EXHIBIT 18
Date of Incident: April 30, 2015
Time of Incident: 0010 Hours
Location of Incident: 3200 Hancock Street
Date Assigned to CRB: February 16, 2016
Date Review Complete: June 27, 2016
Date CRB Presentation: June 28, 2016

CONFIDENTIAL: FOR EXCLUSIVE USE OF CITIZENS REVIEW BOARD AND SDPD IN ACCORDANCE WITH RESTRICTIONS ON CONFIDENTIAL PERSONNEL RECORDS PURSUANT TO CALIFORNIA PENAL CODE SECTIONS 832.5, 832.7, and 832.8

OFFICER INVOLVED: BROWDER, Neal, PO-II, ID #4295
Date of Hire: 27 years experience
S.D.P.D., Western Division-3rd Watch

WEAPON USED: Glock 21, .45 Caliber, Serial #FRT764

SUSPECT: RAWSHAN NEHAD, Fridoon Z.
10993 Shy Bird Lane, San Diego, CA 92128
O/M, DOB: 04-01-73 (42 years old)
5'10"/170 lbs.

POLICE WITNESS: LAUGHLIN, Dan
Western Division (1 year experience with SDPD)

CIVILIAN WITNESSES: BARBER, Simmie (Body Shop employee)
BREWER, Robert ("unofficial security guard" for Les Girl's)
GALINDO, Alberto (Hi-Lite Adult Bookstore employee)

NELSON, Andre M. (U.S. Marine, patron of Body Shop)

WILLIAMS, Thomas (Manager of the Body Shop)

YOON, Andrew (Hi-Lite Adult Bookstore employee)
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<th>Allegation</th>
<th>Description</th>
<th>Subject Officer(s)</th>
<th>Witness(es)</th>
<th>IA Finding</th>
<th>Team Finding</th>
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<td>1- OIS</td>
<td>Off. N. Browder responded to a radio call of a person threatening people with a knife. Off. Browder located the suspect. The suspect walked towards Off Browder. Off. Browder fired one round from his firearm striking the suspect. The suspect was ultimately pronounced deceased.</td>
<td>Off. Browder</td>
<td>Barber, Brewer, Galindo, Laughlin, Nelson, Williams, Yoon</td>
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**Investigator's Notes:**

**CASE NOTES:**

Officer BROWDER had been issued a Body Worn Camera but did not activate it during this entire incident.

The District Attorney's office commissioned an independent expert consultant, Jeffrey Martin, a retired police sergeant and attorney who specializes in deadly force by peace officers to review this case. The DA's office declined to provide to the San Diego Police Department a copy of Martin's report. Additionally, other investigation materials that originated from the DA's office were unavailable for Team 4 to review including audio tapes of witness interviews by DA investigators of Galindo, Nelson and Brewer. The DA's office also produced a video that was synchronized with dispatcher audio recordings and included closed captioning that was shown to the media. Although Team 4 thought this would be useful to view to better understand the sequence of events, we were not permitted to do so.

The IA Sergeant Steve Waldheim who investigated the case wanted to interview Officer Browder as a follow-up to the interview conducted by the Homicide Unit. According to IA policy, in an officer-involved shooting case, such requests must be approved by the Chief of Police. IA Captain Anastasia Smith declined Sergeant Waldheim's request since she determined that the answers to the additional questions would not affect the findings in this case.
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<td>Audio of dispatcher recording</td>
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<td>Homicide investigation materials, including interview summaries, Medical Examiner’s report, crime scene diagrams, ballistics report, photographs, etc.</td>
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<td>District Attorney’s letter to Chief of Police with conclusions</td>
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<td>Written summaries of DA interviews of witnesses</td>
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INCIDENT SUMMARY:
On April 30, 2015, at around midnight Officer BROWDER was working patrol in the Midway District in Western Division in full uniform and driving a marked police vehicle. SDPD received a call 911 call at 12:04 a.m. from Andrew YOON, calling from the Hi-Lite Adult Bookstore, 3203 Hancock Street, where YOON worked as a clerk. YOON told the dispatcher that there was a male threatening people with a knife. At 1:25 timestamp on YOON’s 911 Dispatch Call, he tells the dispatcher that he saw the knife. At 2:53 timestamp, YOON tells the Dispatch Supervisor that NEHAD is holding a kitchen knife. The suspect was described as an Asian or Hispanic male in his 50s or 60s wearing a gray sweatshirt with a red shirt underneath. YOON told the dispatcher that the suspect was brandishing a knife that was “like a kitchen knife.” On 911 Dispatch Call 3:55 timestamp YOON also said that he was personally threatened by NEHAD with the knife as well as "anyone else in alleyway". The suspect had left the bookstore and was presumed to be nearby. YOON confirmed that the bookstore was next to Les Girls (strip club) on the corner of Rosecrans Street and Hancock Street and agreed to flag down an officer upon arrival.

The dispatcher communicated the incident as a “hot call”, a “417 with a knife” (referring to Penal Code Section 417 which describes exhibiting a deadly weapon in a threatening manner). Officer BROWDER was the closest officer and was the first officer to arrive on the scene at 12:09 a.m. He turned onto Hancock Street from Rosecrans Street and turned left into an alley adjacent to the bookstore.

Upon pulling into the alley, Officer BROWDER turned on his high beams (but did not activate his overhead emergency lights) and noticed a male walking down the alley toward him. He confirmed the description with the dispatcher and then radioed that he had located the suspect, later identified as Fridoon RAWSHAN NEHAD (hereinafter referred to as NEHAD). NEHAD was a 42-year old Afghan male.

One of the surveillance videos from an adjacent business shows NEHAD twirling a shiny object in his right hand as he is walking toward Officer BROWDER. He held his hand at a ninety degree angle as he walked forward. It was later determined that the shiny object was a metallic blue pen.

According to the time stamp on the surveillance video (which was an hour off), Officer BROWDER opened his door and pulled forward with the driver’s side door partially open at 23:10:05. NEHAD came into view on the video at :17 walking slowly toward Officer BROWDER. He held his hand at a ninety degree angle as he walked forward. It was later confirmed that the shiny object was a metallic blue pen.

According to the time stamp on the surveillance video (which was an hour off), Officer BROWDER opened his door and pulled forward with the driver’s side door partially open at 23:10:05. NEHAD came into view on the video at :17 walking slowly toward Officer BROWDER. Officer BROWDER began exiting his car at :23, shutting the door at :25, at which point NEHAD can be seen hesitating and slowing down, but not stopping. [A review of the video in slow motion by Team 4 confirmed that NEHAD was still in stride at the time he was shot.] Three flashes from Officer BROWDER’s gun (including the gunshot and two flashes from the tactical mounted flashlight) can be seen from :27 to :28. NEHAD was shot once and Officer BROWDER immediately called for assistance and rushed to NEHAD to perform first aid.

After NEHAD was transported to the hospital, an SDPD Homicide Team arrived and secured the scene. It was determined that Officer BROWDER fired one round from his .45 caliber
Glock, Model 21, semi-automatic pistol at NEHAD. (IA later determined that Officer BROWDER was qualified to use this weapon and attended a mandatory shoot using this weapon at the SDPD Range on April 8, 2015.) The District Attorney’s investigators estimated the distance between Officer BROWDER and NEHAD at approximately 17 feet at the time of the shooting, based on measurements taken on the scene and examination of the surveillance video.

In the week prior to this incident, SDPD responded to three police calls involving NEHAD: on April 24, a valet parking attendant at Pacer’s Strip Club in the Midway area reported that a man was brandishing a weapon; on April 25 a security guard at a hotel on Harbor Drive reported that NEHAD pulled out a knife (the reporting party told the responding officer that it could have been a pen), and on April 26 NEHAD was refusing to leave a hotel and was threatening to punch people. The second officer to arrive on the scene of the shooting on April 30, Officer Dan LAUGHLIN (who turned on his Body Worn Camera prior to arriving at the scene), was the officer who responded to the April 24 incident at Pacer’s. During that incident, NEHAD was searched and no knife was found, although several pens were found in his backpack, which were identical to a pen found next to NEHAD’s body on April 30. NEHAD was compliant during the April 24 contact and was released. There is no indication from Officer BROWDER’s statements or police logs that Officer BROWDER had any prior contact with NEHAD or recognized him.

Interviews of Officer BROWDER

At 3:09 a.m., three hours after the shooting, Officer BROWDER and his attorney returned to the scene for a “walkthrough” with the Homicide Unit. The purpose of a walkthrough is to identify the number and direction of shots fired and to identify any items of potential evidentiary value and not to get into the details of the shooting. Officer BROWDER was asked by Detective Sergeant Manuel DEL TORO if he had seen any weapons and he said “No. No.” At this point the Police Officers Association attorney, Brad FIELDS, asked for the question to be repeated, and Sgt. DEL TORO said “Did you see any weapons here on the suspect?” FIELDS then said, “We’re not going to answer that right now” and the interview was terminated.

On May 5, 2015, Officer BROWDER was interviewed in the Homicide Office by Sgt. DEL TORO. Prior to the interview, Officer BROWDER and his attorney, FIELDS, were permitted to view the surveillance video so Officer BROWDER could refresh his memory of the events. Officer BROWDER recalled that the dispatcher indicated that the suspect was threatening people with a knife. When he arrived, a person directed him down the alley him toward the suspect. Officer BROWDER could see that NEHAD was wearing a gray shirt and blue jean shorts and Officer BROWDER confirmed with the dispatcher that it matched the description of the suspect. Officer BROWDER estimated that at this point, NEHAD was 25-30 feet away.

Officer BROWDER said:

He was walking at a fast pace, I mean right towards my car. And I see something in his hand, and then that’s what I keyed on and it looked like was a metal object. ... I could see the reflection off the light. And it was probably from the light from my car. And the first thing in my mind is "He's armed with a knife." And the next thing is like "Why isn’t he stopping?" ... And that’s when I bailed out of the car...

So I got out and I made sure I cleared the car door and he wasn’t stopping. And I saw this object in his hand and I swear I thought he was going to stab me...
It appeared to me that he was within ten to fifteen feet from where I was standing to where I actually fired that first round...

He immediately started screaming and then he went, he fell to the ground.

In response to follow-up questions about NEHAD’s "aggressive" behavior, Officer BROWDER said:

It seemed like he was focused on me because as I’m watching him, he’s walking. He sees me and then he almost like literally turns toward the driver’s side door. And he’s like literally walking towards me. He’s walking at me. And what I mean by an aggressive manner, I mean the knife was still in his hand. It was down to his side. He wasn’t dropping it... And I think that kind of threw me off for a minute because normally, you know, I’ve been doing this job for a long time. And normally when a cop rolls up on it, they know you’re a police officer. You know, they’ll stop. You know, they’ll either wait for directions or they turn, or they’ll take off running... And I think what scared the shit out of me in a sense, is the fact the guy wasn’t stopping. I mean he kept coming towards me. And then that’s when I said, “This guy’s gonna stab me. And at that point the only option I thought I had to do was, that’s when I shot him.”

Officer BROWDER was asked if any words were exchanged and he replied:

You know at that point, it happened so quick, I can’t even remember if I told him anything or not at that point to be honest with you.

FIELD asked Officer BROWDER how quickly someone from that distance would be able to assault or kill you with a knife. Officer BROWDER indicated that when he first joined the San Diego Police Department, in his training they referenced the "21 foot rule" meaning that if a suspect was advancing within 21 feet the suspect could be "on top of you" before you have time to respond. He indicated that experts now extend the distance to further than 21 feet.

Officer BROWDER was asked if he considered any other force options, and he replied

I didn’t even have a chance. I mean it didn’t even cross my mind. It happened that quick. I didn’t have a chance to use any other force options.

Interview of Andrew Yoon

YOON is the Hi-Lite Adult Bookstore employee who called 911. He first noticed NEHAD in the alley around 11:30 p.m when he (YOON) was returning from a nearby 7-Eleven store. NEHAD was with another man who appeared to YOON as being homeless. A few minutes after returning to the store, YOON went back out to the alley to inform NEHAD that the owner did not want people staying in the alley. At that time, NEHAD was alone sitting with a backpack on a cardboard box behind the Body Shop (an adjacent strip club). After confronting NEHAD, NEHAD reached in his backpack and pulled out what appeared to YOON to be a kitchen knife, began mumbling something along the line of “I’m going to kill you,” and stepped forward. YOON backed away and went back inside. Less than five minutes later, NEHAD entered the store and told YOON something along the line of “You’re dead.” He also mumbled something about killing people. NEHAD was only inside a minute or two and left. YOON then called 911. The dispatcher told him the police would arrive soon and that YOON should go outside to flag down the officer.

When YOON saw Officer BROWDER arrive, he walked outside the front door and watched Officer BROWDER pull into the alley and exit his car. He heard Officer BROWDER shout "Drop it!" while Officer BROWDER was next to his car. He turned around to go back into the
store when he heard a gunshot. He went back outside and observed Officer BROWDER performing CPR on NEHAD. Officer BROWDER was saying "Stay with me. Stay with me." to NEHAD. Surveillance camera video does not have audio but shows a synchronous turn away reaction by two witnesses (NELSON and YOON), a moment before Officer BROWDER fired his shots.

Interview of Andre Nelson

NELSON, a U.S. Marine, was standing next to his Mustang parked on the street in front of the Hi-Lite Adult Bookstore when Officer BROWDER pulled into the driveway. Concerned that he might receive a parking citation, he started to approach Officer BROWDER from the driver's side of the vehicle. Officer BROWDER's front car door was open with the windows rolled up, and he could hear Officer BROWDER communicating on the police radio. Once he realized that Officer BROWDER appeared to be occupied with a call, he stepped back to avoid interfering. He estimated that he was about ten feet away when he saw Officer BROWDER exit his patrol car and held up his left hand up as if indicating to someone to stop. [Note: The surveillance video shows that Officer BROWDER's left hand was never raised.] He believed that Officer BROWDER said something similar to "Stop!" but could not specifically recall what he heard. He saw Officer BROWDER draw his pistol in a ready stance. NELSON saw NEHAD "fiddling" with a shiny silver-colored object in his left hand which he was holding near his stomach and groin area. NELSON estimated that NEHAD was 10-15 feet away when he heard a gunshot. NELSON initially thought that NEHAD had shot himself. He estimated that less than a second had passed from the time Officer BROWDER exited his vehicle until he fired his gun. He then watched Officer BROWDER run to NEHAD and begin performing life saving efforts.

Interviews of Alberto Galindo

GALINDO, an employee of the Hi-Lite Adult Bookstore, was interviewed twice, once at the scene (inside the bookstore) by a Homicide Unit detective and a follow-up interview on September 15, 2015 by an investigator from the District Attorney's office. GALINDO told the Homicide Unit detective that he was returning from a taco shop across the street. He said he saw Officer BROWDER stop, exit his car and tell NEHAD to "Drop the knife! Stop! Stop!" GALINDO indicated that NEHAD had his right arm outstretched with a knife in his hand pointed out toward Officer BROWDER. When asked how far away the officer was from NEHAD, he indicated that it was about the distance between him and a cabinet across the room where he was being interviewed, which the detective measured as being 27 feet away. GALINDO said that he went inside the bookstore and heard a gunshot. He did not go back outside.

GALINDO told the Homicide Unit detective that he saw NEHAD inside the bookstore looking at movies prior to going to the taco shop. He said he did not hear NEHAD say anything and that he had not seen NEHAD before.

GALINDO gave contradictory information in his interview with the DA investigator. GALINDO indicated that he first encountered NEHAD when he was inside the bookstore. GALINDO was inserting videos into a machine when he noticed NEHAD standing over him. NEHAD was holding a shiny object in his right hand, which GALINDO perceived to be a knife. GALINDO described NEHAD as threatening. GALINDO heard NEHAD threaten to kill YOON. GALINDO was frightened and said he left the bookstore to go get help from an employee of the taco shop who has helped GALINDO eject unwanted customers in the past. The employee was
not available, so GALINDO returned to the bookstore since YOON was alone. As he was returning, he noticed a police vehicle turn into the alley. As he was crossing Hancock Street, he saw Officer BROWDER in front of his patrol car. As he was about to re-enter the bookstore, GALINDO heard Officer BROWDER yell "Drop the knife." GALINDO said NEHAD continued to approach with his right hand in front of him in a grasping pose. GALINDO heard the gunshot after he entered the bookstore and did not witness the shooting.

Interview of Robert Brewer

BREWER described himself as an unofficial, unpaid security guard at the Les Girls strip club who liked to hang out in the parking lot and observe patrons come and go. He sometimes intervenes when patrons "get out of hand" with the strippers. He observed a patrol car enter the alley just as he was going inside Les Girls to use the restroom. He did not witness the shooting or hear the gunshots. BREWER said that after the shooting he talked to a Hispanic man, about five feet eight inches tall with a slender build in his late twenties, who was with a group of several people congregating in the parking lot. The man told BREWER that he had seen NEHAD before the shooting holding a knife. The man said he saw Officer BROWDER get out of his car and tell NEHAD something to the effect of "Drop the knife." BREWER saw a police officer looking for witnesses approach the man and heard the man tell the officer that he did not witness anything. [This potential witness was never identified.]

Interview with Thomas Williams

WILLIAMS is the manager of the Body Shop strip club. He observed NEHAD on a security camera sitting on a piece of cardboard in the parking lot and went outside to tell him that he needed to leave. NEHAD mumbled something about a conversation he had with "the Asian guy" (YOON), and WILLIAMS told him that regardless of what YOON had said, NEHAD could not stay in the alley. WILLIAMS said that a bartender told him that YOON had called the Body Shop doorman, Simmie BARBER, to warn him that NEHAD had a knife. WILLIAMS saw on camera that NEHAD was messing with sandbags and went back outside with the bartender to confront him, but NEHAD had already gone into the bookstore. The bartender found a knife sheath under one of the sandbags, which he later gave to the police. Neither WILLIAMS nor the bartender witnessed the shooting. [The Homicide Unit did not find a knife at the scene.]

Interview with Simmie Barber

BARBER was working the front door of the Body Shop strip club. YOON had called him to warn him of NEHAD in the alley with a knife. Shortly thereafter, NEHAD attempted to enter the Body Shop, but BARBER turned him away. NEHAD took a knife out of his jacket pocket and showed the tip of the knife to BARBER and put it back in his pocket. BARBER indicated that NEHAD didn't threaten him; he was just showing him the knife. BARBER said he had encountered NEHAD on previous occasions and he would leave when asked and did not seem dangerous. He said that night NEHAD seemed upset.

DISCUSSION AND CONCLUSIONS:

ALLEGATION #1 – Officer Involved Shooting

Officer Neal BROWDER responded to a radio call of a person threatening people with a knife. Officer BROWDER located the suspect. The suspect walked towards Off BROWDER.
Officer BROWDER fired one round from his firearm striking the suspect. The suspect was ultimately pronounced deceased.

San Diego Police Department Procedure 1.05 (Firearms Procedure), Section III, B, 2, dated January 17, 2014, states in part:

B. No officer shall discharge a firearm in the performance of duty except:

2. When the officer has a reasonable belief that a subject (or animal) poses an imminent threat of death or serious bodily injury to the officer or another person;

California Penal Code Section 196 - Justifiable Homicide by Public Officer states in part:

Homicide is justifiable when committed by public officers ... [w]hen necessarily committed in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty.

Scott v. Henrick (9th Cir. 1994) 39 F.3d 912, delineates those circumstances under which deadly force may be used:

[P]olice may use only such force as is objectively reasonable under the circumstances. An officer's use of deadly force is reasonable only if "the officer has probable cause to believe that the suspect poses a significant threat of death or serious bodily injury to the officer or others." All determinations of unreasonable force "must embody allowance for the fact that police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain, and rapidly evolving - about the amount of force that is necessary in a particular situation." [Citations omitted.]

Graham v. Connor (1989) 490 U.S. states:

The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer at the scene, rather than with 20/20 vision of hindsight.

Officer BROWDER was responding to a "hot call" of a person threatening others with a knife. Upon arrival he confirmed that NEHAD matched the description of the suspect with dispatch. Officer Browder observed NEHAD with a shiny object his hands, twirling it in his hand while holding his arm out at a 90 degree angle. NEHAD continued to advance toward Officer BROWDER. Although Officer BROWDER does not recall if he gave any verbal commands, at least two witnesses recalled that Officer BROWDER told NEHAD to "stop" and/or "drop the knife." It is reasonable for Officer BROWDER to believe that NEHAD posed an imminent threat of death or serious bodily injury.

The District Attorney concluded in her letter sent to Police Chief Shelley Zimmerman on November 9, 2015: "Based on these circumstances, the evidence, and the law, Officer Browder's decision to shoot Mr. Nehad was reasonable and therefore he bears no criminal liability for his actions." IA concluded that based on the above information, the actions of Officer BROWDER were WITHIN San Diego Police Department Policies and Procedures. Team 4 AGREES, WITH TWO COMMENTS.
Comment 1
Team 4 believes that the actions of Officer BROWDER were reasonable only if he gave verbal commands to NEHAD and allowed NEHAD time to respond. Unfortunately, Officer BROWDER’s failure to turn on his Body Worn Camera makes it difficult to determine precisely what commands may have been issued and when they were issued. It should be noted that there were only approximately four seconds between the time Officer BROWDER began exiting his car and the firing of the fatal round. Given the legal requirement to give allowance for split-second decision making, Officer BROWDER should be awarded the benefit of the doubt. While Team 4 agrees that while Officer BROWDER’s use of deadly force therefore appears to be within policy, Team 4 has questions regarding whether it was necessary to fire as quickly as he did. We look forward to receiving the Shooting Review Board’s analysis of Officer BROWDER’s tactical decisions in this case.

Comment 2
Team 4 believes there should be an Other Finding for Officer BROWDER’s failure to turn on his BWC. According to the policy in effect at the time, the BWC should have been activated prior to his actual contact with NEHAD. If after arriving on the scene, Officer BROWDER had time to contact dispatch to confirm the description of the suspect, he had ample time to activate his BWC. It should be noted that Officer LAUGHLIN, the second officer to arrive on the scene, turned on his BWC over 2 minutes and 30 seconds prior to arriving on the scene.

San Diego Police Department Policy 1.49, Axon Body Worn Cameras, Section I. When and Where to Record, dated June 18, 2014 states:
1. Enforcement Related Contacts
   a. Officers shall use the event mode to record enforcement related contacts. The event mode should be activated prior to actual contact with the citizen, or as soon as safely possible thereafter, and continue recording until the contact is concluded.
   b. Enforcement related contacts include the following: Traffic stops, field interviews, detentions, arrests, persons present at radio calls who are accused of crimes, and consensual encounters in which the officer is attempting to develop reasonable suspicion on the subject of the encounter.

Officer BROWDER was issued his BWC on November 10, 2014. On two occasions in April 2015, Officer BROWDER turned in his camera for inspection because he did not believe it was working properly, and in both cases Operational Support determined that the camera was working properly. On the day before the incident, he was issued a new camera cord to address his stated problems.

Officer BROWDER stated that he normally turns on his BWC after he exits his vehicle, while he is walking up to the scene. He said that in this case he didn’t have time because everything happened so quickly. As NEHAD approached him, turning on his camera was "the last thing I was thinking about."

Following the incident it was determined that the BWC was in working order.

During a meeting with Team 4, Executive Director Sharmaine Mosley, Internal Affairs Captain Chris McGrath and Lt. Mike Holden, IA declined to include this as an Other Finding since it was during the time when officers were still becoming familiar with the use of their BWCs and
since Officer BROWDER was unable to activate his BWC upon exiting his vehicle since he was immediately approached by NEHAD. Prior to this incident, no officer had been disciplined for failure to activate a BWC. Subsequent to the meeting, Internal Affairs decided to conduct a separate internal investigation regarding Officer BROWDER’s history of BWC usage, separate from this case.

**EXHIBITS FOR PRESENTATION:**

1. Timeline
2. Surveillance videos from 3235 Hancock
3. Communications (911 and Dispatch) recordings
4. Diagram and aerial photo of the scene
5. Picture of the pen
6. BWC from Officer Laughlin

**CHANGES MADE DURING CASE REVIEW**

No changes.

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Doug Case  Brandon Hilpert  Taura Gentry
TEAM CONCERNS AND ISSUES:

Team 4 would like for the Policy Committee to review SDPD's practice of allowing officers to view videos (other than their own BWC) prior to being interviewed.

After Team 4's meeting with IA, IA decided to review the BWC policy to more explicitly state at what point officers are expected to activate their BWC. We encourage the Policy Committee to review the policy after the revision is made.