SONOMA COUNTY SHERIFF'S OFFICE
INTERNAL AFFAIRS INVESTIGATION
22-IA-0009

BACKGROUND SUMMARY

On September 7, 2022,[1] Lieutenant Sean Jones of the Professional Standards Unit assigned me this investigation. He requested I conduct an Internal Affairs investigation regarding K9 Deputy Alan Collier and SWAT Deputy Michael Allison's conduct during an arrest. Specifically, I was to investigate the force Deputy Collier and Deputy Allison used during the arrest of a suspect, identified as Kevin Thornburg, which resulted in Thornburg sustaining serious bodily injury.

The incident involving Thornburg began on September 2, 2022, at approximately 2242 hours at Thornburg's residence, located at [redacted] Moody Ln., in Geyserville, CA. Thornburg's wife, identified as "victim" in his case, called Sheriff's Dispatch and stated Thornburg had a gun and was "going crazy". The victim told dispatch Thornburg was going to shoot her in the head, the victim stated she was also armed with a handgun, she had fled the residence and was hiding on a neighboring property. The call-taker heard the victim plead with Thornburg to put the gun down and to not shoot it.

Multiple deputies responded to the scene. Deputies located the victim, who was hiding on a neighboring property, and ensured her safety. They also set up a perimeter, which successfully contained Thornburg to his property. While on scene, multiple deputies reported hearing numerous gun shots, some of which were determined to be directed at the Sheriff's Office Helicopter. From the various reports drafted as a result of this incident, it was estimated that Thornburg fired over 30 rounds, indiscriminately, over the course this incident.

While deputies from the Sheriff's Office Special Weapons and Tactics (SWAT) and Hostage Negotiations Team (HNT) were negotiating with Thornburg, an opportunity to take him into custody presented itself. Deputy Collier deployed his canine partner, while Deputy Allison deployed less-lethal shotgun and 40mm launcher rounds. Thornburg was ultimately taken into custody.

After being taken into custody, two tourniquets were placed on Thornburg's upper left leg, where he sustained a wound as a result of the canine biting him. Once Thornburg was secured, and the tourniquets were placed, Thornburg was tended to by paramedics. He was ultimately transported to Santa Rosa Memorial Hospital for further treatment.

Thornburg was subsequently arrested for multiple felony and misdemeanor violations of law.

[1] An underlined dated indicates it is a part of my investigation – Sgt. Brent Kidder, Internal Affairs

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COMPLAINT / AUTHORITIES

While there were no specific allegations made at the time this investigation was initiated, the purpose of this investigation was to determine whether K9 Deputy Collier and/or Deputy Allison violated state law, Sheriff's Office Rules and Regulations, and/or Office-Wide policy, more specifically:

RULES AND REGULATIONS REGARDING CONDUCT

5.0 PROCEDURES

B. DUTIES, CONDUCT, AND RESPONSIBILITY

3. Obey Policies and Procedures: Members shall obey and carry out all lawful Sheriff's Office policies, procedures, and other order whether written or oral. Specifically:

300 – Use of Force
309 – Canines
303 – Control Devices and Techniques

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INVESTIGATION

On September 7, 2022, Lieutenant Sean Jones of the Professional Standards Unit assigned me this investigation. The scope of this investigation was specifically focused on whether the amount of force used to take Thornburg into custody was within policy and law.

On May 4, 2023, I downloaded the incident report and all supplemental reports. After reviewing all the reports, I determined Deputy Dunlap was the primary, investigating deputy, Deputy Collier was responsible for deploying his canine partner, and Deputy Allison was responsible for deploying less-lethal shotgun and 40mm launcher rounds at Thornburg. No other deputies were identified as using any force during this incident. Deputy Dunlap's incident report (SD220903-001) read as follows:[2]

> *"On 9/2/22 at approximately 2242 hours, I was dispatched to [redacted] Moody Lane in Geyserville for a domestic disturbance. Victim was reporting her husband was going crazy and was in possession of a firearm.*
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> *"As I responded to the residence, dispatch provided me with the following summary of updates via radio and my CAD terminal: The victim was initially heard yelling "stop". She advised her husband (later identified as Kevin Thornburg) was going crazy and had gun. The female could be heard repeating "take the gun and go inside", and "put the gun down go in the house". The call taker then heard victim yelling "don't shoot the gun". After a period of victim not answering the call taker's questions, she then stated "he is going to shoot me in the head" and "please Kevin, put the gun down". Victim then advised the call taker she was also in possession of a firearm and was running to a neighbor's house located at [redacted] Moody Lane. Victim also stated she and Kevin were intoxicated. Victim then advised she was hiding in a wine cellar at the neighbor's residence. Victim told the call taker she had urinated herself out of fear.*
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> *"Victim's residence is located on Moody Lane which runs north/south in a rural area. The street dead ends approximately 1300 feet to the north of the driveway to the residence and there are no other vehicular access routes to the area. The house is surrounded by vineyards and sparsely located single family residences. The residence is located approximately 220 feet to the east of Moody Lane and is accessed by a narrow gravel driveway surround by trees and vegetation. The property boarders Geyserville High School which is approximately 125 feet south of the residence. The next residence to the north of the property ([redacted] Moody Lane) is approximately 330 feet away on the east side of the street. Moody Lane is not lit by any street lighting nor was there any moonlight, making any visual identification of persons or objects extremely difficult. It should be noted all distances are approximate and were referenced using an online mapping application.*

[2] A copy of Deputy Dunlap's incident report can be found in Exhibits.

"I arrived on scene and activated my BWC. Shortly before arriving, I was advised by dispatch gun shots could be heard in the background by the call taker. I parked on Moody Lane at the south end of Geyserville High School and deployed with my department approved rifle. I proceeded north on foot along Moody Lane to a grove of tall trees located on the northwest corner of Geyserville High School. From my vantage point, I could see several lights on in a residence approximately 350 feet to the northeast, later identified as the suspect residence.

"Upon arriving at the grove of trees, I heard a volley of approximately 5 gunshots coming from the area of the residence. It sounded like the shots were being fired from outside the residence, however it was difficult to ascertain how near to my location the shooter was. While taking cover behind the trees, I heard no less than 3 additional volleys of approximately 5 shots over a 10 minute period. Due to the lack of light and a significant amount of vegetation between myself and the residence, I was unable to ascertain what direction the gunshots were being fired or observe who was firing them.

"It should be noted I regularly work the area (zone 2) in which this call for service was located. During this time of year, I frequently see farm workers and vineyard employees actively harvesting grapes at all hours of the day and night. Additionally, I know custodians and maintenance staff work at schools late into evenings at school grounds. Due to the unfolding circumstances and dangerous nature of the incident, I was unable to thoroughly search the area for potential victims of the gunfire, however I believe there was a likelihood of some in the area of the residence.

"Sheriff's Helicopter Henry One (H-1) arrived on scene and advised they could see a subject at the residence. The subject could be seen gesturing toward H-1 and using a firearm. See Deputy Hass' supplement for further details.

"At this time, no patrol units had been able to contact Victim as the only access was from our location, requiring us to traverse past the driveway to the residence without knowledge of the shooter's location. Attempting to use the vineyard as concealment, Deputy Mittenthal and I moved north on Moody Lane past the driveway to the residence to attempt to locate Victim. As we walked past the driveway, I could hear several more volleys of gunshots.

"Deputy Mittenthal and I were able to locate the Victim in the backyard of [redacted] *Moody Lane. Upon contacting the victim, she was hysterical and appeared to be in an extreme state of fear. After several attempts, we were eventually able to coax her away from the backyard to an area behind* [redacted] *Moody Lane.*

"After getting Victim to a safe area, I attempted to interview her to obtain information to broadcast to units who were forming a perimeter around the suspect residence. Victim

was highly emotional and at times evasive and uncooperative while I was questioning her. Victim appeared hesitant to truthfully and completely answer my questions as she made several statements suggesting she was concerned she would be prosecuted, lose her place of residence, employment or make statements which may incriminate her husband. She also stated she had trouble recalling the events of the evening due to her intoxication. While speaking with Victim, her speech was slow, slurred and I detected and strong odor of an alcoholic beverage which became stronger while she was speaking. At several times during my conversation with her, she alluded to her intoxication and desired to speak with me when she was sober.

"The following is a summary of what I was able to gather from Victim over the course of several interviews: Victim and her husband, Kevin Thornburg, are in a married cohabitating relationship. Victim and Thornburg live together at [redacted] Moody Lane in Geyserville. She and Thornburg both have adult children from previous marriages but have no children in common. Victim told me "Thornburg has been diagnosed with [redacted], [redacted]. Thornburg takes multiple medications for these ailments and is presently seeing a therapist. She also told me she believed Thonrburg had a drinking problem.

"Earlier in the evening, the two went out to dinner at Asahi in Healdsburg. They also made stops at Hartford Family Winery and Lo and Behold where they consumed several alcoholic beverages at each. Victim estimated she had consumed approximately 4 or 5 alcoholic beverages over the course of the night and estimated Thornburg had consumed 7 or 8 alcoholic beverages. Victim described Thornburg as "blackout drunk".

"The two returned to their Moody Lane residence at approximately 1930 hours. At some point, the two began arguing, but victim could not recall why or what about. The argument escalated. At one point, victim retrieved a loaded .38 special revolver from her bedroom nightstand. Victim entered the TV room of the residence where Thornburg presently was. Thornburg was surprised by her possession of the firearm. Victim stated at no point did she threaten Thornburg or point the firearm at him. She then exited the front of the residence and fired one round from the revolver into the air. This agitated Thornburg and escalated the argument. Victim believed she re-entered the residence at this time but was not sure and could not tell me what transpired inside between Thornburg and herself at this time.

"Victim exited the residence again and entered her vehicle with the intention to leave, however she realized she was missing her purse which contained her vehicle keys and phone. She was in possession of Thornburg's phone at this time but it was unclear if she removed it from the residence herself or discovered it in the vehicle. While sitting in the driver seat of the vehicle, Thornburg exited the residence and began throwing vegetables at the windshield of the vehicle she was seated in. She described the vegetables as tomatoes and lemon cucumbers. Eventually, Thornburg through a larger approximately

10-inch object at the windshield which she believed to be a spaghetti squash. She believed the squash caused a crack in the windshield of her vehicle.

"Victim was unsure at which point she observed Thornburg with the firearm. She believed he may have had it while he was throwing vegetables but may have retrieved it afterward. When she observed him with it, she became terrified and fled from the vehicle, north through the vineyard to [redacted] Moody Lane. She described the [redacted] residence as being owned by an acquaintance which she routinely watches and takes care of while the owner is away. It was unoccupied at this time. Victim took shelter in a detached structure on the property and hid in a wine cellar inside the structure until she was advised by dispatch deputies were looking for her outside.

"Victim told me she did not hear any gunshots until after she was inside the wine cellar. She said at no point during the entire incident did Thornburg threaten her, point the firearm at her or threaten her with it. She also stated there was no physical contact or abuse between the two over the course of the night nor has there ever been through the course of their relationship.

"I told victim her statements to me were inconsistent with her statements to dispatch during her initial call, particularly her interaction with Thornburg while he was in possession of the firearm. She told me her recollection of the events was clouded by her intoxication and the chaos of the incident, and it was possible they could have occurred in a manner different than what she had told me. When I asked her for her best recollection, she said she was unable to provide me with an accurate representation of the events.

"Thornburg was later detained by Deputies at the residence. See attached supplements for further details.

"A records check was performed on both victim and Thornburg revealing neither had any firearms registered to them. It was also noted Thornburg had a prior Felony conviction for 245(a) PC in 1988 which was later expunged on 7/13/22.

"Based on the totality of my investigation as well as other representations of involved deputies, I believe there was probable cause to arrest Thornburg for the following charges: 245(a)(2) PC – Assault with a Deadly Weapon, 422 PC – Criminal Threats, 246.3(a) PC – Negligent Discharge of a Firearm, 69 PC – Threaten/Resist Law Enforcement with violence, 148(a)(1) PC – Resisting or Obstructing a Public Officer and 600 PC – Attempt to Injure a Police K9.

"Thornburg was transported to Memorial Hospital for medical clearance where he remained at the time of this report.

"I requested and Emergency Protective Order on Victim's behalf which was granted by Hon. Judge Ottenweller. A copy of the EPO was forwarded to dispatch and entered into CLETS.

"Victim completed and assigned a Victim Confidentiality form as well as a Medical Release form. Victim did not screen during a Domestic Violence Lethality Screening and did not contact a victim advocate. I provided Victim with a case number and resource pamphlet. I later transported Victim to a friend's residence in Santa Rosa at her request.

"I later completed a dispatch audio request for the initial 911 call which was later forwarded to dispatch.

"I collected Thornburg's phone as evidence and booked it into property as item RD1.

"I took digital photographs of victim which were late uploaded to evidence.com.

"End of Report"

Deputy Haas' supplemental report read:[3]

"On 09-02-2022, at approximately 2304 hours, I was assigned as the Tactical Flight Officer (TFO) for the Sheriff's Helicopter "Henry-1." In addition to myself, the aircrew consisted of Pilot G. Lavery.

"On the above noted date and time, we responded to the area of [redacted] Moody Lane, Geyserville, to assist with searching for a suspect, later identified as Kevin Thornburg. The suspect was believed to be in the vicinity of the above noted address and reported to be armed with a gun. Additionally, the suspect was reported to be shooting at the suspect's wife who had fled the above noted residence.

"As deputies arrived on scene, deputies reported, via radio, that they could here gunshots coming from the area of the above noted address.

"It should be noted that during the incident I used the helicopter's onboard camera to aid in my ability to assist ground deputies from the air. This included primarily using the helicopter's infrared (IR) camera to track the suspect's movements and provide that information to ground deputies. I later downloaded the helicopter's camera footage into evidence.

"Upon our arrival, it was believed the suspect was on foot in the area (possibly vineyards surrounding the residence) and deputies continued to hear gunshots.

[3] A copy of Deputy Haas' supplemental report can be found in Exhibits.

"At approximately 2318, I located the suspect exiting what appeared to be the front porch of the residence located at [redacted] MoodyLane. The front porch was located on the north side of the residence, and I watched as the suspect walked down a set of stairs leading from said porch towards two parked vehicles (pickup truck and SUV) in the driveway of the residence.

"Initially upon locating the suspect, and while the suspect was standing in the driveway, it appeared the suspect looked at the helicopter and motioned his arm/hand at the helicopter in a manner similar to "flipping off" the helicopter.

"At approximately 2324 hours, the suspect sat on the front porch steps leading from the above noted front porch and I observed a flash emanate from the suspect. Simultaneously I heard a ground deputy advise they heard gunshots. It was apparent to me that I was seeing a muzzle flash from the suspect shooting a firearm.

"At approximately 2331 hours, I observed the suspect again sit on the front porch steps, put their arms/hands together in a shooting position, aim at the helicopter, and watched a muzzle flash directed at the helicopter. In later reviewing the camera footage it was apparent to me that the suspect had clearly shot their firearm, at the helicopter flying above them.

"At approximately 2332 hours, I saw an additional muzzle flash emanate from the suspect as he was seated on the front porch steps.

"We continued to provide overwatch and tactical updates to the deputies on the ground until we were relived by California Highway Patrol Air Operations helicopter H30.

"At approximately 0100 hours we returned to the Sonoma County Airport to refuel. Prior returning to relieving H30 the incident had concluded, and the suspect was taken into custody.

"It should be noted at the time of writing this report the suspect is currently hospitalized and has yet to be booked into jail.

"Based on the suspects actions, specifically the suspect clearly aiming and shooting a firearm at the Sheriff's Helicopter with myself (a Deputy Sheriff/Tactical Flight Officer) on board I believe the suspect is in violation of 245(D)(1) PC, assault with a firearm on a peace officer. I completed a 964 PC Probable Cause Affidavit (See attached).

"End of supplemental report."

Deputy Collier's supplemental report read:[4]

> *"On 9/2/22 at approximately 2255 hours, I was dressed in full uniform driving a marked patrol vehicle. I responded to [redacted] Moody Lane, Geyserville, for a report of a possible domestic violence with a firearm involved. Dispatch advised the victim ran to the neighbor's residence at [redacted] Moody Lane after the suspect threatened to shoot her in the head. This address was directly north of [redacted] Moody Lane. Dispatch advised the suspect, later identified as Kevin Thornburg, was actively shooting a firearm off as they were speaking with the victim.*
>
> *"Thornburg will be referred to as "suspect" for the remainder of this report.*
>
> *"When I arrived on scene I parked to the south of the residence near a school, [redacted] Moody Lane. As I exited my vehicle, I heard 3-4 gunshots that came from the direction of the suspects residence. From where we were, the suspect residence was in between us and the residence where the victim was at. The only way to get to where the victim was located was to walk or drive past the suspects residence to get to [redacted] Moody Lane. Based on the fact the suspect was actively shooting a firearm I felt it was urgent to get to where the victim was. I feared the suspect was going to walk to [redacted] Moody Lane where the victim was at and confront her again. Form where we were at, we were not able to see if the suspect left the residence or not.*
>
> *"Other deputies and I walked north on Moody Lane towards [redacted] Moody Lane. As we were walking, I heard 3-5 round being discharged from the area of [redacted] Moody Lane. When we got to the driveway of [redacted] Moody Lane I could see the north side of the residence and a vehicle that was parked in the driveway. There was a large redwood tree at the end of the driveway that we took cover behind. From where we were standing the front door to [redacted] Moody Lane was less then 200 feet east of us on the north side of the residence. I had two other deputies go to [redacted] Moody Lane to contact the victim and the occupants of that residence. I remained at this location and did not attempt contact with the suspect. We were there to react to the suspect in case he decided to advance towards [redacted] Moody Lane or attempt to leave the residence.*
>
> *"From the time I arrived on scene until SWAT arrived on scene was over one hour. During that time while I was standing at the end of the driveway behind the tree, I heard the suspect discharge approximately 20 rounds from a firearm. I could not see the suspect or see what the suspect was shooting at. Deputy Camarena was standing next to me and advised he saw muzzle flash coming from the north side of [redacted] Moody Lane. Deputy Haas who was on the helicopter overhead relayed that the suspect came out of the front door numerous times and discharged a firearm in an unknown direction. Deputy*

[4] A copy of Deputy Collier's supplemental report can be found in Exhibits.

Hass also advised the suspect appeared to look up at the helicopter and appeared to have pointed his middle finger at the helicopter.

"When SWAT arrived on scene, I retrieved my K9 partner Duke from my patrol vehicle. Duke is a 3-year-old Belgian Malinois / German Shepherd mix who is POST certified in suspect apprehension. SWAT deputies and I approached the front of the residence behind an armored vehicle. Once we were in front of the residence other deputies made multiple announcements over a PA system telling the suspect to come out the front door with his hands up. The suspect did not comply and refused to follow commands. A deputy observed the suspect sitting in a chair through a window on the north side of the residence. This deputy advised the suspect looked out the window and pointed his middle finger at them.

"We were advised that the victim told a deputy that the suspect had access to hundreds of rounds for his firearms inside the residence.

"The suspect remained in the above noted chair for over 45 minutes and would not comply by surrendering peacefully. At this time a deputy advised the suspect had stood up from the chair and walked towards the kitchen area of the residence out of sight. A few moments later I observed the suspect open the front door and partially step outside onto the small porch. The suspect was wearing what appeared to be boxers and a t shirt. The suspect refused commands to walk down the stairs with his hands up. He pointed his middle finger at us numerous times and told us to "fuck off." At one point the suspect put his right hand partially behind his back. He then quickly moved his hand to the front of his body and again pointed his middle finger at us. Based on his actions, I believed the suspect was attempting to bait us into approaching him or shoot him. The suspect then walked back inside the residence.

"As the suspect was inside, deputies continued to give him commands to come outside and walk towards us with his hands in the air. The suspect continued to not cooperate and refused to cooperate.

"A few minutes later the suspect came out the front door a second time, now wearing pants and a shirt. It was unknown if the suspect was armed with a firearm, but he could have easily been concealing a firearm in his baggy clothing. He continued not to follow commands to walk towards us with his hands in the air. The suspect pointed his middle finger at us and told us to "fuck off" multiple times. Other deputies gave the suspect multiple commands to walk down the stairs and surrender but he refused. He told us to come over there and talk to him. I felt again that the suspect was attempting to bait us in to come to him. It was apparent he was not going to cooperate and surrender.

"I heard another deputy say that the suspect closed the front door to the residence as he was standing at the edge of the porch at the stairway. I did not want to allow the suspect

to re-enter the residence to re-gain access to his firearms. The suspect did not appear to be nervous or scared, and his behavior did not appear to be of one who was wishing to surrender. I felt that approaching him would be unsafe to deputies because he had not been searched, he had recently discharged a firearm multiple time and he was believed to be armed with a firearm. I felt if deputies would approach him he would retreat back into his residence where we knew he had access to firearms, leaving deputies in an unsafe position. Therefore we utilized the use of the canine and less lethal munitions to quickly take the suspect into custody and deescalate the situation. Based on the fact the residence door was closed, and the suspect was standing a few feet away from the door I felt this was the best time to apprehend the suspect with Duke to prevent him from re-gaining access to the residence and weapons.

"I did not give the suspect a verbal K9 announcement for the following reasons. I believed the suspect was armed with a firearm and I did not want to give him an opportunity to gain access to a firearm. The suspect was standing feet from the front door, and I felt a K9 announcement would cause him to run back into the residence where we knew firearms and ammunition were located. Lastly the suspect had shown a pattern of resistance and based on his actions it was apparent he was not going to follow our commands.

"I elected to utilize Duke to apprehend the suspect for the following reasons:

"The suspect had committed a serious offense of negligent discharge of a firearm, the original call for service where the victim stated she was threatened by the suspect, the fact the suspect was known to be armed with a firearm and the fact the suspect was actively resisting deputies. Based on these facts I believed the use of the K9 was reasonable to overcome the suspects resistance, to prevent the suspect form re-gaining access into the home where we knew firearms and ammunition were located, and to safely take the suspect into custody to prevent the suspect and deputies from being more seriously injured.

"I deployed Duke on a long line and gave him the command to apprehend the suspect. A few feet before Duke made contact it appeared the suspect saw Duke and started to turn towards the residence door. Duke made contact with what appeared to be the suspect's mid left leg by biting him. I gave the suspect multiple commands to walk down the stairs towards us but he refused. The suspect started to pull Duke towards the front door of the residence. To prevent the suspect from gaining access to the residence I pulled on the long line and attempted to force the suspect to us. Based on the suspects weight and continued resistance, I was not able to pull the suspect down the stairs.

"Based on the fact the suspect was continuing to resist, not comply with commands to surrender and was actively trying to get back inside the residence, I allowed Duke to continue to bite the suspect.

"As I was pulling, I observed Duke start to come off the suspect. I observed the suspects pants start to rip off. It was apparent Duke had lost his grip and was only holding onto the suspects pants. I believe this occurred as I was pulling the leash in an attempt to get the suspect down the stairs and away from the residence door.

"The suspect was continuing to resist, not follow commands and was actively attempting to re-gain access into his residence where firearms were located. Based on the suspects behavior I gave some slack in the leash and told Duke to apprehend the suspect again. It appeared Duke re-engaged by biting the suspects left thigh area. This caused the suspect to fall backwards and sit down with his back partially to the door.

"There was an approximate 3 foot wooden barrier blocking my view of the suspects lower body, therefore I could only see the suspect from the chest up and only see the back half of Duke. I gave the suspect multiple commands to come down the stairs so I could remove Duke from him but he continued to resist and not comply, therefore I continued to allow Duke to bite the suspect.

"I suspect hands were out of view and appeared to be down in front of him where Duke's head was. I heard the suspect saw something to the effect of "your dog is dying, and you better come get him." I believed the suspect was actively attempting to hurt if not kill Duke. I could still see Duke's back legs and tail moving so I knew he was not dying. I continued to give the suspect commands to walk towards us but he refused and stated he couldn't.

"Up until this point the suspect never made any attempt to give up and comply even after Duke was biting him. Therefore, I believed he was trying to bait us into approaching him to possibly harm us. A few seconds later the suspect showed both of his hands and started to yell. He yelled for me to get the dog off. SWAT Deputies and I approached the suspect with a ballistic shield to make sure the suspect was not armed with a weapon. Once they determined the suspect was not armed, I grasped onto Duke's collar and released him from the suspect's left thigh. Other deputies rendered medical aid to the suspect by applying a tourniquet to his leg.

"I checked Duke for injuries and did not locate any.

"I later responded to Santa Rosa Memorial Hospital. I contacted the suspect and observed him to have tare marks and punctures to his left inner mid-thigh. These injuries were undoubtedly caused by the K9 contact. I was unable to see if he had other injuries caused by the K9 contact due to medical personnel cleaning the suspect and providing him medical care. I also was unable to obtain photographs of the suspects injuries at this time due to medical staff actively providing care to the suspect.

"Another deputy obtained photographs of the suspects injuries at a later time.

"I spoke with the suspect regarding the K9 use and he stated the following in summary:

"The suspect claimed he walked outside and the dog bite him and he got shot up. The suspect claimed he didn't do anything violent but then stated he was crazy and was shooting "shit up." He stated he doesn't blame me for using the dog and it was kind of crazy. I advised him that he was not cooperating, and I did not want to let him back inside the residence. He told me he understood and stated he did have a gun. I asked him why he did not just surrender before the dog bite him, and he stated he does not know. He stated he was drunk and had no idea. As he said this he was laughing as if he thought it was funny. I asked him where the dog bit him and he stated his left leg. He also thinks the dog bit him in the right arm when he tried to grab the dog. The suspect stated he grabbed the dog's neck and tried to choke him to get him off. I asked him if he was trying to kill my dog and he stated he was. I asked him if he had any questions about the K9 use and he stated he did not. He stated the dog just did his job.

"This was captured on my BWC. My BWC was accidently turned off a couple times due to equipment hitting it or talking tactics with the SWAT team. The camera was activated during the contact with the suspect and when the suspect was actively shooting while we were on scene.

"Nothing further."

Deputy Allison's supplemental report read:[5]

"On 09/02/22, at approximately 2311 hrs, I received an emergency callout notification to respond to [redacted] *Moody Ln, Geyserville. I was responding as a member of the Sonoma County Sheriff's Office's Special Weapons and Tactics (SWAT) team.*

"While en-route, I learned the suspect, Kevin Thornburg, had been discharging a firearm after a domestic disturbance and continued to discharge a firearm with Deputies on scene. Refer to Deputy Dunlap's original report for additional information.

"I activated my BWC to record the contact.

"Once the necessary personnel were in place, SCSO SWAT Deputies utilized the armored rescue vehicle (ARV) as cover and positioned it in the driveway with a direct line of sight to the front door to the residence and windows on the designated #2 side. I was assigned to the arrest team and less lethal munitions.

[5] A copy of Deputy Allison's supplemental report can be found in Exhibits.

"The suspect could be seen sitting on a couch by team members, but was not responsive to verbal announcements via the ARV PA system.

"After approximately 40 minutes of being positioned in the driveway and attempting to make verbal contact with the suspect, Thornburg exited the residence onto the front porch. The suspect was wearing underwear and eating a popsicle. The suspect continued to gesture with his middle finger and refused to cooperate, despite being given the opportunity for a peaceful surrender. The suspect was reaching toward his waistline and ultimately chose to re-enter the residence.

"At approximately 0134 hrs, the suspect exited the residence again, this time wearing a button up style shirt and pants. While Sgt Parks communicated with the suspect, he would reach toward the rear of his waistband with his right hand, despite being ordered to exit the residence with his hands in the air and nothing in them. I believed the suspect was attempting to either bait Deputies into a violent confrontation, or was in fact still armed with a firearm and was building the courage to retrieve it from his waist area.

"The suspect had discharged numerous rounds from a firearm and reportedly had access to at least 200 rounds of ammunition, per the victim. It was unknown if the suspect was still armed, due to his clothing and defiant demeanor. From my vantage point, the front porch was a relatively short distance away, up a series of steps, with a short "pony wall" protruding to the right, which led to the front door. There was a vertical wooden support beam from the left edge of the "pony wall" to the ceiling.

"K9 Deputy Collier made the decision to deploy his Police canine; refer to his supplemental report for additional information. Due to the fact it was still unknown if the suspect was armed, his refusal to follow commands to walk toward awaiting Deputies with his hands in the air, and the immediate necessity to prevent him from returning into the residence, which would further endanger Deputies and members of the public's lives, I deployed a kinetic energy projectile (12ga Rubber Slug) from a distance of approximately 50 feet. I loudly announced, "Less lethal, less lethal!"

"After gaining no response from the suspect, I continued to engage him with less than lethal munitions, and continuously evaluated each round's effectiveness after each application. I changed target locations in an attempt to gain compliance and avoided targeting the suspect's head, neck, and groin. Once the canine engaged Thornburg, he continuously shifted his body position in an apparent effort to re-gain access to the residence. During the less than lethal munition deployment, the suspect told Deputies, "You're dog is dying," and it appeared he was choking the canine, who was partially concealed behind the pony wall on the porch.

"After five kinetic energy projectiles (12ga- foam baton) had been utilized, with no effect, and the suspect still actively fighting the Police canine, I retrieved a 40mm less lethal

launcher. In an effort to avoid a deadly force confrontation, I loudly announced, "40, 40, 40" and deployed a foam baton round and a sponge round. One of the less lethal rounds struck the porch support beam and not the suspect. Thornberg took a seated position and appeared to give up. He was concealed behind the pony wall and it was still unknown if he was armed, due to the fact he was not listening to commands and making his hands readily visible.

"SWAT team members moved toward the suspect with a ballistic shield and took him into custody on the front porch. I assisted Deputy Peters in handcuffing the suspect (2 sets) and immediately began providing medical aid to the suspect's injured left thigh. I began to place a tourniquet around the suspect's left thigh, along with Sgt Mitchell. Prior to tightening, I was replaced by another Deputy who had donned protective gloves.

"I informed Sgt Mitchell of the blood exposure on scene.

"Attach to the original report."

On May 9, 2023, I began reviewing the associated Body Worn Camera footage of this incident. I located 45 different BWC recordings from 21 different sources. During my review, I identified the specific BWC videos which depicted Thornburg's actions and/or the actions of the deputies on scene, including the videos specific to the force used on Thornburg. Below are summaries of the pertinent BWC videos.

Summary of Deputy Dunlap's BWC video(s):[6]

Deputy Dunlap had five separate videos associated with this incident. None of Deputy Dunlap's videos recorded the force used on Thornburg. Deputy Dunlap's first video began while he was apparently running. Deputy Dunlap advised dispatch he was on-scene and had deployed his rifle. The following timestamps designate when and how many gunshots can be heard on Deputy Dunlap's first video. All times are in the (hh:mm:ss) format:

- 00:01:51 - six gunshots
- 00:06:01 – six gunshots
- 00:10:50 – six gunshots
- 00:13:54 – six gunshots
- 00:16:46 – six gunshots
- 00:18:09 – six gunshots
- 00:31:44 – three gunshots
- 00:32:05 – one gunshot

[6] Links to Deputy Dunlap's BWC videos can be found in Exhibits.

At the 00:18:09 mark, I observed notable physical and verbal reactions to the gunshots, by both Deputy Dunlap and Deputy Mittenthal, as they made their way toward the victim. When the gunshots rang out, Deputy Dunlap appeared to duck and can be heard saying "Jesus" and "fuck". Deputy Mittenthal can be heard saying "holy shit".

Also notable was the fact the victim had emerged approximately two seconds before the shots Thornburg fired off at the 00:31:44 mark on Deputy Dunlap's video. It was unknown to the deputies if Thornburg was firing at the victim.

The rest of Deputy Dunlap's first video consisted of both Deputy Dunlap and Deputy Mittenthal escorting the victim to safety and trying to ascertain exactly what occurred between her and Thornburg. It was evident from the video the victim was intoxicated and reluctant to answer the deputies' questions.

Deputy Dunlap's second video depicted him asking the victim additional questions about what had occurred. During this video, the victim indicated she was concerned Thornburg was going to kill himself.

Deputy Dunlap's third video depicted him escorting the victim back to the wine cellar, where she was hiding, to locate the revolver she left behind. Deputy Dunlap took photographs of the firearm, then left the firearm behind again for detectives to collect.

Deputy Dunlap's fourth video showed him transport the victim a few different times. It showed he transported the victim between scenes, from the scene to the Geyserville Inn, and from the Geyserville Inn to a friend's residence, once it was determined the Geyserville Inn did not have any vacancy.

Deputy Dunlap's fifth video was a phone call he had with the victim the following day.

Summary of Henry-1 video:[7]

The recorded video footage from the Sheriff's Helicopter "Henry-1" was mostly from a camera in a thermal imaging mode. It did not show the force used in order to take Thornburg into custody; however, it showed Thornburg's actions on and around the porch at the residence.

Approximately 14 minutes into the footage, Thornburg can be seen walking down the steps of the porch. For the next minute or so, Thornburg was doing something near one of the vehicles parked in front of the residence.

At approximately the 00:15:19 mark in the video, it appeared Thornburg gestured, as if to exhibit his middle finger, toward the helicopter.

[7] A link to Henry-1's video can be found in Exhibits.

After going into the residence for a few minutes, Thornburg re-appeared on porch. He began to walk down the stairs, but ended up falling backwards, coming to a rest in a reclined position on the stairs. At the 00:19:49 mark in the video, a distinct flash from Thornburg's hands can be seen in the video. The suspect returned into the residence.

At the 00:25:26 mark in the video, Thornburg returned to the porch and appeared to stumble onto the railing of the porch. Once he regained his balance, at the 00:26:46 mark, Thornburg brings both hands together and appeared to point at the helicopter. Another distinct flash from Thornburg's hands can be seen. At the 00:28:28 mark, a third distinct flash is visible on the video footage.

Thornburg only reappeared one more time on the video footage, at the 00:35:33 mark, as he briefly stood on the porch while holding onto a pillar for balance.

The footage continued for approximately one hour and twenty minutes after Thornburg's last appearance on the porch. The only notable footage during that time was the SWAT team used the Bear Cat to approach the residence down the driveway (01:37:15) and members of the SWAT team moved to a position to the north of the residence (01:45:24).

Henry-1 left the scene before Thornburg was taken into custody; therefore, the use of force was not captured on this video. There was no subsequent Henry-1 video due to the fact the incident resolved before Henry-1 returned to the scene.

Summary of Deputy Collier's BWC video(s):[8]

Deputy Collier also had five videos associated with this incident. The first three videos did not show the force used on Thornburg in order to take him into custody. The first video recorded Deputy Collier's arrival on scene and began with him running to other deputies' location. The following timestamps designate when and how many gunshots can be heard on Deputy Colliers's first video. All times are in the (hh:mm:ss) format:

- 00:06:20 – six gunshots
- 00:09:24 – six gunshots
- 00:12:16 – six gunshots
- 00:13:39 – six gunshots
- 00:27:13 – three gunshots
- 00:27:35 – one gunshot
- 00:33:33 – one gunshot
- 00:34:12 – one gunshot

[8] Links to Deputy Collier's BWC videos can be found in Exhibits.

- 00:35:03 – one gunshot
- 00:35:54 – two gunshots
- 00:43:12 – one gunshot

Other significant timestamps on Deputy Collier's first video include:

- 00:12:27 – Deputy Camarena stated he saw a flash.
- 00:41:22 – While discussing tactics, deputy stated "he's already been poppin' shots at us, he knows that we're here."
- 01:00:03 – Deputy Collier stated "a couple of times it sounded like they were like…whizzing over our heads"

At the end of Deputy Collier's first BWC video, while discussing the approach and other tactics, SWAT deputies anticipated taking rounds once they illuminate Thornburg's residence.

Deputy Collier's second BWC video, which was only two minutes and 13 seconds long, appeared to pick up where his first video left off. It did not record anything significant or notable.

Deputy Collier's third BWC video, which was 57 minutes and 18 seconds long, began with Deputy Collier and other SWAT deputies behind the Bear Cat discussing tactics. Deputies used the Bear Cat as cover to approach Thornburg's residence. Once personnel was in place, and after adjusting their positioning, tactics were again discussed. Sgt. Parks and other members of the Sheriff's Office were heard attempting to establish communication with Thornburg via the Bear Cat's PA system and via voice commands. The following timestamps document when attempts to establish communication with Thornburg can be heard on this video, and who attempted to establish communication. All times are in the (hh:mm:ss) format:

- 00:12:18 – SWAT Sgt. B. Parks
- 00:16:59 – SWAT Sgt. B. Parks
- 00:44:17 – SWAT Deputy T. Hardeman
- 00:44:32 – SWAT Deputy T. Hardeman
- 00:44:52 – SWAT Deputy T. Hardeman
- 00:45:11 – SWAT Deputy T. Hardeman
- 00:45:40 – SWAT Deputy T. Hardeman
- 00:46:26 – SWAT Deputy T. Hardeman
- 00:47:09 – SWAT Deputy T. Hardeman
- 00:47:24 – SWAT Deputy T. Hardeman
- 00:47:36 – SWAT Deputy T. Hardeman
- 00:47:49 – SWAT Sgt. B. Parks (Voice)
- 00:48:27 – SWAT Deputy T. Hardeman
- 00:49:16 – SWAT Deputy T. Hardeman

- 00:50:14 – SWAT Deputy T. Hardeman
- 00:50:47 – SWAT Deputy T. Hardeman
- 00:51:17 – SWAT Deputy T. Hardeman
- 00:52:07 – HNT Deputy H. Rodriguez (Crisis Negotiator)
- 00:53:53 – HNT Deputy H. Rodriguez (Crisis Negotiator)
- 00:55:09 – HNT Deputy H. Rodriguez (Crisis Negotiator)
- 00:56:10 – HNT Deputy H. Rodriguez (Crisis Negotiator)
- 00:56:29 – HNT Deputy H. Rodriguez (Crisis Negotiator)
- 00:56:50 – SWAT Sgt. B. Parks (Face to face)

Deputy Collier's video suddenly stopped recording. The actual time on the recording, according to Deputy Collier's BWC, at the time the video stopped was 01:34:39 hours. At the time the video stopped recording, SWAT Sgt. B. Parks was actively communicating with Thornburg.

Deputy Collier's forth BWC video, which was approximately nine minutes and five seconds long, began approximately twelve seconds after his third BWC stopped recording (01:34:51 hours). The audio feature activated approximately three seconds after the video started, and SWAT Sgt. B. Parks was heard communicating with Thornburg.

At 00:00:08 seconds into Deputy Collier's fourth BWC video, Deputy Collier confirmed Thornburg's front door was closed. Once confirmed, Deputy Collier advised he could send his canine partner. Approximately 11 seconds after he gave the advisement, Deputy Collier released his canine partner, who was attached to a long leash.

In Deputy Collier's BWC video, just before his canine partner reached the steps to Thornburg's residence, a distractionary device was deployed. Deputy Allison can be heard deploying the less-lethal shotgun almost immediately after the distractionary device was deployed.

Due to the location of Deputy Collier's BWC, I was not able to ascertain the exact moment when Deputy Collier's canine engaged Thornburg. Approximately 33 seconds into Deputy Collier's fourth video, HNT Deputy H. Rodriguez was heard telling Thornburg not to fight the dog. Approximately 44 seconds into the video, Deputy Collier ordered Thornburg to "come down here" and "bring me the dog". HNT Deputy H. Rodriguez used the PA system to tell Thornburg to walk toward the deputies and he advised Thornburg the canine would not stop biting him.

Approximately one minute and seven seconds into the video, Thornburg was heard saying "he's dyin". Deputy Collier yelled at Thornburg to not kill the canine.

Approximately 01:19 into the video, the sound of the first round from a 40mm launcher was heard being deployed. Thornburg was heard asking for the canine to be released. Deputy Collier continued to tell Thornburg to walk and bring the canine to him.

The second round of the 40mm launcher was heard being deployed approximately 01:31 into Deputy Collier's video. Deputy Collier again told Thornburg to walk toward him. Thornburg responded by stating he was tired of being told to do so.

Approximately 01:40 into Deputy Collier's BWC video, a group of SWAT deputies and Deputy Collier can be observed approaching Thornburg, using a tactical shield for cover. Deputy Collier followed the group as they approached Thornburg.

Once SWAT deputies contacted Thornburg on the porch of his residence, Deputy Collier moved up the stairs, to where his canine was engaged with Thornburg. At the 01:57 mark, Deputy Collier began giving his canine commands to release from the bite. The canine released after being given one set of commands. Approximately three seconds after the canine released and was removed, Deputy Collier advised the other deputies to place a tourniquet on Thornburg's leg.

After Deputy Collier removed his canine partner from the bite, I observed multiple SWAT deputies start tending to Thornburg. At approximately 03:11 into Deputy Collier's video, Sgt. Parks directed medical personnel to stage behind the Bear Cat.

Deputy Collier checked his canine partner for injuries, due to the fact Thornburg made the statement he (the canine) was dying. Deputy Collier did not find any injuries. At 08:29 into Deputy Collier's video, SWAT Deputy R. McMasters told Deputy Collier he believed Thornburg was choking the canine while it was engaged on Thornburg. Deputy Collier turned off his camera shortly after this discussion.

Deputy Collier's fifth BWC video, which was approximately seven minutes and 54 seconds long, recorded his interaction with Thornburg at the hospital. The video began inside the hospital and depicted hospital staff cleaning Thornburg's wounds. The first 30 seconds of the video did not have any audio, in accordance with manufacturer's settings. In the first 90 seconds of the video, Thornburg initially stated he didn't know why the canine was sent, but then made the following statements:

- "I was crazy"
- "It is what it is dude"
- "I mean if anybody's got a gun and shooting peop…shit up…know what I mean…I, I mean…I was just shooting shit up"
- "I don't blame you, yeah, I don't blame you…it was kind of crazy"

When Deputy Collier asked Thornburg why he didn't surrender, Thornburg stated he went to put pants on because he knew he was going to go to jail, but when he returned to the porch, the canine was sent. When Deputy Collier tried to explain to Thornburg that the canine was not sent immediately, Thornburg stated he didn't know and admitted he was drunk.

During the interview, Thornburg admitted to grabbing the canine and choking him in order to get it off of him (02:40). When asked, Thornburg told Deputy Collier he was in fact trying to kill the canine because he thought the canine was trying to kill him (02:54).

After Thornburg begrudgingly apologized for trying to kill Deputy Collier's canine, Deputy Collier asked Thornburg if he understood that he was shooting off an unknown number of rounds. Thornburg replied he was "intoxicated" and "stupid", but explained the victim pointed a gun at him first. He went on to explain that was the third time he had a gun pointed at him and after the second time, he told himself, "The next person who pulls a gun on me, I'm going to light 'em up, and I did." Deputy Collier asked if he was trying to shoot the victim. Thornburg stated he was not shooting at the victim, rather he shot the dirt (03:26 - 05:10).

Deputy Collier asked Thornburg if he had any questions about the canine deployment. Thornburg did not and told Deputy Collier he understood Deputy Collier was just doing his job. He also told Deputy Collier he didn't actually mean to kill the canine, rather it was a metaphor for trying to get the canine off of him (05:23-05:52).

Thornburg admitted "it got ugly", to which Deputy Collier agreed. Deputy Collier clarified with Thornburg as soon as the canine bit him, he tried to go back into the house, as opposed to walk down the stairs. Thornburg didn't remember how the event unfolded and Deputy Collier reiterated some of the facts. As Thornburg was recalling the chain of events as he remembered them, hospital staff told Deputy Collier to stop talking to Thornburg because they needed to tend to his injuries. Deputy Collier was told he could talk to Thornburg after they were done (06:00 - 06:32).

Deputy Collier's interaction with Thornburg ended and after a brief interaction with hospital staff regarding Deputy Collier wearing a mask, Deputy Collier stepped out of the hospital room. He stopped the recording on his BWC approximately thirty seconds after stepping out of the hospital room.

Summary of Deputy Allison's BWC video:[9]

Deputy Allison's BWC video was approximately one hour, four minutes and five seconds in duration. Due to factory settings on the camera, there was no audio for the first 30 seconds of the video. The video began with Deputy Allison and other SWAT deputies at the rear of the Bear Cat, which began moving at the time the audio began. Deputy Allison and the other SWAT deputies followed behind the Bear Cat in order to get into position.

Once SWAT was in position, they were able to confirm Thornburg was inside his residence and he was moving around inside.

[9] A link to Deputy Allison's BWC video can be found in Exhibits.

Deputy Allison advised Deputy Collier he would be on his left side with the less-lethal shotgun. Deputy Collier advised a vehicle parked in front of Thornburg's residence could potentially become an obstacle for his canine, if deployed from their position.

SWAT Sgt. B. Parks attempted to communicate with Thornburg via the PA system in the Bear Cat. Sgt. Parks identified himself, advised he was from the Sonoma County Sheriff's Office, and asked him to come out of the residence, unarmed, with his hands visible. He asked Thornburg if he could hear him, and requested he raise his hand, to confirm Thornburg could hear him. Sgt. Parks advised the Sheriff's Office was not leaving until he came out of the residence (10:35 - 17:34).

Sgt. Parks requested a fellow SWAT member contact SWAT Lt. Cutting, to request the deployment of a distractionary device in order to produce stimulus, in order to get Thornburg to acknowledge their presence, to ensure Thornburg was not having a medical emergency. During that conversation, SWAT Deputy L. Matelli also requested a drone respond (17:35 – 20:25).

SWAT Deputy McMasters was heard telling the personnel on scene he had prepared and staged various less-lethal devices, including a shield, in preparation of whatever transpired between them and Thornburg. An arrest team was confirmed to have been established and tactics regarding the porch light were discussed (23:19 – 24:07).

SWAT Deputies Peters and Allison were heard discussing a plan if Thornburg ran out of the residence. Deputy Collier advised another canine team was on scene, which caused the group, including SWAT Deputy L. Matelli to discuss the tactics regarding the placement of that second canine team (38:23 – 40:44).

SWAT Deputy T. Hardeman was heard attempting communication with Thornburg via the PA system in the Bear Cat. Deputy Hardeman repeatedly announced to Thornburg that the Sheriff's Office needed to speak with him, they weren't going away, they needed to resolve the issue, and he gave Thornburg directions on how to exit the residence safely. Deputy Peters advised Thornburg went to the door. Deputy Hardeman got on the PA and told Thornburg to come back outside, and again gave him direction on how to come out of the residence safely (42:34 - 46:03).

Sgt. B. Parks was heard taking over voice communication once Thornburg was out of the residence. He told Thornburg the Sheriff's Office was worried about him, they weren't going to leave, and he asked Thornburg to walk to the landing on the stairs. While Sgt. Parks was talking to Thornburg, Deputy Collier was asked what his line in the sand was; to which Deputy Collier advised "if he gets half-way down the stairs". Deputy Peters suggested moving to a vehicle to send the dog from. Deputy Collier stated they could, but also said Thornburg didn't appear to be armed. Deputy Peters suddenly advised he observed Thornburg reaching for his waistband. Sgt. Parks advised Thornburg stated he was going to go back inside the residence to put pants on.

Deputy Hardeman told Thornburg, via the PA system, to put his pants on and come back outside (46:05 – 49:20).

While Thornburg was inside his residence, Deputy Allison and Deputy Collier conversed regarding a deployment plan. Deputy Allison stated he would not be able to deploy less-lethal from his location. Sgt. Parks requested Deputy Collier and Deputy Allison to group up to discuss tactics. Sgt. Park's comments were centered around a scenario where Thornburg was unarmed. Deputy Allison interjected and stated there was no way for the deputies to know for certain if Thornburg was unarmed, especially because he returned into his residence to put pants on. Deputy Allison suggested a plan to move the Bear Cat forward, which afforded Deputy Collier a better line of sight to deploy the canine. Sgt. Parks agreed to Deputy Allison's plan. Once they agreed to move the Bear Cat, HNT Deputy H. Rodriguez took over the PA. He introduced himself, stated he understood he (Thornburg) didn't want the Sheriff's Office there, but told Thornburg he needed to talk, and he provided directions to Thornburg about how to exit the residence (49:11 - 50:54).

After the Bear Cat was moved, Deputy Rodriguez resumed attempts at communication via PA announcements. He again provided direction to Thornburg on how to come out of the house safely. Deputy Rodriguez's attempts were successful, as Thornburg returned to the porch. Sgt. Parks resumed face-to-face communication with Thornburg once he was outside his residence. He confirmed Thornburg could hear him and he told Thornburg to be careful where he put his hands. Thornburg engaged in conversation with Sgt. Parks, until it was determined the door to Thornburg's residence was closed. Deputy Collier deployed his canine and a distractionary device was deployed. The canine can be seen running to the stairs, but due to the light on the porch, Thornburg was not visible in the footage. Once the canine was sent, Deputy Allison deployed five rounds with the less-lethal shotgun. Again, due to the lighting, I was not able to ascertain which rounds, if any, impacted Thornburg. Deputy Allison secured the empty less-lethal shotgun and retrieved a 40mm launcher. After Thornburg failed to comply with multiple commands to bring the canine to Deputy Collier, and Thornburg stating the canine was dying, at Deputy Collier's request, Deputy Allison deployed the 40mm launcher. Deputy Allison deployed two 40mm rounds. Again, due to the lighting I was unable to see where or what the rounds struck (52:11 -57:15).

After deploying the 40mm launcher, the arrest team and other SWAT members approached Thornburg. Deputy Allison approached with the arrest team and contacted Thornburg at the landing of porch. In the video, I could see Thornburg had blood on the inside of his left leg. Twice I heard Deputy Collier advise to put a tourniquet on Thornburg's leg and I heard Sgt. R. Mitchell also direct personnel to place a tourniquet on Thornburg's leg. In the video, Deputy Allison, without donning protective gloves, immediately deployed a tourniquet. He and another SWAT Deputy realized Thornburg's leg was too big for one tourniquet, so they combined their tourniquets to accommodate Thornburg's leg. Once Deputy Allison began to place the tourniquet around Thornburg's leg, Deputy L. Matelli advised he had gloves and took over

Deputy Allison's role. Deputy Allison removed himself from the porch to wash his hands (57:15 - 59:03).

Deputy Allison's BWC video did not show any further interaction with Thornburg.

Summary of Sergeant Parks' BWC video(s):[10]

Sgt. Parks' first video was approximately 28 minutes and 27 seconds long. It began with Sgt. Parks near the front, driver's door of the Bear Cat, as his camera pointed into the cab of the vehicle. The first 30 seconds of Sgt. Parks first video had no audio, due to standard settings. When the audio feature on Sgt. Parks' video activated, various SWAT members were heard confirming Thornburg was being observed and various radio traffic could be heard.

Sgt. Parks began attempting to contact Thornburg via the PA system on the Bear Cat. He introduced himself to Thornburg, identified himself as being with the Sheriff's Office, and he asked Thornburg to come out and talk. He also asked Thornburg to wave to them, to indicate he was okay. Over the course of approximately seven minutes, Sgt. Parks repeatedly expressed concern for Thornburg, he told Thornburg they were not going to leave, and he requested Thornburg come out of the residence with nothing in his hands (04:52 – 11:45).

When his attempts at communication were unsuccessful, Sgt. Parks requested a SWAT Team member call SOU Commander Cutting to request permission to deploy a distractionary device to "stimulate any response", based on his concern Thornburg may have been having a medical emergency (11:53).

For approximately the next fifteen minutes of Sgt. Parks' video, he and various SWAT Team personnel discussed tactics and other potential resources. During this time, Sgt. Parks told an arriving member that Thornburg was known to be sitting on the couch inside his residence.

Approximately 26:09 into the video, while continuing to discuss tactics, a SWAT Team member stated, "we already know he's armed."

SWAT Deputy McMasters discussed taking advantage of Thornburg's inactivity in order to allow him to scout the outside of the residence. Sgt. Parks turned off his camera soon after.

Sgt. Parks' second BWC video began approximately eight minutes after the recording was stopped on his first video. The second video was approximately 22 minutes and 38 seconds long. Again, there was no audio for the first 30 seconds of this video, due to standards settings.

[10] Links to Sgt. Parks' BWC videos can be found in Exhibits.

When the audio began, I could hear SWAT Deputy Hardeman giving Thornburg commands over the Bear Cat's PA system. Multiple personnel advised Thronburg was coming to the front door; however, Deputy Hardeman indicated he lost sight of Thornburg.

Based on the audio in the video, Thornburg briefly opened the door of his residence and then retreated back inside. Deputy Hardeman gave more commands, which caused Thornburg to come back outside. Sgt. Parks attempted to initiate a face-to-face conversation with Thornburg once he was outside. Thornburg could not be heard replying to Sgt. Parks; however, Sgt. Parks stated Thornburg indicated he was going back inside to put pants on and return (02:52 – 04:00).

While Thornburg was back inside his residence, Deputy Hardeman continued to give Thornburg directions on how to exit his residence. Various personnel on scene were heard discussing tactics, including K9 Deputy Collier's "line in the sand".

At approximately 07:41 into Sgt. Parks' seconds video, HNT Deputy Rodriguez was heard attempting to contact Thornburg using the PA system.

The Bear Cat was repositioned and HNT Deputy Rodriguez continued attempting to communicate with Thornburg over the PA system.

At approximately 11:59 into the video, multiple personnel advised Thornburg was coming out of the house again. Once he was outside, Sgt. Parks began face-to-face communication.

While Sgt. Parks was communicating with Thornburg, K9 Deputy Collier was advised the front door to the residence was closed. Sgt. Parks stated, "it's on you, bang out". Deputy Collier deployed his canine as was a distractionary device and the less-lethal shotgun (12:58 – 13:25).

While Deputy Collier's canine partner was engaged with Thornburg, Canine Deputy Collier was heard telling Thornburg to "come down here" with the dog. Sgt. Parks' video showed Deputy Collier working the canine's long-leash. An unknown deputy was heard saying "move up"; however, Sgt. Parks directed everyone to "hold on" and "wait". Not only was Deputy Collier heard giving commands to Thornburg about bringing the canine to him, but HNT Deputy Rodriguez was also heard telling Thornburg not to fight the dog over the PA system. After Thornburg stated, "He's dyin'", regarding the canine, Deputy Collier requested a 40mm launcher be deployed (13:27 – 14:08).

Deputy Allison was heard deploying two rounds the 40mm launcher, while Deputy Collier continued to give Thornburg commands to bring the canine toward him (14:10 – 14:30).

The arrest team approached Thornburg soon after the last 40mm launcher round was deployed. The arrest team took Thornburg into custody as described in earlier BWC video summaries. The rest of Sgt. Parks' video depicted personnel tending to Thornburg's injuries. Paramedics arrived on scene (18:38) and took over medical aid for Thornburg.

Sgt. Parks turned off his video once Thornburg was loaded onto a gurney and wheeled to an ambulance.

On August 3, 2023, I listened to the dispatch audio, including the 9-1-1 phone call the victim made to Sheriff's Dispatch.[11] On the audio recordings, the victim made statements, including the following:[12]

- "Fucking come to my house, my husband's crazy right now, he has a gun." (00:16)
- "Oh my god, don't shoot the gun." (01:37)
- "He says he's going to shoot me in the head." (02:39)
- "I'm dying tonight." (02:49)
- "He's gonna kill me." (07:46)
- "He's shooting the gun." (09:17)
- "I just don't want to die tonight." (32:13)

Repeatedly throughout the dispatch audio and 9-1-1 phone calls, either the call taker or the deputy confirmed they heard gunshots. This audio also confirmed dispatch appropriately relayed pertinent information from the victim to the deputies on scene.

On August 7, 2023, I reviewed the associated use of force report (22-UOF-0371) related to this incident.[13] I observed the incident was reviewed by Sgt. Parks and Lt. Piccinini. Sgt. Parks determined the use of force was "within policy" on September 3, 2022, and Lt. Piccinini found the use of force to be "within policy" on September 8, 2022. On September 13, 2022, Lt. Jones noted the case was being reviewed under this case number (22-IA-0009).

Due to the fact both Deputy Collier and Deputy Allison clearly articulated their use of force in their respective written reports, and the fact their BWC footage corroborated the information contained in their written reports, it was clear they used force, it was clear the force used was reasonable after assessing the totality of the circumstances, and the force was properly documented. Therefore, I determined further questioning of the deputies was unnecessary.

[11] The dispatch audio and 9-1-1 phone calls can be found in Exhibits.
[12] The time in parentheses indicates the timestamp when the statement could be heard on the recording.
[13] Use of Force Report 22-UOF-0371 can be found in AIM.

SONOMA COUNTY SHERIFF'S OFFICE
INTERNAL AFFAIRS INVESTIGATION
22-IA-0009

CONCLUSIONS AND FINDINGS



DEPUTY ALAN COLLIER

Date of Hire: 11/12/2013

Last two Evaluations:

6/30/21 – 6/30/22 – Exceeds Standards
6/30/20 – 6/30/21 – Exceeds Standards



DEPUTY MICHAEL ALLISON

Date of Hire: 11/25/2014

Last two Evaluation:

7/31/21 – 6/30/22 – Exceeds Standards
7/1/19 – 6/30/20 – Outstanding

This Internal Affairs investigation was initiated because Thornburg sustained a serious bodily injury due to the force used on him during his arrest. The scope of this investigation was focused on evaluating the force used, specifically the canine deployment (Deputy Collier) and the deployment of less-lethal shotgun and 40mm launcher munitions (Deputy Allison), and to determine if the force used was lawful and within Sheriff's Office Policy.

At the time of this incident, California Penal Code Section 835a(a)(4) stated: *"That the decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgements about using force."*

California Penal Code Section 835a(b) stated: *"Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance."*

Sonoma County Sheriff's Office Use of Force Policy 300.3 stated: *"Deputies shall use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances known to or perceived by the deputy at the time of the event to accomplish a legitimate law enforcement purpose (Penal Code § 835a).*

The reasonableness of force will be judged from the perspective of a reasonable deputy on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that deputies 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 a deputy might encounter, deputies are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. Deputies may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance (Government Code § 7286(b)).

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

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

This investigation determined the facts Deputy Collier and Deputy Allison knew prior to and at the time force was used were, Thornburg had threatened to shoot the victim, he had been recklessly shooting a firearm outside of his residence, and he had access to hundreds of rounds to his firearms inside his house.

In his report, Deputy Collier wrote: *"The suspect had committed a serious offense of negligent discharge of a firearm, the original call for service where the victim stated she was threatened by the suspect, the fact the suspect was known to be armed with a firearm and the fact the suspect was actively resisting deputies."* He also wrote: *"We were advised that the victim told a deputy that the suspect had access to hundreds of rounds for his firearms inside the residence."*

Deputy Allison wrote: *"The suspect had discharged numerous rounds from a firearm and reportedly had access to at least 200 rounds of ammunition, per the victim. It was unknown if the suspect was still armed, due to his clothing and defiant demeanor."*

When evaluating the reasonableness of force, Sheriff's Office Policy 300.3.2 stated: *"When determining whether to apply force and evaluating whether a deputy has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit (Government Code § 7286(b)). These factors include but are not limited to:*

a. *The apparent immediacy and severity of the threat to deputies or others (Penal Code § 835a).*
b. *The conduct of the individual being confronted, as reasonably perceived by the deputy at the time (Penal Code § 835a).*
c. *Deputy/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of deputies available vs. subjects).*
d. *The conduct of the involved deputy leading up to the use of force (Penal Code § 835a).*
e. *The effects of suspected drugs or alcohol.*
f. *The individual's apparent mental state or capacity (Penal Code § 835a).*
g. *The individual's apparent ability to understand and comply with deputy commands (Penal Code § 835a).*
h. *Proximity of weapons or dangerous improvised devices.*
i. *The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.*
j. *The availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).*
k. *Seriousness of the suspected offense or reason for contact with the individual prior to and at the time force is used.*
l. *Training and experience of the deputy.*
m. *Potential for injury to deputies, suspects, bystanders, and others.*
n. *Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the deputy.*
o. *The risk and reasonably foreseeable consequences of escape.*
p. *The apparent need for immediate control of the subject or a prompt resolution of the situation.*
q. *Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the deputy or others.*
r. *Prior contacts with the subject or awareness of any propensity for violence.*
s. *Any other exigent circumstances.*

Government Code Section 7286(b) requires law enforcement agencies to not only de-escalation a situation when feasible, but to also use a level of force *"that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance."* In this incident, it was clear Thornburg was armed throughout this incident, he threatened the victim's life, and he negligently fired off over 30 rounds of ammunition, some of which were directed at the Sheriff' Office Helicopter, and the deputies themselves. Even though it appeared Thornburg was unarmed at the time the canine and the kinetic energy projectiles were deployed, Thornburg had recently returned to the interior of his residence, to put pants on. In doing so, it was reasonable for the deputies to perceive Thornburg as a potential threat, given that often times suspects conceal firearms in their clothing, specifically near the waistband of their pants. The decisions to deploy a canine and to use kinetic energy projectiles on Thornburg, in order to effect his arrest and overcome his resistance, were reasonably proportional to the seriousness of Thornburg's offense and his level of resistance.

This investigation determined Thornburg was an immediate threat to the deputies on scene, due to the fact he had been negligently shooting a firearm in the direction of Sheriff's Deputies, including the Sheriff's helicopter. Thornburg appeared to be intoxicated during this incident; however, when deputies attempted to communicate with him, he flipped them off and told them to "fuck off". It was reasonable for the deputies on scene to interpret Thornburg's actions as him understanding the commands and deciding to not comply with those commands. It was known Thornburg was armed during the altercation, as multiple deputies reported hearing gun shots, BWC footage confirmed shots were being fired while deputies were on scene, and the helicopter video captured Thornburg firing rounds from his porch. Thornburg remained inside his house, where the victim reported he had access to not only firearms, but hundreds of rounds of ammunition. At the time force was used, the seriousness of Thornburg's offenses included multiple felony violations of the California Penal Code, including Criminal Threats (422(a) PC), Assault with a Firearm on a Person (245(a)(2) PC), and Discharging a Firearm in a Gross & Negligent Manner (246.3(a) PC). The fact Thornburg occupied the residence, where firearms and ammunition were known to be present, he presented a continued, serious, and imminent threat to deputies on scene. Due to the nature of his conduct, Thornburg was also a risk to public safety, including the victim, if he were not arrested, or if he were allowed to escape.

The evidence in this investigation also showed the deputies on scene attempted to de-escalate the situation as well. Once Thornburg was contained inside his residence, members of the SWAT team responded. Multiple BWC footage showed the SWAT team continually discussed tactics in preparation of taking Thornburg into custody. The SWAT team attempted to initiate communication with Thornburg before any force was used. For approximately 44 minutes, attempts to communicate with Thornburg via PA system and face-to-face were initiated. Thornburg refused to comply with the attempts at communication and the lawful orders he was given.

Furthermore, a trained crisis negotiator (Deputy H. Rodriguez) responded and arrived on scene prior to any force being used. The negotiator continued to attempt to communicate with Thornburg via the PA system. Thornburg emerged from his residence and Sgt. Parks took over face-to-face communication. Once outside, Thornburg continued to refuse to comply with orders to surrender. An opportunity to take Thornburg into custody using a canine presented itself, when Deputy Collier was advised the door to Thornburg's residence was closed. Even though Deputy Collier could have deployed his canine at that moment, he waited approximately 12 seconds before deploying the canine. Deputy Collier's decision to delay the canine provided Thornburg another opportunity to comply with commands, which he failed to do.

For the reasons stated above, the decision to use force and the amount of force used by both Deputy Collier and Deputy Allison to take Thornburg into custody was lawful, within Sheriff's Office policy, reasonable, proportional to the seriousness of Thornburg's actions, and necessary for a successful resolution to this incident; therefore, the finding should be **exonerated**.

RULES AND REGULATIONS REGARDING CONDUCT

5. PROCEDURES

B. DUTIES, CONDUCT AND RESPONSIBILITY

3. Obey Policies and Procedures: Members shall obey and carry out all lawful Sheriff's Office and County policies, procedures, and other orders whether written or oral. Specifically:

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

The reasonableness of force will be judged from the perspective of a reasonable deputy on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that deputies 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 a deputy might encounter, deputies are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. Deputies may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance (Government Code § 7286(b)).

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

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

Finding: EXONERATED

In order to take Thornburg into custody, Deputy Collier elected to deploy his canine partner. At the time of this incident, the apprehension guidelines in Sheriff's Office Canine Policy 309 read:

> "*A canine may be used to locate and apprehend a suspect if the canine handler reasonably believes that the individual has either committed, is committing or threatening to commit any serious offense and if any of the following conditions exist:*
>
> *a. There is a reasonable belief the suspect poses an imminent threat of violence or serious harm to the public, any deputy or the handler.*
> *b. The suspect is physically resisting or threatening to resist arrest and the use of a canine reasonably appears to be necessary to overcome such resistance.*
> *c. The suspect is believed to be concealed in an area where entry by other than the canine would pose a threat to the safety of deputies or the public.*
>
> *It is recognized that situations may arise that do not fall within the provisions set forth in this policy. Such events require consideration of the totality of the circumstances and the use of an objective reasonableness standard applied to the decision to use a canine.*
>
> *Absent a reasonable belief that a suspect has committed, is committing or is threatening to commit a serious offense, mere flight from a pursuing deputy, without any of the above conditions, shall not serve as the basis for the use of a canine to apprehend a suspect.*
>
> *Use of a canine to locate and apprehend a suspect wanted for a lesser criminal offense than those identified above requires approval from the Watch Commander. Absent a change in circumstances that present an imminent threat to deputies, the canine or the public, such canine use should be conducted on-leash or under conditions that minimize the likelihood the canine will bite or otherwise injure the individual.*
>
> *In all applications, once the suspect has been located and no longer reasonably appears to present a threat or risk of escape, the handler should secure the canine as soon as it becomes reasonably practicable.*
>
> *If the canine has apprehended the suspect with a secure bite, and the handler believes that the suspect no longer poses a threat, the handler should promptly command the canine to release the suspect."*

This investigation determined Thornburg had committed multiple serious offenses (Criminal Threats, Assault with a Firearm on a Person, and Gross & Negligent Discharge of a Firearm). The fact Thornburg had fired multiple rounds while deputies were on scene, and he was inside

his residence with firearms and ammunition, Deputy Collier had reason to believe Thornburg posed an imminent threat of violence or serious harm to all the deputies on scene. Thornburg actively resisted by failing to comply with multiple deputies' commands and he was located on his porch, which provided him quick access back into the residence, where he was known to have access to firearms and ammunition. Though he was not concealed in the sense he was not visible, he was clearly in a position of advantage on his porch, especially after having unfettered access to the firearms and ammunition inside his residence.

Regarding his decision to deploy he canine partner, Deputy Collier wrote: *"The suspect had committed a serious offense of negligent discharge of a firearm, the original call for service where the victim stated she was threatened by the suspect, the fact the suspect was known to be armed with a firearm and the fact the suspect was actively resisting deputies. Based on these facts I believed the use of the K9 was reasonable to overcome the suspects resistance, to prevent the suspect form re-gaining access into the home where we knew firearms and ammunition were located, and to safely take the suspect into custody to prevent the suspect and deputies from being more seriously injured."*

Deputy Collier opted not to give a warning to Thornburg prior to deploying his canine. Policy section 309.6.2 read: *"Unless it would increase the risk of injury or escape, a clearly audible warning announcing that a canine will be used if the suspect does not surrender should be made prior to releasing a canine. The handler should allow a reasonable time for a suspect to surrender and should quiet the canine momentarily to listen for any verbal response to the warning. If feasible, other members should be in a location opposite the warning to verify that the announcement could be heard. If available, warnings given in other languages should be used as necessary.*

If a warning is not to be given, the canine handler, when practicable, should first advise the supervisor of his/her decision before releasing the canine. In the event of an apprehension, the handler shall document in any related report how the warning was given and, if none was given, the reasons why."

In his report, Deputy Collier wrote: "*I did not give the suspect a verbal K9 announcement for the following reasons. I believed the suspect was armed with a firearm and I did not want to give him an opportunity to gain access to a firearm. The suspect was standing feet from the front door, and I felt a K9 announcement would cause him to run back into the residence where we knew firearms and ammunition were located. Lastly the suspect had shown a pattern of resistance and based on his actions it was apparent he was not going to follow our commands."*

It was clear Deputy Collier perceived Thornburg to be an imminent threat and he reasonably believed an announcement or warning would increase the risk for injury or escape.

As a result of the canine deployment, Thornburg sustained a serious injury to the inside of his left leg. Due to the number of law enforcement personnel on scene, it was reasonable for Deputy

Collier to deploy his canine partner on a leash. Doing so allowed him better control of the canine, in the event the canine's focus shifted from Thornburg to an unintended target, such as a deputy positioned on the perimeter. In Deputy Collier's BWC video (video #3, 48:47), he even stated his canine was "cuing" on deputies on scene and indicated that could become an issue.

After deploying his canine, Deputy Collier maintained control of the leash and repeatedly told Thornburg to walk toward him and to bring the canine to him. Thornburg failed to comply with Deputy Collier's command, he repeatedly stated he couldn't, and he fought the dog. At one point, when Deputy Collier told Thornburg not to hurt the dog, Thornburg stated "he's dyin" referring to the canine. BWC footage showed Deputy Collier used the long leash to try and pull his canine partner, while engaged with Thornburg, to him; however, he was unable to do so.

Based on the totality of the circumstances, it was reasonable for Deputy Collier to order the suspect to walk toward his location once the canine was engaged. Since his canine was deployed on a long leash, it was also reasonable for Deputy Collier to use the leash to pull the canine back toward the handler's location, in an attempt to direct the suspect on where to go.

Due to Thornburg's inability and/or unwillingness to follow commands, it was determined deputies were going to have to approach Thornburg in order to take him into custody. Deputy Collier, and an arrest team, approached Thornburg before he was searched or handcuffed. Once they got Thornburg, Deputy Collier ordered the canine to release, prior to Thornburg being handcuffed and/or searched. The canine released without incident. Once the canine was released, Deputy Collier immediately requested a tourniquet be placed on Thornburg's leg. Other deputies immediately began rendering first aid, including the placement of a tourniquet, until EMS paramedics arrived on scene.

For the reasons stated above, Deputy Collier's decision to deploy his canine partner, and the application of the canine deployment was reasonable, necessary, within policy and was done so according to state law. Therefore, the finding should be **exonerated**.

RULES AND REGULATIONS REGARDING CONDUCT

5. PROCEDURES

B. DUTIES, CONDUCT AND RESPONSIBILITY

3. Obey Policies and Procedures: Members shall obey and carry out all lawful Sheriff's Office and County policies, procedures, and other orders whether written or oral. Specifically:

309 - CANINE DEPLOYMENT

309.1-This policy establishes guidelines for the use of canines to augment police services to the community including, but not limited to locating individuals and contraband and apprehending criminal offenders.

309.6 Apprehension Guidelines
A canine may be used to locate and apprehend a suspect if the canine handler reasonably believes that the individual has either committed, is committing or threatening to commit any serious offense and if any of the following conditions exist:

a) There is a reasonable belief the suspect poses an imminent threat of violence or serious harm to the public.
b) The suspect is physically resisting or threatening to resist arrest and the use of a canine reasonably appears to be necessary to overcome such resistance.
c) The suspect is believed to be concealed in an area where entry by other than the canine would pose a threat to the safety of deputies or the public.

It is recognized that situations may arise that do not fall within the provisions set forth in this policy. Such events require consideration of the totality of the circumstances and the use of an objective reasonableness standard applied to the decision to use a canine.

Absent a reasonable belief that a suspect has committed, is committing or is threatening to commit a serious offense, mere flight from a pursuing deputy, without any of the above conditions, shall not serve as the basis for the use of a canine to apprehend a suspect.

Use of a canine to locate and apprehend a suspect wanted for a lesser criminal offense than those identified above requires approval from the Watch Commander. Absent a change in circumstances that present an imminent threat to deputies, the canine or the public, such canine use should be conducted on-leash or under conditions that minimize the likelihood the canine will bite or otherwise injure the individual.

In all applications, once the suspect has been located and no longer reasonably appears to present a threat or risk of escape, the handler should secure the canine as soon as it becomes reasonably practicable.

If the canine has apprehended the suspect with a secure bite, and the handler believes that the suspect no longer poses a threat, the handler should promptly command the canine to release the suspect.

Finding: EXONERATED

Regarding Deputy Allison's deployment of the less-lethal shotgun and the 40mm launcher munitions, Sheriff's Office Policy 303.9 (Kinetic Energy Projectile Guidelines) read: "*This office is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation."*

When looking at the circumstances appropriate for deployment and applying them to this case, it was evident Thornburg was armed at various times during this incident, he was a credible threat to the deputies on scene due to his gross and negligent discharge of his firearm, there was probable cause to believe Thornburg had committed a crime of violence (245(a)(2) PC, 422(a) PC, and 246.3(a) PC) and he had refused to comply with lawful orders. Deputy Allison deployed the less-lethal shotgun munitions simultaneously with the canine deployment.

Regarding Deputy Allison's decision to deploy the less-lethal munitions, and his considerations during deployment, in his report he wrote, "*Due to the fact it was still unknown if the suspect was armed, his refusal to follow commands to walk toward awaiting Deputies with his hands in the air, and the immediate necessity to prevent him from returning into the residence, which would further endanger Deputies and members of the public's lives, I deployed a kinetic energy projectile (12ga Rubber Slug) from a distance of approximately 50 feet. I loudly announced, "Less lethal, less lethal*!"" Deputy Allison continued*, "After gaining no response from the suspect, I continued to engage him with less than lethal munitions, and continuously evaluated each round's effectiveness after each application. I changed target locations in an attempt to gain compliance and avoided targeting the suspect's head, neck, and groin. Once the canine engaged Thornburg, he continuously shifted his body position in an apparent effort to re-gain access to the residence."*

At the time of this incident, the combination of deploying less-lethal munitions in conjunction with a canine deployment was a reasonable tactic, used to divert the suspect's attention away from the approaching canine, in order to limit the suspect's ability to harm the canine.

Deputy Allison deployed approximately five less-lethal shotgun munitions at Thornburg. In his report, Deputy Allison wrote, *"After five kinetic energy projectiles (12ga- foam baton) had been utilized, with no effect, and the suspect still actively fighting the Police canine, I retrieved a 40mm less lethal launcher."*

Once Deputy Allison retrieved the 40mm launcher, he stood by for approximately 28 seconds, while Thornburg continued to resist the Sheriff's canine and the commands he was given to walk toward the deputies. Deputy Allison deployed the 40 mm launcher munitions after Thornburg stated, "he's dyin'", regarding the canine, and the canine handler believed Thornburg was

harming the canine. In his report, Deputy Allison wrote, "*In an effort to avoid a deadly force confrontation, I loudly announced, "40, 40, 40" and deployed a foam baton round and a sponge round. One of the less lethal rounds struck the porch support beam and not the suspect."*

Based on the evidence in this case and analyzing it compared to Sheriff's Office policy, Deputy Allison's deployment of the less-lethal shotgun rounds and the 40mm launcher munitions were reasonable, necessary, and within Sheriff's Office policy. Therefore, the finding should be **exonerated**.

RULES AND REGULATIONS REGARDING CONDUCT

5. PROCEDURES

B. DUTIES, CONDUCT AND RESPONSIBILITY

3. Obey Policies and Procedures: Members shall obey and carry out all lawful Sheriff's Office and County policies, procedures, and other orders whether written or oral. Specifically:

303 CONTROL DEVICES AND TECHNIQUES

303.9 Kinetic Energy Projectile Guidelines: This office is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.

303.9.1 DEPLOYMENT AND USE

Only office-approved kinetic energy munitions shall be carried and deployed. Approved munitions may be used to compel an individual to cease his/her actions when such munitions present a reasonable option.

Deputies are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved deputy determines that deployment of these munitions cannot be done safely. The safety of hostages, innocent persons and deputies takes priority over the safety of subjects engaged in criminal or suicidal behavior.

Circumstances appropriate for deployment include, but are not limited to, situations in which:

a. The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
b. The suspect has made credible threats to harm him/herself or others.
c. The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or deputies.
d. There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

303.9.2 DEPLOYMENT CONSIDERATIONS

Before discharging projectiles, the deputy should consider such factors as:

a. Distance and angle to target.
b. Type of munitions employed.
c. Type and thickness of subject's clothing.
d. The subject's proximity to others.
e. The location of the subject.
f. Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

A verbal warning of the intended use of the device should precede its application, unless it would otherwise endanger the safety of deputies or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other deputies and individuals that the device is being deployed.

Deputies should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, deputies are not restricted solely to use according to manufacturer recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment.

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted, except when the deputy reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the deputy or others.

Finding: EXONERATED