiable when committed by any person in any of the following cases:

1. When resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person; or,

2. When committed in defense of habitation, property, person, against one who manifestly intends or endeavors, by violence or surprise, to commit a felony, or against one who manifestly intends or endeavors, in a violent, riotous, or tumultuous manner, to enter the habitation of another for the purpose of offering violence to any person therein; or,
3. When committed in the lawful defense of such person, or of a wife or husband, parent, child, master, mistress, or servant of such person, when there is reasonable ground to apprehend a design to commit a felony or to do some great bodily injury, and imminent danger of such design being accomplished; but such person, or the person in whose behalf the defense was made, if he was the assailant or engaged in mutual combat, must really and in good faith have endeavored to decline any further struggle before the homicide was committed; or
4. When necessarily committed in attempting, by lawful ways and means, to apprehend any person for any felony committed, or in lawfully suppressing any riot, or in lawfully keeping and preserving the peace.

Section 199: The homicide appearing to be justifiable or excusable, the person indicted must, upon his trial, be fully acquitted and discharged.

Any killing of a human being at the hands of another is a homicide. A homicide may be criminal or justifiable depending upon the circumstances. It is justifiable if done while resisting a violent felony or in self-defense or in defense of another if it reasonably appears to the person claiming the right of self-defense or the defense of another that he or she actually and reasonably believed that he or she or another was in imminent danger of great bodily injury or death. (See *People v. Williams* (1977) 75 Cal. App. 3rd 731.) In protecting oneself or another, a person may use all force which he or she believes reasonably necessary, and which would appear to a reasonable person, in similar circumstances, to be necessary to prevent the injury, which appears imminent. (See California Criminal Jury Instruction CALCRIM 505) In order to justify killing another person in self-defense or in the defense of another, actual danger of death or great bodily injury is not necessary. (CALCRIM 505.)

Pursuant to CALCRIM 507:

A homicide by a peace officer is justifiable and not unlawful when:

1. The defendant was a peace officer
AND

2. The killing was committed while the defendant

either:

A. Reasonably believed, based on the totality of the circumstances, that the force was necessary to defend against an imminent threat of death or serious bodily injury to the defendant or another person;

OR

B. Reasonably believed, based on the totality of the circumstances, that:

(1) A person was fleeing a felony;

(2) That force was necessary to arrest or detain that person;

(3) The commissioned felony threatened or resulted in death or serious bodily injury,

AND

(4) The person will cause death or serious bodily injury to another unless immediately apprehended.

The People have the burden of proving beyond a reasonable doubt that the killing was not justified. (CALCRIM 505 and 507.) It is not a criminal defendant's burden to prove that force was necessary or reasonable. The People must prove beyond a reasonable doubt that the officer did not have an actual or reasonable belief in the need for self-defense or the defense of others. Absent direct evidence that an officer did not actually or reasonably believe in the need for force, circumstantial evidence must be used. If two reasonable conclusions can be drawn from circumstantial evidence, however, and one of those reasonable conclusions points to innocence, jurors are instructed that they must accept the one that points to innocence. (CALCRIM 224.)

The United States Supreme Court has held that a police officer's use of force should be analyzed under the reasonableness standard of the Fourth Amendment to the United States Constitution. The Supreme Court stated, "The 'reasonableness' of a particular use of force must

be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight . . . the calculus of reasonableness must embody allowance for the fact that police 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.” *Graham v. Conner* (1989) 490 US 386, 396-397.

If the killing was not justifiable as outlined above, or excusable as in an accidental killing, only then would it be criminal. Moreover, if an act is committed by reason of a mistake of fact which disproves any criminal intent, it is not a crime. Therefore, a person is not guilty of a crime if he or she commits an act under an actual belief in the existence of certain facts and circumstances which, if true, would make the act lawful. (See CALCRIM 3406.)

LEGAL ANALYSIS

Introduction:

The decision by a peace officer to use force shall be evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force by peace officers, in order to ensure that officers use of force is consistent with law and agency policies (PC 835a(a)(3).)

The legal issue to be decided by the CCCDAO is whether any of the involved law enforcement officers or civilians violated any criminal laws. The Contra Costa District Attorney's Office analyzes each fatal incident on the case specific facts and circumstances. The community, including the deceased, his family, and the involved officers, deserve an independent factual and legal analysis. Whether someone is criminally liable depends on the facts of the case and whether those facts constitute a crime under the applicable laws.

In accordance with Penal Code Section 835, a peace officer may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance (PC 835a(a)(4).) Further, as established by the United States Supreme Court, and subsequently codified by the state legislature, the decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time of the incident. (*Graham, v. Connor* (1989) 490 US 386, 396-397, PC 835a(B).)

Insufficient Evidence Exists to Find the Involved Officers Criminally Liable for LOPEZ's Death:

Pursuant to CALCRIM 500: Homicide is the killing of one human being by another. In the present case, although LOPEZ experienced severe medical issues shortly after he was placed into the ambulance, and died approximately two days later, there is insufficient evidence to support the conclusion that any of the officers involved in the case used deadly force on LOPEZ or that the officers are criminally liable for his death.

In the present case, all of the officers involved used non-lethal force. Specifically, officers used their hands, arms, or legs to strike or wrestle with LOPEZ; one officer used his baton to strike at LOPEZ in the legs area multiple times; one officer repeatedly used a non-lethal taser device; and multiple officers attempted to hold LOPEZ down. None of the aforementioned use of force by the officers would likely result in death.

In addition, both eyewitness statements and a review of body worn camera footage reveals that LOPEZ appeared combative and relatively unfazed by the varying types of non-lethal force used against him. The entire struggle with the police, from the moment Officer Ferraro attempted to handcuff LOPEZ, to when LOPEZ was secured in the WRAP restraint, lasted

approximately 15 minutes. During that time, both eyewitness statements and body camera footage reveals that LOPEZ was alive, verbally responsive, resistant, and relatively unfazed by the aforementioned use of non-lethal force. Of note, LOPEZ did not appear to experience medical issues until after he was placed in the ambulance.

In addition, the coroner's report lists LOPEZ's cause of death as complications of acute cocaine toxicity (Excited Delirium Syndrome). Excited delirium syndrome is a poorly understood physiologic response seen in arrest related deaths (ARD) scenarios, in which the decedents experiencing drug intoxication, exhaustion, pre-existing physical or psychiatric conditions, all of which may trigger fatal cardiac arrhythmias.

As such, there is insufficient evidence to support the conclusion that any specific officer (or officers) are criminally responsible for LOPEZ's death based on their conduct.

Under the Totality of the Circumstances, the Officers' Use of Force was Reasonable.

Insufficient evidence exists to support any criminal charge against the involved officers because all of the involved officers in this incident acted reasonably and lawfully when considering the totality of the circumstances. The analysis listed below details the information known to the officers prior to arriving at the scene -- and includes both individualized and grouped legal analysis that supports the conclusion that criminal charges are not warranted in this case.

The Information Relayed to Officers Responding to the Scene of the Incident:

On March 17th, 2020, multiple Richmond Police Department Officers responded to location #1 regarding a domestic violence incident in progress. Specifically, officers were advised by dispatch that the reporting party called and stated her mother's boyfriend was hitting her mother and trying to take her clothes off. The officers were further advised that the suspect of this domestic violence incident was "high".

Based on that information, all responding officers who responded to the dispatch could reasonably conclude that a serious and potentially deadly crime was in progress, specifically: a domestic violence assault and a potential sexual assault or rape.

In addition, a reasonable officer could conclude, based on the information relayed by dispatch, that the suspect was under the influence of a controlled substance and may continue to act out irrationally or violently when contacted by police.

Of note, a drug screening taken during the autopsy confirmed that LOPEZ was under the influence of cocaine, a central nervous system stimulant. In addition, the drug screening indicated the presence of both benzoylcegonine and Delta-9 THC (Marijuana).

Officer Kenneth Ferraro:

Officer Ferraro's attempted detention and use of force in the current case was both lawful and reasonable under the circumstances. Officer Ferraro was advised by dispatch of a potential felony domestic violence incident where the suspect was removing the victim's clothing.

When Officer Ferraro approached the front yard of the residence, he heard yelling coming from inside the house. In the front yard was a young woman who advised him that the involved parties were inside the home. An officer under these circumstances could reasonably conclude that violent and dangerous crimes were in progress, and as such, he would have reasonable suspicion to detain any suspects inside.

Officer Ferraro, who was wearing a full police uniform, knocked on the front door and announced himself as a police officer several times. Officer Ferraro entered the home and saw a woman, W-1, sitting on a bed in a bedroom to the right, who was crying hysterically. W-1 appeared to be naked from the waist up, except a blanket around her shoulders. Officer Ferraro saw LOPEZ, who was sweating and appeared agitated, exit a door from the left side of the hallway. Based on the information before him, reasonable suspicion existed for Officer Ferraro to use reasonable force to detain Lopez as a suspect in the reported crimes.

"Where a reasonable suspicion of criminal activity exists, the public rightfully expects a police officer to inquire into such circumstances in the proper exercise of the officer's duties." *People v. Wells* (2006) 38 Cal.4th 1078, 1083.

"[T]he decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force." (PC 835a(a)(4).).

Officer Ferraro attempted handcuffing of Lopez and subsequent use of a leg sweep was reasonable due to LOPEZ's attempt to tense up and pull his hands away from Officer Ferraro while being detained for a serious crime. Furthermore, once on the floor, the continued use of force by Officer Ferraro, specifically the use of Officer Ferraro's hands to try and handcuff and detain LOPEZ, was reasonable due to the continued resistance by LOPEZ.

During the struggle in the hallway, LOPEZ did not obey the officers' commands to comply. Officer Ferraro did not have the opportunity to conduct a pat search of LOPEZ, who could have been in possession of a weapon, thereby increasing the potential danger to those involved.

Further increasing the dangerousness of the situation was the fact that LOPEZ pulled away from Officer Ferraro after the first handcuff was secured, thereby creating a weapon that could be used to swing at officers.

LOPEZ continued to struggle and disobey commands even after Officer Ricchiuto directed multiple baton strikes at LOPEZ's lower body while LOPEZ was wrestling with Officer Ferraro and Officer Parker. As such, Officer Ferraro's continued use of his hands and body to detain LOPEZ was reasonable.

At one point during the struggle in the hallway, Officer Ricchiuto transitioned from using his baton, to the use of his taser. Just prior to Officer Ricchiuto deploying his taser, Officer Ferraro grabbed LOPEZ from behind, around the neck, and applied pressure to LOPEZ's neck. This positioning enabled Officer Ricchiuto to have a clear and unobstructed opportunity to discharge his non-lethal taser darts to LOPEZ's mid-section, in an attempt to safely immobilize him.

Per body camera video, Officer Ferraro applied pressure to LOPEZ's neck for approximately 6 seconds at this juncture and released LOPEZ's neck as the taser darts were deployed. Lopez did not lose consciousness, but instead he appeared alert, was yelling, and continued to resist officers.

Officer Ferraro's used of force at this point in time was reasonable under the circumstances. LOPEZ was a potentially armed suspect in a serious offense and was actively resisting officers. LOPEZ continued to resist multiple officers despite being struck with a baton and was inadvertently armed with a handcuff on one wrist. Taken as whole, Officer Ferraro's momentary neck hold, which enabled a second officer to safely deploy a non-lethal taser, was reasonable under the circumstance.

In addition, when considering the circumstances as a whole, including LOPEZ's attempts to bite multiple officers, his continued resistance and refusal to follow commands, the grabbing of Officer Ferraro's gun, as well as the injuries sustained by Officer Ferraro, which included being bit in the abdomen and a potentially dislocated hip, Officer Ferraro's conduct during the entirety of this incident was both lawful and objectively reasonable under the circumstances.

Officer Timmy Parker

Officer Parker's use of force in the current case was lawful and reasonable under the circumstances. Officer Parker was advised via dispatch of the serious and potentially dangerous nature of the call and was one of the first officers to respond to Location #1.

Upon arriving at Location #1, Officer Parker observed Officer Ferraro and LOPEZ standing in the hallway. At the time, Officer Ferraro was attempting to place Lopez into handcuffs. For the reasons articulated in the legal analysis for Officer Ferraro (see above), reasonable suspicion existed to detain Lopez and to use reasonable force to do so.

Officer Parker observed Officer Ferraro and LOPEZ go to the ground during the attempted detention in the hallway, at which point officer Parker went to the ground to assist Officer Ferraro in controlling LOPEZ. Despite the presence of two officers attempting to handcuff him, LOPEZ continued to tense up and resist being placed into handcuffs.

At this point, Officer Parker was not aware whether or not LOPEZ had been searched or if he possessed any weapons. Furthermore, only one of LOPEZ's handcuffs were secured, thereby creating a weapon that could be used to swing at the officers. Both of these circumstances increased the potential danger presented to Officer Parker.

During the struggle in the hallway, Officer Ricchiuto used both a baton and a taser on LOPEZ. Neither of these non-lethal options deterred LOPEZ, who continued to resist officers and ignore their commands. Officer Parker heard Officer Ferraro state that LOPEZ bit him and heard that LOPEZ grabbed for Ferraro's gun during the struggle. Instead of resorting to lethal force, Officer Parker reasonably used his hands to try and re-holster Officer Ferraro's gun and then continued to use his hands and body to try and detain LOPEZ.

Up to this point, Officer Parker's use of non-lethal force to attempt to detain LOPEZ was reasonable. Not only was LOPEZ tensing up and thwarting officer attempts to handcuff him, but LOPEZ was refusing to follow commands, had bitten an officer, and grabbed for an officer's gun.

Officer Parker disengaged from LOPEZ after he heard an officer arrive to the scene with a canine unit. Officer Parker entered a nearby room while officers continued to give LOPEZ commands. After it became clear that LOPEZ was not going to follow commands, despite the presence of a canine, Sergeant Dean advise officers to move LOPEZ to a nearby living room. Sergeant Dean moved LOPEZ, who was now handcuffed in front of his body, into the nearby room, at which point Officer Parker assisted in holding Lopez down on the ground. Officer Parker was positioned on the side of LOPEZ and used his body and hands to keep LOPEZ down on the floor.

While LOPEZ was in the living room, he continued to try and twist and get up off the ground, even though multiple officers were trying to hold him and ordering him to stop resisting. Officer Parker delivered a knee strike to LOPEZ's ribs at 60% force, in an attempt to get LOPEZ to lay flat. Officer Parker told LOPEZ to stop resisting and delivered two elbow strikes to

LOPEZ's ribs at 50% - 60% strength, in an attempt to get LOPEZ to stop trying to "buck" officers off.

Sergeant Dean asked one of the officers to get the WRAP restraint out of his vehicle. Once the WRAP restraint arrived, Officer Parker used his hands to assist officers in re-handcuffing LOPEZ and securing the WRAP restraint. At one point, Officer Parker used his hands to push the back of LOPEZ's head forward so the harness could be applied. After securing the WRAP restraint, Officer Parker used no further force on LOPEZ.

Officer Parker stated that LOPEZ had more energy than any person he has ever seen and believed, based on his training and experience, that LOPEZ was on some sort of drug due to his level of strength and stamina.

In the present case, when considering the circumstances as a whole, Officer Parker's continued use of non-lethal force in the living room was reasonable. LOPEZ was a suspect in a serious and violent crime and resisted arrest by preventing officers from handcuffing him. LOPEZ struggled with officers while in the hallway and was possibly armed with a weapon. LOPEZ then increased his level of violence when he bit Officer Ferraro and grabbed Officer Ferraro's gun. Once on the floor in the living room, LOPEZ resisted officers, attempted to get off of the floor, and attempted to bite multiple officers.

In considering all of the evidence in this case, Officer Parker's non-lethal use of force during the entirety of this incident was both lawful and objectively reasonable under the circumstances.

Officer Michael Ricchiuto

Officer Ricchiuto's use of force to detain LOPEZ was lawful and reasonable under the circumstances. Prior to using any force on LOPEZ, Officer Ricchiuto was aware, per dispatch, that he was responding to a domestic violence incident where the clothes of the alleged victim were forcibly removed from her body.

Upon entry into the residence, and prior to the application of force, Officer Ricchiuto observed Officer Ferraro and Officer Parker in the process of attempting to lawfully handcuff and detain LOPEZ as he was standing in the hallway. Officer Ricchiuto saw Ferraro conduct a leg sweep of LOPEZ and saw both Officers Ferraro and Parker struggle with LOPEZ on the ground.

At this point in time, only one of LOPEZ's handcuffs were secured and could be used as a weapon against the officers. In addition, Officer Ricchiuto was unaware whether or not LOPEZ had any other weapons on his person.

After observing Officer Ferraro and Parker unsuccessfully detain LOPEZ, Officer Ricchiuto applied approximately 5 baton strikes directed at LOPEZ's leg area and ordered LOPEZ to put his

hands behind his back. Officer Ricchiuto's baton strikes did not stop LOPEZ from continuing to resist Officers Ferraro and Parker.

After observing Officer Frevele unsuccessfully attempt to secure a figure four leg lock on LOPEZ, Officer Ricchiuto delivered approximately two additional baton strikes directed at LOPEZ's lower legs, and used his baton as a punching tool at LOPEZ's mid-section.

The aforementioned use of force by Officer Ricchiuto, including the use of non-lethal baton strikes, was reasonable under the circumstances. Officer Ricchiuto was responding to a report of a highly dangerous crime, specifically, a potential assault and rape. The suspect, who Officer Ricchiuto reasonably believed was LOPEZ, pulled away from Officer Ferraro after Officer Ferraro was able to secure only one handcuff onto LOPEZ's hand, thereby creating a potential weapon that could be used against the officers.

Further heightening the potential risk of danger was that Officer Ricchiuto was unaware whether or not LOPEZ was searched, therefore presenting the risk that LOPEZ was armed with a deadly weapon.

Based on this information, Officer Ricchiuto's decision to administer non-lethal baton strikes was reasonable. Although Officer Ricchiuto struck LOPEZ with his baton multiple times in order to gain compliance, LOPEZ refused to be detained, refused to obey the officers' commands, and did not stop struggling with the officers on the floor.

In addition, the location the of Officer Ricchiuto's baton strikes support the conclusion that the baton strikes were reasonable under the circumstances. None of Officer Ricchiuto's baton strikes were directed at LOPEZ's head, thereby all but eliminating the risk of lethal force.

Furthermore, Officer Ricchiuto's subsequent use of force, including his use of a taser, was reasonable under the circumstances. After realizing his baton strikes were ineffective, Officer Ricchiuto transitioned from the non-lethal use of a baton to the non-lethal use of a taser. Officer Ricchiuto removed his taser and discharged the taser darts into LOPEZ's abdomen area.

Unfortunately, the taser darts did not have their desired effect, so Officer Ricchiuto then attempted to "drive" stun LOPEZ with the taser multiple time in the torso area.

Officer Ricchiuto's aforementioned use of the non-lethal taser was reasonable under the circumstances. After realizing his baton strikes were not effective, he reasonably transitioned to use of a non-lethal taser in attempting to detain a suspect of a serious and violent crime, who was struggling with officers and refusing to be handcuffed.

While using the taser on LOPEZ, Officer Ricchiuto heard Officer Ferraro state that LOPEZ grabbed Officer Ferraro's gun. After LOPEZ reached for Ferraro's gun, Officer Ferraro states that LOPEZ bit him. During this period of time, body camera footage appears to show Officer

Ricchiuto use his hands and body to wrestle or strike LOPEZ. Due to the highly dangerous and potentially lethal conduct exhibited by LOPEZ at this point, Officer Ricchiuto's use of non-lethal force was reasonable under the circumstances.

Officer Ricchiuto then heard the canine unit enter the residence, prompting him to enter a nearby bedroom to give the canine room to operate. Officer Ricchiuto saw officers eventually pull LOPEZ from the hallway to the nearby living room. Once in the hallway, multiple officers held LOPEZ to the floor until they were able to obtain the WRAP restraint.

At this point, Officer Ricchiuto used force to assist officers in holding LOPEZ down on the floor. Officer Ricchiuto relieved Sergeant Dean, who was holding LOPEZ's handcuffed hands above his head as LOPEZ lay on the ground. Sergeant Dean stepped away, and Officer Ricchiuto held LOPEZ's handcuffs hands above his head while additional officers held down LOPEZ's body, head and legs.

Officer Ricchiuto's use of force after LOPEZ was moved to the living room was reasonable under the circumstances. LOPEZ was continuing to resist officers, had bitten an officer, and grabbed an officer's gun. Officer Ricchiuto's use of force in keeping LOPEZ secured on the floor until he was placed in the WRAP restraint was minimal, and reasonable under the circumstances.

In considering all of the evidence in this case, Officer Ricchiuto's conduct during the entirety of this incident was both lawful and objectively reasonable under the circumstances.

Officer Douglas Frevele:

Officer Frevele's use of force was reasonable and lawful under the circumstances. Officer Frevele was aware that he was responding to a domestic violence incident where a male suspect, who was the boyfriend of the victim, was hitting the victim and trying to take her clothes off.

Upon entering the house, Officer Frevele saw Officer Ferraro and Officer Parker struggling with a suspect, later identified as LOPEZ, on the floor in a narrow hallway. Officer Frevele heard the officers give LOPEZ commands, such as "stop," or "put your hands behind your back." Officer Frevele saw Officer Ricchiuto deliver multiple baton strikes to LOPEZ's lower legs, which did not deter LOPEZ from continuing to struggle with the officers.

At this point, Officer Frevele used reasonable force by attempting to place LOPEZ into a figure four leg lock. His use of force was minimal, did not appear to harm LOPEZ, and was used in order to prevent LOPEZ from kicking and continuing to resist the officers.

After attempting a figure four leg lock, Frevele saw Officer Ricchiuto strike LOPEZ multiple times with a baton and use his taser in order to gain compliance. Despite this elevated use of non-lethal force, LOPEZ did not surrender and continued to resist the officers.

Further elevating the dangerousness of the situation was the fact that LOPEZ only had one handcuff secured to his wrist, enabling LOPEZ to potentially use the handcuff as a weapon to strike the officers.

Officer Frevele heard Officer Ferraro state that LOPEZ was grabbing for his gun, at which point Officer Frevele got down on the floor and struck LOPEZ multiple times in his ribs and head. According to Officer Frevele, LOPEZ attempted to bite him multiple times and Officer Frevele, in one particular instance, responded by holding onto LOPEZ's head and slamming it into the floor. Officer Frevele slammed LOPEZ's head in order to stun him, but it appeared to have no effect.

Officer Ferraro's aforementioned use of force, while on the floor in the hallway, was reasonable under the circumstances. LOPEZ was armed with a handcuff that could be used as a weapon, the officers attempts to taser him had no effect, and LOPEZ grabbed for Officer Ferraro's gun. Grabbing an officer's gun presents one of the greatest risks to an officer's safety, and Officer Frevele's actions of striking LOPEZ multiple time with his hands and elbows was a reasonable and measured response to a deadly threat.

Officer Ferraro recalled that shortly after Officer Ferraro's gun was safely re-holstered, a canine officer arrived at the residence. In response, Officer Ferraro and the officers who were struggling with LOPEZ, separated from LOPEZ momentarily and left him alone in the hallway, where the canine handler then issued him various commands to comply.

LOPEZ did not comply with any of the commands, and moments later, Officer Frevele saw Sergeant Dean pull LOPEZ from the hallway and into a living room where there was more space for multiple officers to take LOPEZ into custody. Once in the living room, multiple officers, including Officer Frevele, used force to attempt to hold LOPEZ down. Approximately 4-5 officers were holding various parts of LOPEZ's body down on the floor as the officers waited for a WRAP restraint.

At one point, body camera footage shows that while holding LOPEZ down on the floor with his stomach facing the floor, Officer Frevele put the weight of his knee on LOPEZ's upper back and neck while multiple other officers were attempting to hold down other portions of LOPEZ's body. Officer Frevele appeared to remain in this position for approximately 90 seconds.

Officer Frevele's use of force in holding LOPEZ down was reasonable under the circumstances. According to multiple officers, LOPEZ continued to try and get off the floor, despite the force used by multiple officers. Furthermore, multiple officers described LOPEZ as having almost super-human strength, which in part may have been as a result of LOPEZ being under the influence of a controlled substance.

In addition, although the location of Officer Frevele's knee on LOPEZ's upper back and neck area could present concerns of positional asphyxia, a review of the available body camera

footage reveals that LOPEZ was able to breath and speak to the officers during the entire encounter. Lastly, due to the fact that LOPEZ's airway was not obstructed while in this position, keeping constant pressure on the LOPEZ's head, so he would be unable to continue to bite at officers, was reasonable under the circumstances.

After the WRAP restraint was brought into the residence, multiple officers, including Officer Frevele, assisted in securing LOPEZ. Officer's Ferraro's use of force at this point was minimal and presented little to no risk of significant harm to LOPEZ. As such, Officer Frevele's use of force during the application of the WRAP restraint was reasonable under the circumstances.

In considering all of the evidence in this case, Officer Frevele's conduct during the entirety of this incident was both lawful and objectively reasonable.

Officer Lacquanna Caston, Officer Carmen Santana, Officer Daniel Campos, Officer Cedric Tagorda, Sergeant Carl Dean and Sergeant Virgil Thomas:

Officer Caston, Officer Santana, Officer Campos, Officer Tagorda, Sergeant Dean and Sergeant Thomas acted reasonably and lawfully in the present case. The aforementioned officers physically participated in attempting to detain LOPEZ after LOPEZ was pulled by Sergeant Dean from the hallway to the living room area. The aforementioned officers either assisted in holding LOPEZ down on the floor prior to applying the WRAP restraint, or during the application of the WRAP restraint.

All of the aforementioned officers were aware that the original case was of a domestic violence incident where it was reported that the suspect, later identified as LOPEZ, committed violence against a woman and was ripping her clothes off.

Prior to the aforementioned officers applying physical force to hold LOPEZ down, LOPEZ, who was under the influence of cocaine and marijuana, acted violently and irrationally towards police. He resisted arrest, refused to follow commands, bit Officer Ferraro, attempted to bite additional officers, appeared to have "super-human strength," appeared to be unaffected by multiple baton strikes, appeared unaffected by repeated taser attempts, was undeterred by the presence of a canine officer, and grabbed for an officer's gun during the encounter. By all accounts, LOPEZ was uncontrollable and was responding in a highly dangerous and deadly manner prior to the aforementioned officers applying physical force to hold him down.

In addition, as officers held LOPEZ down in the living room, LOPEZ attempted to bite Officer Caston and Officer Tagorda, despite numerous commands to comply.

The force used by the aforementioned officers was minimal when considering the violent and dangerous behavior of LOPEZ. The aforementioned officers use their body, hands, and body

weight to try and force LOPEZ to comply. None of the aforementioned officers used a baton, taser, firearm, or any other weapon, and of note, LOPEZ continued to resist being held down by the officers during this period of time.

In considering all of the evidence in this case, the conduct of the aforementioned officers was both lawful and objectively reasonable under the circumstances.

Officer Stephen Purcell and Officer Douglas Galt:

Officer Galt and Officer Purcell did not use physical force on LOPEZ during this incident. Due to the lack of any physical force used by the officers, there is no evidence of a criminal offense committed by these officers.

CONCLUSION

In applying the law and the California District Attorney's Uniform Crime Charging Standards to the present case, the force used by Richmond Police Officers Kenneth Ferraro, Carmen Santana, Michael Ricchiuto, Timmy Parker, Douglas Frevele, Lacquanna Caston, Stephen Purcell, Cedric Tagorda, Douglas Galt, Daniel Campos, Carl Dean, and Virgil Thomas was reasonable under the totality of the circumstances. As such, no further action will be taken in this case.