CONFIDENTIAL

ADMINISTRATIVE INVESTIGATION

IA18-03

NAPA POLICE DEPARTMENT

OFFICER-INVOLVED

SHOOTING

DECEMBER 5\textsuperscript{th}, 2018

STONEHOUSE APARTMENTS

NPD CASE \#S

NPD18-006712

NPD18-006765

NSD CASE \# NSD18-005161

By:

Lt. Gary Pitkin

Napa Police Department
I. **EXECUTIVE SUMMARY**

On the morning of Wednesday, December 5, 2018, at approximately 0148 hours, Officer Christopher Simas #204 with the Napa Police Department (NPD) was working uniformed patrol. At this time, Officer Simas was dispatched to a call that Subject (S)-David MOLINA had assaulted a female at the Kentwood Apartments in the 500 block of River Glen Drive, Napa. The Reporting Party (RP), whom identified himself to the Dispatcher, described S-MOLINA as having a revolver in his waistband, and provided a clothing and physical description as well as direction and mode of travel.

Officer Simas responded, arriving in the area approximately 2 minutes later. On arrival, Officer Simas located and attempted to contact S-MOLINA as he rode his skateboard southbound on Soscol Avenue near Stonehouse Drive. S-MOLINA failed to comply with Officer Simas’ commands, fled into a dark, wooded area south east of the intersection of Stonehouse Drive and Soscol Avenue. After a foot pursuit, Officer Simas caught up to S-MOLINA in a secluded area, continued giving him commands, and began to handcuff S-MOLINA. After getting one of S-MOLINA’s hands cuffed, he violently resisted pulling his hands away, wrestling for control of Officer Simas’ patrol rifle, grabbing the trigger mechanism of Officer Simas’ patrol rifle, and discharging seven (7) rounds from the rifle into an adjacent dirt bank in a span of 4 seconds. As Officer Simas and S-MOLINA fought over control of Officer Simas’ rifle, Officer Simas broke contact with S-MOLINA, who began to stand from his previously seated position, and turn into a crouched position facing Officer Simas, as if to again attack. Officer Simas believed S-MOLINA was still armed with a handgun, and feared he was about to be shot and/or again attacked and forced to fight for control of his patrol rifle. In defense of his life, Officer Simas cycled the action clearing his malfunction and charging his rifle and discharged five (5) rounds in approximately 3 seconds at S-David MOLINA stopping the attack. From the time S-MOLINA fired his first of 7 rounds, through their struggle over Officer Simas’ patrol rifle, to the last of five rounds Officer Simas fired, approximately twenty-six (26) seconds had elapsed. S-MOLINA was pronounced dead at the scene.

The Napa County Major Crimes Investigation Team (NCMCIT), led by the Napa Sheriff’s Department (NSD), conducted a criminal investigation which is under review by the Napa County District Attorney’s (DA’s) Office. NSD’s criminal investigation resulted in an opinion that Officer Simas’ actions and use of deadly force were reasonable and justified pursuant to Penal Code (PC) § 196.2 - justifiable homicide by a public officer, and 197.1 - justifiable homicide by any person.

An NPD administrative investigation was completed, reviewing Officer Simas’ actions in light of NPD policy. Officer Simas’ actions were determined to be appropriate and reasonably necessary, lawful, objectively reasonable, and within established NPD policy and the Napa Civil City Service Rules.
II. INTRODUCTION

The details of this report describe the events before, during and after an Officer-Involved Shooting (OIS) that occurred on the morning of Wednesday, December 5th, 2018, at approximately 0157 hours, wherein Officer Christopher Simas #204 discharged five (5) rounds from his Napa Police Department (NPD) rifle at S-David MOLINA. The following information was compiled from reviewing CAD Event (E181201475) information, watching Officer Simas’ Body Worn Camera (BWC) footage, listening to the 911 call and related radio transmissions, and interviewing Officer Simas. All times and distances are approximate.

On Wednesday, December 5, 2018, at approximately 0230 hours, I, Lieutenant Gary Pitkin with the Napa Police Department (NPD), was contacted and advised of an officer involved shooting (OIS). I learned Officer Christopher Simas #204 (NPD) was the involved officer and the subject was deceased. I later learned the subject was identified with a California Drivers’ License (CDL) as S-David MOLINA. On arrival at NPD, I met with Captain Manzer and was assigned to conduct the administrative investigation.

Pursuant to NPD policy § 305.7 - Administrative Investigation, the purpose of this administrative investigation is to determine whether the conduct of NPD personnel was in conformance with department policy. Policy sections relevant to this investigation include:

- § 300.3 – Use of Force
- § 300.3.1 – Use of Force to Effect an Arrest
- § 300.3.2 - Factors Used to Determine the Reasonableness of Force
- § 300.4 - Deadly Force Applications
- § 300.6 – Medical Considerations
- § 307.6 – Firearms Training and Qualifications
- §361.7 - Activation of Recording.

The policies, in their entirety, are attached and incorporated under tab D. The specific policies are outlined below:

300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

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

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

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

300.3.1 USE OF FORCE TO EFFECT AN ARREST
Any peace officer may use reasonable force to effect an arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape or to overcome resistance (Penal Code § 835a).

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE
When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include, but are not limited to:

a. Immediacy and severity of the threat to officers or others.

b. The conduct of the individual being confronted, as reasonably perceived by the officer at the time.

c. Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
d. The effects of drugs or alcohol.
e. Subject's mental state or capacity.
f. Proximity of weapons or dangerous improvised devices.
g. The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
h. The availability of other options and their possible effectiveness.
i. Seriousness of the suspected offense or reason for contact with the individual.
j. Training and experience of the officer.
k. Potential for injury to officers, suspects and others.
l. Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.
m. The risk and reasonably foreseeable consequences of escape.
n. The apparent need for immediate control of the subject or a prompt resolution of the situation.
o. Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
p. Prior contacts with the subject or awareness of any propensity for violence.
q. Any other exigent circumstances.

300.4 DEADLY FORCE APPLICATIONS
Use of deadly force is justified in the following circumstances:

a. An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.

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

1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another.
2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

300.6 MEDICAL CONSIDERATION

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

307.6 FIREARMS TRAINING AND QUALIFICATIONS

All members who carry a firearm while on-duty are required to successfully qualify quarterly with their duty firearms. Members will qualify with off-duty and secondary firearms at least once a year. Training and qualifications must be on an approved range course.
At least annually, all members carrying a firearm should receive practical training designed to simulate field situations including low-light shooting.

361.7 ACTIVATION OF RECORDING
There are many situations where the use of BWC is appropriate. This policy is not intended to describe every possible circumstance. In addition to the required conditions, employees may activate their BWC anytime they feel its use would be appropriate and/or valuable to document an incident and it is allowed by current law.

Employees will activate BWC prior to the following events when feasible, or as soon as safely possible following the beginning of any such event:

(a) Vehicle stops or other detention, arrest, transport, booking of any person;
(b) Assessment for psychiatric detention;
(c) Investigatory or enforcement contacts with the public;
(d) Interviews of suspects, victims, witnesses;
(e) Searches of person or property;
(f) Foot or vehicle pursuit of a suspect;
(g) When any contact with a member of the public becomes adversarial, or when any physical contact with a member of the public is anticipated;
(h) When ordered to do so by a superior;
(i) Any other circumstance when employee believes recording would be appropriate and useful for a legitimate law enforcement purpose.

Employees should not activate BWC when the employee determines that doing so would endanger themselves or others.
CONFIDENTIAL ADMINISTRATIVE REPORT
IA18-03
NSD18-005161 / NPD18-006712 / NPD18-006765

III. INVOLVED OFFICER

Officer Christopher Simas #204

How Involved: Shooter

White Male Adult

28 Years of Age

HT: 6'02" WT: 200 lbs.

HAIR: Brown EYES: Hazel

Assignment: Patrol Bureau, 4/10 Graveyard

Body Armor: External Vest Carrier

Uniform Status: Class C

Supervisor: Acting Sergeant Russ Davis

Date of Hire: 12/03/2016

Academy Class: Napa Valley College # 100

Pistol Qualification: 09/12/2018

Rifle Qualification: 09/12/2018

Instructor Status: No

CIT Certified: 40-hour CIT course completed Oct 23-31, 2017

Previous LE Experience: None

Military Experience: None

Education Level: Bachelor’s Degree

Firearm: Colt AR-15 .223 caliber, Serial #

Prior Uses of Deadly Force: No
Firearms Training:
At the time of the shooting Officer Simas was in compliance with department firearms training requirements as outlined in Napa Police Department (NPD) policy § 307.6-Firearms Training and Qualifications. NPD Training documents, in the form of "Range Scorecard," show Officer Simas was currently qualified at the time of this incident to carry his department issued patrol rifle and service pistol.

Officer Simas completed NPD range qualifications with his department-approved Colt AR-15 and Glock 22 pistol in each of the three quarters in 2018. Specifically, Officer Simas qualified on February 27th, March 12th, June 18th, and September 12th, 2018.

Copies Officer Simas' respective range qualification cards, quarterly range training outlines and Peace Officer Standards and Training (POST) records are attached and incorporated for reference under tab E in this administrative report.
IV. SUSPECT

David Alexander MOLINA  
DOB: 
White Male Adult  
HT: 6'03" WT: 200 pounds  
HAIR: Brown  EYES: Brown  
CDL #: 
CII #: 
FBI #: 
ADDRESS: 
PHONE #: 

CRIMES S-MOLINA FACED HAD HE SURVIVED:
Penal Code § 664/187 - Attempted Murder of a Peace Officer  
Penal Code § 245 (d)(2) - Assault with a Semi-Automatic Firearm upon a Peace Officer  
Penal Code 148 (d)(1) - Attempting to a Disarm Peace Officer  
Penal Code § 29800 (a)(1) - Possession of Firearm by Convicted Felon  
Penal Code § 30305 (a)(1) - Possession of Ammunition by Convicted Felon  
Penal Code § 422 (a) - Criminal Threats  
Penal Code § 417 (a)(1) - Brandishing a Firearm  
Penal Code § 243 (a) - Battery

PRIOR DOCUMENTED CONTACTS WITH NPD:
NPD documented ten (10) prior arrests with S-MOLINA between October of 2009 and November of 2015, for crimes including, but not limited to, robbery, burglary and battery on a peace officer. NPD arrests are shown below:

<table>
<thead>
<tr>
<th>Case</th>
<th>Agency</th>
<th>Arrest ID</th>
<th>Date</th>
<th>Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>NPD09-007409</td>
<td>NPD</td>
<td>20050-15597</td>
<td>10/14/2009</td>
<td>FEL - BURGLARY</td>
</tr>
<tr>
<td>NPD09-007409</td>
<td>NPD</td>
<td>20050-15597</td>
<td>10/14/2009</td>
<td>MISD - VIOLATION OF PROBATION</td>
</tr>
<tr>
<td>NPD10-007409</td>
<td>NPD</td>
<td>20050-15597</td>
<td>10/14/2009</td>
<td>FEL - CONSPIRACY/COMMIT CRIME</td>
</tr>
<tr>
<td>NPD11-00971</td>
<td>NPD</td>
<td>20050-21395</td>
<td>02/09/2011</td>
<td>FEL - VIOLATION OF PROBATION</td>
</tr>
<tr>
<td>NPD12-00224</td>
<td>NPD</td>
<td>20050-25262</td>
<td>01/12/2012</td>
<td>FEL - BENCH WARRANT</td>
</tr>
<tr>
<td>NPD12-005106</td>
<td>NPD</td>
<td>20050-27560</td>
<td>08/28/2012</td>
<td>FEL - ROBBERY</td>
</tr>
<tr>
<td>NPD12-005106</td>
<td>NPD</td>
<td>20050-27590</td>
<td>08/28/2012</td>
<td>FEL - FORCE OR ADW NOT FIREARM/GBI</td>
</tr>
<tr>
<td>NPD12-005106</td>
<td>NPD</td>
<td>20050-27560</td>
<td>08/28/2012</td>
<td>FEL - VIOLATE CIVIL RIGHTS/CAUSE</td>
</tr>
<tr>
<td>NPD12-005106</td>
<td>NPD</td>
<td>20050-27590</td>
<td>08/28/2012</td>
<td>MISD - BATTERY ON PERSON</td>
</tr>
<tr>
<td>NPD12-005106</td>
<td>NPD</td>
<td>20050-27560</td>
<td>08/28/2012</td>
<td>MISD - DAMAGE/DESTROY ANY WIRELESS</td>
</tr>
<tr>
<td>NPD12-005106</td>
<td>NPD</td>
<td>20050-27560</td>
<td>08/28/2012</td>
<td>FEL - CONSPIRACY/COMMIT CRIME</td>
</tr>
<tr>
<td>NPD12-005106</td>
<td>NPD</td>
<td>20050-27590</td>
<td>08/28/2012</td>
<td>FEL - THREATEN CRIME W/INTENT TO</td>
</tr>
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<td>NPD12-005106</td>
<td>NPD</td>
<td>20050-27560</td>
<td>08/28/2012</td>
<td>FEL - VIOLATION OF PROBATION</td>
</tr>
<tr>
<td>NPD12-006970</td>
<td>NPD</td>
<td>20050-26470</td>
<td>11/28/2012</td>
<td>MISD - BATTERY ON PERSON</td>
</tr>
<tr>
<td>NPD12-006970</td>
<td>NPD</td>
<td>20050-26470</td>
<td>11/28/2012</td>
<td>MISD - BATTERY ON PERSON</td>
</tr>
<tr>
<td>NPD12-006970</td>
<td>NPD</td>
<td>20050-26470</td>
<td>11/28/2012</td>
<td>MISD - OBSTRUCT/RESIST/ETC</td>
</tr>
<tr>
<td>NPD12-006970</td>
<td>NPD</td>
<td>20050-26470</td>
<td>11/28/2012</td>
<td>FEL - VIOLATION OF PROBATION</td>
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<tr>
<td>NSD13-002974</td>
<td>NSD</td>
<td>00200-63567</td>
<td>07/15/2013</td>
<td>MISD - BATTERY ON PEACE</td>
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<tr>
<td>NSD13-002974</td>
<td>NSD</td>
<td>00200-63576</td>
<td>07/15/2013</td>
<td>MISD - RESIST OR OBSTRUCT PEACE</td>
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<td>NSD13-006561</td>
<td>NSD</td>
<td>20050-31944</td>
<td>12/06/2013</td>
<td>MISD - BATTERY ON PERSON</td>
</tr>
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<td>NSD15-004338</td>
<td>NSD</td>
<td>20050-35517</td>
<td>07/16/2015</td>
<td>MISD - BATTERY:SPouse/EX</td>
</tr>
<tr>
<td>NSD15-004338</td>
<td>NSD</td>
<td>20050-35517</td>
<td>07/16/2015</td>
<td>FEL - VIOLATION OF PROBATION</td>
</tr>
<tr>
<td>NSD15-007166</td>
<td>NSD</td>
<td>20050-35916</td>
<td>11/13/2015</td>
<td>FEL - VIOLATION OF PROBATION</td>
</tr>
</tbody>
</table>
Information related to S-MOLINA's criminal history (tab 82), prior documented incidents with the Napa County Department of Corrections (NCDC) (tab 83), search warrants served on his mental health records, cell phones, social media accounts and residence (tabs 60 - 68), and interviews with family and associates (tabs 27 - 34) are attached and incorporated under NSD18-005161.

Records obtained with a search warrant from GEO Reentry Services (tab 68), a program designed to assist medium to high risk offenders through Probation referrals, show S-MOLINA self-assessed himself to have a problem with “anger,” is motivated by “staying free,” and his “freedom” was important to him. The Napa Community Corrections Service Center (CCSC) Referral Form, completed on January 18, 2017, by Probation Officer David Guerrero shows S-MOLINA’s drugs of choice as “meth, alcohol and spice.” Interview records, dated January 20, 2017, from a staff member identified as “Graff,” documented S-MOLINA’s use of the synthetic drug “spice” and noted mental health concerns related to “bi polar, ADD, depression.”

FIREARM
Rohm GBMH, Model 38 S, .38 “special” caliber revolver, Serial # [redacted] Loaded with six (6) live cartridges. No registered owner identified.
V. INVESTIGATORS

Gary Pitkin, Badge #170. Lieutenant, Napa Police Department.
1539 First Street
Napa, CA. 94559
Business phone: # 707-257-9641

Andrew Hess, Badge #160. Sergeant, Napa Police Department.
1539 First Street
Napa, CA. 94559
Business phone: # 707-257-9641

VI. VICTIM

V-
River Glen Drive, Apartment
Napa, CA. 94558
Cell:
Other Phone:

VII. INVOLVED OFFICER

Christopher Simas # 204, Police Officer
Napa Police Department (NPD)
1539 First Street
Napa, CA. 94559
Business phone: # 707-257-9641

VIII. WITNESSES

W-
Yajome Street
Napa, CA. 94558
Cell:

W-
East Avenue
Napa, CA. 94559
Cell:
Other Phone:
W- Russ Davis #76, Police Corporal
Napa Police Department (NPD)
1539 First Street
Napa, CA. 94559
Business phone: # 707-257-9641

W- Tyler Olson #207, Police Officer
Napa Police Department (NPD)
1539 First Street
Napa, CA. 94559
Business phone: # 707-257-9641

W-Jesus Martinez #201, Police Officer
Napa Police Department (NPD)
1539 First Street
Napa, CA. 94559
Business phone: # 707-257-9641

W-Dominic Dimercurio #199, Police Officer
Napa Police Department (NPD)
1539 First Street
Napa, CA. 94559
Business phone: # 707-257-9641

W- American Medical Response (AMR)
841 Latour Court, Suite D
Napa, California 94558
Phone:

W- American Medical Response (AMR)
841 Latour Court, Suite D
Napa, California 94558
Phone:

W- Napa Fire Department
1539 First Street, Napa, CA 94559
Phone:
IX. **STAFFING**

**Staffing on Graveyard, Tuesday - Wednesday, December 4 - 5th, 2018**

At the time of incident, Acting Sergeant Russ Davis was the Graveyard shift supervisor responsible, and the immediate supervisor of Officer Simas. On this date, Acting Sergeant Davis was the immediate supervisor responsible for Officers Dominic Dimmercurio #199 (overtime), Jesus Martinez #201 (overtime), Officer Christopher Simas #204 and Tyler Olson #207. The following regularly assigned personnel were off duty: Sergeant Alfonso Ortiz ( ), Officer Garth Bender ( ), and Officer Jose Peralez ( ).

Below is a screenshot of the Graveyard TeleStaff Report for Tuesday, December 4th, 2018:

| Graveyard | Davis, Russ | P076 | 21:00 | 07:00 | 10 |
| PTO/AS | P091 | 21:00 | 07:00 | 10 |
| Officer | Dimercurio, Dominic | P199 | OT | 21:00 | 07:00 | 10 |
| Officer | Peralez, Jose | P182 | OT | 21:00 | 07:00 | 10 |
| Officer | Martinez, Jesus | P201 | OT | 21:00 | 07:00 | 10 |
| Officer | Simas, Chris | P204 | 21:00 | 07:00 | 10 |
| Officer | Olson, Tyler | P207 | 21:00 | 07:00 | 10 |
| Sergeant | Ortiz, Alfonso | P145 | 21:00 | 07:00 | 10 |
As a law enforcement involved fatal incident, the Napa County Major Crimes Investigation Team (MCIT) protocol was invoked. Detective Felipe Hernandez with the Napa Sheriff's Department (NSD) was identified as the Lead Investigator. Detective Garret Smith with the Napa Police Department (NPD) was assigned as the Assisting Investigator. The investigation was documented under NSD case # NSD18-005161. All NPD BWC footage, and information specifically related to NPD concerns, were memorialized under NPD case # NPD18-006712.

The crime scene was forensically processed by members of both NSD and NPD Forensics Teams and memorialized under NSD18-005161.

CALL FOR SERVICE – CAD EVENT # E181201475

On December 5, 2018, at approximately 01:48:31, Public Safety Dispatcher II (PSD-II) Teresa Ochoa working in Napa Central Dispatch received a 911 call. Dispatch records show the call was placed from T-Mobile cellular device using the number 707- . In response to questions from PSD-II Ochoa, the caller verbally identified himself as Reporting Party (RP) . The following is a chronological account of related developments leading up to the activation of Officer Simas’ BWC and the subsequent Officer Involved Shooting (OIS). Reference the Event Chronology, attached in section B, for full details of the CAD entries and transmissions. Times are approximations based upon a review of CAD entries and times, combined with listening to the recorded audio transmissions from calls “Primary 0120-0150” and “Primary 0149-0219.” All times are approximate:

01:48: A male subject, later identified by the RP as S-David MOLINA, assaulted the RP’s girlfriend, later verbally identified as Witness (W) , near Soscol Avenue (Ave.) and River Glen Drive (Dr.), Napa.

01:48: S-MOLINA was armed with a gun.

01:48: S-MOLINA concealed the firearm in his waistband.

01:48: Officers T. Olson (2Z3) and C. Simas (2Z2) were dispatched to the event.

01:48: RP further described the firearm as a revolver.

01:49: Officer Simas advised he was en route.

01:49: RP advised S-MOLINA lifted up his shirt to show the RP the firearm.

01:49: RP verbally identified Suspect as David MOLINA.

01:49: RP advised S-MOLINA had left walking towards Soscol Ave.

01:49: Officer D. Dimercurio (2Z1) attached himself to the event.

01:49: RP advised S-MOLINA was possibly headed toward Walmart, 681 Lincoln Ave.

01:49: Officer Dimercurio showed himself en route to the event.
RP described S-MOLINA as a Hispanic Male Adult (HMA), thin build, riding a long skateboard.

Officer Olson advised he was en route.

S-MOLINA was last seen wearing a dark hoodie and dark blue jeans.

Acting Sergeant Russ Davis (ZZ10) attached himself to the event.

Acting Sergeant Davis advised he was en route.

Dispatch located a possible match on S-MOLINA with a Date of Birth (DOB) **omitted**.

RP advised S-MOLINA was approximately 6’03” tall.

Officer Simas advised he was out with the Suspect on Stonehouse Drive.

Officer Olson updated his status to reflect he has arrived on scene.

Officer Simas requested Code 3 cover.

Officer Simas advised he was in foot pursuit.

Officer Dimercurio shows to have arrived on scene.

Deputy Walsh (5G1) was dispatched to the event (possibly on Red channel).

Officer Simas advised he was “Eastbound through the apartment complex.” “Black plaid sweatshirt.”

Officer Simas advised S-MOLINA was running toward the “River Trail.”

Deputies Quigley and Jones (5G2) self-attach and show themselves en route.

Unknown Officer broadcasts, “Z2, we’re 97 at the Trail. You got an update?”

Officer Simas advised, “We’re on the Trail. One uncooperative. Headed east… through the apartment complex.” Dispatch repeated the transmission.

Unknown officer broadcasts, “How far from your car are you?”

Unknown officer broadcasts, “(unintelligible) Where you at?”

Unknown officer broadcasts, “We’re still trying to clear the Trail. We can’t find him.”

Dispatch advised, “Units in the area, just be advised we got a caller from advising she can hear someone say, “put your hands up.” Unknown if he is in that area.”

A unit acknowledged Dispatch’s transmission.

A partial radio transmission is heard, “unit on **omitted** try to go…”

Officer Olson broadcasts “2Z3…”

Officer Simas broadcasts, “Napa, Z2. Shots fired. Subject down.”

Officer Olsen requested Emergency Medical Services (EMS) respond and stage.

Officer Simas broadcasts directions to his location.
Acting Sergeant Davis requests EMS respond in via and he will guide them in.

Officer Jesus Martinez (2Z4) status updated to reflect he arrived on scene.

Acting Sergeant Davis status updated to reflect he arrived on scene.

Med 68 personnel confirmed S-MOLINA is deceased on scene.

The Major Crimes Task Force was activated.

DISPATCH RECORDINGS AND CAD EVENT CHRONOLOGIES

The Audio CD containing this event’s radio traffic and 911 calls, along with Event Chronologies for E181201475 (NPD), E181201476 (NFD) and E181201479 (NSD), are attached and incorporated under tab B in this Administrative Report.
XI. SCENE
The area of occurrence was determined through a review of Body Worn Camera (BWC) footage, officer statements and physical evidence. The area spanned approximately 300 yards, originating near the intersection of Soscol Avenue and Stonehouse Drive, in a south-easterly direction to the area directly south of the apartments in the 600 block of Stonehouse Drive, in the City and County of Napa, CA.

This is a residential area, consisting of apartments. The area of occurrence is bordered to the west by Soscol Avenue, to the north by Stonehouse Drive, to the east by the prolongation of Edgewater Drive, and to the south by the cyclone fence running in an east-west direction separating the apartment property from the residential properties along the north side of Maplewood Drive.

The path Officer Simas travelled during this incident was re-created from his statements, a review of his BWC footage, and a review of physical evidence. His estimated path is represented on the below map with a yellow line.
XII. STATEMENTS - VICTIMS & WITNESSES

An exhaustive search of the area was conducted for witnesses. Interview reports are incorporated into NSD18-005161's investigative binder under tabs 4 - 12 and 18 - 24. Interview reports documented under Tabs 4 - 8 are of civilian involved parties and witnesses. Interview reports documented under Tabs 18 - 20 are with NPD personnel. Interviews reports documented under tabs 21 - 24 are of Napa Fire Department (NFD) and American Medical Response (AMR) first responders. Not all of the interview reports are referenced in this administrative report. The following accounts were found to be relevant to the scope of this administrative investigation.

VICTIM - 

V- was interviewed by Detective Dustin Dodd (NPD). The interview was documented in his supplemental report dated December 5, 2018 at 16:39:19 hours, in NSD's investigative binder under tab 4. Reference his report for details. Following is a summary of V- statement relevant to this investigation:

In summary, V- described S- David MOLINA as an associate whom she met through a drug treatment program. V- described S-MOLINA as a substance abuser with mental health issues, who has threatened suicide and owned and menacingly brandished a silver revolver with a 4" - 6" barrel on prior occasions.

On the night/ morning of the OIS, V- and W- returned to her apartment on Riverglen Drive. At approximately 0100 hours, S-MOLINA arrived “drunk” and “belligerent.” V- advised an argument ensued wherein S-MOLINA threatened to “slit my throat.” V- said she felt scared and threatened, and she and W- asked S-MOLINA to leave. He did.

V- said S-MOLINA "always" had his gun on him. She said that he frequently carried it in his waistband behind his back. She said that she did not see it while he was at the apartment on the morning of the OIS (December 5, 2018 at approximately 0100 hours).

WITNESS - 

W- was interviewed by District Attorney Investigator (DAI) Joe Dulworth with the Napa County District Attorney’s Office (DAO). The interview was documented in his supplemental report dated December 5, 2018 at 16:39:19 hours, in NSD’s investigative binder under tab 5. Reference his report for details. Following is a summary of W- statement relevant to this investigation:
In summary, W- said he and his girlfriend, V-, had spent time with S-MOLINA on the day preceding the OIS. W- thought S-MOLINA was under the influence of alcohol and drugs. At some point during the day, S-MOLINA reportedly told W- he was thinking of committing suicide by putting a bullet in his head. W- described S-MOLINA as depressed. During the course of the day, an argument ensued, and they separated ways.

Later that night, just prior to the OIS, S-MOLINA arrived at V- apartment with a skateboard. S-MOLINA pushed V- hard enough that she stumbled. In the ensuing argument, S-MOLINA lifted his shirt and revealed the handle of a firearm that W- recognized as the same gun he had seen S-MOLINA with on December 3, 2018.

W- saw S-MOLINA leave riding the skateboard on Riverglen towards Soscol Avenue. W- believed S-MOLINA would have ridden the skateboard south on Soscol Avenue towards S-MOLINA’s home but did not see him do so. W- described S-MOLINA’s emotional state as “unstable,” and under the influence of alcohol and drugs.

W- called 911 and reported the battery by S-MOLINA, and that S-MOLINA was armed with a handgun, concealed in the area of his waistband. W- provided the following description of Molina: 6’3” tall and skinny, wearing a dark hoody, dark jeans, and riding a long skateboard. W- told the dispatcher he last saw S-MOLINA as he headed towards Soscol Avenue.

WITNESS -
W- was interviewed by District Attorney Investigator (DAI) Sharon Fong with the Napa County District Attorney’s Office (DAO). The interview was documented in her supplemental report dated December 17, 2018 at 10:07:05 hours in NSD’s investigative binder under tab 6. Reference her report for details. Following is a summary of W- statement relevant to this investigation:

W- said he knew S-MOLINA to carry a firearm, and brag about it. W- knew S-MOLINA to be a poly-drug abuser. W- said he walked in on S-MOLINA smoking methamphetamine at approximately 1930 hours, roughly 6 hours before the OIS. W- also saw S-MOLINA drink most of a 1.75-liter bottle of rum the evening leading up to the OIS.
Immediately preceding the OIS, W- was with V- and W- at V- apartment. S-MOLINA, whom W- has known for approximately ten (10) years, arrived at the apartment in possession of a handgun in his waistband.

While at the apartment, V- and S-MOLINA were involved in a verbal argument. W- said S-MOLINA was yelling at all three of them to "back down or all three will get it." S-MOLINA threatened to go home and return with a gun. The argument escalated and V- slapped S-MOLINA.

At some point during the argument, W- saw S-MOLINA in possession of the handgun.

W- said S-MOLINA "got pissed" and rode away on his skateboard. W- said he heard sirens approximately 15 minutes later.
XIII. **INVOLVED OFFICER - PUBLIC SAFETY STATEMENT**

Tab 11: The following account is Officer Simas’ public safety statement, as described verbatim from Detective Sergeant Amy Hunter’s (NPD) supplemental report dated April 10, 2019 at 13:15:56 hours:

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SIMAS PUBLIC SAFETY STATEMENT - NAPA POLICE DEPARTMENT

On 12-05-18 at about 0527 hours, I contacted Officer Chris Simas who was in the YSB office at the Napa Police Department and explained that I needed to obtain the public safety statement from him regarding his shooting as we had learned it wasn’t completely obtained by the on-duty supervisor at the scene. I then asked him if he knew, how many shots did he fire and he replied, "4-6". I asked him if he knew, what direction were the shots fired in and he replied, "if your facing the embankment, straight east parallel to the embankment and down toward the ground". I asked him if he was on top of the embankment or down below and he said, "down below". He then mentioned that there was more information related to public safety and proceeded to say, "there were more shots fired but not by me". I asked him where the shots were fired from and in what direction and if he knew, how many. He replied, "I don’t know how many. If I had to guess, ten-ish, and they were north-west". I clarified the direction and he indicated toward the embankment. That concluded my public safety statement from Officer Simas. The conversation was recorded on Det. Felipe Hernandez’ body worn camera.
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Disposition:

No further action taken by this officer.

End of Sergeant Hunter’s report concerning Officer Simas’ public safety statement.

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**STATEMENTS - INVOLVED OFFICER CHRISTOPHER SIMAS**

On December 5, 2018, I emailed Officer Christopher Simas and his counsel, Rafael Ruano with Goyette & Associates, a notice of administrative interview. The interview was scheduled for December 7, 2018 at 1200 hours, at the Napa Sheriff’s Department (NSD). On the same date, I received a “read receipt” from Officer Simas’ email account.

On December 7, 2018, Officer Simas and his attorney, Rafael Ruano, appeared at the NSD and met with Detective Hernandez (NSD) and Detective G. Smith (NPD) for an interview in the related criminal investigation. Officer Simas invoked his rights per Mirada. I then met with Officer Simas and his counsel and asked them to meet with us at NPD for an administrative interview, in accordance with the Interview Notice.

On the same date, at 1255 hours, Sergeant Andy Hess and I met with Officer Simas and Rafael Ruano in the NPD Conference Room for the purpose of conducting an
administrative interview related to this matter. The interview was recorded via Sergeant Hess’ body worn camera (BWC) and later booked into evidence under NPD18-006765. I reviewed the “Notice of Administrative Investigation and Interview” I emailed to Officer Simas on December 5, 2018. Officer Simas confirmed he received the notice via email.

Next, I reviewed the Lybarger Admonition, including both the Miranda Admonition and Employee Advisement. Officer Simas verbally acknowledged he understood his rights per Miranda and, when asked whether he was willing to waive his rights per Miranda, said, “No.” I directed Officer Simas to initial and sign two waivers documenting his invocation, one for his records and one for ours.

I then had Officer Simas read the “Employee Advisement Notice” into the record. Officer Simas acknowledged he understood the advisement and signed two copies of the acknowledgement, one for his records and one for ours.

Next, I read Officer Simas the “Grant of Immunity Admonition.” Officer Simas acknowledged he understood the admonition and signed two forms, one for his records and one for ours.

Next, I had Officer Simas read the definition of “Dishonesty,” as defined pursuant to Napa City Civil Service Rule 10C, 3, into the record. Upon completion, Officer Simas acknowledged he understood the definition of dishonesty as defined by the City of Napa. He then signed two forms, one for his records and one for ours.

At approximately 1311 hours, we transitioned into the administrative interview. I confirmed with Officer Simas he was there voluntarily to provide an administrative interview statement and was free to leave at any time through either of the two unlocked doors.

It should be noted the following summary may not be presented in the same order Officer Simas shared the information. For overall understanding and retention, the statements are presented in chronological order of events. A transcript of the interview is incorporated under tab G. The interview was also recorded and downloaded on Sergeant Hess’ Axon BWC. The video was downloaded into Evidence.com under case # NPD18-6765 and onto a CD which is incorporated under tab G in this administrative report.

We began the administrative interview related to the officer involved shooting, confirmed Officer Simas was there voluntarily, not restrained and was free to leave through either of the unlocked doors in the conference room where we were meeting. Sergeant Hess had Officer Simas review his training and experience as it related to law enforcement and the handling of firearms. Officer Simas told us he been a police officer with the City of Napa
for approximately two (2) years) and has two years of total law enforcement experience. Officer Simas said he is assigned to the 4/10 Graveyard team, working Monday - Thursday, from 2100 hours to 0700 hours. On the night of the incident, Officer Simas began his shift at 2100 hours, driving NPD patrol unit # 2220, a Ford Explorer patrol vehicle. He was wearing a full police patrol uniform, and described wearing blue pants, button up long sleeve shirt with Napa PD uniform patches, black boots, and gun belt. He confirmed the uniform he was wearing was issued and/or approved by Napa Police Department (NPD). Officer Simas described the gear he was carrying to include a department-issued Glock .40 caliber semi-automatic pistol. Officer Simas said he qualified with his pistol and department patrol rifle during the last quarter. I showed Officer Simas a copy of his last range qualification course showing he qualified on September 12, 2018 with both his Colt AR-15 .223 caliber patrol rifle, serial # and Glock model 22 .40 caliber pistol serial #. Officer Simas confirmed his signature was on the bottom of the range card. Officer Simas described both of his firearms as being equipped with tactical lights.

Officer Simas said on the night of the incident he was equipped with his department issued Axon 2 body worn camera (BWC).

Immediately prior to the incident, Officer Simas said he was not injured or physically limited in any way, nor was he suffering from any medical conditions, ailments, illnesses or diseases, and not on any medications. Officer Simas said he had not consumed any alcohol in the 24 hours prior to the incident. Officer Simas does not wear glasses or contacts and has no hearing problems.

We then discussed Officer Simas' sleep patterns for the days leading up to the OIS. Officer Simas said he did not specifically recall, but believes he went to sleep on Sunday night, December 2nd, around 2300 hours. After waking up Monday morning around 0700 hours, he was up all day. On Monday afternoon, Officer Simas attended K-9 training from 1400 - 2000 hours. After training, he went home and showered before going to work Monday night, December 3rd.

On the morning of Tuesday, December 4th, after work, Officer Simas said while he did not specifically recall, he most likely slept from 0830 or 0900 - 1530 hours, before going to the gym and then work. Before going to work, Officer Simas said he cooked and ate venison backstrap.

I then asked Officer Simas to recount for us his shift and the incident in as much detail as possible. Officer Simas described starting his shift, handling a “couple of calls for service” which he could not recall what they were, before being invited to coffee. Officer
Simas declined the offer, saying he wanted to write reports. Officer Simas then provided, in summary, the following account:

While driving northbound on Soscol Avenue approaching First Street, Officer Simas heard via the radio Officer Olson (primary) and Officer Simas (cover officer) being dispatched to a male versus female assault call for service near River Glen Drive and Soscol Avenue. The male suspect was reportedly last seen leaving the area southbound. When asked, Dispatch advised the responsible’s last name was MOLINA.

Officer Simas asked Dispatch to run out MOLINA and asked for a description and direction of travel as Officer Simas was in the general area. Dispatch provided additional information including that MOLINA was approximately 6’3” and last seen headed southbound Soscol riding a skateboard toward Walmart and was seen in possession of a silver revolver in his waistband.

Officer Simas arrived in the area, driving northbound Soscol Avenue, north of Lincoln Avenue. As he arrived in the area he removed his assigned AR-15 patrol rifle and chambered a round, and put the rifle on safe. As Officer Simas arrived in the area of Soscol Avenue approximately 50 yards south of Stonehouse Drive, he saw S-David MOLINA riding a skateboard fast southbound in the northbound bike lane. Officer Simas advised Dispatch he would be out with S-MOLINA at Stonehouse Drive.

Officer Simas exited his patrol car with his rifle. Officer Simas told S-MOLINA, “Hey, I need to talk to you. Keep your hands up.” S-MOLINA continued riding his skateboard past Officer Simas. Officer Simas told him, “Someone said you have a gun. Put your hands up.” I attempted to grab S-MOLINA as he rode past, and then immediately thought “someone said this guy has a gun.” Officer Simas immediately backed up and brought his patrol rifle up and said, “show me your hands” repeatedly. S-MOLINA responded, saying “Why would someone say that I have a gun?”, and refused to raise his hands and tried to walk away.

Officer Simas requested Code 3 cover at some point during this interaction.

Officer Simas said S-MOLINA was reported to be in possession of a handgun so he did not want to get too close to him. Officer Simas said S-MOLINA turned and began to walk toward Officer Simas while saying something. Officer Simas could not recall what S-MOLINA was saying. S-MOLINA turned and began to walk towards a grassy area bordered by a fence near Stonehouse Apartments.

Officer Simas advised NPD Dispatch he was in foot pursuit.
Officer Simas said he thought, “this guy is going toward an apartment complex. He just assaulted someone. He has a gun, he could have a gun because that’s what they said he had. There could be people. He could enter. He could kill someone.... My thought is he has a gun.”

Officer Simas followed him and continued to tell him to stop. S-MOLINA stumbled into some bushes against a fence, stood up and went around the corner. Officer Simas continued to follow him. S-MOLINA stumbled again down into some ivy, behind a tree. Officer Simas illuminated S-MOLINA using the light from his patrol rifle, took cover using a set of stairs while giving commands to show his hands and put his hands up. S-MOLINA did not comply. S-MOLINA stood up and again walked away south, through an opening in a fence, into an open grassy area that was bordered by a fence with an opening on the other end (The fenced, grassy area was later determined to be similar to a dog park). During this time, Officer Simas updated Dispatch that he was with a White Male Adult, with a black hat and plaid sweatshirt.

Officer Simas continued to tell S-MOLINA to stop and put his hands up but he would not comply. S-MOLINA continued to walk along the south side of the apartment complex and walked up onto an “embankment.” Officer Simas said he kept telling S-MOLINA to show him his hands. At one point, Officer Simas believed S-MOLINA told him, “You don’t want to fuck with me.”

Officer Simas continued to tell S-MOLINA to show him his hands while following S-MOLINA from a distance of approximately 20 yards the entire way. Officer Simas saw S-MOLINA drop down into a row of bushes (later determined to be north of the trail near the apartments). Officer Simas followed to maintain a visual on S-MOLINA. Officer Simas assessed S-MOLINA would veer right (south) back onto the embankment, so he went back up onto the embankment and turned off the tactical light on his rifle. Officer Simas said he did this so S-MOLINA could not see him, “in case he did have a gun, ‘cause I could have come around the bush and he could have shot me.”

S-MOLINA re-appeared on the embankment. Officer Simas told S-MOLINA to show his hands. S-MOLINA then attempted to walk down the other side of the embankment. It sounded as if S-MOLINA fell down the embankment, “crashing through brush and then hit a fence.” Officer Simas went to the edge of the embankment and activated his tactical rifle light and illuminated the area in the (NOTE: this location was determined to be in the south east area of the apartment complex). Officer Simas told S-MOLINA to show his hands. S-MOLINA lost
his hat and glasses when he fell. S-MOLINA began to comply and lifted his
hands. Officer Simas said, "I told him not to move." (NOTE: Officer Simas then
physically simulated S-MOLINA's actions by lifting both his left and right hands
equally, to a position just above his shoulders demonstrating momentary
compliance.)

Officer Simas approached S-MOLINA who had his hands up, "grabbed his left
hand, and put a handcuff on it. As soon as the handcuff went on it, he still kind of
complied but started to move his hand down. (NOTE: Officer Simas physically
re-enacted S-MOLINA dropping his right hand). "Based on Dispatch advising he
had a pistol in his waistband, 'cause he lifted his shirt up to show it and I know
that that's where I carry my off...my concealed carry pistol is right there. He
started to bring his hand down, um, I thought he was reaching down to grab a
gun."

Officer Simas described controlling S-MOLINA's left hand, moving it down and
behind S-MOLINA's back, when S-MOLINA began to drop his right hand and
lean forward. Officer Simas described letting go of S-MOLINA's left hand in an
effort to concentrate on controlling S-MOLINA's right hand as S-MOLINA
pulled forward.

As Officer Simas struggled with S-MOLINA to control his right hand, Officer
Simas heard something faint. Unsure of what it was at first, he heard "pop, pop,
pop, pop." Officer Simas said, he "looked around and I heard it again and could
see my AR barrel next to my leg lifting up. And, uh, I realized he had my gun."
..... "when the shots were going off it wasn't loud like an AR. It was muffled. It
was really muffled. And, then I saw my barrel lifting up."

Officer Simas reached down and grabbed S-MOLINA's left hand, "which was
behind his back, was actually on my gun." Officer Simas thought, "This guy is
trying to kill me right now." "The gun stopped firing." "I don't know if the mag
popped out." Officer Simas said he knew something was wrong because S-
MOLINA stopped firing after only hearing about ten (10) rounds being fired,
while Officer Simas carries 28 rounds in the magazine.

Officer Simas delivered one knee strike to S-MOLINA's back with his right knee,
and pulled away to create separation.

Officer Simas realized his rifle had malfunctioned, so he "racked the gun, stepped
back. He, I want to say he, turned to come towards me, and I shot. 4-6 times.
But, now that I think about it 'cause it keeps replaying in my head, I think I shot six times... but I'm not positive.”

Officer Simas said S-MOLINA then “went down,” and he updated Dispatch.
Officer Simas believed he transmitted “2Z2. Shots fired. Suspect down.”
Officer Simas said he tried to roll S-MOLINA over so he could handcuff him as he didn't know if he was dead or alive. Officer Simas was unable to move him and could tell he was not moving.

Officer Simas could hear someone whistling S/W of him. He heard Dispatch asking for an updated location, but he did not recall if he updated his position over the radio. He yelled in response to the whistling and then heard Corporal Davis yell, asking where Officer Simas was.

Officer Simas pulled his flashlight out and flashed it in Corporal Davis' direction until Corporal Davis arrived. Corporal Davis told Officer Simas to initiate CPR, which he did until Officer Olson arrived and took over.

I advised Officer Simas we would take a break shortly so he and Attorney Ruano would have an opportunity to watch the video from his BWC and listen to the audio transmissions. I read Officer Simas and Mr. Ruano the following admonishment, “In this case, there is video evidence that you will have an opportunity to view. Video evidence has limitations and may depict the event differently than you recall and may not depict all the events as seen or heard by you.”

“Video has a limited field of view and may not capture events normally seen by the human eye. The frame rate of the video may limit the camera’s ability to capture movements normally seen by the human eye. Videos are a two-dimensional -- two dimensional medium and may not capture depth, distance, or positional orientation as well as the human eye. Remember, the video evidence is intended to assist your memory.”

We concluded the first interview, stopped recording, and took a break at 1343 hours. Sergeant Hess and I stopped recording and left the room.

After providing Officer Simas an opportunity to watch his BWC footage with his attorney. Sergeant Hess and I then met with Officer Simas and his attorney and provided them an opportunity to listen to the Dispatch transmissions. We reconvened on the same date, at approximately 1429 hours, and again began recording the interview on Sergeant Hess’ BWC.
We revisited Officer Simas' statement and asked questions to assess mindset, experience and decision-making. Following is Officer Simas' account, in summary:

Officer Simas described reviewing the Dispatch card and confirming he was dispatched to an assault (male vs female) wherein the male suspect lifted his shirt and displayed a silver-colored revolver. Because Officer Simas was planning on contacting an assault suspect armed with a handgun, and ordering him to the ground, he selected to use his patrol rifle.

Officer Simas described the advantages of deploying a patrol rifle when the suspect was armed with a handgun - allowing him to use distance, while remaining accurate with the rifle from a greater distance than a pistol.

Officer Simas recalled being dispatched to the event and reading the card. Officer Simas recalled information describing the suspect as 6'03”, who was carrying what he recalled as a silver revolver in his waistband and riding a skateboard southbound on Soscol Avenue from River Glen Drive. He estimated he arrived in the area of Soscol Avenue and Stonehouse Drive approximately two (2) minutes after he was dispatched, and saw a subject, later confirmed to be S-David MOLINA, riding southbound on a skateboard in the northbound bike lanes near Stonehouse Drive.

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Officer Simas articulated his belief that the subject on the skateboard was, in fact S-MOLINA, because the timing and distance traveled (approximately ½ mile) was consistent for one riding a skateboard southbound on Soscol from River Glen, and the fact no one else was out on the street at that time.

Officer Simas told S-MOLINA to stop and put his hands up, but S-MOLINA tried to ride past him in the southbound lanes of Soscol Avenue. Officer Simas reached out and grabbed S-MOLINA’s left arm at which time S-MOLINA spun around off of the skateboard. Officer Simas then re-assessed the threat and let go.

When asked, Officer Simas stated he intended to detain S-MOLINA and check for a firearm. Officer Simas confirmed he had reasonable suspicion to detain S-MOLINA for criminal threats with a firearm - PC 422, a felony; and carrying a concealed firearm - PC 25400(a)(2), a misdemeanor.

Officer Simas described S-MOLINA moving in a southeasterly direction across a lawn, paralleling a fence with shrubbery and trees around. As he followed S-MOLINA from a distance, at one point he realized he was exposed. Believing S-
MOLINA to be armed with a handgun, he moved behind a set of stairs while giving commands. (NOTE: Both on the date of the incident, and from reviewing Officer Simas' BWC footage, I identified the stairs Officer Simas described were made out of concrete that would serve as acceptable cover.)

Officer Simas described S-MOLINA as being non-compliant, allegedly armed with a handgun, reaching repeatedly towards the front of his waistband while wearing clothing that concealed his waistband. When asked what Officer Simas thought S-MOLINA was reaching for, Officer Simas said he thought S-MOLINA was reaching for a gun. When asked to describe his emotion at this point, Officer Simas described feeling, "Scared. Scared that he was going to pull a gun. Scared that he was going to shoot before I could shoot. Perception - reaction." Officer Simas described his knowledge that it takes approximately ¾ of a second to identify a threat, and another ¾ of a second to react. "He could have reached down, pulled a gun up and got a shot off before I could have gotten a shot off, if he was quick." Officer Simas acknowledged he was scared.

Officer Simas described S-MOLINA as acting irrational, and not listening to anything he told him to do.

As Officer Simas stood at the stairs, S-MOLINA again walked away, ignoring commands. S-MOLINA walked south and then south-east, through the gated grassy area. Officer Simas again ordered S-MOLINA to put his hands up, but S-MOLINA continued his defiance. Officer Simas broadcast S-MOLINA’s description - white male adult, black hat, plaid sweatshirt. S-MOLINA continued through the grassy area, through the fence along the south end of the grassy area. Officer Simas followed from a distance because he believed S-MOLINA was armed with a gun. Officer Simas saw S-MOLINA continue south, over and down the embankment (NOTE: S-MOLINA’s handgun and hat were later recovered near the bottom of this embankment). Officer Simas again ordered S-MOLINA to put his hands up.

S-MOLINA then came back up the embankment (north) toward the apartments, and walked east along the apartments. Officer Simas continued giving S-MOLINA commands to no avail. Officer Simas updated Dispatch, advising he has an uncooperative subject on the trail heading east.

During this time, Officer Simas waiting for a "shot to ring out, 'cause he kept going behind bushes. And, when he went the behind bushes, that's when I shut my light off 'cause I didn't want him to know where I was." "It was dark, it's really dark..... You can't really see." S-MOLINA walked along the apartments
east. Officer Simas stayed up on the trail with his light off, watching through the brush, so S-MOLINA could not see, and shoot him. Officer Simas reiterated he “thought he was going to shoot me.”

Officer Simas noted that after watching his BWC footage he could hear himself breathing hard. He recalled not hearing anything over the radio. He then “heard something on the radio” and updated his location and advised that S-MOLINA was uncooperative. Officer Simas later recalled that, at some point, his earpiece connected to his police radio had come out of his ear, leaving him unable to hear radio traffic.

As Officer Simas continued to pursue S-MOLINA east, along the south side of the apartments. He watched as S-MOLINA left the area of the apartments, where there was some backlighting, and watched as his shadowy figure moved south, back across the trail in front of Officer Simas. Officer Simas activated the tactical light on his shouldered rifle and told S-MOLINA to “his hands on his head, stop.” Instead of complying, S-MOLINA continued south and down the embankment towards Maplewood Avenue.

“I heard trees -- tree brush. Sounded like snapping. And then heard what sounded like chain fencing. He hit a fence or something. That’s when I went up. I was looking for him. I’m yelling at him to put his hands up. He put his hands up. He’s compliant at that point.”

“I started to walk down. After listening to the video, you could hear the tone of my voice kinda mellow out a little bit. And I tell him to put his hands up on top of his head. He does. He puts his hands up here.”

NOTE: Officer Simas then described and physically re-enacted the following sequence of events on camera, re-positioning himself behind a chair, which represented S-MOLINA’s position.

Officer Simas recounted moving in behind S-MOLINA, who Officer Simas described as sitting on his butt. Officer Simas described kneeling on his left knee with his right leg up, then grabbing and handcuffing S-MOLINA’s left hand from on top of his head. Officer Simas began to bring S-MOLINA’s left hand behind his back.

During this time, Officer Simas described his rifle being slung over his shoulder and positioned between his chest and S-MOLINA’s back (chest to back). Officer Simas described the position of his rifle as being against his chest and
having the barrel pointed down and to his left while the butt of his rifle was up, to his right.

As Officer Simas brought S-MOLINA’s left hand behind his back, he described S-MOLINA pulling his right hand from the top of his head, down and forward. Officer Simas believed S-MOLINA was reaching towards the front of his waistband. Officer Simas grabbed S-MOLINA’s right hand in an effort to gain hand control. Officer Simas believed S-MOLINA was reaching for a firearm in his waistband. Officer Simas let go of S-MOLINA’s handcuffed left hand and repositioned both of his hands onto S-MOLINA’s right hand to gain control. Officer Simas said he also “sprawled” and demonstrated the movement described as dropping to both knees, with a wide base and low center of gravity.

During this time, Officer Simas described S-MOLINA’s voice change while talking and described it as “weird.” Officer Simas repeatedly told S-MOLINA to “put his hands behind his back,” but S-MOLINA did not comply.

“At that point, I heard muffled, it sounded like muffled shots. And, I didn’t know what it was. I looked around, like trying to figure out where the noise was coming from. I felt something next to my leg and I looked down and I could see my gun barrel right next to my knee going up and down.” (NOTE: Officer Simas can be seen on the video of our interview looking down and to his left.) “At that point, I knew he had the trigger of my gun.”

Officer Simas described pushing closer into S-MOLINA, and reaching down to grab S-MOLINA’s left hand to remove it from Officer Simas’ rifle. As soon as Officer Simas grabbed S-MOLINA’s left hand, his rifle stopped firing. Officer Simas noted S-MOLINA’s “hand was still completely around the trigger mechanism.” Officer Simas later described S-MOLINA as not letting go of the trigger, and struggling with him over control of the rifle.

Officer Simas said, “...I think I have a malfunction in the gun. It’s not firing.” Officer Simas described pushing into S-MOLINA, leaning back, and delivering one knee strike (with his right knee) to S-MOLINA to create distance. Officer Simas later described this further saying, “the gun actually stopped shooting, and we struggled for a short time before I kneed him because I couldn’t get the gun away from him.”

Officer Simas said he immediately stepped back, away from S-MOLINA, and “racked my gun.” Officer Simas said, “At that point, he started to turn towards me, I shot… 5 times, after watching the video.” Later in this interview, we re-
visited this part of the incident and Officer Simas said, “...And then I kneed him. When kneed him, I stepped back, just pulled the rack of the -- the rifle back to try and clear whatever problem there was. I remember pulling the trigger and being surprised the first one went off because I thought the gun didn’t -- I thought there’s a bigger malfunction than what was going on. And then once it went off, I shot four more times in case.”

Officer Simas said he does not know where his gunfire hit S-MOLINA, but he believes his rounds would have struck S-MOLINA in the “face, shoulders and upper chest, ‘cause he was turning to come towards me.” “At that point I thought, he just tried to.... He just tried to kill me. He just tried to shoot me with my own gun. I think he still has a gun in his waistband. And, now he is turning towards me. I am not going to get into another fight, or have him turn towards me and shoot me with his gun that he has.”

I asked Officer Simas, “when he turned and faced you, what was your -- what was your state of mind in terms of his intent?” Officer Simas stated, “Him trying to kill me.”

I asked Officer Simas if S-MOLINA had other avenues of escape available to him? Officer Simas said, “Yeah. He could have turned and went back up to the embankment. He could have turned and ran directly away from me. But he chose to turn towards me.” Officer Simas continued, saying “He had just fired my gun towards me. And I thought he’s going to pull a pistol out at this point and shoot me.”

Officer Simas described wearing his BWC on his left chest pocket. Officer Simas estimated at the time of his struggle with S-MOLINA, they were approximately three feet (3’) from the chain link fence (for reference, the fence ran east-west and separated the apartments on Stonehouse Drive (north) from the residential properties on Maplewood Avenue (south)). Officer Simas believed they were facing east, with his “left shoulder parallel with the embankment, right shoulder parallel with the fence.”

We re-visited the point in time where Officer Simas said S-MOLINA was firing his rifle, which was pinned between his chest and S-MOLINA’s back, and the muffled sound of gunfire. Officer Simas described looking down to see his
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barrel, and “leaves and mud lifting up.... and to each time the sound was going
off.” Officer Simas described confirming it was S-MOLINA firing the shots by
reaching down and grabbing S-MOLINA’s hand “which was inside the trigger
mechanism of my gun.” Officer Simas realized the sound of his rifle being fired
was muffled because the barrel was pressed into the mud and leaves of the
embankment.

Officer Simas described having been alone, without cover, attempting to arrest S-
MOLINA for several minutes. We discussed the status of his cover officers.
Officer Simas thought he had provided detailed direction of travel and a good
location.

Officer Simas described feeling “scared,” “....I was by myself, with a guy who
potentially has a gun. And then once I was down there by myself with him and he
had already fired my gun, I feared for my life. I thought he was going to kill me.”

Officer Simas recalled asking for Code 3 cover when he began chasing S-
MOLINA, and hearing sirens. “So, I knew some was close.” .... “I thought I was
going to have backup a lot sooner then, then I did.” “I knew someone was close,
but then no one was coming.”

I asked Officer Simas about the lighting conditions. I explained that the BWC did
dnot offer a great deal of detail in the low light. I asked about Officer Simas’
visual acuity compared to what was seen on BWC. “I could see a little more.
There was lighting from the apartments.” When asked, he agreed that his vision
was more detailed than what can be seen on the BWC video, allowing him to see
in greater detail what was not seen on the BWC.

We re-visited the point in time where Officer Simas fired his rifle. I asked what
happened following the discharge of his rifle at S-MOLINA. Officer Simas
described S-MOLINA as falling to the ground on his stomach. Prior to
discharging his rifle, Officer Simas described stepping back to the west, and firing
in an easterly direction at S-MOLINA. Officer Simas updated Dispatch of the
shooting.

Officer Simas described initiating CPR on S-MOLINA, “in case he could live.”
Officer Simas described performing CPR until relieved by Officer Tyler Olson.
We then re-visited the equipment Officer Simas carried on patrol. He described carrying his pistol on his right hip, baton on his left hip, with a flashlight behind his baton. Officer Simas then described the department-issued tactical uniform vest and how his equipment is set up. He described carrying two (2) pistol magazines on the front left side, handcuffs to the right front. He carries his portable radio to the left of his magazine pouches and oleo capsicum (OC) spray to the left of, and behind the portable radio.

Officer Simas described losing his baton while chasing S-MOLINA.

Officer Simas described his department-issued police uniform, patches and cloth Velcro badge with a mourning ribbon affixed to his vest (left front). Officer Simas said he had no doubt S-MOLINA, “knew I was a police officer.” Officer Simas described the area where he first contacted S-MOLINA as having “lighting in the street,” and they were “right next to my patrol car.” “There was no doubt about it, that he knew I was an officer.” He described his patrol vehicle as unit #2220, a black and white Ford Explorer with Napa Police markings and overhead emergency lighting on the vehicle. Officer Simas confirmed he did not have any of the emergency lighting activated during this event.

Officer Simas confirmed S-MOLINA was described as 6’3.” Officer Simas stated described himself as 6’1 ½” - 6’2” and 200 lbs. Officer Simas described S-MOLINA as the same height as him, or a little taller. Because of S-MOLINA’s baggy clothing, Officer Simas said he was unable to determine S-MOLINA’s build.

I asked Officer Simas about the tactical light on his rifle and lighting conditions. Specifically, I asked Officer Simas if he knew why the tactical light on his rifle was not activated at the time of the shooting. Officer Simas said he did not realize it was not activated, saying, “I recall seeing him.”

We concluded this interview at 1510 hours.

At approximately 1513 hours, Sergeant Hess and I again met with Officer Simas and his attorney Rafael Ruano.
I asked Officer Simas if he recalled how he sustained the scratch to his right nostril. He said he had no idea how he sustained the injury. He said after the struggle he saw something on his nose and tried to wipe it, at which time he saw it was blood. He advised he certain the injury was incurred during the struggle.

Officer Simas said once the struggle was over, he checked his legs to see “if I had any holes in me.” "I walked over, updated Dispatch, did CPR, other officers arrived on scene, and then someone else checked me out.”

I presented Officer Simas with a color map of the area. I asked him to draw on the map where he first saw S-MOLINA (north of Stonehouse Drive on Soscol Avenue, traveling S/B along the east curb line in the Bike lane) and where he parked his patrol car (south of Stonehouse Drive on Soscol Avenue). I then had him draw (not to scale) his route across the map, across the dog park, across the embankment, which he described as a “levee,” and then down the embankment. Officer Simas described the lighting conditions on the trail as dark but lighter back towards the apartments and walkway, with lights from the apartments or street lights from the walkway. I asked Officer Simas, “But, as described, there’s enough light on the south side of the embankment where you could still see suspect, suspect’s actions, it just wasn’t well lit. Is that accurate?” Officer Simas replied, “Correct.”

We ended the interview at approximately 1519 hours.

Upon completion of the administrative interviews with Officer Simas, Sergeant Hess processed and booked the related evidence including BWC footage, uploading an audio file, Officer Simas’ map marked by Officer Simas, and a transcript under NPD18-006765.

RELEASE OF OFFICER SIMAS’ ADMINISTRATIVE STATEMENTS TO THE CRIMINAL INVESTIGATION TEAM
On December 8, 2018, I emailed a copy of the interview transcript to Officer Simas and his counsel, Rafael Ruano.

On December 10, 2018, I received the below email from Rafael Ruano.

From: Rafael Ruano <rruano@goyette-assoc.com>
Sent: Monday, December 10, 2018 11:11 AM
To: Pitkin, Gary; Simas, Christopher
Subject: RE: Transcript of Interview

Lt. Pitkin,

After reading through the transcript and consulting with Officer Simas, he has asked me to inform you that he is authorizing the release of the transcript to the Napa Sherriff's Department criminal investigators assigned to this incident. Officer Simas is also authorizing the use of the transcript for the limited purpose of filling in gaps in any press release on the incident being prepared by the Police Department for public dissemination. If the PD wishes to utilize the transcript for any other purpose than those specifically stated above, we request that you seek Officer Simas' authorization at that time.

Thank you for your prompt and professional attention to this matter. Let me know if you need anything else from myself or Officer Simas.

Sincerely, Rafael

Rafael Ruano, Esq.
Chief Administrative Officer
Goyette & Associates, Inc.

On the same date, I confirmed with Mr. Ruano through email that Officer Simas authorization to release the transcripts to criminal investigators and the Chief for the limited purpose of filling in gaps for the media also included the body worn camera video and related audio recordings documenting our interviews. I later confirmed through email with Mr. Ruano that Officer Simas' authorization extended to the Office of the District Attorney. Mr. Ruano affirmed.

On December 11, 2019, Chief Deputy District Attorney (DDA) Fred Gutierrez with the Napa County District Attorney's Office authorized our release of Officer Simas' compelled statement, including all recordings of the interview, and related maps to NSD's criminal team investigating this matter. On the same date, I emailed the 80-page interview transcript (pdf) to Detective Hernandez (NSD) and Chief DDA Gutierrez, as well as Sergeant Hess who is assisting me in this administrative investigation.

The aforementioned emails area attached and incorporated under tab F.
XIV. BODY WORN CAMERA - OFFICER SIMAS #204 - SUMMARY

The following account of Officer Simas' Body Worn Camera (BWC) footage is a verbatim excerpt from Detective G. Smith's (NPD) supplemental report dated December 11, 2018 at 16:38:26 hours:

"I (Detective Smith) reviewed the body-worn camera footage downloaded from Officer Simas' Axon Body 2 camera, Serial No. X81318648. The body-worn camera footage has a running clock at the top right-hand portion. The time is set in Zulu time (signified by a Z), and it began at 2018-12-5, with the time of 09:49:40Z, which translates into 01:49:40 Pacific Standard Time. There is also running video timer on this footage beginning at 0 seconds. I will be referencing the camera timer with specific points in the video.

The first 30 seconds of the video is Officer Simas driving in a patrol vehicle. He appears to be headed northbound on Soscol Avenue. It is raining, and his windshield wipers are on. The vehicle-mounted computer is also on and appears to be receiving information. At 30 seconds, the audio begins on the video, and at 34 seconds, Officer Simas radio broadcasts that he is, "97V", which means he is in the vicinity of the call for service.

At approximately 47 seconds on the video, Officer Simas is seen chambering a round of ammunition into a AR-15 .223 rifle. He continued northbound on the street with the windshield wipers on, and I could see that it is dark. There are streetlights on and raindrops are hitting the windshield. At 1 minute 18 seconds, Officer pulls his vehicle to the right side of road and gets out.

He immediately uses his radio, saying, "Napa Z2. I'll be out with him Stonehouse and Soscol." The body-worn camera footage shows that Officer Simas is parked on the east side of Soscol facing north in what appears to be the intersection of Stonehouse Drive north of him. It appears his headlights are on facing north.

At 1 minute 22 seconds, I could see that there is a person just beyond a yellow street sign north of Officer Simas. That person is later identified as David Alexander Molina. Molina appears to be on a skateboard headed south in the gutter of Soscol Avenue on the east side of Soscol Avenue. Molina is riding toward Officer Simas.

It should be noted at this point, Officer Simas is wearing long dark sleeves (NPD uniform) and a black watch on his left wrist which appears to have a black nylon band. The watch will be seen later in the body-worn camera footage during the struggle with the suspect.
Officer Simas asks Molina, "Hey, man, what's your name?" in a friendly tone. The headlights are still on Molina, and he is at the north corner of Stonehouse Drive at Soscol Avenue. Molina continues riding his skateboard toward Officer Simas' patrol car, and it appears he is wearing some kind of earth tone jacket and blue jeans with a dark colored hat.

At approximately 1 minute 29 seconds on the video, Officer Simas closes his patrol car door and is standing outside of his patrol car adjacent to his driver's side door. Then Officer Simas says, "Hey, man, put your hands up." At that point, the time is 0151 and 9 seconds Pacific Standard Time. Officer Simas again says, "Hey, keep your hands up," and Officer Simas' left hand motions up above the body camera as if he is giving Molina verbal and visible commands.

Molina starts riding his skateboard to the southwest and appears to be trying to go around Officer Simas. Molina's hands are by his sides. There are no other people around. There are no other vehicles, and I do not hear any distracting noises.

Officer Simas quickly turns left and appears to begin to run west (across Soscol Avenue). The camera view is shaking and I can hear the noise of his uniform and gear rattling. Officer Simas says, "Hey, come here," to Molina.

At 1 minute 31 seconds, Officer Simas gets into close proximity (within arm's reach) and says, "Stop." The body-worn camera footage is darker as he is away from any streetlights and the patrol car. Officer Simas places his left hand out. It appears Officer Simas makes contact with Molina's upper body and says, "Stop," again, and Molina takes a couple steps backward, faces Officer Simas and says, "What are you talking about?" The suspect is facing east and Officer Simas is facing west. It appears Molina is now off of his skateboard. They appear to be on the west side/edge of Soscol Avenue, south of Stonehouse Drive.

Molina faces Officer Simas and sidesteps (clockwise) so he is facing west and Officer Simas is facing east. They are face to face and several feet apart. Officer Simas' patrol car is behind Molina, in view of the camera. Molina says, "What are you talking about, bro?" Officer Simas says, "Put your hands up," as Molina's hands were down by his side. Molina's jacket is bulky and his pants are baggy. Molina says, "What are you talking about, bro." Officer Simas says, "Put your hands up," and appears to point his rifle at Molina.
Molina starts gesturing his hands near his side up and down. Molina keeps backpedaling and looking behind him as if he is looking for an escape route. Officer Simas is slowly walking with Molina as he is backpedaling.

At 1 minute 43 seconds Officer Simas says, "Put your hands up. Someone said you have a gun," and he tells Molina to put his hands up again. Molina then sidesteps so he is facing south, and Officer Simas is several feet away from him facing north. They are face to face. Molina says, "You're tripping, bro," and his hands are still down by his sides.

The camera footage shows Officer Simas raising up his rifle toward Molina. Molina says, "Don't point that shit at me, dude". Molina reaches down to the ground and appears to pick something up. Officer Simas again says, "Put your hands up," in a loud tone. Molina does not comply. Molina's hands are still by the sides of his bulky jacket. At that point, Officer Simas illuminates Molina with a forward-facing white light. It is at the 1 minute 49 seconds mark on the camera footage.

Again, Molina says, "Don't point that shit at me, dude," and extends his hands out in a confrontational manner. Officer Simas immediately responds by saying, "Put your hands up." Molina says, "Fuck you, bro," and Officer Simas immediately and loudly says, "Show me your hands." Molina says, "Fuck you bro."

Immediately after that statement by Officer Simas, Molina puts his left hand into his left front jean pocket, and it appears he has some kind of small square object (possibly and cell phone) that he is placing into his pocket. Immediately at 1 minute 54 seconds, Officer Simas loudly says, "Don't reach into your pockets." He says, "Show me your hands," again. Molina then puts his hands up in the air, but he starts moving to the east (away from Officer Simas) and not obeying Officer Simas.

At 1 minute 57 seconds, Officer Simas tells Molina to turn around, and he immediately says, "Get on the ground." The man starts rapidly walking to the southeast across Soscol Avenue away from Officer Simas, and Molina is saying something with the word "fuck". Officer Simas tells Molina to "Get on the ground, now". Molina continues walking southeast swearing at Officer Simas. Officer Simas again says get on the ground. Molina immediately says, "You're fucked up, dude," to Officer Simas. There are no other people in sight. There are some ambient lights from the apartment complex, Vineyard Terrace, to the east, and there is a streetlight that appears to be above Officer Simas' patrol car at this point.
At 2 minutes 3 seconds on the video Officer Simas again says, "Get on the ground". Molina is continuing to walk to the southeast, and Molina is almost completely facing away from Officer Simas with his hands still up in the air. Molina says, "Get the fuck away from me." Officer Simas still has him illuminated with his forward-facing weapon light. Officer Simas keeps the man illuminated, and I can see Officer Simas' left hand going toward his chest. Officer Simas then says, "Napa, start units Code 3." I believe this to be radio transmission by Officer Simas needing emergency help from other officers. Molina says, "Shoot me if you're gonna shoot me"

At 2 minutes 11 seconds Molina gets to the curb of Soscol Avenue drops his hands to his waist and begins to run away from Officer Simas. Officer Simas still has his light on the person, and he immediately says, "Hey, put your hands up," while having Molina illuminated with his light. At that point, the man starts to sprint to the southeast across some grass toward the apartment complex. In the distance, I can hear the noise of a police wailing siren, which I believed was another patrol unit responding to Officer Simas' request for Code 3 coverage.

Officer Simas begins sprinting after the suspect across the grass toward the apartments. They go about 20 or 30 yards. Officer Simas says in a loud voice, "Show me your fucking hands." He then immediately makes a radio broadcast transmission, "Napa Z2. Foot pursuit." The video is shaky and loud; the weapon fixed light is illuminated. There are some ambient lights from the apartment complex. Officer Simas reaches a fence with several chest-high green bushes, and Officer Simas slows down and begins more verbal commands. Behind the green bushes is what appears to be a standard redwood fence, and Officer Simas says, "Hey, show me your fucking hands," and has his light fixed in the area behind the bushes. He immediately says, "Don't move," and again says, "Don't fucking move."

At that point, I can see Molina crouching between the fence and some green bushes with his hands near his waistline, still wearing the bulky jacket. Molina turns his back with both hands near his waistline away from Officer Simas and starts walking south. When the man starts walking south, he says, "Fuck off," to Officer Simas. Officer Simas says, "Don't fucking move," and loses sight of Molina behind some bushes. Officer Simas then changes his position, which appears to be to get a safer angle, better visibility and more distance away from Molina. Officer Simas goes around bushes to the east and then immediately turns south, and there is a concrete pathway. The man says, "Fuck off," another time.
At 2 minutes 29 seconds, I can see Molina hiding behind what looks either like a pole or a tree, and Officer Simas says, "Show me your fucking hands." I cannot tell what Molina is doing, but his hands do not appear to be up. Molina starts walking south away from Officer Simas and says, "Fuck off," again. Officer Simas loudly says to Molina, "Show me your fucking hands now," and he is approaching him on foot.

Various times in this video, there is what appears to be a black nylon piece of strap or webbing. I believe this is Officer Simas’ sling attached to the rifle. I cannot tell if it was slung around him or if he is holding the gun free-handed and the sling is hanging below the rifle.

I can still hear sirens in the background. There are no officers around Officer Simas.

At 2 minutes 34 seconds, Officer Simas approaches Molina who is behind bushes, in which I cannot see him. Officer Simas backs up. It appears Officer Simas is backpedaling to not lose sight Molina’s position and Officer Simas posts on a metal staircase railing and concrete stairs. Based on the video and my knowledge of nature of the call for service, I believe this was the closest piece of possible cover to protect Officer Simas from lethal threat of a firearm. Officer Simas keeps his weapon light illuminated, and he is breathing heavily at this point, possibly from the sprint of the foot pursuit. Molina says, "Fuck off," again, and his voice is becoming more faint, suggesting that he is continuing south, behind the bushes and further trying to escape from Officer Simas.

At 2 minutes 44 seconds on the video, Officer Simas breaks away from the metal railing and concrete staircase and begins to give chase south along a concrete path of the apartment complex.

At about 2 minutes 51 seconds, while Officer Simas is sprinting southbound through the dark. Officer Simas makes a radio broadcast, "Eastbound through the apartment complex. White male. Black hat. Plaid sweatshirt." At that point (3 minutes on the video), Officer Simas reaches a chain link fence which is the perimeter of the dog park of the apartment complex, and he is breathing heavily. He illuminates his weapon light again and finds Molina on the other side of the dog park. I would estimate they were about 50 yards apart at this point, and Molina is continuing south away from Officer Simas. Officer Simas is breathing heavily after all the sprinting. He makes another radio broadcast at 3 minutes 7 seconds, "Cutting towards the river trail". 
Immediately after, it appears that Officer Simas gains sight again Molina. Officer Simas comes to a chest-high piece of PVC pipe which is an elevated sprinkler system for the dog park. He appears to use that sprinkler as a brace to continue to point his weapon at the suspect with his light, and he says, "Show me your hands." Molina says, "For real, dude?" Officer Simas immediately says, "Show me your hands." Molina is still walking away (south) with his hands near his waist. Officer Simas starts to advance on the person and then he runs toward the fence as Molina was jumping the fence on the opposite side of the dog park. Officer Simas is heavily breathing.

At 3 minutes 29 seconds Officer Simas comes to the end of the dog park, and he is within the grass of the dog park and looking over the chain link fence with his weapon light pointed down into a ravine of brush, branches and leaves. He finds Molina who was sitting or kneeling in a hiding position. Officer Simas says, "Show me your hands now." He immediately says, "Keep your hands up," and Molina has his hands on the ground and appears to be standing up. Officer Simas sounds like he is climbing the fence toward Molina and says, "Keep them up where I can see them." He keeps his weapon light pointed on Molina the entire time. The man is now kneeling down in this ravine. I would estimate they are 20 feet apart, and Molina’s hands are down by his waist and on the ground. Molina says, "For real, dude?" to Officer Simas. Officer Simas responds by saying, "For real." This indicates that Officer Simas is communicating back to the suspect, and the suspect is asking him questions and not complying. Molina is no longer wearing the black hat from earlier in the contact.

The man gets up and starts walking directly at Officer Simas with his hands by his sides. Officer Simas says, "Keep them up where I can see them." This is at 3 minutes 41 seconds on the video. He says, "Turn around," to the man. His hands appear to be empty, and the man changes his course of direction and starts walking west away from Officer Simas toward some brush and says, "Fuck you." He pumps his right fist as he says it. Officer Simas moves west, and he is in an elevated position on top of a berm or a levy, and the man comes to a dead end in some brush.

Molina turns around and faces east again. He looks at Officer Simas with his right hand behind his right hip, so Officer Simas could not see his right hand. His left hand is at his side. He looks at Officer Simas and says, "Don’t run up on me, dude." The man continues to make his way east and is looking at Officer Simas. This is at about 3 minutes 55 seconds. Officer Simas stays in a fixed position. The man is walking away east, and his back is now to Officer Simas with both of his hands near the front of his waist. It is difficult to hear but Molina says, "I didn’t
do a damn thing". Officer Simas responds by saying, "Keep your hands up."
Molina immediately says, "No." The man continues walking east, talking (difficult
to understand/low volume), and he is continuing to look back and talk at Officer
Simas. Officer Simas walks down into the ravine that is full of leaves, so it is hard
to make out what the man was saying at that point.

At 4 minutes and 7 seconds, Molina looks back with his hands by his sides and
says, "Don't run up on me, man." Molina then stops and faces Officer Simas at a
45-degree cant. His hands are by his sides, and his right hand is out of sight. He
is still wearing the bulky jacket. He squares up with Officer Simas and says, "Are
you serious?" at 4 minutes 11 seconds. He repeats himself, "Are you fucking
serious?" Officer Simas was breathing heavily. Officer Simas uses the radio again
at this point, saying, "We're on the trail. One uncooperative. Headed east." He
begins running after the man. He again uses the radio, saying, "We're about to
pop out in an apartment complex."

Molina goes up onto the levy again. Officer Simas is running after him with his
weapon light on. The ambient light from the apartments is to Officer Simas' left/north, and to the right/south is all dark with brush and trees. Officer Simas' is
heavily breathing. Molina starts walking along the concrete path of the
apartments headed east. The camera footage is mainly facing east. Molina is
slightly to the north; therefore, a lot of the camera footage does not contain the
man at this point, suggesting that Officer Simas' chest is facing east and his head
was slightly canted north looking at Molina, being that the cameras is mounted on
Officer Simas' torso. At 4 minutes 52 seconds on the video, Officer Simas is still
heavily breathing and moving quickly east bound negotiating the terrain.

Molina starts walking back toward the top of the levy trail. His left hand is hidden
in front of his waistband, and his right hand is out toward his side. Officer Simas
says, "Dude, put your hands up." Molina does not comply, and he continues to
quickly walk away from Officer Simas with his hands not visible behind brush.
This is at 4 minutes 55 seconds. Officer Simas turns his weapon light off and
appears to be changing angles, trying to find the man without giving up his
position. The video is mostly all black at this point. There is just the noise of rain,
leaves being trampled on, and it sounds like there are several birds chirping and
waking up. There are no other noises.

There is some ambient light, and at 5 minutes 16 seconds, Molina pops out in the
middle of the trail about 30 feet in front of Officer Simas. Molina has his left hand
near the center of his body but hidden away from Officer Simas. Molina is facing
south looking at Officer Simas and walking back over the levy toward the ravine.
Officer Simas illuminates him again with a forward-facing white light and says, "Put your hands up." Molina does not comply, and he has his right hand swinging by his side and his left hand seems to be near his stomach or middle waistline out of sight. He walked down the ravine again to the south. Officer Simas runs to that point where he last saw Molina. The video is at 5 minutes 22 seconds at this point.

Officer Simas starts momentarily using his weapon light trying to find the man in the green brush and dry leaves. Molina says something at 5 minutes 32 seconds, and Officer Simas begins walking down the ravine toward the noise. At 5 minutes 34 seconds, the man says, "Go ahead, bro." At 5 minutes 38 seconds, Officer Simas is still walking toward the man, and the man says, "Come here," and Officer Simas says, "Do you have the gun or not?" Molina is hiding and crouching in some green brush and says, "No, dude." Officer Simas responds by saying, "Then put your hands up" and says "Just put them up." It appears Molina puts his hands near the top of his head at that point and is no longer trying to run away. Officer Simas was talking to him calmly at that point.

Molina then immediately puts his hands back to his center waistline and says, "Who the fuck told you what?" and is staring at Officer Simas. Officer Simas walks around to the back of Molina. "Put them behind your back." I can see Officer Simas' left hand trying to gain control of one of Molina's hands, but the camera footage is facing above where the man is. Officer Simas says, "Right here." Officer Simas is breathing heavily. Officer Simas then uses a lighter tone, telling the man, "Keep your hands up," at 5 minutes 55 seconds.

At that point, I hear the noise of a Velcro pouch opening. I am familiar with this pouch as it is used to hold handcuffs on officers' patrol vests. I can then heard the metal rattling of handcuffs. The video footage is mainly black. I could hear Molina saying, "Are you for real, bro?" I hear the ratcheting of one handcuff, which makes me think that one handcuff was going on Molina at that point.

Molina immediately says, "Ah, you're a stupid fuck," at 6 minutes 2 seconds. The camera then begins to show their hands together, but the light is broken. It is not extremely clear. The man says, "Why are you going to do that?" It sounds like there is struggling as a lot of the branches and brush are making noise. Officer Simas loudly and emphatically says, "Stop." The man says, "All right." I continue to hear the rattling of metal handcuffs (6 minutes 8 seconds).

At 6 minutes 9 seconds, Molina says, "Why the fuck?" in a loud tone. Officer Simas yelled clearly, "Stop" as it appears he is trying to handcuff Molina with both hands behind his back. Molina responds immediately by saying, "Shut your
fucking mouth, dude." Officer Simas immediately says, "Keep your hands up." Molina responds, saying, "You're a bitch." I then hear more struggling.

It is mainly black, but for several seconds, I see footage illuminated in green. At 6 minutes 18 seconds, Molina says, "You don’t want to scuffle, homie". I interpreted that statement as Molina warning Officer Simas. At that point, I notice the hand with a black digital watch and long dark sleeves, which I previously noted in this report. I believe it is Officer Simas’ hand trying to control Molina. I also see what appears to be a hand in a flannel jacket, and the suspect, David Molina, was wearing a flannel jacket at that point.

Officer Simas says, "Put your hand behind your back," and Molina says, "Shut your fucking mouth, let me go." It appears at 6 minutes 22 seconds, Molina’s left hand has a grasp of a black nylon strap, which I believe what appears to be consistent with a gun sling used by Napa PD Officers. Molina’s knuckles are grasped around it facing the camera, and his thumb is pointed toward the sky. It appears to be a left hand with light-colored flannel behind it and another left hand above that attempting to grasp the strap also. That hand has a black wristwatch. It appears Molina is holding the gun sling, and Officer Simas is trying to regain control of it. The man says, "Let me go," at 6 minutes 23 seconds. I then hear rapid struggling, and it sounds like things are brushing across the microphone of the body-worn camera. There are pretty loud scratching noises, and the camera goes black.

At 6 minutes 28 seconds, the audio becomes muffled. The sounds are audible but it is not as sharp, clear and loud as the previous moments in the footage. Based on the dynamics of this incident, Officer Simas appears to be handcuffing him. Officer Simas is still telling Molina to put his hands behind his back. It is possible that Officer Simas’ chest is pressed up against the body of the suspect, and he is trying to gain control of him still. Officer Simas clearly and slowly says at 6 minutes 28 seconds, "Put your hands behind your back now; all right?" The suspect immediately says twice, "Or what? Or what?" It is still muffled and black. There is continued scratching noises.

Officer Simas says, "I'm detaining you." The man says, "Or what?" four times and Officer Simas repeated himself by saying, "I'm detaining you for my i---". At 6 minutes 39 seconds Officer Simas is interrupted by a loud pop. There is a short pause at 6 minutes 40 seconds, and it says, "You motherfucker." I’m not sure if that was Officer Simas or the suspect. There is then a rapid cadence of what sounds like eight shots. Between 6 minutes 41 seconds and 6 minutes 44 seconds, there are seven rapid gunshots and then what sounds like a metal clicking noise.
The screen is still black. There are several grunts, gasps, and exhales, which sound like Officer Simas struggling with the man. It is still black on the screen.

At 6 minutes 49 seconds through 6 minutes 51 seconds. Officer Simas says, "You motherf--,", and Molina says, "What are you going to do?" There is continued struggling, loud exhaling and breathing with the screen black. At 7 minutes 3 seconds, I see ambient light again, suggesting that Officer Simas and the suspect have separated somehow. At 7 minutes 5 seconds, I hear the man say, "Fuck you, dude," and then I hear the recognizable noise of the AR-15 rifle chambering a round of ammunition.

Between 7 minutes 5 seconds and 7 minutes 7 seconds, I hear five rapid gunshots. Those shots were not muffled, suggesting that the body-worn camera was clear from any obstructions and there was separation between the two. Officer Simas is breathing heavily, suggesting he was just in a prolonged struggle.

At 7 minutes 20 seconds, Officer Simas says on the radio, "Napa Z2. Shots fired. Subject down." Officer Simas is still breathing heavily, indicating fatigue. Officer Simas is screaming, "Over here," at 7 minutes 40 seconds. At 7 minutes 41 seconds, a woman's voice in the distance says, "What happened?" There is faint ambient light. Officer Simas appears to be walking out of brush (based on the sound) and still breathing heavily at 8 minutes. The camera is still running. The screen is black. He gets on the radio again at 8 minutes 40 seconds. He says, "Napa Z2. If you come in Stonehouse, go in approximately 300 yards, turn left toward the trail, and I'll come up to the embankment." At this point, it sounds like Officer Simas is trying to give other first responders the quickest route into his location.

I hear someone in the background say, "Where are you at?" It sounds like Corporal Davis. At 8 minutes 57 seconds, Officer Simas yells, "Over here." It appears Officer Simas is facing south, and there are some blinking white lights coming closer to him, possibly a flashlight, and Officer Simas says, "Over here," at 9 minutes 5 seconds. Corporal Davis arrives to a chain link fence about ten feet South of Officer Simas and says something to the effect of "Hold on. Let me get on the radio." Corporal Davis says, "Where is he?" The scene is now illuminated by Corporal Davis' flashlight, and you can see the suspect lying on his right side with his head facing north and his buttocks facing south. He is wearing a plaid jacket.

At 9 minutes 13 seconds Corporal Davis says, "Where is he?" Officer Simas says, "Right here". Corporal Davis asks if he is handcuffed, and Officer Simas
responds by saying, "I only got one on him," at 9 minutes 17 seconds. Corporal Davis asks if he is breathing or anything, and Officer Simas responds by saying, "No," at 9 minutes 24 seconds. Officer Simas approaches the man's location. In the background, I can hear Corporal Davis possibly broadcasting information to fire personnel to get to the scene with the shortest route by taking Maplewood Drive. Corporal Davis says he will guide them in. At 9 minutes 44 seconds, Corporal Davis says, "Hey, Chris, can you pump on him? Give him CPR?"

Officer Simas responds by saying, "Yeah." Corporal Davis says, "I'm going to get the fire guys here." It appears that Officer Simas kneels down and begins CPR as I can hear the distinct sound of chest compressions.

At 9 minutes 58 seconds, Officer Simas' view is slightly illuminated by another flashlight from Officer Olson, who was arriving on scene. At about 9 minutes 58 seconds, you can see Officer Simas giving chest compressions. At 10 minutes 8 seconds on the video, I hear Officer Olson getting closer, saying, "Are you okay?"

Officer Simas says, "Yeah." Officer Olson immediately says, "I'm going to put gloves on, and we will switch out." Officer Simas says, "Thank you." At 10 minutes 17 seconds, it sounds like Officer Olson is using a radio, saying for another route for the fire personnel to arrive. Officer Simas says, "Russ is over here, and he's getting fire to come in." Officer Olson again says, "Are you okay?"

Officer Simas says, "Yeah." Officer Simas is continuing CPR, and he says, "I don't have gloves still," at 10 minutes 45 seconds. He tells Officer Olson he only got one cuff on him. Officer Olson said, "That's all right." They switch CPR at 10 minutes 56 seconds.

Officer Simas walks up the levy at about 11 minutes 5 seconds and is breathing heavily. Officer Simas walks on the concrete path out toward the parking lot after Corporal Davis says, "Make sure everyone can find you," at 11 minutes 23 seconds. Officer Simas slowly walks out to the parking lot of the Vineyard Terrace Apartments. He is breathing heavily. He is checking his left hand as if it may have been injured or in pain. He doesn't talk to anyone or see anyone in the parking lot. Officer Simas returns back to the area of the scene at about 13 minutes 35 seconds. Someone asks, "Where are you at?" and Officer Simas says, "Over here." I can hear some in scattered talking as it sounds like fire personnel is arriving and the rain is increasing in intensity. I can see at 13 minutes 58 seconds, what appears to be Officer Olson still doing CPR on the man. Officer Simas is standing by himself at the top of the levy, not talking to anyone at 14 minutes 50 seconds. There is activity down near the body. It appears medical attention is continuing. At 15 minutes 7 seconds, Officer Simas tries to give further directions to the fire personnel to provide a clear access route.
At 15 minutes 30 seconds, Officer Olson says, "Hey, Simas, did you see a gun anywhere?" Officer Simas said, "I never saw one. He kept reaching into his waistband as we were running." At 16 minutes 30 seconds, Officer Simas walks down the ravine closer where the fire personnel is tending to the man and is contacted by Corporal Davis. He walks over to the fence where Corporal Davis is standing. Corporal Davis calls him over and tells him to turn off his video recorder at 16 minutes 55 seconds. The video ends at 16 minutes 55 seconds.”

End of Detective G. Smith’s summary of Officer Simas’ BWC footage.
STATEMENTS - PUBLIC SAFETY WITNESSES

STATEMENT OF ACTING SERGEANT RUSS DAVIS

Acting Sergeant (Corporal) Russ Davis (2Z10) responded to this incident as the on-duty supervisor. On December 5, 2018 at approximately 0440 hours, Detective Don Maiden (NSD) interviewed Corporal Davis, which he documented in his supplemental report dated December 7, 2018, at 15:05:42. The report, in its entirety, can be found under tab 12 in NSD’s investigative file. Following is a summary of Acting Sergeant Davis’ interview.

Corporal Davis was the watch commander for the 4/10 graveyard shift on the night of December 4, 2018. Corporal Davis’ graveyard patrol team that evening consisted of Officer J. Martinez, Officer T. Olson, Officer D. Dimercurio, and Officer C. Simas.

Corporal Davis responded to the call from North/West Napa. Corporal Davis recalled that Officer Simas radioed that he was out with S-MOLINA at Stonehouse and Soscol, then requested "Code 3" (emergency) cover, and advised he was chasing the suspect on foot into an apartment complex towards the Napa River Trail. Corporal Davis advised he was the last to arrive on scene, but the first to locate Officer Simas.

Once in contact with Officer Simas, Corporal Davis learned the suspect was down and handcuffed. Corporal Davis directed Officer Simas to perform CPR on the suspect, as the suspect was apparently lifeless. NFD arrived and took over life-saving efforts.

Corporal Davis spoke with Officer Simas and learned his rifle had been fired, there were no outstanding suspects, nor known outstanding weapons in the area. Corporal Davis did not provide information regarding direction or number of shots fired or the direction in which they were fired.

Corporal Davis then assigned roles to secure the scene and check the route of the foot pursuit, before transporting Officer Simas to the Napa Police Department. Once at NPD, Sergeant Ryan Cole then kept Officer Simas company.

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STATEMENTS OF OFFICERS TYLER OLSON, JESUS MARTINEZ AND DOMINIC DIMERCURIO

Officers Tyler Olson, Jesus Martinez and Dominic Dimercurio (NPD) were on-duty working uniformed patrol on the graveyard shift with Officer Simas. All three responded to the incident involving S-MOLINA, who was reportedly armed with a handgun. As each arrived in the area, they were aware that Officer Simas was involved in a foot
pursuit and heard radio traffic that he was headed toward the River Trail. The River Trail is approximately 2/10th of a mile from where the OIS occurred. None of the responding officers were able to locate Officer Simas until after they heard several gunshots fired in rapid succession, from what sounded like one gun.

Officer Olson was the first of the three officers to locate Officer Simas. Upon locating Officer Simas, Officer Olson relieved Officer Simas in performing CPR. Officer Olson continued to render aid until relieved by paramedics.

Refer to supplemental reports under tabs 10, 18 and 20 of NSD’s Investigative binder for additional details.

STATEMENTS OF EMERGENCY MEDICAL SERVICES (EMS) PERSONNEL
Paramedic and Emergency Medical Technician (EMT) with the American Medical Response (AMR), along with Firefighter-Paramedics and with the Napa Fire Department (NFD) responded to render medical aid. Paramedic was first on scene, arriving via Maplewood Avenue, and directed Officer Olson to continue CPR until he could get his equipment and partners through/over the fence. Paramedic observed what he believed to be a gunshot wound below S-MOLINA’s left eye. Paramedic applied a cardiac monitor and found no activity. Based upon the severity of the patient’s injuries, coupled with the absence of a cardiac rhythm, Paramedic determined lifesaving efforts would be in vain. Paramedic reported that he pronounced S-MOLINA deceased at 0205 hours, per their medical protocols.

The statements were documented under tabs 21, 22, 23 and 24 of NSD’s Investigative binder.
STATEMENT - SUSPECT DAVID MOLINA

S-MOLINA was pronounced dead at the scene. No statement was obtained.
XVII. INJURIES

OFFICER CHRIS SIMAS

Tab 47: Reference DAI Sharon Fong’s (DA’s Office) supplemental report dated December 17, 2019 at 13:00:15 hours for further details on his injury and the condition of his uniform and equipment. Officer Simas sustained a small cut or scratch to his right nostril.

On January 28, 2019, I learned Officer Simas suffered a potential bloodborne exposure to S-MOLINA’s blood. On January 30, Detective Hernandez at NSD released an evidentiary blood sample (NSD18-005161 evidence item DKB-44.B) from S-MOLINA for exposure testing pursuant to § 121060 – 121065 of the California Health & Safety (H&S) Code. On the same date, I transported and released the blood sample to the Napa-Solano-Yolo-Marin Regional Public Health Laboratory, 2201 Courage Drive, Fairfield.

On February 8, 2019, I received the results of the testing for Hepatitis (negative), HIV (negative) and from Syphilis (inconclusive - not enough blood to test) from the Napa-Solano-Yolo-Marin Regional Public Health Laboratory via email. On the same date, I forwarded the results to Officer Simas via email.

SUSPECT- DAVID MOLINA

S-MOLINA was shot and killed during this incident. Detective G. Smith (NPD) attended the autopsy performed by Doctor Cohen. He documented his observations and related information in his supplemental report dated December 11, 2018 at 16:38:26 hours. The report, in its entirety can be found under Tab 74 in NSD’s investigative binder. Following is a summary of significant observations.
1 Dr. Cohen ruled S-MOLINA’s preliminary cause of death as multiple gunshot wounds.
2 Dr. Cohen reported S-MOLINA sustained four (4) gunshot wounds and described them all as being from high velocity rounds. All were described as penetrating wounds with no exits. Two of the gunshot wounds had suggestions of stippling, which is consistent with close range of fire.

The gunshot wound first described was located on his left cheekbone under his eye. The round fragmented inside of him and broke out his left upper back teeth and had a downward and left to right trajectory.

The second described gunshot wound contained a stippling pattern was over his left collarbone. The bullet traveled under the collarbone, grazed the apex of the left lung, and fragmented in the spine. It had a left to right and downward trajectory, slightly front to back.

The third gunshot wound also contained stippling. It was to his left outer neck, which damaged the trachea and strap muscles of the neck. The round struck the right collarbone and passed through, lodging in the right torso under the skin about equal to the nipple line on the side of his right torso. That bullet was removed by the doctor and saved. The round had a downward and left to right trajectory.

The fourth round was to the left posterior and lateral area of the neck at the hairline. The round passed in front of the spinal cord and entered the right chest cavity, perforating the upper and lower lobes of the right lung. The round continued and perforated the back portion of the right sixth rib and lodged under the skin on the right side of Molina’s back. It had a downward and left to right trajectory. That round was recovered under the skin.

Dr. Cohen described the bullets as deformed jacketed small caliber projectiles.

Additionally, Dr. Cohen described the following injuries observed on S-MOLINA:
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- laceration on left earlobe
- several small, superficial wounds to his forehead and brow line
- small crescent-shaped cut on top of his right palm of his hand
- pink crescent-shaped mark on his right wrist
- abrasion right knee
- small furrows/marks on his left wrist, reportedly from the handcuffs

A preliminary toxicology test conducted on S-MOLINA’s urine. The urinalysis showed presumptive positive for the presence of THC. S-MOLINA’s blood was to be sent to CA DOJ for confirmatory toxicology analysis.

AUTOPSY REPORT
On July 17, 2019, NSD received Doctor Cohen’s Autopsy Protocol Report #C18-283, documenting the December 6, 2018 autopsy of S-David MOLINA. “The gunshot wounds are lettered for descriptive purposes only; no sequence is implied by the lettering system.” In summary, the report detailed the diagnosis as follows:

1. Penetrating gunshot wound (A) to the left side of face.
   The direction of travel is slightly front to back, downward and to the left.
2. Penetrating gunshot wound (B) to lateral aspect of left side of neck.
   The direction of travel is left to right, downward and slightly (barely) back to front.
3. Penetrating gunshot wound (C) to base of left side of neck.
   The direction of travel is left to right, front to back and downward.
4. Penetrating gunshot wound (D) posterolateral aspect of the left neck.
   The direction of travel is left to right and downward.
5. Body surface abrasions, small.
6. Hypertrophy and dilation of the heart, slight.
7. Acute alcohol intoxication.
8. Presence of cannabinoids in postmortem femoral blood sample.

CAUSE OF DEATH: Multiple penetrating gunshot wounds.

Reference Doctor Cohen’s full report in NSD’s Investigative binder, under tab 76.
XVIII. EVIDENCE

SCENE

The shooting scene was processed by members assigned to the Napa County Major Crimes Investigation Team (NCMCIT). Evidence collected from the scene included, but was not limited to, twelve (12) expended .223 cartridge casings, one (1) .223 cartridge, one (1) .38 caliber revolver containing six (6) cartridges, and two (2) .38 cartridges. The processing and collection of evidence was documented by Evidence Specialist Brianne Breedlove (NSD) under NSD18-005161, under tab 36.

Officer Simas stated he fired five (5) rounds from his rifle, which is consistent with what can be heard on Officer Simas’ BWC. The remaining seven (7) empty cartridge casings were fired by S-MOLINA and found in close proximity to one another.

DNA

Detective F. Hernandez (NSD) documented the results of DNA testing of evidence collected from Officer Simas’ rifle in his supplemental reports dated March 18, 2019 at 15:19:28 hours and July 15, 2019 at 08:28:03 hours, under tabs 42 and 54, respectively. In summary, S-MOLINA’s DNA profile was not identified on Officer Simas’ rifle.

Detective F. Hernandez (NSD) documented the results of DNA testing of evidence collected from the hat and revolver recovered in path of S-MOLINA’s flight in his supplemental report dated March June 3, 2019 at 14:44:03 hours, under tab 45. In summary, the only identifiable sample was recovered from the hat. The swab was found to contain a, “Mixture, however the major male contributor was a match on MOLINA’s blood.” NOTE: Although no DNA match was found on the revolver or ammunition recovered from the revolver, it was found in close proximity to the hat confirmed through testing to be S-MOLINA’s.

ADDITIONAL EVIDENCE COLLECTED IN CRIMINAL INVESTIGATION

Additional evidence was collected and processed in this investigation by members of the NCMCIT under NSD18-005161 and is incorporated into their investigative binder. Reports related to the collection of evidence can be found as outlined below:

FIREARMS

California Department of Justice, Bureau of Forensic Services’ (CA DOJ/BFS) firearms report(s) have not been completed at the time of this report.

SCENE

All reports related to the crime scene and collection of evidence from the scene are found under tabs 25 – 26, 36 - 55, and 77 - 78.
AUTOPSY
The autopsy, and all reports and attachments related to the collection of evidence during the autopsy are found under tabs 75 -76.

TOXICOLOGY
According to the forensic lab report provided by Alere Forensics at Redwood Toxicology, documented under AF # 2018-001127, S-MOLINA’s blood was found to contain Tetrahydrocannabinol (THC) with a concentration of 6.8 ng/ml, and a blood-alcohol concentration of 0.14%. Reference the toxicology report under tab 76 of NSD’s investigative binder (NSD18-005161) for details.

SCENE DIAGRAM – FARO
Forensic Assistant Vanessa Hohreiter (NPD) combined the scans taken from the crime scene located near the area of Soscol Avenue and River Glen Drive. The scans were merged for the project with the assistance of FARO representative, Craig Woodworth. Forensic Assistant Hohreiter created a Scene 2 Go project and booked it into the Napa County Sheriff’s Office Property Room as evidence item VH-1, under NSD18-005161.
XIX. COMMUNICATIONS

Communications related to this event including recorded calls to Napa Central Dispatch via 911 or other recorded telephone lines, recorded radio traffic between Dispatch and involved law enforcement personnel, Officer and Dispatcher-generated comments via computer, were captured under event E181201475. Other NFD and NSD-related communications were captured under event E181201476 and E181201479. These event chronologies are incorporated and attached under tab B.

All radio traffic and calls to Dispatch related to E181201475 are memorialized on a CD, incorporated and attached under tab B.

XX. PHOTOGRAPHS

Evidence photographs were taken by Napa Police and Sheriff’s Office personnel. CD’s containing the evidence photographs are contained on a thumb drive, and incorporated under tab C.
XXI. **ANALYSIS**

NPD policies identified as relevant and applicable in this matter include:

- § 300.3 - Use of Force
- § 300.3.1 - Use of Force to Effect an Arrest
- § 300.3.2 - Factors Used to Determine the Reasonableness of Force
- § 300.4 - Deadly Force Applications
- § 300.6 - Medical Consideration
- § 307.6 - Firearms Qualification
- § 361.7 - Activation of Recordings

All analysis was conducted using NPD policies implemented on November 6, 2018, and in place at the time of the incident. Applicable policies are attached and incorporated for reference under tab D.

As of December 5, 2017, Officer Simas was an on-duty police officer with approximately three (3) years of law enforcement experience. All of Officer Simas’ law enforcement experience has been while employed by NPD.

Officer Simas’ NPD and/or POST training record, relevant to the scope of this investigation, show he successfully completed an 880-hour POST Basic Academy (Dec 2016), 40-hour Crisis Intervention Training (CIT) course (Oct 2017), 16-hour POST Tactical Rifle Course (Dec 2016), and a 2-hours Tactical Communications course (Feb 2018). At the time of the incident, Officer Simas was qualified to carry his department issued Colt AR-15 .223 caliber patrol rifle and Glock 22 .40 caliber pistol as evidenced by NPD range cards (tab E) and NPD policy § 307.6 (tab D), last qualifying on September 12, 2018 (3rd quarter).

On Wednesday, December 5, 2018, at approximately 0148 hours, Napa Central Dispatch began receiving calls related to S-David MOLINA assaulting a female in an apartment, while armed with a handgun, at River Glen Drive, Napa. At the time of the call, Officer Simas was an on duty, uniformed police officer assigned to the Patrol Bureau and driving fully marked NPD patrol vehicle.

At approximately 0148 hours, Officer Simas was dispatched to the call. Officer Simas responded and arrived in the area at approximately 0150 hours. Officer Simas saw the male whom he believed to be S-MOLINA leaving the area southbound on Soscol Avenue on a skateboard. In his interview, Officer Simas articulated the factors that led him to believe the male was, in fact S-MOLINA. During the same interview, Officer Simas articulated his belief that he had reasonable suspicion to detain, if not probable cause to arrest, S-MOLINA for battery and criminal threats.
Based upon the totality of the circumstances, to include but not limited to a review of BWC footage, officer interviews, witness interviews and physical evidence, Officer Simas contacted S-MOLINA during a tense, uncertain and rapidly evolving scene involving a violent and aggressive suspect who:

- was reportedly armed with a handgun, concealed in his waistband
- repeatedly reached for the front of his waistband, which was concealed by clothing, despite lawful orders not to
- had a blood alcohol content of .14
- had tetrahydrocannabinol (THC) (6.8 ng/ml) in his blood
- demonstrated an understanding of the English language
- "was extremely confrontational and belligerent throughout the contact and continuously questioned Officer Simas’ orders. MOLINA ran away from Officer Simas and then stopped to face Officer Simas multiple times during the foot pursuit. MOLINA also refused to comply with Officer Simas’ commands and physically and verbally challenged him when Officer Simas attempted to handcuff him." (tab 1: from Detective F. Hernandez’ Summary and Findings Report, dated July 10, 2019 at 15:24:31 hours, under NSD18-005161.)
- led Officer Simas on a lengthy foot pursuit covering an estimated 1000’ feet, along a dark, secluded wooded trail
- at the end of the foot pursuit, feigned compliance with Officer Simas, allowing Officer Simas to place a handcuff on S-MOLINA’s left hand, then created a distraction by pulling his right hand away and drawing it towards his waistband
- while feigning compliance and creating a distraction, S-MOLINA reached his left hand behind his back and took control of the trigger mechanism of Officer Simas’ AR-15 patrol rifle
- While in control of Officer Simas’ patrol rifle, S-MOLINA fired the rifle repeatedly as it was pressed between Officer Simas’ chest and S-MOLINA’ back
- fired Officer Simas’ rifle until it malfunctioned
- maintained control of trigger mechanism of Officer Simas’ rifle (confirmed by Officer Simas through both sight and touch/feel) until Officer Simas physically wrestled it away from S-MOLINA
- after Officer Simas created distance by stepping back and away from S-MOLINA, turned to advance on Officer Simas despite having multiple avenues of escape (3) available to him
- Officer Simas was alone with S-MOLINA, without cover officers, from 0150 hours - 0159 hours, almost two minutes after he advised, “Napa, Z2. Shots fired. Subject down.”
As a result of the above identified factors, Officer Simas articulated:

- his immediate concern for his safety based upon the clear and present threat posed by S-MOLINA
- his belief S-MOLINA was still armed with a handgun and that handgun was concealed in the front portion of S-MOLINA’s waistband
- that he was alone and without the assistance of any cover officers
- he was growing tired after a long foot pursuit
- his belief that S-MOLINA possessed the intent, ability and means to immediately kill him
- he was scared because S-MOLINA had gained physical control of his patrol rifle and discharged approximately seven (7) .223 rounds from it in a matter of approximately four seconds, and the firing stopped after a malfunction
- after separating from S-MOLINA and creating distance, S-MOLINA turned around to face Officer Simas, at which time Officer Simas identified an immediately deadly threat posed by S-MOLINA, specifically he believed if not stopped S-MOLINA would pull the handgun concealed in the front of his waistband and shoot Officer Simas; or, again attack and fight Officer Simas for control of his rifle
- he discharged five (5) rounds from his patrol rifle (in a matter of 3 seconds) to stop the deadly threat posed by S-MOLINA
- he discharged his patrol rifle at S-MOLINA until the threat S-MOLINA posed stopped

Almost immediately after firing shots from his patrol rifle, Officer Simas advised Dispatch of the shooting, reported the suspect was down. Within approximately 30 seconds of Dispatch being advised on “shots fired,” Dispatch requested medical aid for S-MOLINA. Officer Simas initiated CPR on S-MOLINA until relieved by Officer Olson, and ultimately paramedics with the Napa Fire Department (NFD) and American Medical Response (AMR).

Evidence in the form of statements and audio from BWC footage show Officer Simas fired five (5) .223 caliber rounds from his patrol rifle. The autopsy confirmed S-MOLINA sustained four (4) gunshot wounds – one under his left eye, a second above his left collarbone which contained stippling, the third gunshot was on his left neck also contained stippling. The fourth gunshot wound was to the left posterior and lateral area of the neck at the hairline. The trajectories and additional information is contained in Doctor Cohen’s autopsy report.
XXII. FINDINGS

The following findings were reached based upon the totality of information known to include, but not limited to reviews of:

- Written reports
- Administrative interview with Officer Simas
- Body Worn Camera footage of the incident
- Involved officer, witness officer and civilian witness statements
- Physical evidence

PRE-CONTACT

A review of the totality of the information and evidence documented in this investigation show while en route to this incident, responding officers were informed a suspect, later identified as S-MOLINA, with a particular physical description and clothing description was in a particular geographic area, armed with a handgun in his waistband and had just assaulted a female and threatened individuals. Updates related to S-MOLINA’s criminal behavior, last direction of travel, and mode of transportation (skateboard) were provided to responding officers including Officer Dimercuro, Acting Sergeant Davis, and Officer Simas. Based on the totality of the information broadcast to the responding officers, including Officer Dimercuro, Acting Sergeant Davis, and Officer Simas, they had reasonable suspicion to detain and/or probable cause to arrest S-MOLINA for violent crimes including:

- Penal Code 422 (a) - Criminal threats (Felony/Misdemeanor)
- Penal Code 417 (a)(1) - Brandishing a firearm (Misdemeanor)
- Penal Code 25400(a)(2) – Carrying a Concealed Firearm (Misdemeanor)
- Penal Code 243 – Battery (Misdemeanor)

INITIAL CONTACT

Almost immediately after arriving on scene, Officer Simas confronted S-MOLINA, giving lawful orders and commands. S-MOLINA refused to comply with Officer Simas’ lawful commands to stop, comply and submit to arrest. Such actions give rise to probable cause to arrest S-MOLINA for:

- Penal Code 148 – Resist, obstruct, delay a peace officer in the performance of his duties (Misdemeanor)

ACTIVE & VIOLENT RESISTANCE

The evidence shows S-MOLINA refused to obey Officer Simas’ lawful commands, and when he could not get away from Officer Simas, struggled with him. During the struggle, S-MOLINA gained control of Officer Simas’ patrol rifle as it was slung across Officer Simas’ chest and discharged seven (7) rounds into an embankment immediately adjacent to them.
Instead of complying and submitting or fleeing, after Officer Simas regained control of his patrol rifle and pushed away from S-MOLINA, S-MOLINA yelled, “Fuck you, dude” and immediately turned in an aggressive manner as if to resume the attack on Officer Simas.

The rapidity with which the events unfolded precluded Officer Simas from implementing any of the plans for containing and de-escalating the situation. Failure to immediately take defensive action with the application of lethal force would likely have resulted in Officer Simas again fighting for control of his patrol rifle and possibly being gravely injured or killed. Additionally, if over-powered, injured or killed, S-MOLINA would have immediate access to Officer Simas’ patrol rifle, Glock pistol and spare loaded Glock magazines, posing a threat to not only Officer Simas, but the other NPD officers responding to assist him and members of the public at large.

Officer Simas faced a tense, uncertain and rapidly evolving situation. A known witness, with a presumption of reliability, reported S-MOLINA had just assaulted a female and was armed with a handgun. On contact, S-MOLINA fled, repeatedly refused to comply with lawful orders, and then violently resisted. Officer Simas faced a threat from S-MOLINA that was immediately dangerous to life and health (IDLH). Through violence and malice, S-MOLINA demonstrated the means and intent to kill Officer Simas with his own patrol rifle. Furthermore, Officer Simas believed S-MOLINA to still be armed with a handgun.

Such actions gave rise to probable cause to arrest S-MOLINA for:

- Penal Code § 664/187 - Attempted Murder of a Peace Officer (Felony)
- Penal Code § 245 (d)(2) - Assault with a Semi-Automatic Firearm upon a Peace Officer (Felony)
- Penal Code 148 (d)(1) - Attempting to a Disarm Peace Officer (Felony)

**OFFICER SIMAS**

§300.3 – Use of Force

Given the totality of the circumstances articulated in the administrative and criminal investigations, Officer Simas’ use of force, to include the discharge of each of the five (5) rounds from his service rifle at S-MOLINA in defense of his life, was an appropriate and reasonably necessary use of force, objectively reasonable, lawful, and in compliance with NPD Policy § 300.3.

§ 300.3.1 – Use of Force to Effect an Arrest

Given the totality of the circumstances articulated in the administrative and criminal investigations, the physical force used, as well as each of the five (5) rounds Officer Simas discharged from his service rifle at S-MOLINA was an appropriate and
reasonably necessary use of force, objectively reasonable, lawful, and in compliance with NPD Policy § 300.3.1.

§ 300.3.2 – Factors Used to Determine the Reasonableness of Force
Based upon the factors outlined in both this administrative and the criminal investigations, Officer Simas’ use of physical force, to include lethal force was appropriate and reasonably necessary, objectively reasonable, lawful, and in compliance with NPD Policy § 300.3.2.

§ 300.4 – Deadly Force Applications
Given the totality of the circumstances articulated in both this administrative and the criminal investigations, Officer Simas’ use of lethal force, specifically the discharge of each of five (5) rounds from his patrol rifle at S-MOLINA in defense of his life, was appropriate and reasonably necessary, objectively reasonable, lawful, and in compliance with NPD Policy § 300.4.

§ 300.6 – Medical Consideration
Within approximately 30 seconds of reporting that Officer Simas discharged his patrol rifle, Dispatch requested medical aid for S-MOLINA. For almost two (2) minutes after discharging his patrol rifle, neutralizing the immediate threat S-MOLINA posed, Officer Simas was alone in the chaos. Responding officers were still attempting to locate him. Shortly after Acting Sergeant Davis arrived on scene, he directed Officer Simas’ to initiate CPR. Officer Simas initiated CPR within one (1) minute of Acting Sergeant Davis’ arrival. Officer Olson arrived and relieved Officer Simas a short time later, and continued CPR until relieved by a higher standard of care provided by AMR & NFD. Accordingly, Officer Simas’ actions were appropriate, objectively reasonable, lawful and in compliance with NPD Policy § 300.6.

§ 307.6 – Firearms Training and Qualifications
At the time of this incident, Officer Simas was qualified to carry his assigned Colt AR-15 .223 caliber patrol rifle as well as his service pistol. His last NPD qualification with his patrol rifle and service pistol was on September 12, 2018 (3rd quarter). Officer Simas was in compliance with the quarterly firearm training and qualification requirements outlined in NPD Policy § 307.6.

§ 361.7 – Activation of Recordings
Officer Simas activated his BWC prior to contacting S-MOLINA in compliance with NPD Policy § 361.7.

Signed: [Signature] Date: 10/04/2019
XXIII. ATTACHMENTS

| B | CD of Dispatch Transmissions and 911 Calls and Event Chronologies for E181201475, E181201476 and E181201479; TeleStaff report for December 4, 2018 |
| C | Thumb drive and CD's containing evidence photographs |
| D | Applicable Napa Police Department Policies – “2018/11/06” version of NPD policies §300, §307 and §361 to include subsections |
| E | Range and Training Records – Officer Simas |
| F | Misc. Communications – Officer Simas |
| G | CD of Interviews with Officer Simas |
| H | Napa County District Attorney’s Office Report |
| I | Napa County Sheriff’s Department Criminal Investigation (Tabs 1 – 86) |

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This addendum contains supplemental information related to the issuance of findings by the Napa County District Attorney’s (DA) Office in the shooting of David MOLINA by Napa Police Department (NPD) Officer Christopher Simas on December 5, 2018. The DA’s findings are outlined in their “Report on the December 5, 2018 Officer-Involved Shooting of David Molina,” issued December 10, 2019. This report is referenced in NPD’s original Administrative Report (#IA18-03), and incorporated as Attachment H.

In summary, District Attorney (DA) Allison Haley reviewed Officer Simas’ actions for “the sole purpose of determining if there is any criminal liability on behalf of a member of law enforcement.” DA Haley found, “The use of deadly force on December 5, 2018 by NPD Officer Christopher Simas was a reasonable and lawful response under the totality of the circumstances. Therefore, his actions were legally justified and criminal charges against him are neither warranted nor supported by the evidence.”

A review of DA Haley’s report yielded no new information that contradicts any of our reported findings in NPD Administrative Report #IA18-03.

Signed: [Signature]
Date: 12/12/2019

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