

## INTRADEPARTMENTAL CORRESPONDENCE

May 27, 2020

3.2

**TO:** The Honorable Board of Police Commissioners

**FROM:** Chief of Police

**SUBJECT:** OFFICER INVOLVED SHOOTING NO. 028-19

Honorable Members:

The following is my review, analysis, and findings for Officer Involved Shooting (OIS), Force Investigation Division (FID) No. 028-19. A Use of Force Review Board (UOFRB) was convened on this matter on May 19, 2020.

In this case, the recommended findings were not unanimous, with a minority opinion rendered regarding the finding for Drawing/Exhibiting. I have carefully weighed each opinion, considered the case in its entirety, and have adopted the recommendation of the UOFRB majority opinion with regard to the Drawing/Exhibiting finding for Officer [REDACTED]. I hereby submit my findings in accordance with Police Commission policy.

**Note:** The criminal investigation in this matter was handled by the Corona Police Department (CPD). As a result, FID had limited access to the crime scene and associated evidence until it was completed and processed by CPD. FID investigators were allowed to conduct a walk-through and take positional photographs with Officer [REDACTED] after CPD processed the crime scene and collected their evidence. Additionally, FID was provided with reports and witness interviews, some having been redacted, CPD Body Worn Video (BWV), and store surveillance videos from the location. FID investigators requested additional documents pertaining to this case; however, the request was denied.

### SUMMARY<sup>1</sup>

On June 14, 2019, Officer [REDACTED] was off-duty, and shopping with [REDACTED] spouse, [REDACTED] [REDACTED], and [REDACTED] [REDACTED] after obtaining a store membership at Costco Wholesale Warehouse, located at [REDACTED] North McKinley Street in the City of Corona. At approximately 1945 hours, Officer [REDACTED] was obtaining a food sample at an Aidells food sample booth from witness [REDACTED] because [REDACTED] had become *fussy*. [REDACTED] had

[REDACTED]

walked to a different section of the store to shop for other items. According to Officer [REDACTED] held [REDACTED] in [REDACTED] left arm, close to [REDACTED] chest, and gave [REDACTED] a sample.

According to [REDACTED], [REDACTED] son Kenneth French, and [REDACTED], [REDACTED] were in the store to shop for groceries and were sampling some food. [REDACTED] was going to offer Kenneth a sample when Kenneth suddenly turned and slapped the [REDACTED] on the cheek.

According to Officer [REDACTED], [REDACTED] had a facial expression of *absolute fear* as [REDACTED] looked over [REDACTED] right shoulder and [REDACTED] stated, "Oh my God," which caused [REDACTED] to turn [REDACTED] head to the right. As [REDACTED] did so, Officer [REDACTED] observed Kenneth with his right arm extended, pointing a *small black compact* firearm approximately an inch from Officer [REDACTED] head. Officer [REDACTED] remembered seeing a *bright flash of white* and *hearing a loud gunshot*. [REDACTED] stated [REDACTED] felt *searing, hot pain* on the right side of [REDACTED] head and then *everything went black*. Officer [REDACTED] stated that when [REDACTED] regained consciousness, [REDACTED] was on the floor, lying on [REDACTED] back, and [REDACTED] was near [REDACTED] right shoulder, screaming and pounding on Officer [REDACTED] chest. Officer [REDACTED] did not know how [REDACTED] fell to the floor and stated [REDACTED] felt *intense pain* on the *right side* of [REDACTED] head, which [REDACTED] described as *absolute heat*. Officer [REDACTED] stated that [REDACTED] body was *numb and absolutely paralyzed* and that [REDACTED] believed [REDACTED] had been shot. Officer [REDACTED] estimated [REDACTED] was *unconscious* for *approximately a second*.

According to the FID investigation, while later providing [REDACTED] Public Safety Statement (PSS) to CPD investigators, Officer [REDACTED] was asked if Kenneth had a weapon. Officer [REDACTED] stated, "Yes;" however, [REDACTED] was unable to describe it. No witnesses were identified who observed Kenneth with a firearm, nor were there any small black objects recovered near Kenneth. Officer [REDACTED] pistol was the only firearm recovered by CPD during their investigation.

Officer [REDACTED] ID No. [REDACTED] CPD was the first officer to arrive on scene, followed by Officers [REDACTED] ID No. [REDACTED] CPD, [REDACTED] ID No. [REDACTED] CPD, and other arriving first responders.

According to the FID investigation, Officer [REDACTED] initial statement to Officer [REDACTED] was captured by Officer [REDACTED] on BWV minutes after the OIS. During that conversation, Officer [REDACTED] stated [REDACTED] believed [REDACTED] had been *shot in the back of the head* but did not mention that [REDACTED] had lost consciousness or that [REDACTED] was paralyzed. There was no record of Officer [REDACTED] expressing to anyone at scene or to a medical professional that [REDACTED] experienced paralysis during the incident.

**Note:** During Officer [REDACTED] second FID interview, FID investigators asked Officer [REDACTED] how [REDACTED] was able to feel [REDACTED] pounding on [REDACTED] chest if [REDACTED] body was *numb and paralyzed*. Officer [REDACTED] initial response was that [REDACTED] did not know; however, upon further questioning by [REDACTED] attorney, Officer [REDACTED] stated that [REDACTED] felt *petrified and overcome with fear* because [REDACTED] believed [REDACTED] had been shot. Officer [REDACTED] further stated [REDACTED] believed

[REDACTED]

*the combination of being struck in the head and being overcome with fear* is what caused Officer [REDACTED] to *feel paralyzed*. FID investigators also asked Officer [REDACTED] how [REDACTED] was able to estimate the length of time [REDACTED] was unconscious. Officer [REDACTED] stated [REDACTED] did not know, but Officer [REDACTED] perception was that [REDACTED] momentarily lost consciousness.

According to the FID investigation, there were no witnesses who reported seeing Officer [REDACTED] in an unconscious state.

According to [REDACTED] as [REDACTED] was giving food samples to Officer [REDACTED], [REDACTED] observed [REDACTED] and Kenneth standing to the right of Officer [REDACTED]. [REDACTED] had just given samples to [REDACTED] and Kenneth when Kenneth quickly stepped towards Officer [REDACTED] and *forcefully punched* Officer [REDACTED] on the right side of [REDACTED] head. [REDACTED] stated Officer [REDACTED] *dropped* straight down with [REDACTED] in [REDACTED] arm and [REDACTED] heard Officer [REDACTED] state, "Oh, my God, [REDACTED] shot me."

**Note:** According to the FID investigation, when [REDACTED] was first contacted by Officer [REDACTED] minutes after the incident occurred, [REDACTED] described Kenneth's action as a "slap."

Witness [REDACTED] stated [REDACTED] was in an aisle looking for cheese and could see people standing at the sampling booth when [REDACTED] *heard a noise, like a slap*, which got [REDACTED] attention.

Witness [REDACTED] stated [REDACTED] was at the Aidells booth at the time of the incident and standing approximately two to three feet north of Kenneth and *four to five feet east* of Officer [REDACTED]. [REDACTED] noticed Kenneth *staring* at Officer [REDACTED] for four to five seconds, while slowly walking toward Officer [REDACTED]. Kenneth then *lunged* at Officer [REDACTED] and struck [REDACTED] with a *closed fist* on the right side of Officer [REDACTED] head. [REDACTED] stated Officer [REDACTED] was looking forward at the time and [REDACTED] believed Officer [REDACTED] never saw Kenneth approach.

According to the FID investigation, Officer [REDACTED] and [REDACTED] stated they had no prior contact with [REDACTED], or Kenneth while inside the store. Additionally, there was no video evidence to suggest that Officer [REDACTED] had any contact with Kenneth, [REDACTED], or [REDACTED] prior to the assault. [REDACTED] and [REDACTED] both stated they did not observe any interaction between Kenneth and Officer [REDACTED] prior to the assault.

According to Officer [REDACTED] observed Kenneth walking in a *southwest* direction in a nearby food aisle. Officer [REDACTED] stated there were two shoppers in the aisle with Kenneth, a male (later identified as [REDACTED]) and a female (later identified as [REDACTED]). Officer [REDACTED] believed [REDACTED] heard [REDACTED] state, "He's crazy. He's sick." Officer [REDACTED] opined it was stated because "they had just witnessed ... me being shot in the head at point-blank." Officer [REDACTED] stated that Kenneth was still holding a firearm in his right hand with his right arm extended down to the side and *walked with an absolute mission*. Officer [REDACTED] stated Kenneth continued to look at [REDACTED] and [REDACTED] as they were laying on the floor. Upon perceiving Kenneth was still armed with a firearm, Officer [REDACTED] used [REDACTED] *left hand* to lift [REDACTED] shirt and then used [REDACTED] *right hand* to remove [REDACTED] pistol, which was holstered inside of [REDACTED] right front waistband. Officer [REDACTED] drew [REDACTED] pistol because [REDACTED] believed Kenneth was a *deadly threat* to both [REDACTED]

and [REDACTED] Officer [REDACTED] stated [REDACTED] did not identify [REDACTED] as a police officer, because [REDACTED] did not have time to do so. (Drawing/Exhibiting and Debriefing Points No. 1 and No. 2)

**Note:** During Officer [REDACTED] first FID interview, FID investigators asked Officer [REDACTED] how [REDACTED] was able to remove [REDACTED] pistol when Officer [REDACTED] was *numb and paralyzed*. Officer [REDACTED] stated [REDACTED] did not know how he was able to overcome it.

According to the FID investigation, Officer [REDACTED] initial statement to CPD personnel was captured on Officer [REDACTED] BWV minutes after the OIS. During that conversation, Officer [REDACTED] stated [REDACTED] believed [REDACTED] had been shot in the back of the head, but [REDACTED] did not mention that [REDACTED] had lost consciousness or that [REDACTED] was paralyzed. Officer [REDACTED] asked Officer [REDACTED] if [REDACTED] had observed a weapon, Officer [REDACTED] did not answer and asked to speak with a lawyer. While later providing [REDACTED] PSS to CPD investigators, Officer [REDACTED] was asked if Kenneth had a firearm. Officer [REDACTED] said "Yes," however, [REDACTED] was unable to describe it.

According to the FID investigation, Officer [REDACTED] did not sustain a gunshot wound during this incident, nor did [REDACTED] sustain any verifiable injury. There was no record of Officer [REDACTED] expressing to anyone at scene or to a medical professional that [REDACTED] experienced paralysis during the incident. Officer [REDACTED] pistol was the only firearm recovered by CPD during their investigation. There were no witnesses identified who observed Kenneth with a firearm, nor were there any objects recovered near Kenneth which resembled a firearm.

According to the FID investigation, during Officer [REDACTED] second FID interview, [REDACTED] stated [REDACTED] believed [REDACTED] and [REDACTED] were at the north end of the aisle where it intersected with the east/west aisle (later identified as the aisle where the Aidells booth was located).

According to the FID investigation, [REDACTED] observed Officer [REDACTED] lean down to [REDACTED] left and place [REDACTED] on the floor after being struck by Kenneth. [REDACTED] As Kenneth took a couple of steps backward, Officer [REDACTED] rolled forward onto [REDACTED] left side and then to [REDACTED] back. Officer [REDACTED] looked at Kenneth for approximately a second and appeared *stunned*. [REDACTED] observed Kenneth clenching his *fists* while standing approximately *four to five feet* away from Officer [REDACTED].

According to the FID investigation, [REDACTED] stated [REDACTED] heard what sounded like a *slap* and then screaming. When [REDACTED] turned around, [REDACTED] observed Officer [REDACTED] *jump on the floor* with [REDACTED] child by [REDACTED] side. [REDACTED] stated Officer [REDACTED], "went on [REDACTED] butt and then [REDACTED] like put [REDACTED] head down...and [REDACTED] just like got in the defensive position." [REDACTED] added that [REDACTED] believed Officer [REDACTED] drew [REDACTED] pistol before going to the ground.

According to Officer [REDACTED], while Kenneth was in the aisle and in the process of raising his right arm in Officer [REDACTED] direction, Kenneth *simultaneously lowered his chin* while looking at Officer [REDACTED] and [REDACTED]. Officer [REDACTED] described Kenneth's demeanor as having a *face of intensity, focus, and absolutely no fear in his eyes*. As Kenneth continued to raise his right

[REDACTED]

arm to an approximate 45-degree angle, Officer [REDACTED] believed that [REDACTED] life was in danger. [REDACTED] life was in danger, and the other shoppers were in danger. Officer [REDACTED] stated [REDACTED] had a clear view of Kenneth in the middle of the aisle, from head-to-toe at the time Officer [REDACTED] fired. While lying on [REDACTED] back, Officer [REDACTED] raised [REDACTED] head, and while using a one-handed grip, extended [REDACTED] right arm and fired two shots towards the bakery in a southern direction at Kenneth's center body mass from a distance of approximately 15 feet. According to Officer [REDACTED] believed Kenneth was holding a gun at the time Officer [REDACTED] fired. Officer [REDACTED] experienced tunnel vision as Kenneth began to raise his right arm. Officer [REDACTED] stated [REDACTED] focus then moved to the front sight of [REDACTED] pistol as [REDACTED] aimed at Kenneth's chest. Officer [REDACTED] stated [REDACTED] shot to stop the threat. (Lethal Use of Force – First Volley and Debriefing Point No. 1)

**Note:** The FID investigation determined that Officer [REDACTED] fired a total of 10 rounds but was unable to determine the sequence of fire. Officer [REDACTED] fired south towards the meat department. The bakery was located approximately 150 feet east of where the OIS occurred.

During the walk-through with FID investigators, Officer [REDACTED] placed placards on the ground indicating [REDACTED] location and Kenneth's location at the time Officer [REDACTED] discharged [REDACTED] pistol. FID investigators measured the distance between the two placards and noted they were approximately 22 feet, four inches apart.

According to the FID investigation, a portion of this incident was captured on Costco's security system. This store's surveillance video does not support Officer [REDACTED] assertion that Kenneth walked down the aisle by himself, turned around, and raised a firearm with his right hand.

According to the FID investigation, during Officer [REDACTED] walk-through with FID investigators, Officer [REDACTED] demonstrated Kenneth holding the firearm in a bladed, two-hand low-ready stance. When Officer [REDACTED] was questioned regarding this discrepancy during [REDACTED] first FID interview, Officer [REDACTED] stated [REDACTED] did not recall making that characterization.

During Officer [REDACTED] second FID interview, [REDACTED] described feeling disoriented and that [REDACTED] vision was "off." Officer [REDACTED] clarified that [REDACTED] experienced "blurred vision" rather than "tunnel vision," but [REDACTED] was still able to see Kenneth holding a firearm.

According to [REDACTED] estimated the distance between Officer [REDACTED] and Kenneth to be four to five feet when Officer [REDACTED] fired.

According to Officer [REDACTED], after [REDACTED] fired [REDACTED] first two rounds, Kenneth fell in a manner that was still a threat because Kenneth was still facing Officer [REDACTED] with [REDACTED] arm still extended outward and [REDACTED] legs bent towards Kenneth's torso. Officer [REDACTED] stated that Kenneth still looked at [REDACTED] and [REDACTED] with a concentrated, intense look in his eye. Kenneth had a closed fist and was holding what Officer [REDACTED] believed was a gun. Kenneth raised his arm which

Officer [REDACTED] described as *consistent with him taking a shooting platform*. While still on [REDACTED] back, Officer [REDACTED] again utilized a *one-handed* shooting grip and fired two additional rounds at Kenneth's chest area from a distance of approximately 15 feet. Officer [REDACTED] stated that all four rounds of both volleys were fired in a southern direction towards the bakery within *two seconds* and there was a clear view of Kenneth in the aisle. Officer [REDACTED] also stated that due to the immediate need to take action [REDACTED] was unable to give Kenneth commands prior to firing [REDACTED] rounds. After firing [REDACTED] last shot, Officer [REDACTED] stated Kenneth rolled onto [REDACTED] back and then into a "fetal position" on his left side. Kenneth's back was towards Officer [REDACTED] and [REDACTED] arms were tucked underneath his body. **(Lethal Use of Force – Second Volley and Debriefing Point No. 1)**

**Note:** According to the FID investigation, Officer [REDACTED] was not able to account for the six additional rounds [REDACTED] fired. Officer [REDACTED] stated it was possible [REDACTED] shot more than two times during each of [REDACTED] two volleys and surmised that having been knocked unconscious may have distorted [REDACTED] perception of the total number of rounds that [REDACTED] fired.

In [REDACTED] first interview, Officer [REDACTED] stated to FID investigators that [REDACTED] conducted an *assessment* after firing each round. In [REDACTED] second FID interview, however, Officer [REDACTED] believed [REDACTED] assessed between volleys. Officer [REDACTED] stated [REDACTED] fired all [REDACTED] rounds within two seconds and estimated there was less than one second between [REDACTED] first and second volleys.

According to the FID investigation, Officer [REDACTED] believed Kenneth was in possession of a firearm throughout the entirety of this incident but stated the last time [REDACTED] saw Kenneth holding a firearm was just prior to Officer [REDACTED] firing of [REDACTED] first volley. Officer [REDACTED] was not able to say definitively that [REDACTED] saw Kenneth holding or pointing a firearm at [REDACTED] when Officer [REDACTED] fired [REDACTED] additional rounds. According to the FID investigation, the store's surveillance video depicted Kenneth falling on his left side with his back toward Officer [REDACTED]. Kenneth ended up facedown, and not on his back, as described by Officer [REDACTED]. Despite Officer [REDACTED] assertion that [REDACTED] fired [REDACTED] rounds at Kenneth's chest area, the investigation determined Kenneth was struck twice in the lower back, once to his left buttock, and once to his left triceps area. The Riverside County Coroner's Office documented trajectories indicating that three of the rounds which struck Kenneth traveled from back to front. The gunshot wound to Kenneth's left triceps traveled across and through his chest cavity stopping in front of the right shoulder.

According to Officer [REDACTED], [REDACTED] stated that after firing [REDACTED] last round, [REDACTED] loudly pronounced that Kenneth had *just shot* [REDACTED] and that Kenneth, "still had the gun...still had a pistol." Officer [REDACTED] believed [REDACTED] then heard a male's voice from within the aisle state, "[REDACTED] doesn't have a gun!" Officer [REDACTED] continued to point [REDACTED] pistol at Kenneth because Officer [REDACTED] believed Kenneth might still have the firearm tucked underneath him. [REDACTED]

[REDACTED]

According to the FID investigation, Officer [REDACTED] broke [REDACTED] "tunnel vision" and observed [REDACTED] and [REDACTED] lying to the right and left of Kenneth respectively. Both individuals appeared to have been injured and were holding their sides. Officer [REDACTED] stated [REDACTED] did not know how they were injured, and [REDACTED] did not see either of them in [REDACTED] foreground or background at the time of the OIS. Officer [REDACTED] did recall, however, that after [REDACTED] fired [REDACTED] last round, [REDACTED] moved from the east side of the aisle, towards the center of the aisle in front of Kenneth, and then back to the east side of the aisle. [REDACTED] also recalled seeing [REDACTED] move in a northwest direction while screaming, in what he interpreted to be an attempt to exit the aisle.

**Note:** The FID investigation revealed that Officer [REDACTED] was captured on Officer [REDACTED] BWV making the following statement: "Those people (later identified as [REDACTED] and [REDACTED]), I think that they were probably like -- got in the way. I don't know."

According to the FID investigation, when Officer [REDACTED] drew [REDACTED] pistol, [REDACTED] indicated [REDACTED] stepped in front of Kenneth and [REDACTED] to prevent them from being shot. [REDACTED] believed she was the first one struck by gunfire and that Officer [REDACTED] continued shooting after [REDACTED] was hit. [REDACTED] believed Officer [REDACTED] discharged two rounds before [REDACTED] and [REDACTED] moved into the line of fire.

According to [REDACTED], [REDACTED] heard a [REDACTED] yell, "No, no, no!" Although [REDACTED] vision was blocked by a cooler, [REDACTED] believed [REDACTED] saw an *older woman with gray hair* appearing to *struggle* with someone [REDACTED] could not see. After hearing [REDACTED] yelling and a *popping noise*, [REDACTED] started to see people *run* and *knew* something *was happening*, so [REDACTED] ran towards the Aidells booth *screaming* for [REDACTED] and Officer [REDACTED]. [REDACTED] observed Officer [REDACTED] lying on [REDACTED] back, holding [REDACTED] in [REDACTED] right arm and [REDACTED] pistol in [REDACTED] left hand. [REDACTED] said [REDACTED] asked Officer [REDACTED] what occurred, and [REDACTED] responded with, "It hurts right here on my head and I feel like I've been shot." [REDACTED] stated that Officer [REDACTED] told [REDACTED] felt like [REDACTED] was bleeding, but [REDACTED] did not check Officer [REDACTED] for an injury. [REDACTED] observed [REDACTED] on the floor near Kenneth and heard [REDACTED] state, "He's mentally ill." [REDACTED] also observed [REDACTED] lying on [REDACTED] back and crying. [REDACTED] then picked up [REDACTED] son and *ran screaming for help.*

**Note:** According to Officer [REDACTED] did not recall who had picked up [REDACTED] from [REDACTED]. According to the FID investigation, when FID investigators asked [REDACTED] if [REDACTED] observed any injuries to Officer [REDACTED], [REDACTED] responded that [REDACTED] observed Officer [REDACTED] look at [REDACTED] hand after touching [REDACTED] head and [REDACTED] saw *little driplets* [sic] of blood. Upon review of the multiple BWVs depicting Officer [REDACTED] interaction with CPD, blood was not observed on [REDACTED] hands or head, nor did [REDACTED] indicate that [REDACTED] was bleeding after the incident.

[REDACTED]

According to witness [REDACTED] approached Officer [REDACTED] and asked where the shooter was. Officer [REDACTED] replied, "He's still got a gun in his hand. He's still got a gun in his hand." [REDACTED] also heard [REDACTED] screaming, "My son's sick! My son's sick!" Due to Kenneth's position on the floor, [REDACTED] could not see Kenneth's arms. In an effort to determine whether Kenneth was in possession of a firearm, [REDACTED] walked toward Kenneth with witness [REDACTED]. As [REDACTED] approached, [REDACTED] observed Kenneth's body twitching and that Kenneth's breathing was shallow. [REDACTED] and [REDACTED] rolled Kenneth onto his back and observed blood coming out of his mouth. After determining Kenneth was unarmed, [REDACTED] attempted to render aid by elevating [REDACTED] feet.

According to Officer [REDACTED], as Officer [REDACTED] approached, Officer [REDACTED] remained covering Kenneth because Officer [REDACTED] still considered Kenneth to be a threat. When Officer [REDACTED] asked what had occurred, Officer [REDACTED] stated [REDACTED] advised Officer [REDACTED], "That guy just shot me...he still has a gun." Officer [REDACTED] stated [REDACTED] was then approached by a second officer with a rifle who told Officer [REDACTED] to give [REDACTED] Officer [REDACTED] pistol. Officer [REDACTED] said that the officer then reached out with his left hand and Officer [REDACTED] handed it over to the officer. (Debriefing Point No. 2)

**Note:** According to the FID investigation, a review of Officer [REDACTED] BWV captured Officer [REDACTED] approaching Officer [REDACTED]. Officer [REDACTED] asked Officer [REDACTED] if [REDACTED] was injured. Officer [REDACTED] responded with, "I guess not," and added that [REDACTED] thought [REDACTED] had been shot in the back of [REDACTED] head. When asked by Officer [REDACTED] where the shooter was, Officer [REDACTED] pointed to Kenneth and stated, "That guy." Officer [REDACTED] did not immediately identify [REDACTED] to Officer [REDACTED] as the shooter or as an off-duty police officer.

The FID investigation also noted that in Officer [REDACTED] BWV, Officer [REDACTED] was not holding [REDACTED] pistol when [REDACTED] was first approached by Officer [REDACTED]. According to Officer [REDACTED] [REDACTED] observed the stock of a pistol protruding from Officer [REDACTED] right front pants pocket. Officer [REDACTED] removed Officer [REDACTED] pistol and secured it in [REDACTED] own pants pocket.

According to the FID investigation, Officer [REDACTED] BWV captured [REDACTED] questioning Officer [REDACTED] further regarding what had occurred. Officer [REDACTED] stated that while holding [REDACTED] and waiting to receive a sample, [REDACTED] saw a blast and *felt his head getting knocked out*. Officer [REDACTED] stated [REDACTED] thought [REDACTED] had been shot and dropped [REDACTED] as Officer [REDACTED] fell to the floor. When Officer [REDACTED] looked up, [REDACTED] observed Kenneth "hunkered down" in the aisle. Officer [REDACTED] believed Kenneth was still armed and Officer [REDACTED] shot him. When Officer [REDACTED] was asked specifically by Officer [REDACTED] if [REDACTED] observed a weapon, Officer [REDACTED] did not answer the question and advised [REDACTED] would not speak any further without his lawyer. Officer [REDACTED] continued to question Officer [REDACTED] and asked [REDACTED] how many rounds [REDACTED] fired and if

[REDACTED]  
[REDACTED]  
[REDACTED]



there were any outstanding suspects. Officer [REDACTED] stated that [REDACTED] did not know the answer to either question. During the same conversation with Officer [REDACTED], Officer [REDACTED] can be heard on BWV saying "Hey, dude, my head really hurts, dude. My head does hurt."

**Note:** According to the FID investigation, in Officer [REDACTED] first FID interview, [REDACTED] stated [REDACTED] observed Kenneth walking with a firearm, turn towards [REDACTED] and then point the firearm at [REDACTED]. In Officer [REDACTED] second FID interview, [REDACTED] was asked to explain that statement in light of what [REDACTED] originally told Officer [REDACTED] that [REDACTED] observed Kenneth "hunkering down" and believed Kenneth was armed, as opposed to actually seeing him with a firearm. Officer [REDACTED] acknowledged that "hunker down" was a term [REDACTED] used but did not recall saying it when speaking with Officer [REDACTED]. [REDACTED] defined the term "hunker down" as someone who is possibly hiding with a weapon or crouching down in a different position. With regard to the specific verbiage [REDACTED] used when first describing to Officer [REDACTED] what had occurred, Officer [REDACTED] stated, "As far as the ... what I saw that day was I saw a gun and I don't believe that I had enough time to go into a thorough explanation to the officer of what had occurred." Officer [REDACTED] added that [REDACTED] recollection of the incident could be off due to the injury [REDACTED] sustained to [REDACTED] head.

According to the FID investigation, Officer [REDACTED] BWV captured Officer [REDACTED] lying on the floor directly in front (south) of the Aidells booth and not near the west side of the booth, as Officer [REDACTED] had demonstrated during [REDACTED] walk-through and described in [REDACTED] administrative interview. When questioned regarding this issue, Officer [REDACTED] indicated [REDACTED] did not move or change position after falling to the floor and firing [REDACTED] pistol. In examining the impacts to the glass front of the refrigerator case, it seemed improbable Officer [REDACTED] could have caused both impacts from the position [REDACTED] was in when first approached by Officer [REDACTED]. In an effort to resolve this conflict, Officer [REDACTED], Serial No. [REDACTED] Investigative Support Unit, FID, utilized CPD's crime scene measurements and the Department's mapping software to establish bullet path trajectories for the above impacts. [REDACTED] The mapping technology showed that both impacts were likely caused by projectiles fired from one location near the west side of the Aidells booth, consistent with where Officer [REDACTED] placed [REDACTED] during [REDACTED] walk-through.

According to Captain [REDACTED] Fire Station No. [REDACTED] City of Corona Fire Department (CFD), in an *active shooter incident*, CFD personnel grab their gear from the fire station and respond to a staging area in preparation for a *tactical response* as a *rescue task force*. In this incident, they staged until they were cleared by CPD dispatch to enter the location with a *force protection* team. (Debriefing Point No. 2)

According to the FID investigation, Officer [REDACTED] BWV depicted Officer [REDACTED] rubbing the right side of [REDACTED] head. Several minutes later, Officer [REDACTED] can be heard telling a firefighter [REDACTED] believed [REDACTED] had been shot and that [REDACTED] lost consciousness.

The FID investigation determined that Kenneth, [REDACTED], and [REDACTED] were struck by gunfire during the OIS. A portion of this incident was captured on the store's surveillance video;

[REDACTED]

however, the initial assault by Kenneth on Officer [REDACTED] was obscured from the camera's view by a storage shed display. The footage also did not capture Officer [REDACTED] falling to the floor or any of [REDACTED] subsequent actions. According to the FID investigation, what can be determined from this surveillance video is that at approximately 1945:30 hours, [REDACTED] was in the process of pushing Kenneth away from the Aidells booth, south into the refrigerated aisle. [REDACTED] can then be seen moving in a westerly direction away from the Aidells booth, while bending forward at the waist. [REDACTED] appeared to extend [REDACTED] arms outward while looking down toward the area where Officer [REDACTED] indicated [REDACTED] was lying. At 1945:34 hours, [REDACTED] can be seen falling to the floor, followed immediately by [REDACTED] and then Kenneth, who also collapsed. The FID investigation determined that the area in front of the Aidells food sample booth was not visible in the footage. FID investigators were unable to determine if the surveillance video captured the entirety of the OIS, or if it began prior to [REDACTED], [REDACTED], and Kenneth moving into camera view. Based on a review of the store's surveillance video by FID investigators, there appeared to be no obvious reaction by customers as [REDACTED] began pushing Kenneth into the refrigerated aisle. However, multiple people can be seen reacting by immediately fleeing the area when [REDACTED] fell to the floor.

According to the FID investigation, Officer [REDACTED] elected not to provide a voluntary statement; however, Officer [REDACTED] did give a PSS to Detectives [REDACTED] ID No. [REDACTED] and [REDACTED] ID No. [REDACTED] CPD, while at Corona Regional Medical Center. During [REDACTED] PSS, Officer [REDACTED] stated that he fired his pistol approximately four times while near the Aidells booth inside the store. Officer [REDACTED] stated that [REDACTED] fired [REDACTED] rounds down an aisle toward the bakery department, opposite the cash registers. While providing his PSS, Officer [REDACTED] was asked if Kenneth had a firearm. Officer [REDACTED] stated "Yes," but [REDACTED] was unable to describe it. Officer [REDACTED] believed [REDACTED] was shot once during the incident and stated, "I mean, first off I felt like I [sic] fucking blew my head off." Officer [REDACTED] also stated [REDACTED] did not know if there were other people involved in the shooting.

**Note:** During Officer [REDACTED] first FID interview, [REDACTED] described Kenneth holding a small black compact firearm, similar to a LCP (Ruger) .380 pistol.

During the FID presentation at the UOFRB, FID investigators advised that a search was conducted for a weapon inside of the store and all the shelves were emptied in the vicinity during that search. Additionally, CPD detectives utilized a drone for an overhead view of the crime scene, which depicts the top of the aisles and the shelves. Neither a firearm, nor any object resembling a possible firearm was located in those searches. The FID investigation revealed that Kenneth had no personal property on him at the time of the incident. [REDACTED]

[REDACTED]

According to the incident report completed by CPD Officer [REDACTED], [REDACTED] checked Kenneth for a pulse but could not find one. After observing no signs of life, Officer [REDACTED] pronounced Kenneth deceased at approximately 1952 hours.

Officer [REDACTED], [REDACTED], and [REDACTED] were all transported by separate rescue ambulances to local hospitals. [REDACTED] and [REDACTED] were taken to the Riverside Community Hospital and Officer [REDACTED] was taken to the Corona Regional Medical Center. [REDACTED]

At approximately 2130 hours, while at the Corona Regional Medical Center where Officer [REDACTED] was being evaluated, Detective [REDACTED] contacted the Los Angeles Police Department on Officer [REDACTED] behalf and advised Sergeant [REDACTED], Serial No. [REDACTED] Watch Commander, Southwest Patrol Division, of the OIS. Lieutenant [REDACTED] Serial No. [REDACTED] Southwest Patrol Division, responded to Corona Regional Medical Center and monitored Officer [REDACTED] until relieved by FID investigators. **(Additional Tactical Debrief Topic - Off-Duty Actions and Additional – Department Operations Center Notification)**

[REDACTED] sustained a gunshot wound to [REDACTED] right flank, was transported to the Riverside Community Hospital, underwent surgery, and was later released. [REDACTED] did not consent to a release of [REDACTED] medical records.

[REDACTED] sustained a through and through gunshot wound that entered [REDACTED] lower left abdominal area and exited midline between the buttocks area. [REDACTED] was transported to the Riverside Community Hospital, underwent surgery, and was later released. [REDACTED] did not consent to a release of [REDACTED] medical records.

According to the FID investigation, Officer [REDACTED] stated that after [REDACTED] was struck, [REDACTED] sustained severe hearing loss to [REDACTED] right ear, blurred vision, pain to the right side of [REDACTED] head, and loss of consciousness. Officer [REDACTED] was transported to the Corona Regional Medical.

**Note:** The FID investigation noted that prior to Officer [REDACTED] leaving the area of the OIS, Paramedic [REDACTED] from American Medical Response, walked with Officer [REDACTED] for approximately 10 yards to the ambulance. According to [REDACTED] Officer [REDACTED] was able to walk without assistance and negotiate [REDACTED] way into the ambulance on [REDACTED] own. Based on [REDACTED] observations, [REDACTED] did not believe Officer [REDACTED] balance or gross motor skills were compromised. Once inside the ambulance, [REDACTED] observed Officer [REDACTED] place [REDACTED] hand on the right side of [REDACTED] head and complain of pain [REDACTED] head. According to [REDACTED] Officer [REDACTED] did not have symptoms indicative of having a concussion. [REDACTED] did; however, note what appeared to be a small, quarter-sized hematoma to the right side of Officer [REDACTED] head.

According to the FID investigation, Officer [REDACTED] was treated by Doctor [REDACTED] at the Corona Regional Medical Center, who ordered a computed tomography (CT) scan of [REDACTED] head and spine. A review of Officer [REDACTED] medical record revealed there was no evidence of acute

[REDACTED]

intracranial hemorrhage (*bleeding inside the skull*), extra-axial collection (*a collection of fluid within the skull*), mass effect (*effect of a growing mass*), mid-line shift (*the result of something pushing the brain off its naturally centered position between the left and right hemispheres*), herniation (*the shifting of brain tissue, blood, and cerebrospinal fluid from their normal position inside the skull*), or hydrocephalus (*a condition in which fluid accumulates in the brain, enlarging the head*). The surrounding soft tissues and osseous structures (*bones*) were unremarkable (normal).

**Note:** According to the FID investigation, there was no documentation in Officer [REDACTED] medical record that [REDACTED] sustained any trauma to the head or spine. The FID investigation determined that Officer [REDACTED] did not have any verifiable injuries.

Officer [REDACTED] was discharged from the hospital on June 15, 2019 at 0032 hours and was prescribed pain and nausea medication to be used as needed. [REDACTED] was medically cleared to return to work, full-duty on June 19, 2019; however, Officer [REDACTED] was assigned to home following the incident and [REDACTED] was subsequently relieved from duty effectively removing [REDACTED] police powers. [REDACTED] Officer [REDACTED] signed a release authorizing the Department to obtain medical records related to [REDACTED] treatment at Corona Regional Medical Center. [REDACTED] also voluntarily provided a blood sample to FID investigators that was later analyzed and tested negative for the presence of alcohol and narcotics.

According to Officer [REDACTED] long-term injuries include pain to the right side of [REDACTED] head, a stiff neck, increased stuttering issues, and vision that has gotten progressively worse, particularly in his right eye.

### FINDINGS

**Tactics** –Administrative Disapproval, Officer [REDACTED]

**Drawing/Exhibiting** – Out of Policy, Administrative Disapproval, Officer [REDACTED]

**Lethal Use of Force** – Out of Policy, Administrative Disapproval, Officer [REDACTED]

### ANALYSIS

#### **Detention**

Officer [REDACTED] was off-duty and shopping with [REDACTED] family at a store. While Officer [REDACTED] was holding [REDACTED] and obtaining a food sample at a food vendor's booth, [REDACTED] was struck in an



unprovoked attack, resulting in an OIS. While Officer [REDACTED] did not seek to conduct enforcement activity, [REDACTED] was a victim of a crime.

## Tactics

Department policy relative to a Tactical Debrief is: *"The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance."*

Department policy relative to Administrative Disapproval is: *"A finding, supported by a preponderance of the evidence that the tactics employed during a CUOF incident*

*unjustifiably and substantially deviated from approved Department tactical training"* (Los Angeles Police Department Manual, Volume 3, Section 792.05).

The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

### Tactical De-Escalation

*Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.*

#### Tactical De-Escalation Techniques

- *Planning*
- *Assessment*
- *Time*
- *Redeployment and/or Containment*
- *Other Resources*
- *Lines of Communication (Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques*

Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

**Planning** – Officer [REDACTED] was off-duty in civilian clothing, armed with [REDACTED] pistol concealed in a holster, and shopping in a store with [REDACTED] family. While obtaining a food sample and holding [REDACTED], Officer [REDACTED] was struck on the right side of [REDACTED] head in an unprovoked attack, and subsequently became involved in an OIS. The unanticipated attack limited Officer [REDACTED]

ability to plan for this incident; however, with regard to planning ahead for a possible off-duty incident, Officer [REDACTED] stated [REDACTED] had discussed actions to take with [REDACTED] should such an incident occur. Additionally, Officer [REDACTED] stated [REDACTED] practiced shooting [REDACTED] off-duty pistol approximately once every six months. Officer [REDACTED] kept [REDACTED] pistol loaded with Department-approved ammunition and secured it inside of a holster that met the Department's off-duty holster requirements.

**Assessment** – Officer [REDACTED] stated that [REDACTED] thought [REDACTED] had been shot in the back of the head, was paralyzed, and lost consciousness. Officer [REDACTED] did not mention that [REDACTED] had lost consciousness or that [REDACTED] was paralyzed in [REDACTED] initial contact with CPD Officer [REDACTED]. There was no record of Officer [REDACTED] expressing to anyone at scene or to a medical professional that [REDACTED] experienced paralysis. According to the FID investigation, Officer [REDACTED] did not sustain any verifiable injury during this incident.

Officer [REDACTED] described seeing, out of [REDACTED] peripheral vision, Kenneth point a black compact firearm approximately one inch from the right side of Officer [REDACTED] head; however, none of the identified witnesses observed Kenneth with a firearm or a firearm pointed at Officer [REDACTED] head. Additionally, investigating personnel did not locate any evidence of an additional firearm or any object that could be construed as a firearm in their canvassing of the immediate area.

In his assessment, Officer [REDACTED] stated [REDACTED] believed Kenneth was still holding a firearm in his right hand, with his right arm extended down to his side while in the aisle. Furthermore, [REDACTED] described Kenneth as having stopped, turning to his right, and facing Officer [REDACTED]. Officer [REDACTED] stated Kenneth began to raise his right arm in Officer [REDACTED] direction, while still holding the firearm. According to the FID investigation, the store's surveillance video did not depict Kenneth walking in the aisle by himself, turning around, and raising his right arm.

Officer [REDACTED] stated that after [REDACTED] fired [REDACTED] first two rounds, Kenneth fell in a manner that Officer [REDACTED] assessed was a threat because Kenneth was facing Officer [REDACTED] with his arm still extended outward. Officer [REDACTED] stated that Kenneth had closed fists and was holding what Officer [REDACTED] believed was a firearm. Officer [REDACTED] described Kenneth taking a shooting platform while raising his right arm. According to the FID investigation, the surveillance video depicted Kenneth initially falling on his left side, with his back towards Officer [REDACTED].

Although Officer [REDACTED] stated Kenneth was in possession of a firearm throughout the entirety of this incident, Officer [REDACTED] stated the last time [REDACTED] observed Kenneth holding a firearm was prior to Officer [REDACTED] firing [REDACTED] first volley.

The investigation determined that Officer [REDACTED] fired a total of 10 rounds. In [REDACTED] first FID interview, Officer [REDACTED] stated [REDACTED] conducted an assessment after firing each round. In [REDACTED] second FID interview; however, Office [REDACTED] believed [REDACTED] assessed only between volleys. Officer [REDACTED] stated [REDACTED] fired all of [REDACTED] rounds within two seconds and estimated there was less than a second between [REDACTED] first and second volleys.

As previously mentioned in [redacted] first FID interview, Officer [redacted] stated [redacted] experienced tunnel vision and focused through [redacted] sights on Kenneth's chest area. In [redacted] second FID interview, Officer [redacted] clarified that [redacted] had experienced blurred vision rather than tunnel vision, but [redacted] was still able to assess that Kenneth was holding a firearm. Officer [redacted] incorrectly assessed that Kenneth was armed with a firearm, which resulted in an OIS. Officer [redacted] stated that [redacted] assessed Kenneth to be in possession of a firearm throughout the entirety of this incident. The investigation by CPD and FID did not identify any corroborating evidence or witnesses who observed that Kenneth was in possession of a firearm or object which resembled a firearm.

**Time** – Due to this incident being an unprovoked attack, the time afforded to Officer [redacted] to plan for such was limited and did not provide [redacted] the opportunity to move to a position of cover or gain additional distance from Kenneth prior to the assault. However, after the assault, Officer [redacted] did not take the time to assess [redacted] physical condition or his level of injury prior to unholstering [redacted] pistol. Officer [redacted] stated that [redacted] believed that [redacted] had been shot in the back of the head but had no verifiable injury. Assessing that [redacted] had not, in fact, been shot would have allowed Officer [redacted] more time and options rather than drawing [redacted] firearm and ultimately resorting to the use of lethal force. Officer [redacted] made no attempts to communicate with Kenneth in an effort to de-escalate the incident. Additionally, Kenneth was being pushed away from Officer [redacted] and was not armed. Officer [redacted] did not take the time to correctly assess the incident and to analyze the threat.

**Redeployment and/or Containment** – It would have been preferable for Officer [redacted] to take a position of cover or concealment to allow [redacted] additional time to assess the incident properly and safely secure [redacted] and [redacted] from further harm. A position of cover would also provide Officer [redacted] with time to consider additional options and mitigate the risk of resorting to the use of lethal force.

**Other Resources** – Since Officer [redacted] was off-duty, [redacted] available resources were limited. Had Officer [redacted] awaited the arrival of the jurisdictional law enforcement agency, [redacted] would have benefited from the valuable resource of additional responding personnel who would have assumed investigative responsibility and taken appropriate action, thereby reducing the risk to Officer [redacted] and other persons in the immediate area.

**Lines of Communication** – Following the unprovoked physical assault by Kenneth, Officer [redacted] did not verbalize to Kenneth to stop his actions, nor did [redacted] advise nearby shoppers that an armed person was presenting an immediate safety hazard. Following the OIS, Officer [redacted] focused on [redacted] perceived injury and did not exercise control to warn bystanders to avoid the area and keep them away from Kenneth.

As the incident progressed requiring CPD response, Officer [redacted] was noticeably lacking and hesitant in [redacted] response to initial responding CPD personnel and failed to communicate essential, pertinent, and relevant public safety information, thereby reducing the ability of CPD officers to respond efficiently in a critical incident. The choice to provide incomplete information also delayed the administering of medical aid to injured victims by CFD personnel who were staged

outside of the store until the location was deemed safe enough to enter. Additionally, Officer [REDACTED] did not immediately identify [REDACTED] as an armed, off-duty police officer, in accordance with the Department's guidelines. Officer [REDACTED] decision to not identify [REDACTED] as a police officer after being involved in a significant off-duty incident and OIS, increased [REDACTED] risk for being misidentified as a suspect from the local responding law enforcement agency.

The UOFRB determined, and I concur, that Officer [REDACTED] did not appropriately utilize the elements of de-escalation and substantially deviated without justification from approved Department tactical training. Officer [REDACTED] would have benefited from properly assessing [REDACTED] environment and surroundings which would have afforded [REDACTED] additional options rather than resorting to the use of lethal force.

During the review of the incident, the following Debriefing Topics were noted:

**Debriefing Point No. 1      Situational Awareness**  
(Substantial Deviation without Justification – Officer [REDACTED])

*No matter what patrol strategy is deployed, officers on patrol must rely on their own observation and perception skills. Officers must function as trained observers. Officers on patrol are expected to practice disciplined observation and apply their training and experience to accurately perceive what is occurring or is about to occur.*

*To an officer, observation means the ability to gather information by noting facts or occurrences with a heightened sense of awareness. While on patrol, officers must use not only their eyes, but all of their senses including hearing, smell, etc., to obtain information from the outside world. Observation can be enhanced by training (knowing what to look for), experience (knowing where and when to look for it), a variety of special tools (e.g., binoculars, night vision scopes, etc. (California Commission on Peace Officer Standards and Training, Revised July 2005, Workbook Correction April 2012, Learning Domain No. 21)*

In this case, Officer [REDACTED] did not take the time to assess [REDACTED] physical condition or [REDACTED] level of injury prior to unholstering [REDACTED] pistol. Officer [REDACTED] stated that [REDACTED] believed that [REDACTED] had been shot in the back of the head but had no verifiable injury. Assessing that [REDACTED] had not been shot would have allowed Officer [REDACTED] more time and options rather than drawing [REDACTED] firearm and ultimately resorting to the use of lethal force.

In this incident, Officer [REDACTED] incorrectly assessed that Kenneth was armed with a firearm, which resulted in an OIS. Officer [REDACTED] stated that [REDACTED] assessed Kenneth to be in possession of a firearm throughout the entirety of this incident. The investigation by CPD and FID did not identify any corroborating evidence or witnesses who observed that Kenneth was in possession of a firearm or object which resembled a firearm.

The UOFRB acknowledged Officer [REDACTED] was the victim of an unprovoked attack; however, Officer [REDACTED] lack of assessment and the resultant deficient situational awareness caused the UOFRB great concern. The UOFRB noted Officer [REDACTED] had an obligation to take the time to



assess the situation prior to making the decision to draw and exhibit a firearm inside of a crowded store. While Officer [REDACTED] stated that [REDACTED] believed [REDACTED] had sustained a gunshot wound to the back of his head, Officer [REDACTED] did not have any verifiable injury. This mistaken belief was cited by Officer [REDACTED] as a factor in his decision to draw and exhibit [REDACTED] firearm. Although Officer [REDACTED] had been struck by Kenneth's hand in some manner, [REDACTED] was obligated to conduct an assessment in order to react appropriately.

The UOFRB noted that Officer [REDACTED] did not correctly assess the incident and believed that Kenneth was armed with a firearm. Officer [REDACTED] did not conduct a proper assessment of [REDACTED] background where the incident occurred, which was in a crowded warehouse store on a Friday evening. The UOFRB reviewed all of the evidence that was available, including transcripts from witnesses. The only firearm recovered at the incident was possessed by Officer [REDACTED]. There were no witnesses who observed Kenneth armed with any firearm or in possession of any object that resembled a firearm.

The UOFRB also noted that Officer [REDACTED] had sufficient time to assess and consider his tactical options rather than escalate the situation by drawing and discharging [REDACTED] pistol. The UOFRB was concerned that Officer [REDACTED] did not take more time to analyze the threat. Based on the preponderance of the evidence and Officer [REDACTED]' inconsistent accounts, the UOFRB determined that Officer [REDACTED] did not assess the situation accurately. At the time of the OIS, [REDACTED] was with Kenneth who was in the process of moving away from Officer [REDACTED].

Based on the totality of the circumstances, the UOFRB determined, and I concur, that Officer [REDACTED] did not properly assess the situation. The UOFRB determined, and I concur, Officer [REDACTED]' actions unjustifiably and substantially deviated from approved Department tactical training. I will direct this be a topic of discussion during the Tactical Debrief.

**Debriefing Point No. 2**

**Tactical Communication**

(Substantial Deviation without Justification – Officer [REDACTED])

*Officers are trained to work together and function as a team. In order to ensure officer safety and help ensure an appropriate outcome, the primary officers and cover officers must effectively communicate with one another. Appropriate communication involves:*

- advising the primary officer of any critical occurrences or safety issues (e.g., movement within the target vehicle, someone approaching outside the primary officer's field of vision, possible crossfire situations, etc.),*
- avoid inappropriate interruptions, and*
- avoid giving directions which conflict with those given by the primary officer. Only one person, usually the primary officer, gives the commands, unless a specific situation calls for another officer to issue a command*

*(California Commission on Peace Officers Standards and Training, Learning Domain)*

*Lines of Communication. Maintaining open lines of communications between officer and communicating effectively with a suspect are critically important when managing a tense or potentially dangerous encounter. Communication between officers can improve decision-making under tense circumstances and increase the effectiveness of coordinated actions. In addition, when a suspect observes that officers are prepared, well organized, professional, and working as a team, he or she may be deterred from attempting to flee, fight, or actively resist. (Use of Force Tactics Directive No. 16 –Tactical De-Escalation Techniques)*

Officer [REDACTED] did not effectively communicate essential and relevant safety information to responding law enforcement personnel. Officer [REDACTED] did not employ the elements of de-escalation to reduce the intensity of the encounter with Kenneth, nor did [REDACTED] warn bystanders to keep a safe distance from Kenneth.

Operational success is based on the ability of officers to effectively communicate during critical incidents. Officers, when faced with a tactical incident, improve their overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution.

As the incident progressed requiring CPD response, Officer [REDACTED] was noticeably lacking and hesitant in [REDACTED] response to initial responding CPD personnel and failed to communicate pertinent and important public safety information, thereby reducing the ability of CPD officers to respond efficiently and coordinate their actions in a critical incident. This lack of cooperation also hindered other first responders, such as paramedic and fire department personnel.

Officer [REDACTED] lack of communication to responding personnel also resulted in the deployment of CPD officers into the store and a tactical search of the location for possible additional suspects. The tactical search of the store unnecessarily utilized CPD resources and also placed them at unnecessary and increased risk of a mishap or accident.

Additionally, Officer [REDACTED] choice to provide incomplete information also delayed the response to injured victims by CFD personnel who were staged outside of the store until the location was deemed safe enough to enter. Due to CPD personnel believing this incident was an active shooter event, CFD personnel were kept outside of the store until the tactical situation had stabilized sufficiently to allow CFD personnel into the location. This created a delay of medical treatment being more expeditiously rendered to critically injured persons inside of the store.

Officer [REDACTED] did not immediately identify [REDACTED] as an armed, off-duty police officer, in accordance with the Department's guidelines, thereby increasing [REDACTED] risk for being misidentified as a suspect from the local responding law enforcement agency.

Following the unprovoked physical assault by Kenneth, Officer [REDACTED] did not verbalize to Kenneth to stop [REDACTED] actions, nor did [REDACTED] advise nearby shoppers that an armed person was presenting an immediate safety hazard. Subsequent to the OIS, Officer [REDACTED] focused on [REDACTED]

[REDACTED]

perceived injury and did not exercise control to warn bystanders to avoid the area and keep them away from Kenneth for their own safety.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that Officer [REDACTED] did not appropriately utilize the elements of de-escalation. Moreover, Officer [REDACTED] lack of communication during this incident placed the responding CPD officers at a tactical disadvantage, increased the intensity of the encounter, and endangered the public.

Officer [REDACTED] is reminded that effective communication of possible tactical concerns to other law enforcement personnel is vital in their ability to react and respond to threats that may arise during a tactical encounter. When faced with a tactical incident, overall safety is improved by an officer's ability to recognize an unsafe situation and work collectively to ensure a successful resolution.

The UOFRB determined, and I concur, Officer [REDACTED] actions unjustifiably and substantially deviated from approved Department tactical training. I will direct this be a topic of discussion during the Tactical Debrief.

#### **Additional Tactical Debrief Topic**

**Off-Duty Actions** - Officer [REDACTED] had just been involved in an off-duty OIS. Officer [REDACTED] did not notify his command directly that [REDACTED] was involved in a significant off-duty incident in which [REDACTED] discharged [REDACTED] pistol. Officer [REDACTED] is reminded that officers who are involved in a reportable use of force incident shall notify their supervisor or watch commander without unnecessary delay. I will direct this be a topic of discussion during the Tactical Debrief.

#### **Command and Control**

*Command and Control is the use of active leadership to direct others while using available resources to coordinate a response, accomplish tasks and minimize risk. Command uses active leadership to establish order, provide stability and structure, set objectives and create conditions under which the function of control can be achieved with minimal risk. Control implements the plan of action while continuously assessing the situation, making necessary adjustments, managing resources, managing the scope of the incident (containment), and evaluating whether existing Department protocols apply to the incident.*

*Command and Control is a process where designated personnel use active leadership to command others while using available resources to accomplish tasks and minimize risk. Active leadership provides clear, concise, and unambiguous communication to develop and implement a plan, direct personnel and manage resources. The senior officer or any person on scene who has gained sufficient situational awareness shall initiate Command and Control and develop a plan of action. Command and Control will provide direction, help manage resources, and make it possible to achieve the desired outcome. Early*

*considerations of PATROL will assist with the Command and Control process. (Los Angeles Police Department, Training Bulletin, Volume XLVII Issue 4, July 2018)*

*Line Supervision – Defined. A supervisor who has the specific responsibility of issuing directions and orders to designated subordinates shall be considered as having the duty of line supervisor and shall be held accountable for achieving conformance with the directions and orders that he/she issues. (Los Angeles Police Department Manual, Volume 3, Section 135)*

*Incident Commander (IC) – In accordance with Department Policy, the IC sets the objectives, the strategy and directs the tactical response. Directing the tactical response means applying tactics appropriate to the strategy, assigning the right resources and monitoring performance. (Los Angeles Police Department, Supervisor's Field Operations Guide, Volume 2, Emergency Operations Guide)*

Lieutenant [REDACTED] responded to the Corona Regional Medical Center and monitored Officer [REDACTED] until [REDACTED] was relieved of that duty by FID investigators. The details of Officer [REDACTED] separation and monitoring were recorded on the Watch Commander's Daily Report, dated June 14, 2019.

In reviewing this incident, the actions of Lieutenant [REDACTED] were consistent with Department supervisory training and my expectation of a field supervisor during a critical incident.

### **Tactical Debrief**

In conducting an objective assessment of this case, the UOFRB determined, and I concur, that the tactics utilized by Officer [REDACTED] tactics substantially, and unjustifiably, deviated from approved Department tactical training, thus requiring a finding of Administrative Disapproval.

Each tactical incident also merits a comprehensive debriefing. In this case, there were areas identified where improvement could be made. A Tactical Debrief is the appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

Therefore, I will direct that Officer [REDACTED] attend a Tactical Debrief and that the specific identified topics be discussed.

**Note:** Additionally, the Tactical Debrief shall also include the following mandatory discussion points:

- Use of Force Policy;
- Equipment Required/Maintained;
- Tactical Planning;
- Radio and Tactical Communication (including Code Six);
- Tactical De-Escalation;

- Command and Control; and,
- Lethal Force.

### General Training Update (GTU)

Office [REDACTED] has not yet attended a GTU as [REDACTED] has been assigned to [REDACTED] residence pending the final adjudication of this incident.

### Drawing/Exhibiting

Department policy relative to drawing and exhibiting a firearm is: *"An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief there is a substantial risk that the situation may escalate to the point where deadly force may be justified."* (Los Angeles Police Department Manual, Volume No. 1, Section 556.80)

According to Officer [REDACTED] observed Kenneth walking in a southwest direction in a nearby food aisle. Officer [REDACTED] stated there were two shoppers in the aisle with Kenneth, a male (later identified as [REDACTED]) and a female (later identified as [REDACTED]). Officer [REDACTED] believed [REDACTED] heard [REDACTED] state, "He's crazy. He's sick." Officer [REDACTED] believed it was stated because "they had just witnessed ... me being shot in the head at point-blank." Officer [REDACTED] stated that Kenneth was still holding a firearm in his right hand with his right arm extended down to the side and walked with an "absolute mission." Officer [REDACTED] stated Kenneth continued to look at [REDACTED] and [REDACTED] as they were laying on the floor. Upon perceiving Kenneth was still armed with a firearm, Officer [REDACTED] used [REDACTED] left hand to lift [REDACTED] shirt and then used [REDACTED] right hand to remove [REDACTED] pistol, which was holstered inside of [REDACTED] right front waistband. Officer [REDACTED] drew [REDACTED] pistol because [REDACTED] believed Kenneth was a deadly threat to both [REDACTED] and [REDACTED]. Officer [REDACTED] stated [REDACTED] did not identify [REDACTED] as a police officer because [REDACTED] did not have time to do so.

Officer [REDACTED] recalled,

*Southwest... Into the aisle, not away from me, but still in close proximity [REDACTED]*

*I recall two shoppers closer to the frozen aisle section. [REDACTED]*

*...as he walked and as I was drawing out my weapon, I heard someone yell out, "He's crazy. He's sick." And I remember thinking, yeah, he's crazy and, yes, he's sick. Who would ever shoot their -- who would ever shoot someone while they're holding their little [REDACTED] at a Costco? And I believe that people said that because they had just witnessed being -- me being shot in the head at point-blank. [REDACTED]*

[REDACTED]

*...he walked with an absolute mission – purpose looking down at me, still holding that black, small handgun in his right hand...his body's direction was almost repositioning himself to come back and face me again. During this time, I still believed he was a deadly threat towards me and my [REDACTED] and at the same time I began to draw my weapon. [REDACTED]*

*With my left hand, I lifted up my shirt ever so slightly just so expose the weapon to free it from any clothing. I recall, with my right hand, placing it around the handle of the weapon, and I pulled it out [REDACTED]*

In this case, the UOFRB conducted a thorough review in evaluating the reasonableness of Officer [REDACTED] Drawing/Exhibiting.

The UOFRB majority noted that although the attack on Officer [REDACTED] by Kenneth was unprovoked, the inconsistencies in Officer [REDACTED] statements and the lack of supporting evidence led them to determine that this incident did not support the drawing and exhibiting of a firearm by Officer [REDACTED]. An officer's statements and explanation of actions merit significant review; however, in this particular case, Officer [REDACTED] statements were conflicting, contradictory, and confusing within the two interviews. This caused the UOFRB great concern. This required the UOFRB majority to rely on timelines, witness statements, CPD BWV immediately following the incident, and in-store video to discern what Officer [REDACTED] did or did not believe at the point he chose to draw and exhibit [REDACTED] pistol. [REDACTED]

The UOFRB majority also noted that Officer [REDACTED] indicated [REDACTED] was struck hard enough to be rendered unconscious, yet after receiving medical treatment, there was a lack of any substantiated injuries from Kenneth's strike and what Officer [REDACTED] stated was a subsequent fall to the ground. Officer [REDACTED] provided a detailed description of [REDACTED] observations of Kenneth's movements after being struck, which were inconsistent with being unconscious. Based on Officer [REDACTED] assertion that [REDACTED] was unconscious, had blurred vision, was dizzy, and somehow partially incapacitated, drawing and exhibiting a firearm in that situation would have created a greater vulnerability to both [REDACTED] and [REDACTED]. Officer [REDACTED] indicated [REDACTED] had suffered a concussion and had received a gunshot wound to the back of [REDACTED] head, which the UOFRB majority noted should cause a person to consider their own ability to properly control and retain a firearm in that situation. The UOFRB majority was critical of Officer [REDACTED] claim to have clarity in thought and conversely describe being unclear and possibly unconscious. In addition, the UOFRB majority discussed that Officer [REDACTED] initially described observing a gun pointed at [REDACTED] head, describing Kenneth's actions in detail, and then after drawing [REDACTED] own pistol, aiming for Kenneth's center body mass. Officer [REDACTED] later clouded [REDACTED] own statement with doubt when [REDACTED] stated that [REDACTED] experienced blurred vision and disorientation.

[REDACTED]

Furthermore, the UOFRB majority considered Officer [REDACTED] statement of having heard a blast; however, there was no evidence to support that anyone else at that approximate time also heard a blast. During the UOFRB, FID investigators presented the surveillance video which did not depict other customers in the area reacting in a manner which would suggest that they heard a loud noise prior to Officer [REDACTED] opening fire. There was no indication of a change of movement or reaction of customers until [REDACTED] and [REDACTED] fell down to the ground after Officer [REDACTED] discharged his pistol. The UOFRB majority found Officer [REDACTED] lack of forthcoming and unwillingness to divulge essential information, coupled with [REDACTED] general lack of cooperation to the responding CPD personnel to be troubling. The UOFRB majority determined that Officer [REDACTED] Drawing/Exhibiting to be Out of Policy.

**Note:** According to FID investigators, with regard to whether or not witnesses recalled any loud noises prior to the incident, there was no indication of a loud, unexpected noise concurrent with Kenneth's physical assault on Officer [REDACTED] to which any store customer reacted to on available video.

The UOFRB minority reviewed the same set of facts and came to a different conclusion based on the review of the video, statements, and evidence. The UOFRB minority considered the statements made by Officer [REDACTED] to FID investigators over the course of two interviews with regard to the diagnosis of [REDACTED] injuries, which included a loss of consciousness, blunt force trauma to the head, and a fall to the ground. In addition, Kenneth had initiated an unprovoked attack on Officer [REDACTED] that occurred while Officer [REDACTED] was holding [REDACTED]. The UOFRB minority noted the combined evidence of seeing [REDACTED] facial expression, Officer [REDACTED] belief that [REDACTED] was shot in the head and being physically struck hard enough to fall to the ground would cause any reasonable officer to believe he/she may need to draw their weapon for protection. As such, in that particular moment, there was a reasonable belief that the situation may escalate to the point where deadly force may be justified.

Utilizing statements from Officer [REDACTED], the UOFRB minority opinion was focused on what Officer [REDACTED] believed to be of the facts articulated and perceived at the time of the incident. The assessment by Officer [REDACTED] of [REDACTED] injury resulting in a loss of consciousness due to the attack, when making the decision to draw [REDACTED] firearm, was in accordance with Department policy, specifically the, "Belief there is a substantial risk that the situation may escalate to the point where deadly force may be justified." The UOFRB minority determined that Officer [REDACTED] was in accordance with the standard set forth of what was determined objectively reasonable and found no evidence that Officer [REDACTED] substantially deviated from approved Department policy. The UOFRB minority determined Officer [REDACTED] Drawing/Exhibiting to be In Policy.

I considered Officer [REDACTED] decision to draw [REDACTED] pistol after being struck in an unprovoked manner and closely scrutinized the evidence presented before me. I analyzed Officer [REDACTED] varying accounts and inconsistent statements regarding [REDACTED] assessment and articulation of Kenneth holding a weapon, specifically a firearm. This included a review of on scene BWV from CPD officers capturing Officer [REDACTED] words contemporaneous to the OIS as well as Officer [REDACTED] FID interviews. Officer [REDACTED] failed to properly assess the situation which

led [REDACTED] to an untenable and unreasonable conclusion to unholster [REDACTED] weapon. Based on the totality of the circumstances and weighing all the available evidence, the UOFRB majority concluded, and I concur, that an officer with similar training and experience as Officer [REDACTED], while faced with similar circumstances, would not reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, I find Officer [REDACTED] Drawing/Exhibiting to be Out of Policy, Administrative Disapproval.

### Use of Force – General<sup>25</sup>

*“It is the policy of this Department that personnel may use only that force which is “objectively reasonable” to:*

- *Defend themselves;*
- *Defend others;*
- *Effect an arrest or detention;*
- *Prevent escape; or,*
- *Overcome resistance*

*The Department examines reasonableness using Graham v. Connor and from the articulated facts from the perspective of a Los Angeles Police Officer with similar training and experience placed in generally the same set of circumstances. In determining the appropriate level of force, officers shall evaluate each situation in light of facts and circumstances of each particular case. Those factors may include, but are not limited to:*

- *The seriousness of the crime or suspected offense;*
- *The level of threat or resistance presented by the subject;*
- *Whether the subject was posing an immediate threat to officers or a danger to the community;*
- *The potential for injury to citizens, officers or subjects;*
- *The risk or apparent attempt by the subject to escape;*
- *The conduct of the subject being confronted (as reasonably perceived by the officer at the time);*
- *The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;*
- *The availability of other resources;*
- *The training and experience of the officer;*
- *The proximity or access of weapons to the subject;*

[REDACTED]



- *Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number officers versus subjects; and,*
- *The environmental factors and/or other exigent circumstances (Los Angeles Police Department Manual, Volume 1, Section 556.10).*

### **Lethal Use of Force**

*Law enforcement officers are authorized to use deadly force to:*

- *Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or,*
- *Prevent a crime where the subject's actions place person(s) in imminent jeopardy of death or serious bodily injury; or,*
- *Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall, to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury (Los Angeles Police Department Manual, Volume No.1, Section 556.10).*

*The reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force (Los Angeles Police Department Manual, Volume No.1, Section 556.10).*

**Officer [REDACTED]** – 9mm, 10 rounds in a southerly direction from an approximate distance of 15 feet.

First Volley (two rounds, according to Officer [REDACTED])

**Note:** The FID investigation determined that Officer [REDACTED] fired a total of 10 rounds. Investigators from FID were unable to determine the exact sequence of fire.

According to Officer [REDACTED], while Kenneth was in the aisle and in the process of raising his right arm in Officer [REDACTED] direction, Kenneth simultaneously lowered his chin while looking at Officer [REDACTED] and [REDACTED]. Officer [REDACTED] described Kenneth's demeanor as having a face of intensity, focus, and absolutely no fear in his eyes. As Kenneth continued to raise his right arm to an approximate 45-degree angle, Officer [REDACTED] believed that [REDACTED] life was in danger, [REDACTED] life was in danger, and the other shoppers were in danger. Officer [REDACTED] stated [REDACTED] had a clear view of Kenneth in the middle of the aisle, from head-to-toe at the time Officer [REDACTED] fired. While lying on [REDACTED] back, Officer [REDACTED] raised [REDACTED] head, and while using a one-handed grip, extended [REDACTED] right arm and fired two shots towards the bakery in a southern direction at Kenneth's center body mass from a distance of approximately 15 feet. According to Officer [REDACTED] believed Kenneth was holding a gun at the time Officer [REDACTED] fired. Officer [REDACTED] experienced tunnel vision as Kenneth began to raise his right arm. Officer [REDACTED]

stated [REDACTED] focus then moved to the front sight of [REDACTED] pistol as [REDACTED] aimed at Kenneth's chest. Officer [REDACTED] stated [REDACTED] shot to stop the threat.

Officer [REDACTED] recalled,

*...and I could see he was increasing his concentration on me. And when he began to lower his chin and raise his arm... [REDACTED]*

*Because it was a face of intensity, focus. [REDACTED]*

*He had absolute no fear in his eyes as he walked. He also—he was also carrying the same black gun that I saw that was pointed towards my head...but he walked with an absolute mission -- purpose looking down at me, still holding that black, small handgun in his right hand... [REDACTED]*

*One-handed [REDACTED] ...the right arm coming up and to a 45-degree angle. [REDACTED]*

*towards the bakery in the south—south direction. [REDACTED]*

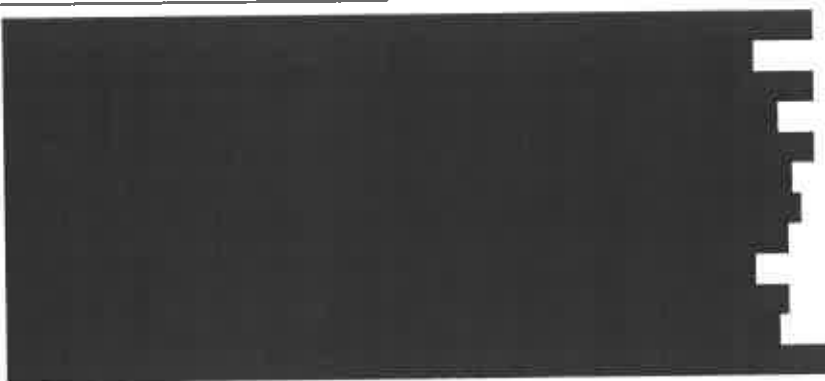
*When he stopped, and he turned his body to face me, my vision went towards my front sight, and he began to raise his right arm towards me and my little boy. I remember also there was other customers within the aisle. And I believed he was going to kill me, my son, and the shoppers that were there. And then I raised my weapon and I fired twice. My front sight was on him. I had a clear view of him from head to toe. [REDACTED]*

*I was on my back. [REDACTED] ...my arm was extended out... [REDACTED]*

*And then that's when I aimed at his center body mass and I fired two shots. [REDACTED]*

*I'd estimate 15 feet. [REDACTED]*

*I want to clarify that I did see a gun as the — right before the first volley as it was being raised. [REDACTED]*



*And then my tunnel vision went directly into his chest and my front sight – or my front sight and his center body mass.* ■

*And I shot to stop the threat.* ■

Second Volley (two rounds, according to Officer ■)

**Note:** The FID investigation determined that Officer ■ fired a total of 10 rounds. Investigators from FID were unable to determine the exact sequence of fire.

According to Officer ■, he stated that after ■ fired ■ first two rounds, Kenneth fell in a manner that was still a threat because Kenneth was still facing Officer ■ with ■ arm still extended outward and ■ legs bent towards Kenneth's torso. Officer ■ stated that Kenneth still looked at ■ and ■ with a concentrated, intense look in his eye. Kenneth had a closed fist and was holding what Officer ■ believed was a gun. Kenneth raised his arm which Officer ■ described as consistent with ■ taking a shooting platform. While still on ■ back, Officer ■ again utilized a one-handed shooting grip and fired two additional rounds at Kenneth's chest area from a distance of approximately 15 feet. According to Officer ■, all four rounds of both volleys were fired in a southern direction towards the bakery within two seconds and there was a clear view Kenneth in the aisle. Officer ■ also stated that due to the immediate need to take action, ■ was unable to give Kenneth commands prior to firing ■ rounds. After firing ■ last shot, Officer ■ stated Kenneth rolled onto his back and then into a "fetal position" on his left side. Kenneth's back was toward Officer ■ and ■ arms were tucked underneath ■ body.

Officer ■ recalled,

*He went down after I fired twice. And then he fell in a manner that was still a threat to me and my son and the other Costco shoppers. His arm was still extended outward. He was still facing me. He still had a concentrated, intense look in his eyes, still looking at me and my son. I remember we were face-to-face and his arm was still extended out, and I believe he still had that same gun, and I fired twice more in his direction at him.* ■

*That he still had a closed fist, holding what I believe was a gun.* ■

*Him raising his arm consistent with him taking a shooting platform at me.* ■

*One-handed<sup>43</sup>...I lowered my weapon, I looked down, and I saw he fell in the position that was still presenting a threat towards me with his arm still extended out. ... and I aimed*



*again my front sight at his chest, and I fired once. The tunnel vision was still – I could still see his chest and I believe that his arm was still extended outward, and I fired again.* ■

*Again, 15 feet.* ■

*Two seconds... towards the bakery in the south—south direction.* ■

*But what I saw was the suspect and the clear view standing in the middle of the aisle from head to toe clear, and I believe I had a clear shot to stop that threat.* ■

*No, I couldn't. Again, because it was just immediate.* ■

*After my second shot from my second set, when he was down and after he made himself into a fetal position away from me and my son, I stopped -- I stopped firing and I continued to cover him.* ■

*... I believed it was still tucked under the suspect's arms still at that point.* ■

When Officer ■ was asked by FID investigators if there was anyone in front or behind Kenneth when Officer ■ fired, Officer ■ replied, "No." ■

**Note:** The FID investigation revealed that Kenneth had no personal property on him at the time of the incident. There were no witnesses who observed Kenneth armed with a firearm or in possession of any object that resembled a firearm. The only firearm recovered at the incident was possessed by Officer ■. Officer ■ had no verifiable injuries.

In evaluating Officer ■ use of lethal force, the UOFRB thoroughly examined the evidence and witness statements related this incident. The UOFRB determined that Officer ■ account of the incident had various inconsistencies. Evidence and witness statements did not support Officer ■ perception of the incident with regard to the application of lethal force.

The UOFRB acknowledged that based on a preponderance of the evidence, Officer ■ was struck by Kenneth without provocation. The UOFRB noted that Officer ■ stated ■ believed ■ had sustained a gunshot wound to ■ head. This belief started the series of events which culminated in Officer ■ discharging ■ pistol. Officer ■ stated that ■ fell down to the ground and momentarily lost consciousness and was paralyzed from the injury. These perceptions of Officer ■ contributed to Officer ■ belief that the incident was



escalating. After the OIS, Officer [REDACTED] received medical treatment and underwent a series of exams. Officer [REDACTED] did not have any verifiable injuries. The UOFRB noted that there was no evidence to support Officer [REDACTED] belief that [REDACTED] had sustained a significant injury. Of additional concern to the UOFRB was that Officer [REDACTED] was discovered lying on the ground directly in front (south) of the Aidells booth by Officer [REDACTED]. Officer [REDACTED] remained lying on the ground in that location for a period of time. The FID investigation determined that at least two of Officer [REDACTED] rounds were fired from a position near the west side of the Aidells booth, consistent with where Officer [REDACTED] placed [REDACTED] during the walk-through. Officer [REDACTED] stated that [REDACTED] did not move or change position after falling to the floor and firing [REDACTED] pistol. The discrepancy between the two locations was not resolved during the FID investigation and was noted by the UOFRB.

The UOFRB noted that Officer [REDACTED] believed Kenneth was armed with a firearm. No other witnesses stated they observed Kenneth in possession of a firearm. No objects from Kenneth were recovered during the investigation which resembled a firearm. There were no factors that the UOFRB could identify that supported a basis for what Officer [REDACTED] stated was a belief that Kenneth was armed with a firearm and had shot Officer [REDACTED]. During the UOFRB, FID investigators presented that at the approximate time of the OIS, Kenneth was moving down an aisle with [REDACTED], away from Officer [REDACTED].

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officer [REDACTED], would not reasonably believe that the suspect's actions presented an imminent threat of death or serious bodily injury and that the use of lethal force would not be objectively reasonable.

Therefore, I find Officer [REDACTED] use of lethal force to be Out of Policy, Administrative Disapproval.

### **Additional/Equipment**

**Department Operations Center (DOC) Notification** – The Watch Commander's Daily Report, dated June 14, 2019, indicated an initial incident notification time by CPD Detective [REDACTED] to the Watch Commander of Southwest Patrol Division at 2130 hours. The incident was reported to the DOC at 2235 hours at the direction of Captain [REDACTED] Serial No. [REDACTED] Commanding Officer, Southwest Patrol Division. Captain [REDACTED] notified the DOC after [REDACTED] was able to verify the details of the incident with additional information from CPD.

### **Audio/Video Recordings**

**Digital In-Car Video System (DICVS)** – According to CPD, there were 19 DICVS videos from CPD police vehicles that responded to this incident after the OIS and were parked outside of the Costco store. The videos were reviewed by FID investigators.

**Body Worn Video (BWV)** – According to CPD, there were 23 BWVs from CPD officers that responded to this incident after the OIS. The videos captured various portions of the incident, including statements made after the OIS by Officer [REDACTED] and witnesses.

**Outside Video** – The Costco store was equipped with 46 security cameras mounted at various locations inside and outside of the building at the time of this incident. The cameras were labeled based on their location and recorded at 10 frames per second without audio. The only camera found to have captured a portion of this incident was designated “Camera Centers (3)” and was mounted 15 feet above the floor and approximately 150 feet from the Aidells booth.<sup>52</sup>

**Social Media** – Social media sites and news organizations were monitored from the date of the incident by FID investigators. This incident was publicized by local news outlets and was discussed by several individuals on various social media posts. Additionally, there were multiple printed news articles related to this incident, as well as post-OIS cell phone videos circulating in the media. FID investigators reviewed all the information and coordinated with CPD investigators to ensure attempts were made to identify and interview all potential witnesses to this incident.

Respectfully,



MICHAEL R. MOORE  
Chief of Police

Date: 5-27-20

[REDACTED]