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**Department of the Prosecuting Attorney
City and County of Honolulu**

Officer-Involved Shooting Report No. 2024-01

Report Date: September 1, 2024

Independent Investigation of Officer-Involved Shooting of

Sidney Tafokitau

Near the Intersection of University Avenue and Dole Street

I. OBJECTIVE.

The objective of the Department of the Prosecuting Attorney’s (hereinafter, “PAT”) independent investigation in this matter is to assess the viability of a criminal prosecution of the following Honolulu Police Department (hereinafter, “HPD”) police officers:

- A. [REDACTED] reinafter, “Sergeant 1”)
- B. Officer [REDACTED] (hereinafter, “Officer 1”)
- C. Officer [REDACTED] (hereinafter, “Officer 2”)
- D. Officer [REDACTED] (hereinafter, “Officer 3”)
- E. [REDACTED] nafter, “Officer 4”)
- E. Officer [REDACTED] a (hereinafter, “Officer 5”)
- F. Officer [REDACTED] (hereinafter, “Officer 6”)

The prosecution would be for any criminal offense(s) under the Hawai’i Penal Code for their intentional use of deadly force against Sidney Tafokitau (hereinafter, “Tafokitau”) on January 1, 2024, just north of the intersection of University Avenue and Dole Street, Honolulu, 96822. In making this assessment, the PAT will use the proof beyond a reasonable doubt standard.

This investigation considered materials and information provided by HPD.¹ PAT Investigators [REDACTED] and [REDACTED] also assisted in this investigation.

This investigation offers no opinion whether the above mentioned officers complied with HPD policy or whether non-compliance with any HPD policy would subject them to administrative discipline.

¹ The key report number for the investigation of the shooting is documented under HPD Report Number [REDACTED] Related report numbers include the following: [REDACTED]

[REDACTED]

[REDACTED] The PAT reviewed all of the said reports in making its analysis.

II. FACTS.

A. General Background (Introduction).²

On November 24, 2023, the PAT filed an Information under 1CPC-23-0001369, charging Tafokitau for numerous gun offenses that occurred on November 20, 2023: two (2) counts of Ownership or Possession Prohibited, in violation of the **Hawai'i Revised Statutes** ("**H.R.S.**") **Sections 134-7(b) and (h)** (2023 Repl.), one (1) count of Place to Keep Pistol or Revolver, in violation of **H.R.S. Section 134-25** (2023 Repl.), two (2) counts of Possession of Prohibited Detachable Ammunition Magazine, in violation of **H.R.S. Sections (c) and (d)** (2023 Repl.), and one (1) count of Place to Keep Ammunition, in violation of **H.R.S. Section 134-27** (2023 Repl.). The Information Warrant of Arrest was served on Tafokitau on the same date with bail set at \$150,000.00. Subsequently, on December 1, 2023, Shaka Bail Bond posted bond for Tafokitau and he was therefore released from custody pending trial.

On December 20, 2023, the Honorable Shellie Park-Hoapili (hereinafter, "Judge Park-Hoapili") from the District Court of the First Circuit signed a Warrant of Arrest alleging that Tafokitau committed the following offenses that occurred on December 16, 2023: one (1) count of Attempted Murder in the First Degree, in violation of **H.R.S. Section 705-500** (2014 Repl.), **707-701(1)(a)** (2014 Repl.) and **706-656** (2016 Supp.), five (5) counts of Attempted Murder in the Second Degree, in violation of **H.R.S. Section 705-500**, **707-701.5** (2014 Repl.) and **706-656**, six (6) counts of Carrying or Use of a Firearm in the Commission of a Separate Felony, in violation of **H.R.S. Section 134-21** (2023 Repl.), one (1) count of Ownership or Possession Prohibited, in violation of **H.R.S. Section 134-7(b) and (h)**, and one (1) count of Assault in the Second Degree, in violation of **H.R.S. Section 707-711(1)(a)** (2014 Repl.) and/or **Section 707-711(1)(d)** (2014 Repl.). Judge Park-Hoapili set no bail on the Warrant of Arrest. HPD then began searching for Tafokitau to execute the Warrant of Arrest but were unable to locate him.

On January 1, 2024, at about 7:15 a.m., Tafokitau's ex-girlfriend, [REDACTED] (hereinafter, "Witness 1") was driving east on the Moanalua Freeway, just prior to Airport Exit 1A, when Tafokitau rammed his car into her vehicle three times and shot at her numerous times with a firearm. Witness 1's car then slammed into a concrete barrier. Witness 1 had three (3) gunshot wounds from Tafokitau. Witness 1 informed the responding officers that Tafokitau was the person who shot her.

Following the shooting, HPD units began earnestly to search for Tafokitau. On January 1, 2024, at about 11:25 a.m., officers from the District 3 Crime Reduction Unit (hereinafter, "D3 CRU") were able to locate Tafokitau at 'A'ala Park. They followed him in their D3 CRU Van as he drove to Gulick Avenue in the Kalihi area. There, Tafokitau

² Unless otherwise specified, the facts contained below were taken from the PAT's computer data base system and the official website of the Hawai'i State Judiciary, eCourt Kokua.

raised his firearm towards the D3 CRU van and began to chase and shoot at the D3 CRU officers. The D3 CRU officers were able to get away from Tafokitau. Tafokitau then drove onto the Likelike Highway and headed to the Windward side of O'ahu.

On January 1, 2024, at about 11:45 a.m., Tafokitau sped through a red light at the intersection of Kahekili Highway and Hui Iwa Street (Kāne'ōhe area) when his vehicle was t-boned by a blue truck. After Tafokitau's vehicle spun around, he exited his vehicle and pulled out a rifle. He then walked over to a white Scion (hereinafter, "Scion") that was waiting at the said intersection for the light to change. Tafokitau then pointed his rifle at [REDACTED] (hereinafter, "Witness 5"), who was the owner and operator of the Scion and ordered her to exit her vehicle. After Witness 5 exited from her Scion, Tafokitau got into her vehicle and drove towards Kāne'ōhe town.

On January 1, 2024, at about 2:14 p.m., officers from the District 8 Crime Reduction Unit (hereinafter, "D8 CRU") received information that Tafokitau had an acquaintance who lived on Olu Street (Kapahulu area). As a result, they conducted surveillance of the residence in an unmarked vehicle. While doing so, the D8 CRU officers observed Tafokitau driving the Scion and started to follow him. The officers momentarily lost sight of the Scion and parked. The D8 CRU officers then observed the Scion driving directly towards them. The Scion slowed down next to the D8 CRU vehicle. Tafokitau then pointed an AR-15 type rifle towards their direction and fired a round that hit the D8 CRU vehicle. He then fled west bound on Alohea Avenue towards Kapahulu Avenue.

HPD personnel located Tafokitau and spotted him heading to Harding Avenue and onto the H-1 Freeway West. They then conducted a covert rolling surveillance of him as he drove westbound and then towards the North Shore area of O'ahu. Tafokitau operated the Scion through several districts with HPD following him.

On January 1, 2024, at about 2:50 p.m., [REDACTED] (hereinafter, "Witness 8") reported that he was operating his motorcycle on Kamehameha Highway near Tutu Street (Kahuku bound) when Tafokitau overtook him while using the grass shoulder area. Upon doing so, the Scion clipped his motorcycle.

On January 1, 2024, at about 3:37 p.m., a HPD helicopter unit that was conducting visual surveillance of Tafokitau, observed him driving the Scion in the area of Kawailoa Beach. As the helicopter started to face the Scion, Tafokitau began shooting at the aircraft. The pilot of the helicopter took immediate evasive action to avoid being hit by the gunfire.

Following the aforementioned incidents on the North Shore, Tafokitau then headed back towards Honolulu with HPD personnel continuing their rolling surveillance of him. On January 1, 2024, at about 4:11 p.m., Tafokitau traveled eastbound on the Kalaniana'ole Highway in the Kahala area, when he initiated a U-turn at the Kalaniana'ole Highway and Kalaniiki Street intersection and started to head back westbound towards the H-1 Freeway. While doing so, Tafokitau fired several shots

from his AR-15 rifle towards officers who were on the roadway. After shooting at the officers, Tafokitau continued westbound and onto the H-1 Freeway West.

Traveling westbound on the H-1 Freeway, Tafokitau then took the Kapiolani Boulevard exit, turned right onto Date Street and turned right again onto University Avenue. He then traveled northbound on University Avenue as HPD personnel continued to follow and/or attempt to locate him. An officer from the District 5 Crime Reduction Unit (hereinafter, "D5 CRU") parked his car north of Tafokitau. He and his partner both exited the vehicle and took cover as Tafokitau drove past them toward the University Avenue and Dole Street intersection. Tafokitau fired shots at them and one of the bullets struck one of the said officers in the stomach.

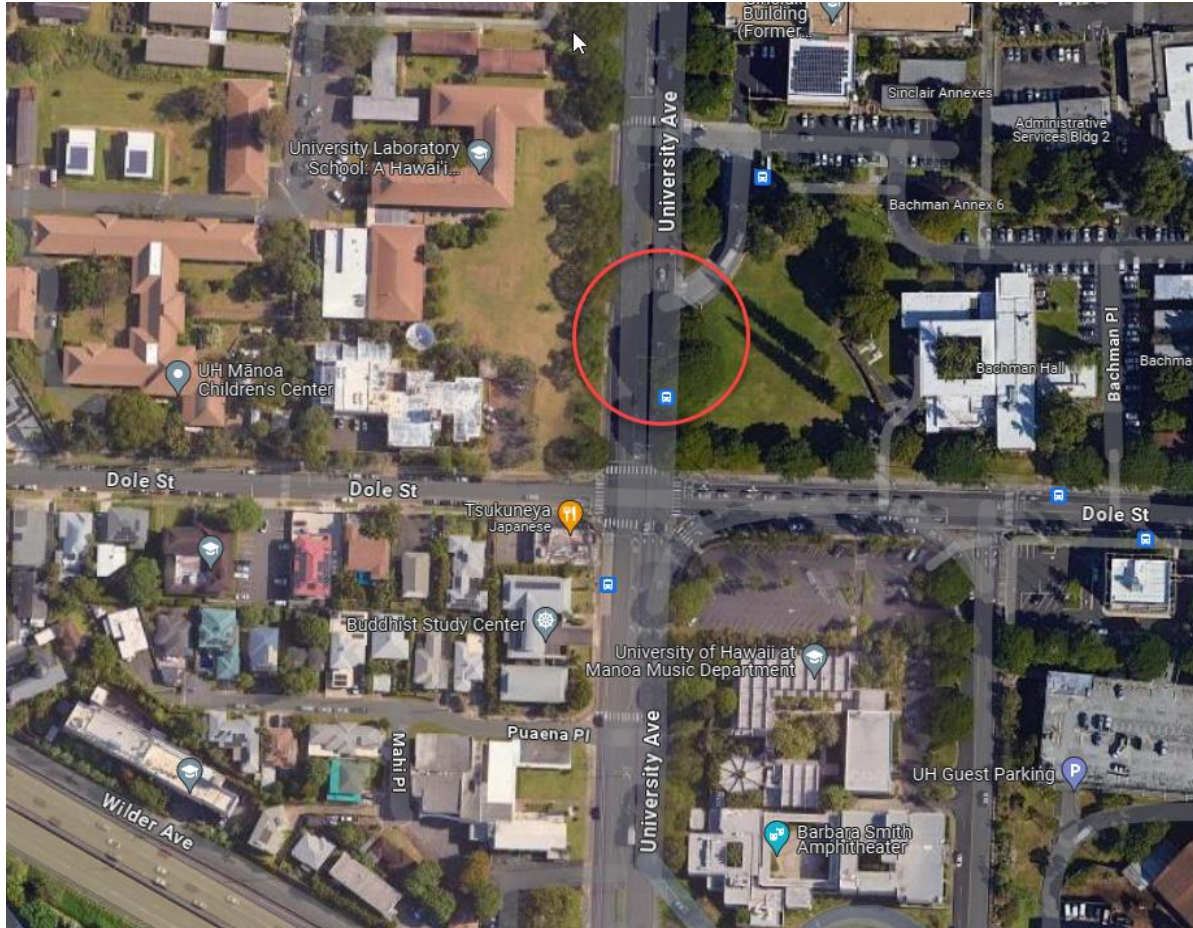
On January 1, 2024, at about 4:14 p.m., Tafokitau drove pass the University Avenue and Dole Street intersection and pulled the Scion to the right side of the roadway. Stopping the vehicle suddenly, Tafokitau exited the driver's side of the said vehicle. As the Scion was rolling backwards, Tafokitau then started to walk west along the roadway on University Avenue, while firing rounds from his AR-15 towards the approaching HPD vehicles. One of the rounds penetrated the front windshield of a HPD vehicle. A fragment of the round struck one of the officers in the eye. Sergeant 1, Officer 1, Officer 2, Officer 3, Officer 4, Officer 5 and Officer 6 exited their respective vehicles and returned fire towards Tafokitau who fell onto the roadway and died. An autopsy later determined that Tafokitau died from multiple gunshot wounds.

B. The Weather and Lighting Conditions.

A review of the Body Worn Camera, photographs and recovered surveillance recordings either submitted or recovered under HPD Report Number [REDACTED], indicate that the weather was clear at the University Avenue and Dole Street intersection. There was no rain and the roadway and sidewalks were dry. There was ample natural lighting as the shooting occurred during the daytime hours.

C. The Scene.

As noted above, the scene of the shooting where Tafokitau was shot was on University Avenue, just north of the University Avenue and Dole Street intersection. The University of Hawai'i at Mānoa Bachman Hall is to the right of the roadway where he was shot.³



³ <https://www.google.com/maps/place/University+of+Hawaii+at+Manoa/@21.2968023,-157.8215644,429m/data=!3m1!1e3!4m6!3m5!1s0x7c006d989580d855:0xac63f2de838ed2f4!8m2!3d21.299824!4d-157.8148228!16zL20vMDJfN2tw?entry=ttu>

D. Participants in the Event

1. Tafokitau.⁴

As noted earlier, on January 1, 2024, Tafokitau was pending trial for numerous firearms charges in 1CPC-23-0001369 and had an outstanding no-bail Warrant of Arrest alleging that he had committed multiple serious felony offenses, including Attempted Murder in the First and Second Degree as well as other firearms charges.

In addition, Tafokitau had fourteen (14) prior felony convictions. Specifically, in Criminal Case Number 01-1-1251, he was convicted on April 5, 2002 for six (6) counts of Robbery in the First Degree, a Class A felony, in violation of **H.R.S. Section 708-840** (1998 Supp.), one (1) count of Carrying or Use of a Firearm in the Commission of a Separate Felony, a Class A felony, in violation of **H.R.S. Section 134-6** (1993 Repl.) and one (1) count of Ownership, Possession, or Control Prohibited, a Class B felony, in violation of **H.R.S. Section 134-7(b)** (1999 Supp.). In Criminal Case Number 00-0612, Tafokitau was convicted on February 23, 2001 for five (5) counts of Robbery in the Second Degree, a Class B felony, in violation of **H.R.S. Section 708-841** (1993 Repl.). Lastly, in Criminal Case Number 99-0459, he was convicted on February 23, 2001 for one (1) count of Robbery in the Second Degree.

In addition to the felony convictions listed hereinabove, Tafokitau had three (3) prior misdemeanor and/or petty misdemeanor convictions, including an October 30, 2023 conviction under Criminal Case Number 1DTA-23-01300 for Operating a Vehicle Under the Influence of an Intoxicant, a petty misdemeanor, in violation of **H.R.S. Section 291E-61** (2019 Supp.).

⁴ The information background regarding Tafokitau was retrieved from the PAT's computer data base system, the Hawai'i State Criminal Justice Inquiry System (CJIS) and the official website of the Hawai'i State Judiciary, eCourt Kokua

Below is a photograph of Tafokitau.⁵



⁵ Hawai'i State Criminal Justice Inquiry System (CJIS).

2. The Police Officers.

On January 1, 2024, Sergeant 1, Officer 1, and Officer 2 were District 3 CRU officers; Officer 4 was a District 5 Crime Reduction Unit (“hereinafter, “D5 CRU”) officer; and Officer 5, Officer 6 and Officer 7 were District 7 Crime Reduction Unit (hereinafter, “D7 CRU”) officers. All aforementioned police officers qualify as law enforcement officers as defined by **H.R.S. Section 701-118** (2014 Repl.) which states, “‘Law Enforcement Officer’ means any public servant, whether employed by the State or county or by the United States, vested by law with a duty to maintain public order or, to make arrests for offenses or to enforce the criminal laws, whether that duty extends to all offenses or is limited to a specific class of offenses.”

E. Summary of Factual Narrative of Events Occurring on January 1, 2024.

- 1a. Scene 1: 7:15 a.m. Moanalua Freeway Eastbound, Exit 1A Off-Ramp.**
Participants: Tafokitau and Witness 1.
Offenses: Attempted Murder in the Second Degree and Firearms Offenses.



In recorded statements made to HPD,⁶ Witness 1 stated that she was Tafokitau's ex-girlfriend. Prior to the shooting that occurred on January 1, 2024, at about 7:15 a.m., she and Tafokitau were involved in an argument. She then drove off and away from him. As she was on the freeway, Tafokitau followed her and rammed into the back of her car three (3) times. He then started shooting at her with a gun. She received gunshot wounds.

In a written statement, [REDACTED] (hereinafter, "Witness 2") stated that on January 1, 2024, at about 7:15 a.m., he was driving east on the freeway when he heard gunshots.⁷ He then turned to his left towards the Aloha Stadium and observed a Nissan

⁶ The case involving Tafokitau's shooting of Witness 1 is documented under HPD Report Number [REDACTED]

⁷ See, statement by Witness 2, documented under HPD Report Number [REDACTED]

sedan crash into the yellow sand buckets located on the Moanalua Freeway, at Exit 1A. After calling 911, Witness 2 drove to the Nissan and observed a female who was later positively identified as Witness 1, within the said vehicle. He observed blood on her right thigh and appeared to have multiple gunshot wounds on her body. Witness 2 asked Witness 1 if she was okay and she responded that her boyfriend had just shot her.

HPD Officer [REDACTED] (hereinafter, "Officer 7") stated on January 1, 2024, at about 7:21 a.m., he responded to the Moanalua Freeway, Exit 1A off ramp.⁸ There, he observed a Nissan that was stopped on the left shoulder of the Exit 1A off ramp. The vehicle had damage to its rear bumper as well as extensive damage to its front end. Based on his training and experience, Officer 7 also saw that the Nissan had eight (8) bullet holes along the driver's side of the vehicle: one (1) on the rear driver's side door; six (6) on the driver's side door; and one (1) on the front driver's side fender. Within the vehicle was a female who was later identified as Witness 1. She had been struck by multiple bullets and was bleeding. Blood and other bodily fluids were on the front driver's and passenger's seats. Officer 7 also observed exit bullet holes on the front passenger side window and front windshield.

Witness 1 was transported from the scene to the Queen's Medical Center. There, she was treated for gunshot wounds to her right hand, left arm, and right leg.⁹

1b. Relevant Photographs of Scene 1.

Below are relevant photographs of the above scene and Nissan that Witness was operating when Tafokitau shot her.¹⁰ The first three (3) photographs depict: 1) Exit 1A from the Moanalua Freeway; 2) the damaged vehicle operated by Witness 1; and 3) the multiple bullet holes on Witness 1's vehicle.

⁸ See, report by Officer 7 documented under HPD Report Number [REDACTED]

⁹ See, statement by Dr. [REDACTED] (hereinafter, "Doctor 1") documented under HPD Report Number [REDACTED]

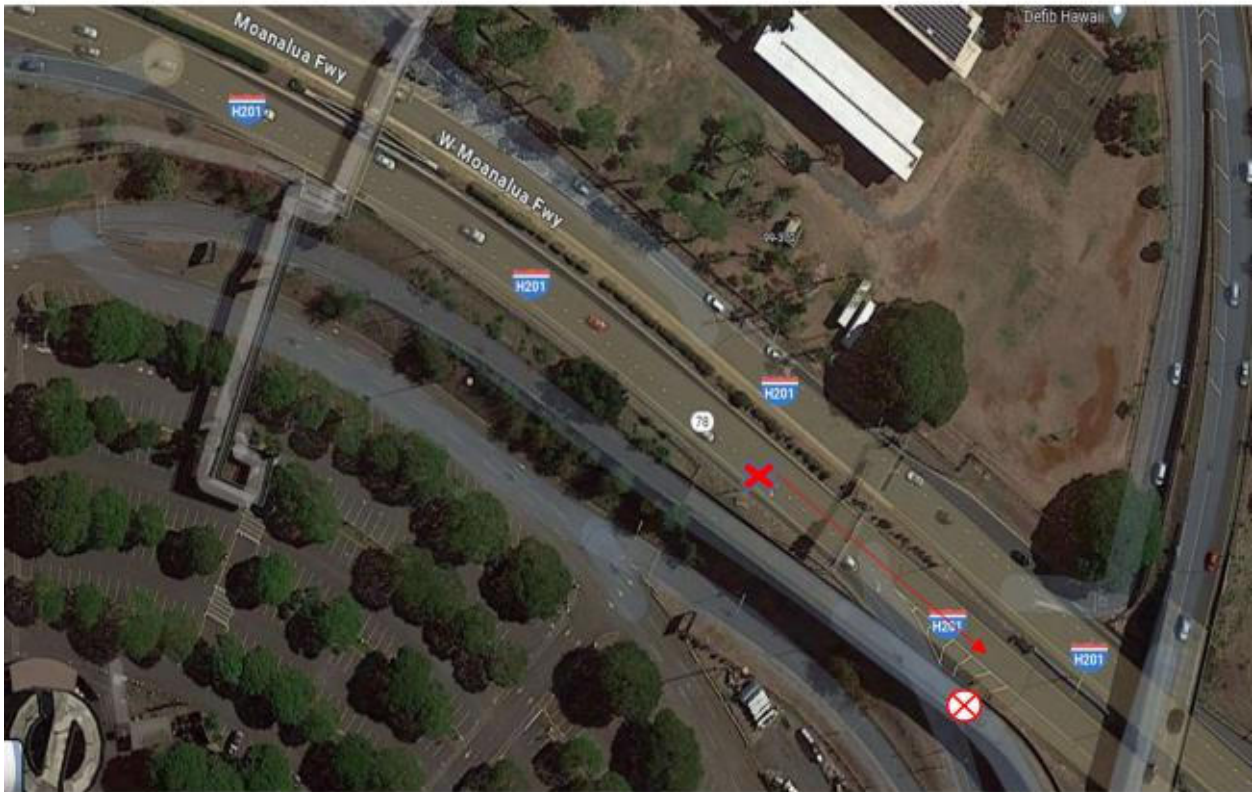
¹⁰ See, report by Officer 7.








The below photograph is a satellite view of the scene, including the approximate area of where the shooting occurred, the direction that Tafokitau after he shot Witness 1, and the resting point of Witness 1's vehicle:

██████ Diagram
Moanalua Freeway East/ Exit 1A



LEGEND

-  Approximate area shooting reportedly occurred
-  Suspect reported direction of flight
-  Area victim vehicle stopped, area victim was located

- 2a. **Scene 2: 11:35 a.m. to 11:39 a.m. Gulick Avenue, Wilcox Lane, North King Street, Kalihi Street, and Likelike Highway. Participants: Tafokitau and D3 CRU officers. Offenses: Attempted Murder in the First Degree and Firearms Offenses.**



Following the shooting incident involving Witness 1, various HPD Crime Reduction Officers were assigned to locate and arrest Tafokitau. On January 1, 2024, D3 CRU officers received information that Tafokitau was seen in 'A'ala Park.¹¹ As a result, Officer 8, Officer 9 and Officer 2 drove to the said area to make checks in a gray, unmarked HPD van (hereinafter, "D3 CRU Van"). Officer 8 drove, Officer 9 was seated in the front passenger seat, and Officer 2 was seated in the rear passenger seat of the D3 CRU Van.

¹¹ Unless otherwise stated, the reports from HPD Officer [REDACTED] (hereinafter, "Officer 8"), HPD Officer [REDACTED] (hereinafter, "Officer 9") and Officer 1 provided the majority of the facts noted as to Scene 2. The reports from Officer 8 and Officer 9 were documented under HPD Report Number [REDACTED] while the report from Officer 2 was documented under HPD Report Number [REDACTED]

On January 1, 2024, at about 11:25 a.m., the said officers were in the D3 CRU Van when they observed Tafokitau sitting on a rock wall near the bottom and disabled parking stalls of the 'A'ala Park parking lot. Tafokitau was wearing a zipped-up dark hoodie, sunglasses, black baseball cap, and short, multi-colored pants. After entering a white Nissan MPVH vehicle (hereinafter, "White SUV"), Tafokitau reversed out from the stall in the White SUV and exited the parking lot.

The D3 CRU officers followed Tafokitau in the D3 CRU Van as he traveled westbound on North King Street. Tafokitau then turned the White SUV onto Gulick Avenue where he parked on the right side of the said roadway. Officer 8 observed the White SUV parked on the side and continued operating the D3 CRU Van past Tafokitau's vehicle. Officer 8 then reversed parked the D3 CRU Van in the front driveway located at a residence on Gulick Avenue, which was approximately three (3) blocks away from where Tafokitau parked his White SUV.

While waiting in the D3 CRU Van, the D3 CRU officers observed Tafokitau approaching them at a slow rate of speed in the White SUV. As he got to within seven (7) feet away from them, Tafokitau looked into the D3 CRU Van through the front windshield and driver's side window. The D3 CRU Van did not have any tinting on its windows. Tafokitau then raised with his right hand, a long gun rifle past his face and almost to an upright position. Upon making the aforementioned observation, Officer 8 quickly accelerated the D3 CRU Van southbound on Gulick Avenue towards Wilcox Lane.

As Officer 8 turned onto Wilcox Lane, the District 3 CRU officers heard gunshots. They realized that Tafokitau was behind their vehicle and shooting at them with his rifle through the front windshield of his White SUV. Bullets were striking the rear window and other parts of the D3 CRU Van. Officer 8 then turned eastbound onto North King Street and continued to drive at a high rate of speed to flee from Tafokitau. Tafokitau who was still chasing them, continued to shoot at them through the front windshield area of the White SUV. As a result, Officer 8 then turned north onto Kalihi Street.

Approaching the intersection of Kalihi Street and North School Street, the officers continued to hear gunshots being fired towards their vehicle. Seeing a red light in front of them at the intersection of the Likelike Highway and Kalihi Street, Officer 8 maneuvered the District 3 CRU Van over the center grassy median and then traveled north and up the Likelike Highway against south bound traffic. Officer 8 then turned left onto Kono Street where they bailed out of the D3 CRU Van. After they exited out of their vehicle, the officers did not see Tafokitau. The said D3 CRU officers estimated that Tafokitau shot at them anywhere between fifteen (15) to thirty (30) times while he was chasing them.

██████████ (hereinafter, "Witness 3") stated that he was walking towards Kalihi Street when he observed a gray van speeding in the middle lane towards Kalihi Street.¹²

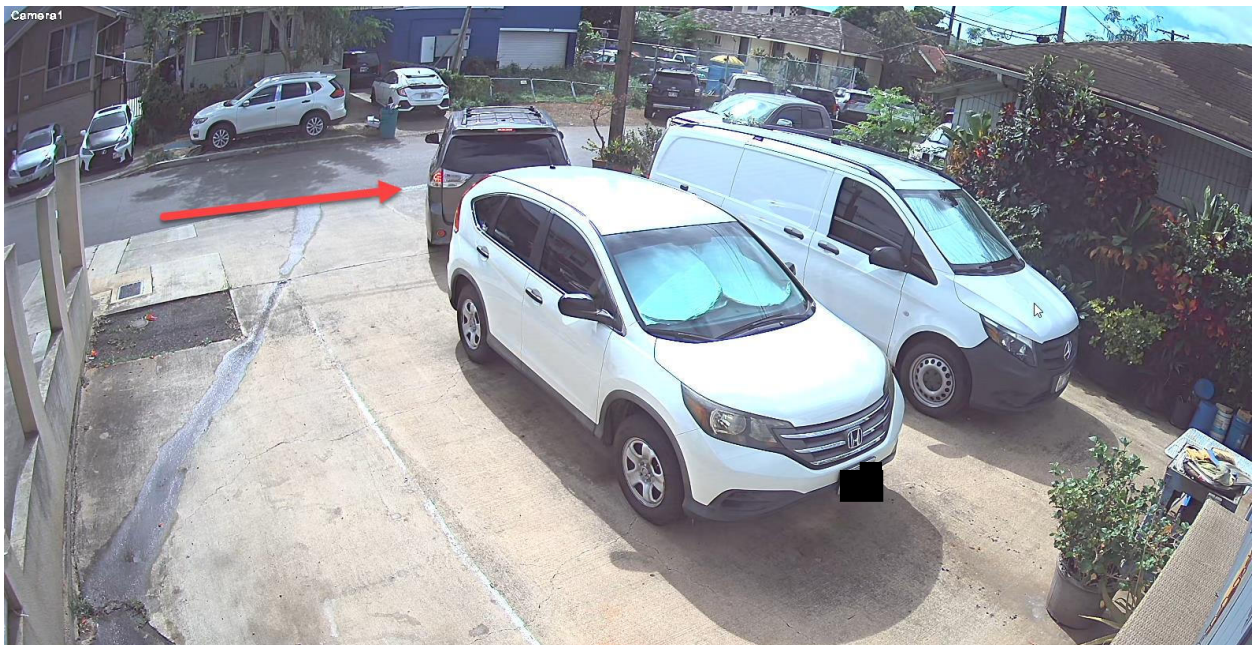
¹² Witness 3's statement was documented under HPD Report Number ██████████

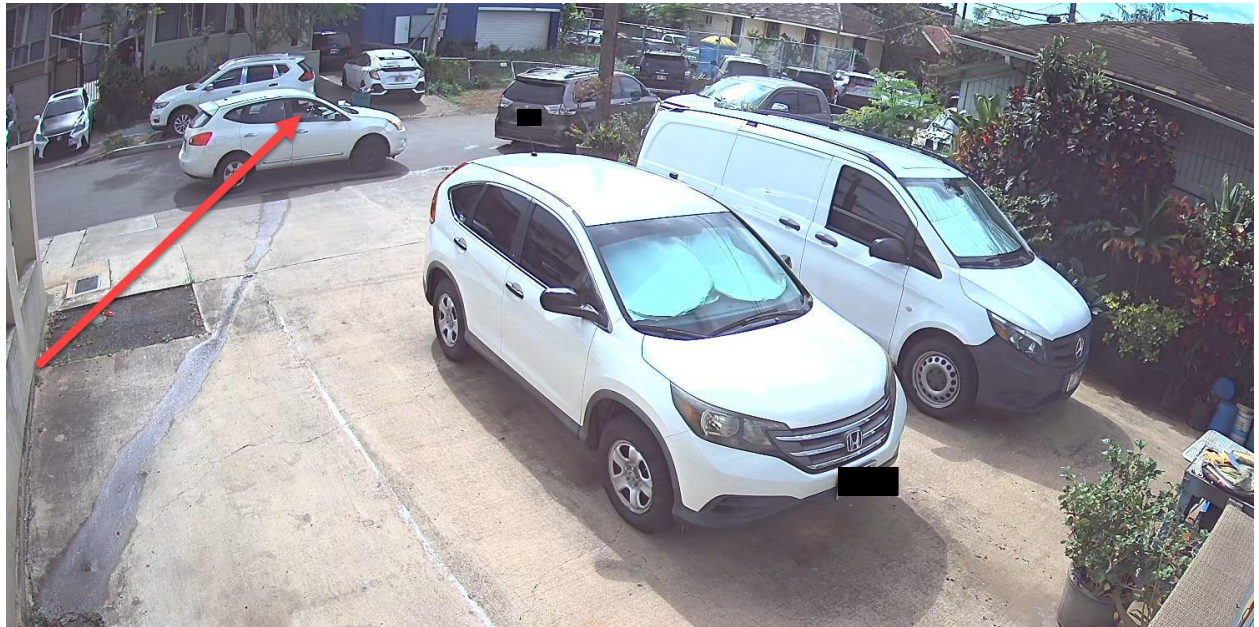
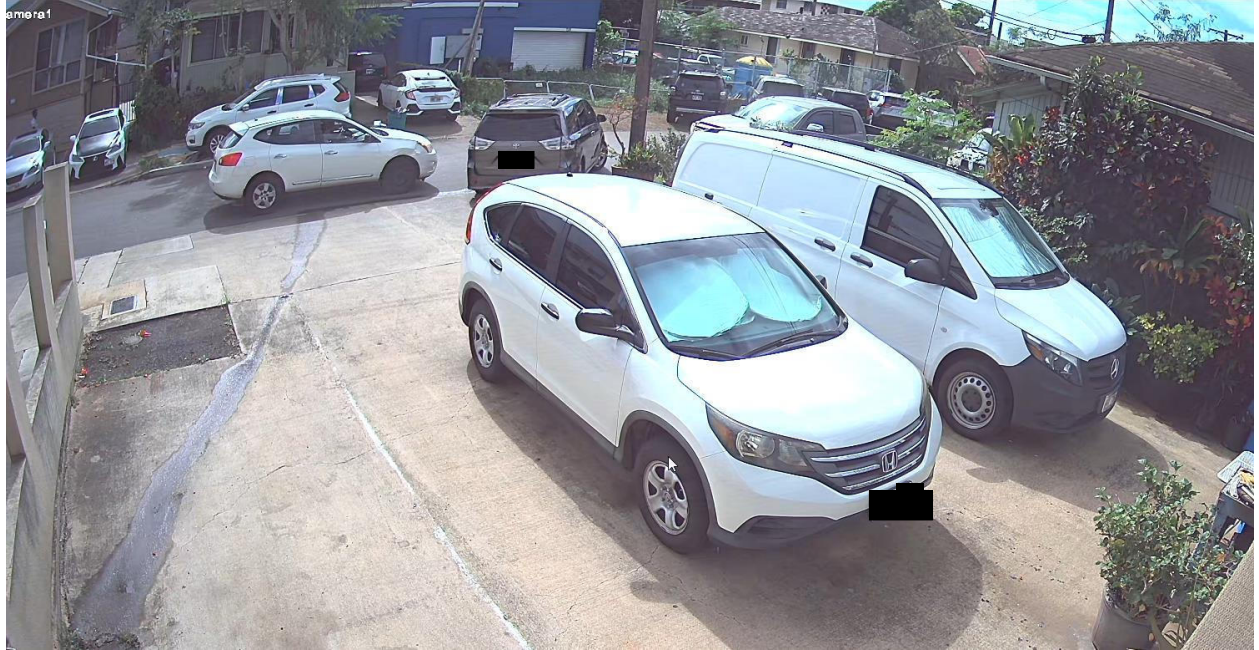
A white SUV followed the gray van which abruptly took a left turn onto Kalihi Street. The white SUV braked and also took the left turn to follow the gray van. After the white SUV took the left turn onto Kalihi Street, Witness 3 heard the sound of fireworks or gunshots. The driver of the white SUV appeared to be holding his left hand out of his window towards the gray van. After hearing the first shot, Witness 3 then heard four (4) to five (5) more rapid pop sounds.

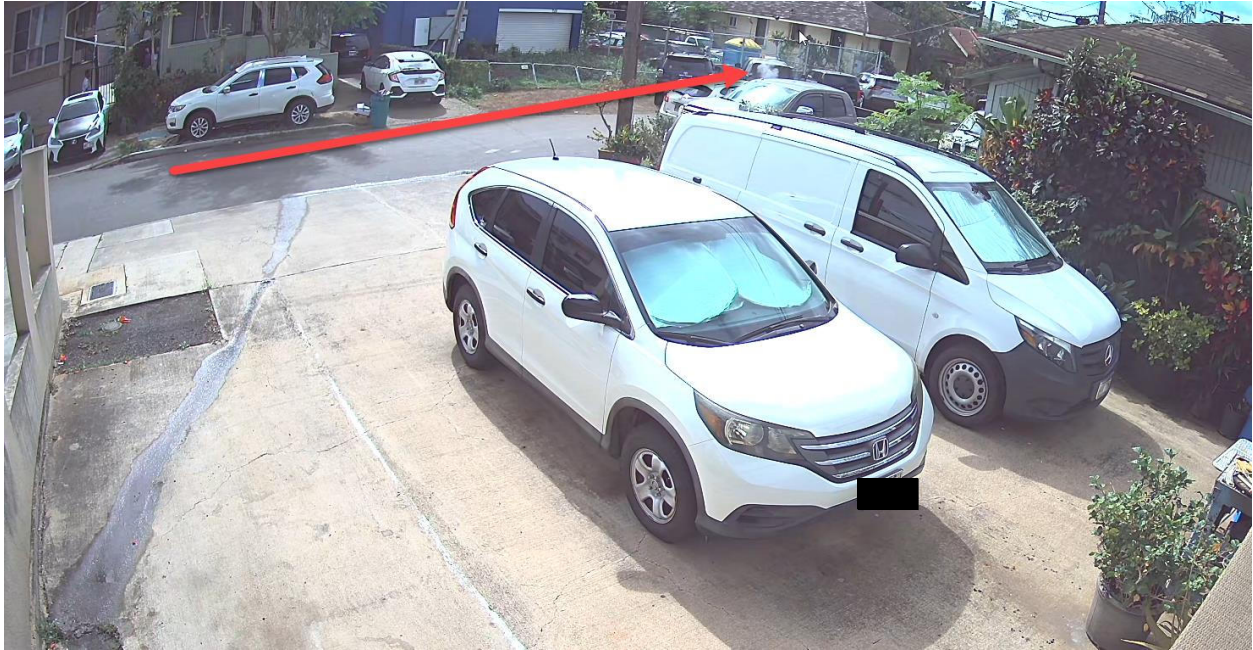
2b. Relevant Photographs of Scene 2.

Below are relevant photographs from Scene 2.

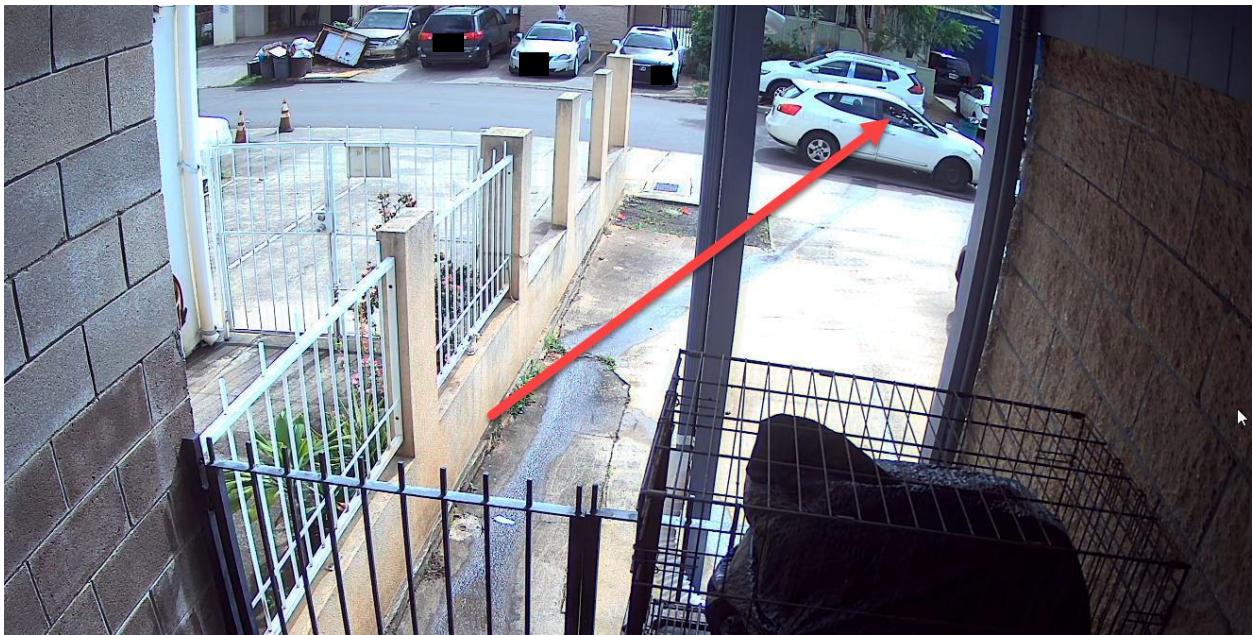
The below four (4) are still photographs taken from video surveillance recordings that were submitted into evidence under HPD Report Number [REDACTED]. The four (4) photographs depict: 1) the D3 CRU Van reversed parked in a driveway of a residence located at Gulick Avenue; 2) the D3 CRU Van fleeing in front of Tafokitau's White SUV; 3) what appears to be a firearm being raised from the driver's side of Tafokitau's White SUV; and 4) what appears to be gun smoke emitting from Tafokitau's White SUV.







The below photograph is taken from a different surveillance camera located at the same residence as the first four (4) photographs. The photograph shows Tafokitau appearing to raise the rifle as Tafokitau's vehicle approaches the D3 CRU Van which is just out of the camera view and to the right.



The last photograph shows the D3 CRU Van on Kono Street. The photograph depicts the bullet holes on the back windshield, caused by Tafokitau shooting at the D3 CRU Van.¹³



¹³ See, report by Officer Daniel Tuttle (hereinafter, "Officer 10") submitted under HPD Report Number [REDACTED]

**3a. Scene 3: Intersection of Kahekili Highway and Hui Iwa Street.
Participants: Tafokitau and civilian witnesses
Offenses: Robbery in the First Degree, Firearms Offenses, and
Collisions Involving Bodily Injury.**



██████████ (hereinafter, “Witness 4”) stated that on January 1, 2024, at about 11:45 a.m., she was on Kahekili Highway at a red light signal while operating a Handi-Van.¹⁴ She was waiting at the said light in order to take a left turn onto Hui Iwa Street. While at a stop, she saw a white SUV going down Kahekili Highway on her left side and in the lane facing oncoming traffic. The white SUV then went through the red light and into the Kahekili Highway and Hui Iwa intersection. A blue truck that was crossing the intersection on Hui Iwa Street on a green light, then t-boned the white SUV.

Witness 5 stated that on January 1, 2024, at about 11:45 a.m., she was driving her mother, ██████████ (hereinafter, “Witness 6”) and stopped at a red light on Kahekili Highway at the intersection of Kahekili Highway and Hui Iwa Street. Witness 5

¹⁴ The statements from the witnesses in Scene 3 are all documented under HPD Report Number ██████████

was waiting to make a left turn onto Hui Iwa Street when she observed a white SUV swerving around traffic. The white SUV was traveling against traffic in the wrong lane and directly towards them. The white SUV then ran the red light on Kahekili Highway. Meanwhile, a blue truck that was traveling on Hui Iwa Street through the aforementioned intersection on a green light, t-boned the white SUV.

Witness 6 got out of Witness 5's vehicle, which was the Scion, and walked over to the white SUV to check on the driver of the said vehicle. While on the phone with dispatch, Witness 5 observed the driver of the white SUV "crawl out" of his vehicle. The white SUV driver who was later positively identified as Tafokitau, was holding a rifle. Witness 5 also noted that she took a photo of Tafokitau as he exited out of the white SUV.

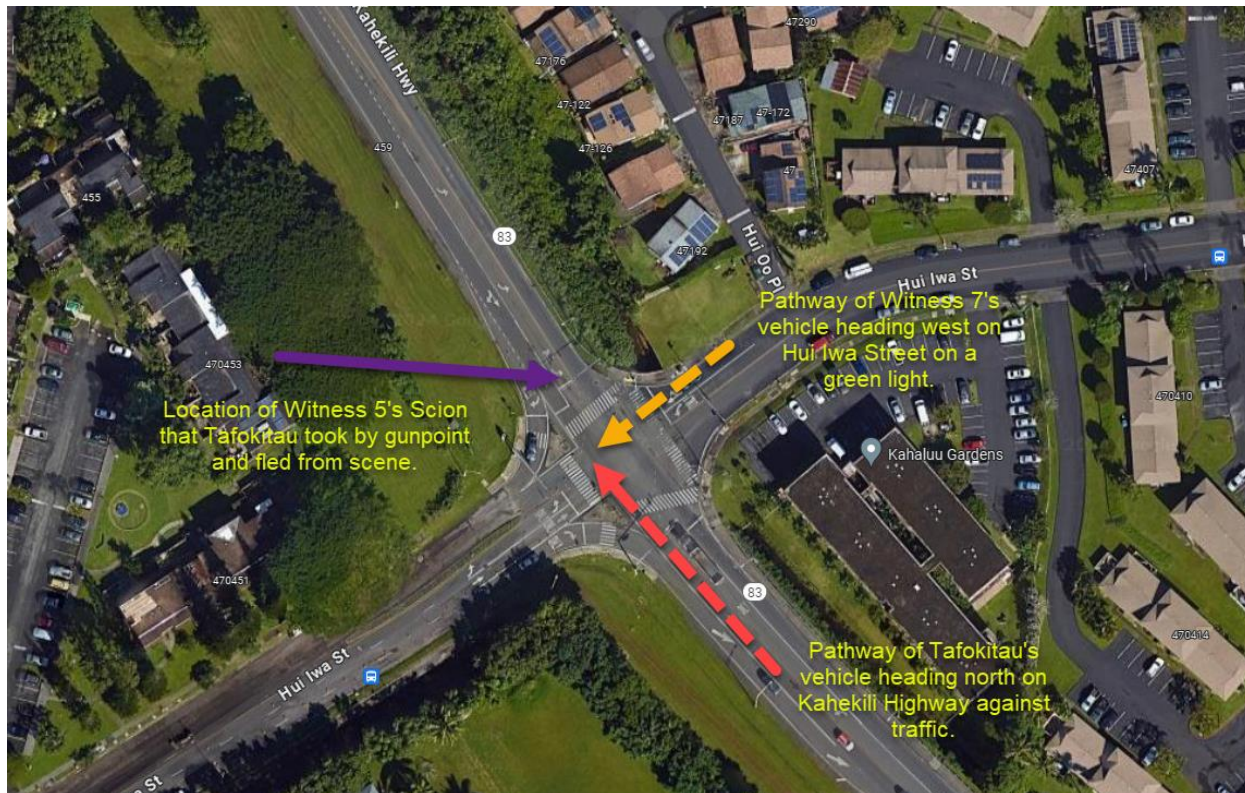
Tafokitau then walked over to Witness 5 who was still seated in her Scion and he then opened her car door. Tafokitau then pointed the rifle at Witness 5 and told her to get out of the car. After she complied, Tafokitau got into Witness 5's vehicle and drove off in her vehicle towards Kāne'ōhe.

Witness 6 confirmed that while Witness 5 was waiting to turn left onto Hui Iwa Street from Kahekili Highway, she observed a white SUV flying in the wrong lane directly towards them. As the white SUV crossed the intersection through the red light, a blue truck that was going straight on a green light, t-boned the said vehicle. After being t-boned, the white SUV spun out. Witness 6 then jumped out of Witness 5's car to check on the driver of the white SUV. Witness 6 tried to open the door of the white SUV but could not do so. As a result, she went to the passenger side of the vehicle. She then observed the driver of the white SUV, who was later positively identified as Tafokitau, exit the driver's side door through its window. After asking Tafokitau if he was alright, Witness 6 noticed Tafokitau pulling out a rifle from the white SUV. Tafokitau then walked to Witness 5's Scion and opened the driver's side door. He then pointed the rifle at Witness 5 and told her to get out of the car. Witness 5 and Witness 6 were able to get their purses out Witness 5's car before Tafokitau drove off in the Scion.

██████████ (hereinafter, "Witness 7") was identified as the driver of the blue truck that t-boned the white SUV that Tafokitau was operating. Witness 7 stated that he was going on Hui Iwa Street straight through its intersection with Kahekili Highway on a green light when a white car came suddenly through the said intersection on Kahekili Highway on a red light. His truck then slammed into the white car.

3b. Relevant Photographs of Scene 3.

The photograph below is a satellite view of Scene 3.¹⁵ The photograph depicts the paths taken by Tafokitau's White SUV and Witness 7's blue truck up to the point of the motor vehicle collision. Also, the purple area indicates the location of Witness 5's Scion which was waiting to make the left turn onto Hui Iwa Street.



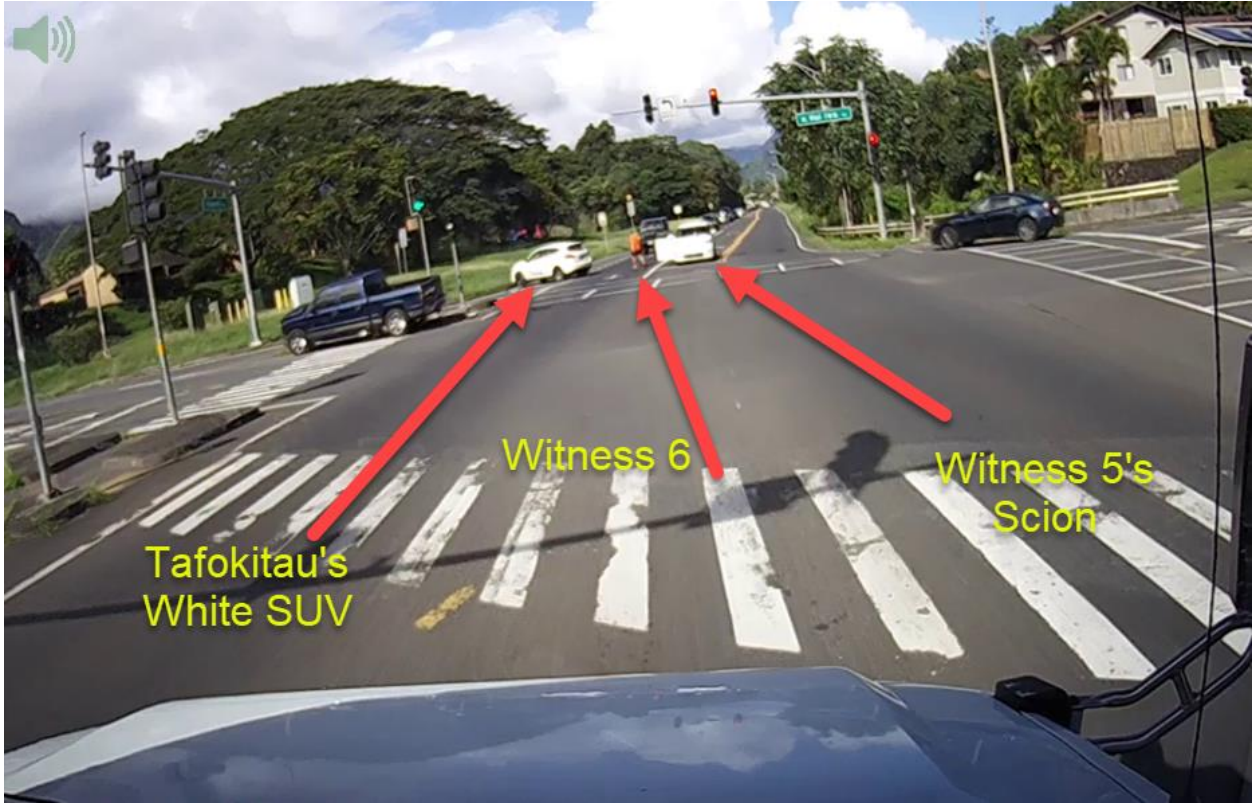
¹⁵

<https://www.google.com/maps/place/Hui+Iwa+St,+Ahuimanu,+HI+96744/@21.4350821,-157.8323132,1214m/data=!3m1!1e3!4m6!3m5!1s0x7c006a40490a8ab7:0x1ae4026344af2a29!8m2!3d21.4365266!4d-157.8308896!16s%2Fg%2F1td4ds31?entry=ttu>

The next five (5) photographs were captured from Witness 4's Handi-Van surveillance cameras. The first photograph which was taken from the Handi-Van's side view (rear facing) camera, shows Tafokitau traveling in the opposite lane of travel as it passes the left side of the Handi-Van as the said van waits to take the left turn onto Hui Iwa Street. The next four (4) photographs were taken from the front view camera of the Handi-Van and shows: 1) Tafokitau's White SUV going through the intersection on a red light; 2) Witness 7's blue truck t-boning Tafokitau's White SUV; 3) Witness 6 approaching Tafokitau's White SUV from Witness 5's Scion; and 4) Tafokitau exiting his car through the driver's side window of his White SUV.







Tafokitau's
White SUV

Witness 6

Witness 5's
Scion



Tafokitau exiting car
through window

Lastly, Witness 5 took the photograph below depicting Witness 6 talking to Tafokitau after he exited through his vehicle's driver's side window. Shortly thereafter, Tafokitau walked over to the Scion, opened the Scion's driver's door, ordered Witness 5 out of her vehicle at gun point, and drove away from the scene in her car.



- 4a. **Scene 4: Alohea Avenue.**
Participants: Tafokitau and D8 CRU officers.
Offenses: Attempted Murder in the First Degree and Firearms Offenses.



While attempting to locate Tafokitau, D8 CRU officers received information that Tafokitau had a relative who lived on [REDACTED] (Kapahulu area).¹⁶ On January 1, 2024, at around 2:00 p.m., [REDACTED], HPD [REDACTED], “Officer 12”) and HPD Officer [REDACTED] (hereinafter, “Officer 13”) were in an unmarked HPD SUV (hereinafter, “D8 CRU SUV”) to conduct covert surveillance of the relative’s residence on [REDACTED]. Officer 11 drove the D8 CRU SUV while Officer 12 was in the rear passenger seat and Officer 13 sat in the front passenger seat. While conducting surveillance, the D8 CRU officers observed Tafokitau driving westbound on [REDACTED] in the Scion. Upon doing so, Officer 11 began to follow Tafokitau in the D8 CRU SUV.

¹⁶ The statements from the D8 CRU officers are documented under HPD Report Number [REDACTED]

As they followed Tafokitau who was travelling eastbound on Alohea Avenue in the Scion, the D8 CRU officers saw that Tafokitau had just pulled to the side of the road near the intersection of Alohea Avenue and Kepuhi Street. Officer 11 then parked the D8 CRU SUV to the side of the road and positioned the vehicle directly behind an unoccupied parked vehicle prior to the intersection of Alohea Avenue and Kepuhi Street.

While parked, Officer 11 only had a partial view of the Scion because of the aforementioned parked unoccupied vehicle that was in front of the D8 CRU SUV. Officer 11 then saw that the Scion appeared to have made a U-turn and was driving westbound on Alohea Avenue towards the D8 CRU officers' position. Believing that the Scion may have turned onto Kepuhi Street, Officer 11 opened the driver's side door of the D8 CRU SUV to peek out onto the roadway. Officer 13 also stepped halfway out of the D8 CRU SUV front passenger door to get a better view of where the Scion was located.

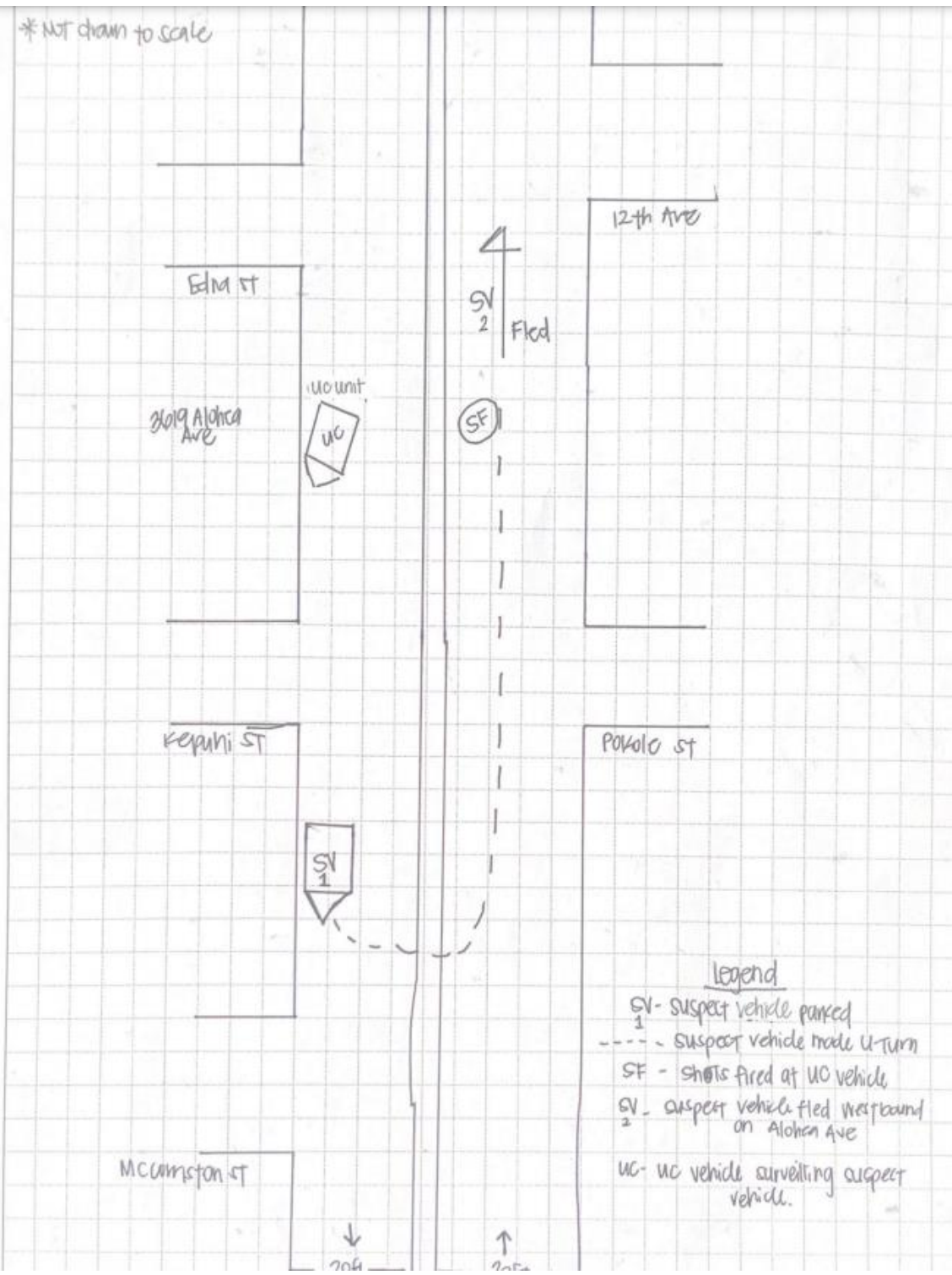
The D8 CRU officers then suddenly realized that the Scion was traveling westbound directly towards their parked D8 CRU SUV at a slow speed. They further observed Tafokitau pointing what appeared to be an AR type rifle directly at them. Fearing he would be shot, Officer 11 quickly dropped to the asphalt pavement from the open drivers' side door. While doing so, Officer 11 heard a loud gunshot. Meanwhile, after hearing the gunshot, Officer 12 jumped out of the D8 CRU SUV while Officer 13 fired one shot at the Scion that quickly sped off westbound on Alohea Avenue. Following the incident, Officer 11 noticed what appeared to be an entry bullet hole that was located on the D8 CRU SUV's front driver's side of the A-Pillar.

4b. Relevant Diagram and Photographs of Scene 4.

The diagram below shows the likely path that Tafokitau took while operating the Scion on Alohea Avenue as he made a U-turn to head westbound towards the parked D8 CRU SUV. The symbol "SF" on the diagram indicates the probable area where Tafokitau took one shot from his rifle towards the D8 CRU officers.¹⁷

¹⁷ HPD Officer [REDACTED] (hereinafter, "Officer 14") drew the diagram in [REDACTED] report submitted under HPD Report Number [REDACTED]

* NOT drawn to scale



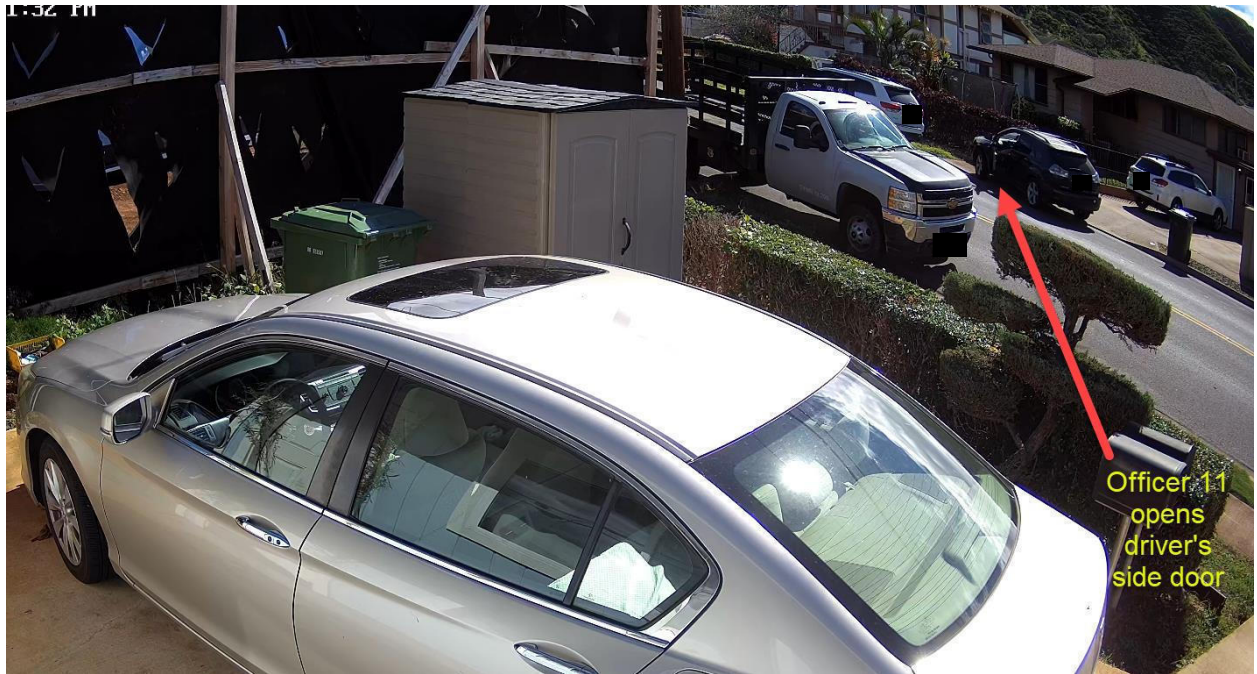
Legend

- SV₁ - suspect vehicle parked
- suspect vehicle made U-Turn
- SF - shots fired at UC vehicle
- SV₂ - suspect vehicle fled westbound on Aloha Ave
- UC - UC vehicle surveilling suspect vehicle.

The next five (5) photographs were taken from a surveillance video camera located across the street from where HPD Officer 11 parked the D8 CRU SUV on Alohea Avenue.¹⁸ The photographs depict: 1) the D8 CRU SUV parked on Alohea Avenue; 2) Officer 11 opening the door of the D8 CRU SUV and looking out to see where Tafokitau's vehicle was; 3) Officer 11 and Officer 13 quickly exiting the D8 CRU SUV as Tafokitau approaches them in the stolen Scion; 4) Officer 11 and Officer 13 taking cover as the Scion approaches closer to the D8 CRU SUV; and 5) the Scion driving past the D8 CRU SUV to continue westbound on Alohea Avenue.

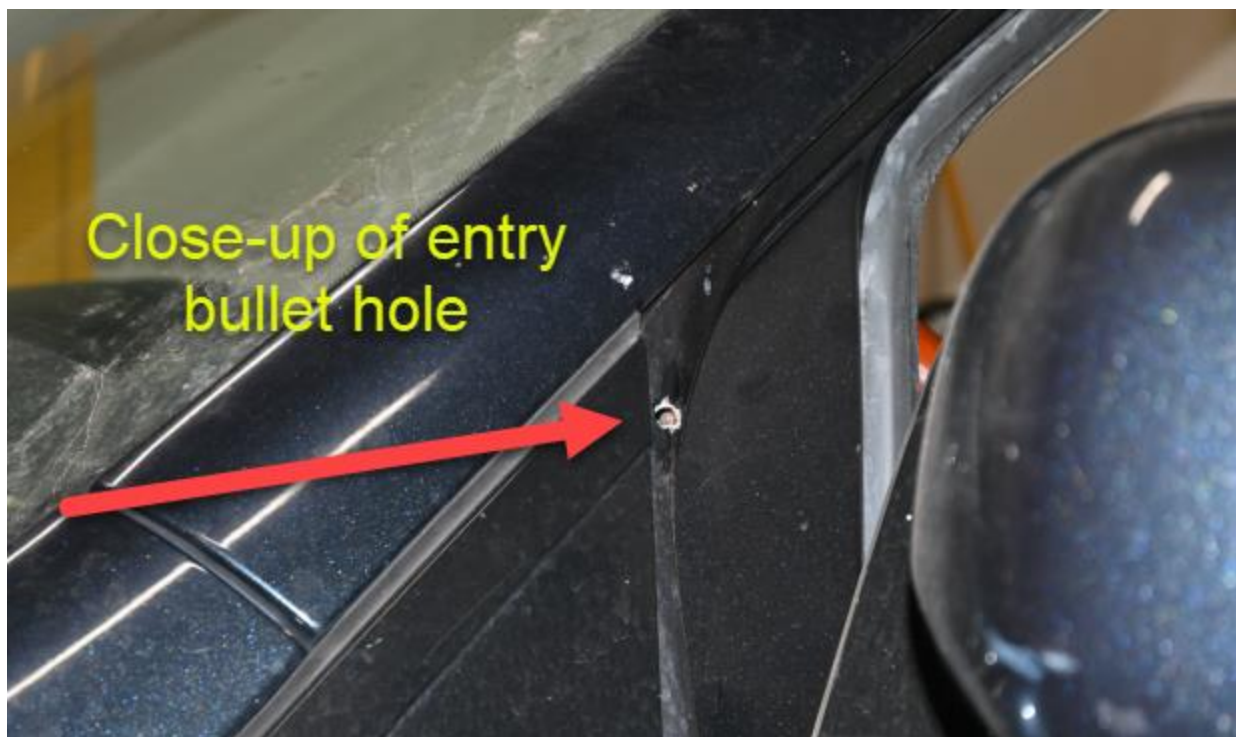


¹⁸ The video surveillance was submitted into evidence under HPD Report Number 24-000922.





The next photographs depict the entry bullet hole on the A-Pillar of the D8 CRU SUV.¹⁹



¹⁹ Photographs taken by HPD Evidence Specialist [REDACTED] (hereinafter, "EV Specialist 1") submitted under HPD Report Number [REDACTED]

5. **Scene 5: Kamehameha Highway near Punalau Place.**
Participants: Tafokitau and a civilian witness.
Offense: Accidents Involving Damage to Vehicle or Property.



██████████ (hereinafter, “Witness 8”) stated that on January 1, 2024, at about 2:50 p.m., he was operating his motorcycle on the Kamehameha Highway near Punalau Place.²⁰ He was traveling towards Sunset Beach (Kahuku Bound) when a white Scion that was later determined to be operated by Tafokitau, drove up from behind him. The Scion then drove to the right and around Witness 8. While doing so, Tafokitau side-swiped Witness 8’s motorcycle and caused Witness 8 to drive towards oncoming traffic. Witness 8 was able to maneuver back into his lane of travel. Witness 8 also stated that the Scion continued to pass many other vehicles in front of him as it continued driving towards Kahuku. While doing so, the Scion would travel in the opposite lane of travel towards oncoming traffic. Witness 8 lastly indicated that his motorcycle had minor damages to its right side from being side swiped by the Scion.

²⁰ Witness 8’s report is documented under HPD Report Number ██████████

6. **Scene: Area of Kawailoa Beach and Laniakea Beach.**
Participants: Tafokitau and HPD Helicopter Unit.
Offenses: Attempted Murder in the First Degree and Firearms Offenses.



HPD Corporal [REDACTED] (hereinafter, “Corporal 1”) stated that on January 1, 2024, at about 12:55 p.m., he and HPD Officer [REDACTED] (hereinafter, “Officer 15”) received notification that they were to launch from a helicopter to locate Witness 5’s Scion that Tafokitau was operating.²¹ On January 1, 2024, at about 2:17 p.m., Corporal 1 received reports that shots were fired from the Scion in the area of Alohea Avenue (Scene 4).

While Officer 15 operated the HPD helicopter, Corporal 1 located the Scion as it traveled north on 6th Avenue and turned onto Harding Avenue. Officer 15 continued to follow the Scion as the said vehicle took the H-1 westbound on ramp from Harding Avenue, traveled west on the H-1 Freeway, north on the H-2 Freeway, west on Wilikina

²¹ Corporal 1’s report is documented under HPD Report Number [REDACTED]

Drive, and north on Kaukonahua Road towards Hale'iwa.²² At that point, Officer 15 had to return to the airport to refuel. After doing so and traveling back towards the North Shore in the HPD helicopter, Officer 15 and Corporal 1 were able to locate the Scion in the area of Kamehameha Highway and Hale La`a. The Scion was travelling back westbound in the North Shore area. As the Scion traveled through Kahuku and west towards the Hale'iwa side of Waimea Bay, the roadway became very crowded. As a result, the Scion started to drive towards oncoming traffic for several miles while heading south.

Officer 15 informed Corporal 1 that he noticed foot traffic moving towards the roadway at Kawailoa Beach and Laniakea Beach. They could both see people running towards the roadway with their cell phones pointing out. Assuming that possible media sources had revealed the police pursuit of the Scion, Officer 15 believed that the bystanders were trying to video record the Scion with their phones.

Officer 15 then maneuvered the HPD helicopter closer to the ground so that he and Corporal 1 could wave the bystanders back to prevent them from being injured by the Scion. On January 1, 2024, at about 3:37 p.m., Officer 15 turned the helicopter to face the wind to avoid any negative in the flight conditions. While he did so, the helicopter momentarily faced the Scion. Corporal 1 then observed Tafokitau insert what appeared to be a rifle barrel through a hole that was in the front windshield of the Scion. Corporal 1 saw three (3) distinct flashes coming from the Scion and realized that Tafokitau was shooting at their HPD helicopter. While at about five hundred (500) feet above the ground, Officer 15 took immediate evasive action with the helicopter to avoid getting shot.

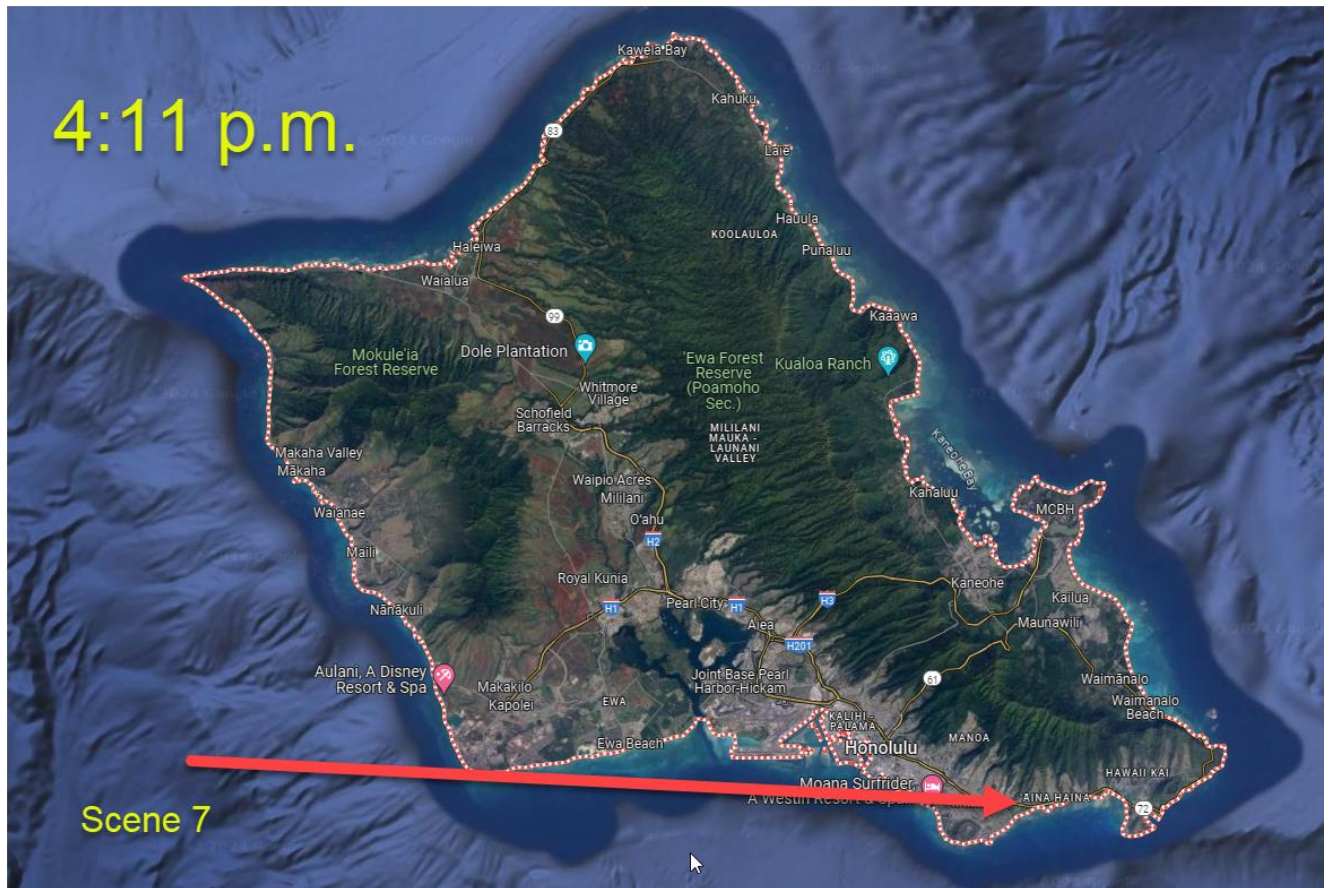
Officer 15 continued to follow the Scion as it turned from the Kamehameha Highway onto the H-2 Freeway. The Scion eventually merged onto the H-1 Freeway and headed east back towards town. Officer 15 then returned to the airport to refuel.

²² The reports from other HPD officers are clear that HPD units were following and/or tracking Tafokitau as he headed westbound on the H-1 Freeway from the 11th Avenue on-ramp. See, e.g., reports by HPD Officer [REDACTED] (hereinafter, "Officer 16") [REDACTED] 17").

7a. Scene 7: Intersection of the Kalaniana'ole Highway and Kalaniiki Street.

Participants: Tafokitau, D7 CRU Officers, SSD HPD Captain [REDACTED] (hereinafter, "Captain 1"), and Sergeant 1.

Offenses: Attempted Murder in the First Degree and Firearms Offenses.



On January 1, 2024, at about 4:11 p.m., Officer 4, Officer 5, Officer 6 and HPD D [REDACTED] (Officer 18") from D7 CRU were in an unmarked HPD truck (hereinafter, "D7 CRU Truck") and were positioning themselves in an attempt to locate Tafokitau.²³ Officer 4 was the driver of the D7 CRU Truck, Officer 5 was seated in the front passenger seat, Officer 6 was seated in the rear left seat and Officer 18 was seated in the rear right passenger seat. As they traveled eastbound on Kalaniana'ole Highway and reached the intersection of Kalaniana'ole Highway and Kalaniiki Street, Officer 4 observed that the light facing Kalaniana'ole Highway was red. As such, there were other stopped vehicles ahead of them. In an effort to get around

²³ The reports from the said officers are documented under HPD Report Number [REDACTED]. The incident that occurred at Scene 7 is documented under HPD Report Number [REDACTED].

stopped traffic in front of them, Officer 4 drove to the far left lane of the eastbound traffic. The far left lane is a dedicated left turn lane for traffic to turn left and head north onto Kalaniiki Street. Officer 4 was trying to use the far left lane to go around the other eastbound vehicles that were stopped at the stoplight.

While in the far left lane and at a stop, the D7 CRU officers noticed Tafokitau who was also heading eastbound on the Kalaniana'ole Highway. As the same traffic in front of him was at a stop, Tafokitau proceeded to make a wide U-turn from the right shoulder of the eastbound lanes of the Kalaniana'ole Highway to head back westbound on the same highway. While doing so, he started to approach the unmarked D7 CRU Truck that was still at a stop in the far left lane of eastbound traffic on the Kalaniana'ole Highway. At this point, the D7 CRU officers noticed that Tafokitau had the barrel of what appeared to be an AR-15 type rifle mounted through a hole in his vehicle's front windshield. The barrel was pointed directly at the D7 CRU Truck.

As the Scion passed to the front and to the left of the stopped D7 CRU Truck, Officer 6 feared that Tafokitau was going to shoot them. As a result, Officer 6 fired three (3) shots from the D7 CRU Truck at Tafokitau. Completing his U-turn, Tafokitau then proceeded to head westbound on the Kalaniana'ole Highway towards the H-1 Freeway West. Officer 4 then made a U-turn in their D7 CRU Truck at the Kalaniana'ole Highway and Kalaniiki Intersection and proceeded westbound on the Kalaniana'ole Highway in an effort to locate Tafokitau.

Captain 1 stated that on January 1, 2024, at about 4:11 p.m., he was traveling eastbound in his police subsidized vehicle on the Kalaniana'ole Highway in an effort to locate Tafokitau.²⁴ Approaching a red light at the intersection of the Kalaniana'ole Highway and Kalaniiki Street, Captain 1 heard over the police radio that Tafokitau was making a U-turn at the said intersection to head westbound. As a result, Captain 1 traveled to the dedicated left turn lane for the eastbound traffic on the Kalaniana'ole Highway in an attempt to make a U-turn and head westbound. While doing so, he noticed Tafokitau's vehicle running perpendicular to his vehicle. He then saw Tafokitau point the barrel of his rifle from the driver's side window, towards him. Tafokitau then fired multiple shots at him and headed westbound on the Kalaniana'ole Highway.²⁵ Captain 1 then took the U-turn at the above noted intersection, but was unable to locate Tafokitau. Through the police radio, Captain 1 could hear updates regarding Tafokitau's location.

Sergeant 1 stated that on January 1, 2024, at about 4:11 p.m., he was driving eastbound on the Kalaniana'ole Highway and approaching the Kalaniana'ole Highway

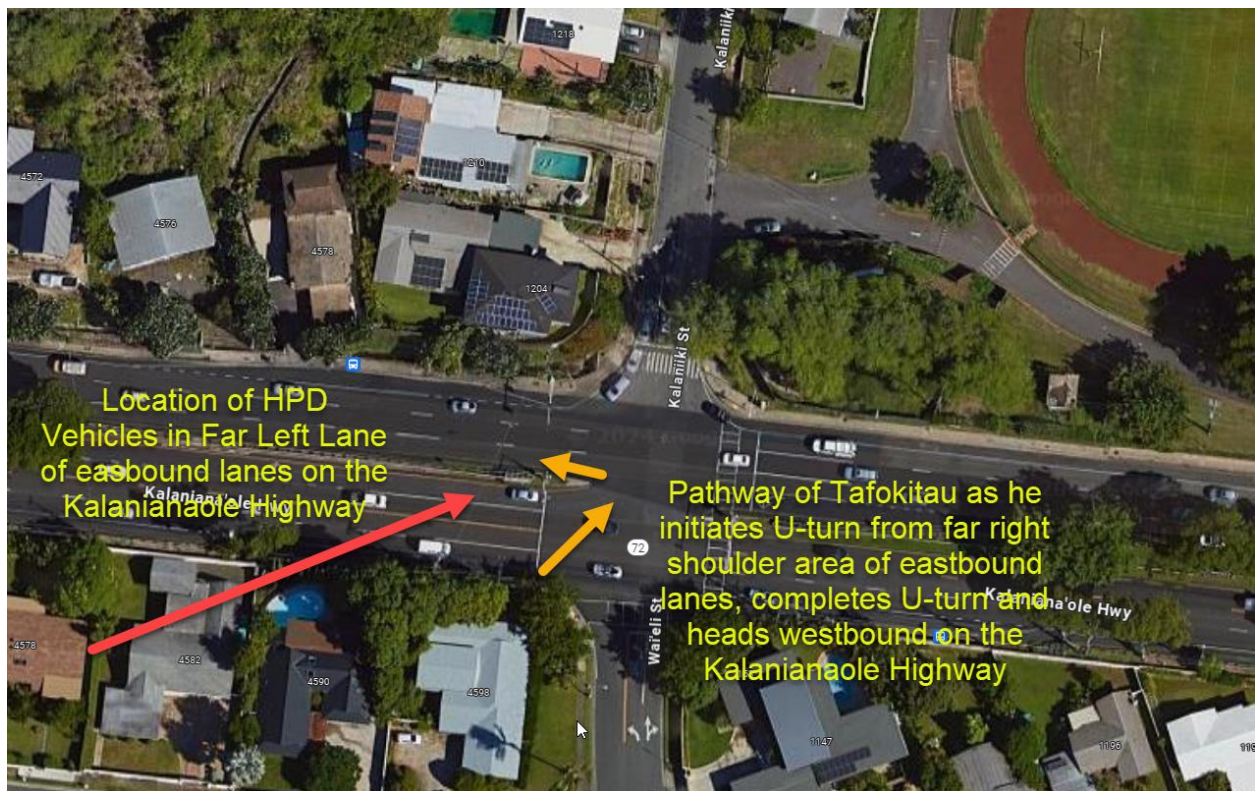
²⁴ Captain 1's report is documented under HPD Report Number [REDACTED]

²⁵ Other officers who were in the area confirmed that Tafokitau shot generally at the police officers that were following him at the intersection. See, reports by HPD Officer [REDACTED] (hereinafter, "Officer 19") and HPD Officer [REDACTED] (hereinafter, "Officer 20") documented under HPD Report Number [REDACTED]

and Kalaniiki intersection in his HPD truck (hereinafter, "D3 CRU Truck").²⁶ Officer 1 was seated in the front passenger seat of the truck. As they were reaching the said intersection, Sergeant 1 observed Tafokitau making the U-turn to head back westbound on the Kalaniana'ole Highway. After completing the U-turn, Tafokitau headed westbound on the highway in the lane closest to the median. Sergeant 1 then observed Tafokitau pointing a rifle at him and shooting at his direction.

7b. Relevant Photographs of Scene 7.

Below is a Google Map photograph of the area where Tafokitau made a U-turn to head back westbound on the Kalaniana'ole Highway. Tafokitau's path is illustrated by the orange arrows as he initiated the U-turn from the right shoulder area of the eastbound lane of the Kalaniana'ole Highway and completed the U-turn to head westbound in the far left lane. The photograph also shows via the red arrow, the left lane area where the D7 CRU Truck, D3 CRU Truck, and Captain 1's police subsidized vehicle were.²⁷



²⁶ Sergeant 1's report is documented under HPD Report Number [REDACTED]

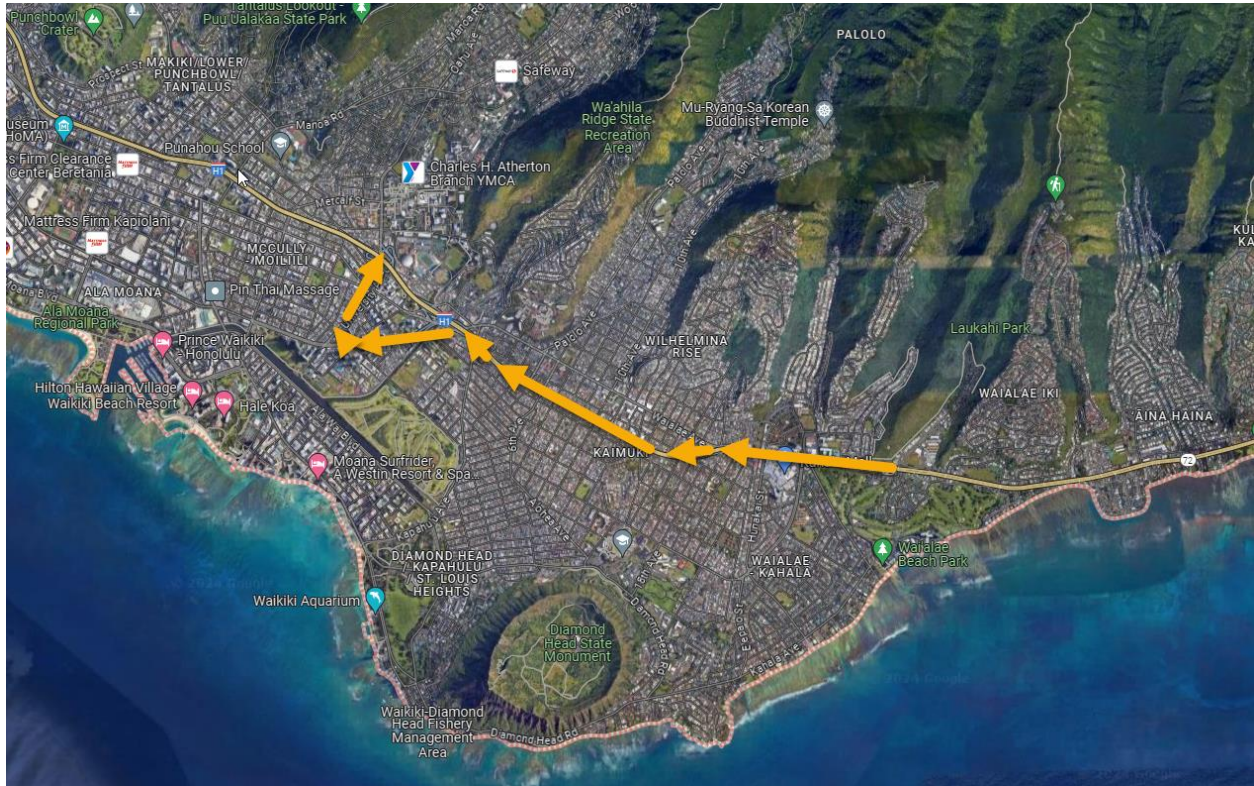
²⁷ <https://www.google.com/maps/place/Kalaniiki+St,+Honolulu,+HI+96821/@21.2776668,-157.7767455,152m/data=!3m1!1e3!4m6!3m5!1s0x7c006d500c09dee5:0xd578762b3de0b3e!8m2!3d21.2816527!4d-157.7723542!16s%2Fq%2F1tfd75mw?entry=ttu>

Below is another Google Map area of the same intersection as above but from the perspective of traffic heading eastbound on the Kalaniana'ole Highway.²⁸ As with the previous photograph, the red arrow indicates the dedicated left lane where the aforementioned HPD vehicles were when Tafokitau was making the U-turn to head westbound on the Kalaniana'ole Highway. The orange arrows indicate the path of Tafokitau's vehicle as he made the U-turn.



²⁸ https://www.google.com/maps/@21.2775044,-157.7771718,3a,34.3y,80.81h,93.05t/data=!3m6!1e1!3m4!1sCs8zKigEDHVOD_p49Ob8EQ!2e0!7i16384!8i8192?coh=205409&entry=ttu

As Tafokitau headed back westbound in the Scion, HPD units were attempting to track Tafokitau. Responding officers received information from other units that Tafokitau traveled back onto the H-1 Freeway West from the Kalaniana'ole Highway. From there, he took the Kapiolani Boulevard off-ramp, turned right onto Date Street and then right onto University Avenue.²⁹ Tafokitau then traveled north on University Avenue, through the H-1 overpass and past the University Avenue and Dole Street intersection. Below is a Google Map photograph with the yellow arrows indicating the path that Tafokitau took after he made the U-turn at the intersection of the Kalaniana'ole Highway and Kalaniiki Street.³⁰



²⁹ See, report by HPD Officer [REDACTED] (hereinafter, "Officer 21") documented under HPD Report Number [REDACTED]

³⁰ <https://www.google.com/maps/place/O%E2%80%98ahu/@21.2918068,-157.821376,4086m/data=!3m1!1e3!4m6!3m5!1s0x7c006632db726b03:0xd9587d69906fcbc3!8m2!3d21.4389123!4d-158.0000565!16zL20vMGRmY24?entry=ttu>

- 8a. **Scene 8: Area of the intersection of University Avenue and Dole Street.**
Participants: Tafokitau, Sergeant 1, Officer 1, Officer 2, Officer 3, Officer 4, Officer 5, Officer 6, Officer 7, Officer 18, Corporal [REDACTED] (hereinafter, "Corporal 2") and HPD Officer [REDACTED] (hereinafter, "Officer 22").
Offenses: Attempted Murder in the First Degree and Firearms Offenses.



1. Statement by Corporal 2.³¹

Corporal 2, who was assigned to D5 CRU, stated that he was on duty and attempting to locate Tafokitau in the Scion. Officer 22 was with him and seated in the front passenger seat. Corporal 2 stated that he was traveling eastbound on the Kalaniana'ole Highway and approaching the Kalaniana'ole Highway and Kalaniiki Street intersection when he observed Tafokitau traveling westbound towards him on the Kalaniana'ole Highway. As Tafokitau passed his location, Corporal 2 heard the sound of about four (4) gunshots.

Corporal 2 then took a U-turn at the aforementioned intersection and headed westbound on the Kalaniana'ole Highway in an attempt to follow Tafokitau. After merging onto the H-1 Freeway West from the Kalaniana'ole Highway, Corporal 2 drove past the Kapiolani Boulevard off-ramp. He then heard over police radio that Tafokitau had taken the Kapiolani Boulevard off-ramp. Because he had just passed the said off-ramp, Corporal 2 exited the H-1 Freeway West via the University Avenue off-ramp. Corporal 2 then staged his vehicle at the end of the off-ramp, directly facing University Avenue. At this point, his vehicle was perpendicular to University Avenue. He then received information that Tafokitau was traveling north on University Avenue and towards his position.

After receiving the information, Corporal 2 knew that he and Officer 22 were exposed to potential gunfire from Tafokitau. As a result, he drove onto University Avenue and parked his car parallel to the right curb such that the driver's side of his vehicle was facing the northbound traffic of University Avenue. He then instructed Officer 22 to exit the vehicle and take cover behind the passenger side of his car. Corporal 2 then exited his car and observed Tafokitau quickly approaching his location. As a result, Corporal 2 ran to the passenger side of his car and took cover behind the front passenger wheel. Peeking through the windows of his vehicle, Corporal 2 saw Tafokitau approaching closer to his location in the stolen Scion.

As the Scion continued driving north on University Avenue directly towards them, Corporal 2 heard the sound of gunfire coming from Tafokitau's car. Corporal 2 heard about four (4) to six (6) gunshots coming from the said vehicle. Taking cover, Corporal 2 ducked down below the level of his vehicle's hood to avoid being shot. As the Scion then started to pass his vehicle's location, Corporal 2 heard additional gunshots from the Scion. He heard one (1) last gunshot coming from the Scion after the said vehicle had already passed Corporal 2's car.

After the last gunshot came from the Scion, Corporal 2 heard Officer 22 yell that he had been shot. Corporal 2 then observed Officer 22 fall to the ground and drop his firearm. As a result, Corporal 2 broadcasted on police radio that shots were fired and that an officer was down. Corporal 2 then saw blood coming from Officer 22's right abdomen. At this time, Corporal 2 could hear additional gunfire coming from the nearby intersection of University Avenue and Dole Street, which was just north of their location.

³¹ Corporal 2's statement is documented under HPD Report Number [REDACTED]

Because they had no cover from the gunfire, Corporal 2 dragged Officer 22 to the rear of Corporal 2's vehicle.

2. Statement by Officer 22.³²

Officer 22 stated that he was specially assigned to D5 CRU to help locate Tafokitau. He was partnered up with Corporal 2. Throughout the day, they received numerous notifications on Tafokitau's locations on the island. Following the incident on Alohea Avenue (Scene 4), Corporal 2 was able to locate Tafokitau as he drove west on the H-1 Freeway. They then followed him to the North Shore and back to town along with other HPD units.

After taking the U-turn at the intersection of the Kalaniana'ole Highway and Kalaniiki Street, Tafokitau headed westbound on the Kalaniana'ole Highway and started to fire at police officer vehicles. Corporal 2 then made the same U-turn at the intersection to follow Tafokitau. After merging onto the H-1 Freeway West, they continued westbound. Tafokitau took the Kapiolani Boulevard off-ramp and Corporal 2 had missed the said off-ramp. As a result, Corporal 2 exited the H-1 Freeway West by taking the University Avenue off-ramp.

Corporal 2 staged his vehicle at the end of the University Avenue off-ramp to see if they could locate Tafokitau. After they then received information that Tafokitau was heading north on University Avenue towards them, Corporal 2 exited the off-ramp and parked to the right side of University Avenue. Corporal 2 and Officer 22 exited Corporal 2's vehicle and waited on the sidewalk area. As they waited, Tafokitau's car approached them. Officer 22 could hear gunshots coming from Tafokitau's vehicle. He then felt a sharp and burning pain in his stomach. Officer 22 then fell to the ground. Realizing that he had a gunshot wound, Officer 22 yelled to Corporal 2 that he had been shot. Upon being so informed, Corporal 2 dragged Officer 22 to the rear of Corporal 22's car. Officer 22 was later taken to the Queen's Medical Center for treatment. There, Doctor 1 diagnosed Officer 22 with a gunshot wound to his left abdomen.³³

3. Statement by Sergeant 1.

Sergeant 1 stated that after he made the U-turn in the D3 CRU Truck at the intersection of the Kalaniana'ole Highway and Kalaniiki Street to follow Tafokitau, he merged onto the H-1 Freeway West. Police radio revealed that Tafokitau took the Kapiolani Boulevard off-ramp, turned onto University Avenue, and was heading northbound. Upon receiving the said information, Sergeant 1 took the King Street off-ramp. While at the University Avenue and King Street intersection, Sergeant 1 observed Tafokitau traveling directly past him and heading northbound on University Avenue. As a result, Sergeant 1 took a right turn onto University Avenue and followed

³² Officer 22 provided an audio recorded statement that was submitted under HPD Report Number [REDACTED]

³³ See, statement by Doctor 1, documented under HPD Report Number [REDACTED]

Tafokitau. Before Tafokitau reached the University Avenue and Dole Street intersection, Sergeant 1 heard gunshots.

After the Scion that Tafokitau was driving passed the University Avenue and Dole Street intersection, Sergeant 1 noticed the Scion's driver's door open. As it appeared that Tafokitau was going to exit the Scion, Sergeant 1 maneuvered his HPD vehicle onto the southbound lanes of travel of University Avenue in anticipation that there would be either a foot pursuit or gun engagement with Tafokitau. Tafokitau then exited the Scion and brandished a rifle.

Tafokitau started shooting at Sergeant 1's vehicle's direction. Sergeant 1 stated that he could feel particles of some type of shrapnel hitting his head as rounds from Tafokitau's rifle began hitting his vehicle. As a result, Sergeant 1 exited his D3 CRU Truck and fired rounds back at Tafokitau with his Glock. After Tafokitau fell to the ground and stopped moving, Sergeant 1 called for a cease fire.

4. Statement by Officer 1.

Officer 1 confirmed that he was seated in Sergeant 1's D3 CRU Truck's front passenger seat at the intersection of University Avenue and King Street. Tafokitau drove past them on University Avenue and headed northbound towards the University Avenue and Dole Street intersection. They then turned onto University Avenue and followed behind Tafokitau. After passing the University Avenue and Dole Street intersection, Tafokitau stopped the Scion abruptly. After Sergeant 1 made a tactical move and drove onto the southbound lanes of University Avenue, Officer 1 saw Tafokitau exit the Scion while the Scion was still in motion. Tafokitau was holding a rifle in his hands.

Tafokitau then pointed his rifle directly towards the D3 CRU Truck within which Sergeant 1 and Officer 1 were. Taking cover within the D3 CRU Truck, Officer 1 heard several rounds hitting their vehicle. Because there was a slight lull in the gunfire coming from Tafokitau, Officer 1 opened his front passenger door and placed his firearm on top of the door frame for a steady platform. He then returned fire at Tafokitau who was still pointing his rifle at police officers. Officer 1 took several more shots at Tafokitau until he laid on the ground and stopped moving.

5. Statement by Officer 4.

Officer 4 stated that on January 1, 2024, after being shot at by Tafokitau at the intersection of the Kalaniana'ole Highway and Kalaniiki Street, he and the other D7 CRU officers in his D7 CRU Truck got stuck in traffic and lost sight of Tafokitau. On January 1, 2024, at about 4:14 p.m., Officer 4 was able to re-locate Tafokitau at the intersection of University Avenue and Dole Street.

Officer 4 said that Tafokitau suddenly exited the Scion near the intersection. Tafokitau then started firing rounds from his AR-15 at the HPD vehicles following him,

including Officer's 4 D7 CRU Truck. Still in his vehicle, Officer 4 then shot at Tafokitau with his Glock as Tafokitau continued to fire rounds at the police officers. Officer 4 then exited the D7 CRU Truck and fired rounds at Tafokitau with his AR-15 rifle until Tafokitau stopped shooting at them. After Tafokitau was neutralized, Officer 4 learned that Officer 18, who was seated in Officer 4's D7 CRU Truck, had a gunshot head injury from Tafokitau.

6. Statement by Officer 5.

Officer 5, who was seated in the front seat of the D7 CRU Truck, confirmed that on January 1, 2024, he and the other D7 CRU officers were able to re-locate Tafokitau at the intersection of University Avenue and Dole Street. There, Tafokitau abruptly stopped the Scion. Tafokitau then exited the driver's seat of the Scion and started shooting at them with an AR-15. Officer 5 then quickly exited the front passenger seat of the D7 CRU Truck and took cover behind the A pillar located at the front passenger side. He then unholstered his Glock and started firing multiple rounds at Tafokitau. After Tafokitau stopped shooting and appeared to be neutralized, Officer 5 ceased fire.

7. Statement by Officer 6.

Consistent with the statements by Officer 4 and Officer 5, Officer 6 stated that on January 1, 2024, he was in the D7 CRU Truck when they were able to re-locate Tafokitau as he traveled north past the intersection of University Avenue and Dole Street. Tafokitau then made an abrupt stop of the Scion. Officer 4 also abruptly stopped the D7 CRU Truck approximately forty (40) yards south of the Scion. Tafokitau then exited the Scion and started shooting at them with an AR-15 type rifle. Officer 6 ducked down, exited the D7 CRU Truck and started to shoot at Tafokitau with his Glock. At that point, Tafokitau was still shooting at the police officers who were at the scene. Officer 6 stated that he fired about fifteen (15) rounds at Tafokitau until Tafokitau no longer posed as a threat.

8. Statement by Officer 18.

In a recorded statement submitted under HPD Report Number [REDACTED] Officer 18 confirmed that he was seated in the right rear passenger seat of the D7 CRU Truck on January 1, 2024. Officer 18 said that they were trying to re-locate Tafokitau and ended up taking the H-1 Freeway King Street off-ramp. As they got to the University Avenue and King Street intersection, they saw Tafokitau going through the said intersection and heading northbound on University Avenue. They then followed behind Tafokitau as he continued northbound. As they were behind Tafokitau, Officer 18 heard gunshots.

After going through the University Avenue and Dole Street intersection, Tafokitau came to an abrupt stop. As they got through the same intersection, Officer 18 noticed Tafokitau standing at the rear of the Scion. Tafokitau then started shooting at their vehicle. Officer 18 stated that gunfire from Tafokitau caused him to have three gunshot

wounds-one to his head, one to his left eye and one to his left shoulder.³⁴ Other officers then rendered aid to him and he was transported to Queen's Medical Center.

Doctor [REDACTED] (hereinafter, "Dr. 2") treated Officer 18.³⁵ As to the gunshot wound to Officer 18's eye, Dr. 2 stated that the bullet came close to Officer 18's brain and that he anticipated a loss of vision.

9. Statement by Officer 2.

Officer 2 stated that on January 1, 2024, he was conducting rolling surveillance in his vehicle of Tafokitau. After taking the Kapiolani Boulevard off-ramp from the H-1 Freeway West, Officer 2 drove north on University Avenue to follow Tafokitau. While approaching the University Avenue and Dole Street intersection, Officer 2 heard a cluster of gunshots. He then observed Tafokitau driving the Scion through the University Avenue and Dole Street intersection. Officer 2 then saw the Scion slowing down and Tafokitau exiting the said vehicle. Officer 2 then stopped behind other HPD vehicles and could see that HPD Officers were being shot at. As a result, Officer 2 exited his vehicle, and proceeded towards the gunfire with his AR-15. While taking cover behind the rear of a HPD truck, Officer 2 saw Tafokitau who appeared to be going down to the ground. Because Tafokitau still had a firearm in his possession, Officer 2 fired one (1) shot at him to neutralize the lethal threat that he posed. After he took the single shot at Tafokitau, Officer 2 heard commands to cease fire.

10. Statement by Officer 3.

Officer 3 stated that he was monitoring Tafokitau's movements via police radio. On January 1, 2024, prior to 4:14 p.m., Officer 3 said that after receiving notification that Tafokitau was heading northbound on University Avenue, he took the University Avenue exit and exited his vehicle with the intention of engaging Tafokitau. Seeing Tafokitau drive right past him, Officer 3 got back into his vehicle and proceeded on University Avenue to follow Tafokitau. After passing the University Avenue and Dole Street intersection, Officer 3 saw other police officers exiting their vehicles. Officer 3 could hear gunshots being fired. Officer 3 then exited his vehicle and observed Tafokitau standing in the southbound lanes of University Avenue and holding an assault rifle. Hearing gunshots, Officer 3 then discharged his Glock at Tafokitau who fell to the ground and stopped moving. Officer 3 then holstered his weapon and yelled to the other officers to seize fire.

³⁴ It is unknown if the wounds are from more than one (1) bullet. In other words, one (1) bullet may have fragmented and caused three (3) gunshot wounds.

³⁵ See, statement by Doctor 2, documented under HPD Report Number [REDACTED]

11. Autopsy.

[REDACTED]

pathologist for the Department of the Medical Examiner, City and County of Honolulu, performed an autopsy of Tafokitau who was pronounced dead on January 1, 2024, at about 5:11 p.m. Dr. 3 made a finding and noted that based on his examination of Tafokitau's body, he arrived at an opinion within the bounds of reasonable medical certainty as to Tafokitau's death. Dr. 3 then opined that based on his autopsy findings and the investigative and historical information available to him, Tafokitau died as a result of multiple gunshot wounds. A toxicology screen further revealed the presence of cocaine and ethanol in Tafokitau's blood.

8b. Relevant Photographs of Scene 8.

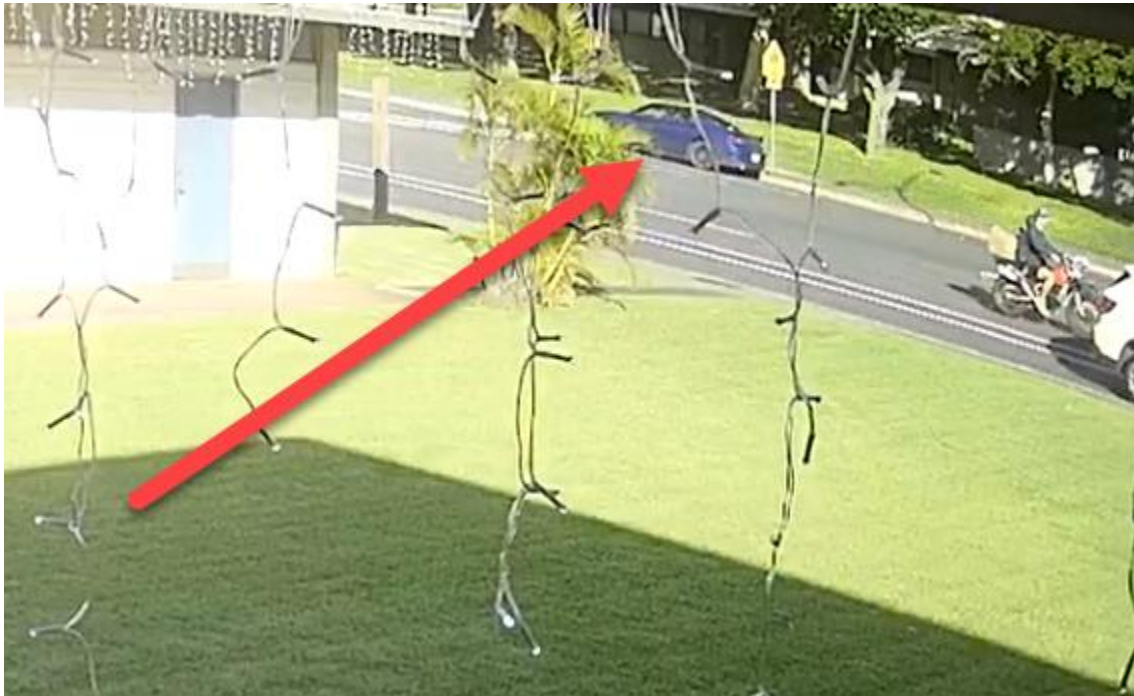
The Google Map photograph³⁶ shows the area where: 1) Corporal 2 parked his vehicle and where Officer 22 was shot in the abdomen; 2) the approximate area where Tafokitau stopped and exited the Scion; and 3) where Tafokitau was shot as he walked west on University Avenue while firing at HPD vehicles and officers.

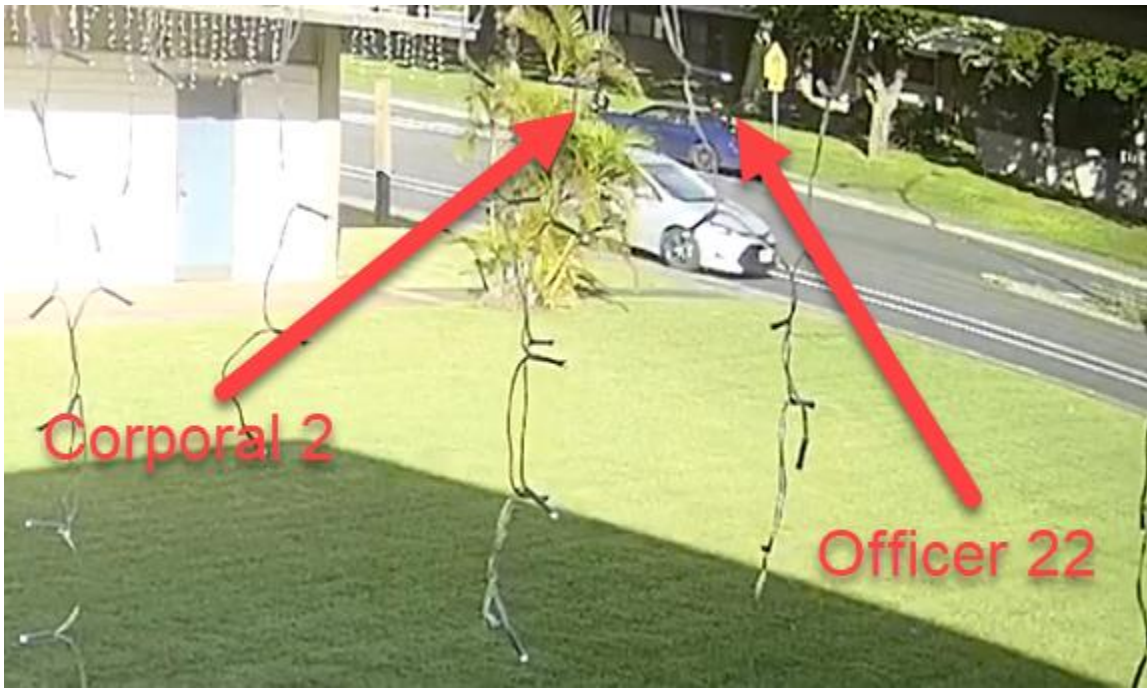


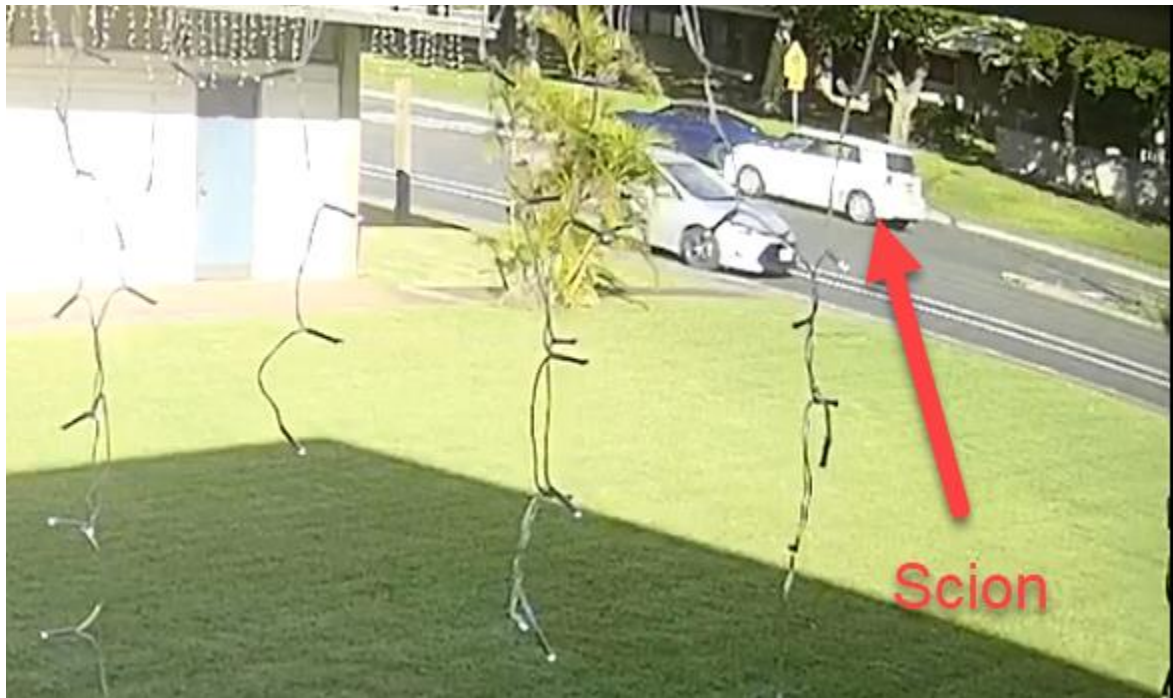
³⁶ https://www.google.com/maps/place/Dole+St,+Honolulu,+HI/@21.2968348,-157.8215616,2043m/data=!3m2!1e3!4b1!4m6!3m5!1s0x7c006d97535743a9:0x332ca85e07d40920!8m2!3d21.2968348!4d-157.8215616!16s%2Fg%2F1tf2x_yb?entry=ttu

The following five (5) photographs are still photographs of a recovered video surveillance recording submitted under HPD Report Number [REDACTED]. The video surveillance recording was captured from a camera facing east and University Avenue.

The photographs depict: 1) Corporal 2 stopping his vehicle on the right side of the University Avenue roadway (northbound) before the University Avenue and Dole Street intersection; 2) Corporal 2 exiting his vehicle; 3) Corporal 2 and Officer 22 taking cover on the right side of Corporal 2's vehicle; 4) the Scion passing Corporal 2's vehicle; and 5) Corporal 2 dragging Officer 22 behind his vehicle after Officer 22 got shot.







The next series of photographs are still photographs taken from a video surveillance recording recovered under HPD Report Number [REDACTED]. The camera used to capture the recording is situated at the University of Hawai'i at Mānoa Music Complex, just north of where Corporal 2's vehicle was parked, and right below the University Avenue and Dole Street intersection. The camera is facing northwest towards the intersection.

The four (4) photographs show the following: 1) the Scion traveling into the said intersection; 2) the Scion stopping while Sergeant 1's D3 CRU Truck goes through the intersection; 3) the D7 CRU Truck going through the intersection; and 4) the Scion rolling backwards while the D7 CRU Truck stops.





The next series of photographs are still photographs taken from a video surveillance recording recovered under HPD Report Number [REDACTED]. The camera used to make the recording is situated just north of the University Avenue and Dole Street intersection and is located facing out from Bachman Hall. The camera is facing southwest towards the intersection.

The five (5) photographs show: 1) the Scion traveling northbound past the said intersection; 2) Sergeant 1's D3 CRU Truck traveling past the same intersection but into the southbound lane of University Avenue; 3) Tafokitau exiting the Scion and walking westbound on the University Avenue roadway; 4) the D7 CRU truck traveling past the intersection and Tafokitau continuing to cross the roadway on foot; and 5) Tafokitau falling to the ground presumably after being shot by HPD officers.







The next two (2) photographs show the area where Tafokitau was shot and a close-up of Tafokitau's AR-15 on the ground.³⁷



³⁷ The photographs were taken by HPD Officer [REDACTED] and documented under HPD Report Number [REDACTED]



The last two photographs³⁸ depict: 1) the area (red circle) where Tafokitau was shot from the perspective of traffic flowing northbound on University Avenue; and 2) the Scion that Tafokitau took from Witness 5 by gunpoint. Note the front windshield of the Scion where there is a hole that Tafokitau made to shove the barrel of his AR-15 through the vehicle and shoot at the HPD helicopter and aim at the D7 CRU Truck at the Kalaniana'ole Highway and Kalaniiki Street intersection.



³⁸ The photographs were taken by HPD Sergeant [REDACTED] and documented under HPD Report Number [REDACTED]



III. LEGAL PRINCIPLES.

A. Definitions.

“Believes” means reasonably believes.³⁹

“Bodily injury” means physical pain, illness, or any impairment of physical condition.⁴⁰

“Deadly force” means force which the actor uses with the intent of causing or which the actor knows to create a substantial risk of causing death or serious bodily harm. Intentionally firing a firearm in the direction of another person or in the direction which another person is believed to be constitutes deadly force. A threat to cause death or serious bodily injury, by the production of a weapon or otherwise, so long as the actor’s intent is limited to creating an apprehension that the actor will use deadly force if necessary, does not constitute deadly force.⁴¹

“Force” means any bodily impact, restraint, or confinement, or the threat thereof.⁴²

“Unlawful force” means force which is employed without the consent of the person against whom it is directed and the employment of which constitutes an offense or would constitute an offense except for a defense not amounting to a justification to use the force. Assent constitutes consent, within the meaning of this section, whether or not it otherwise is legally effective, except assent to the infliction of death or serious or substantial bodily injury.⁴³

“Serious bodily injury” means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.⁴⁴

“Substantial bodily injury” means a major avulsion, major laceration, or major penetration of the skin; a burn of at least second degree severity; a bone fracture; a serious concussion; or a tearing, rupture, or corrosive damage to the esophagus, viscera, or other internal organs.⁴⁵

³⁹ Hawai‘i Revised Statutes (hereinafter, “H.R.S.”) **Section 703-300** (2014 Repl.).

⁴⁰ H.R.S. § 707-700 (2014 Repl.).

⁴¹ H.R.S. § 707-300.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ H.R.S. § 707-700.

⁴⁵ *Id.*

B. H.R.S. Chapter 703 defenses.

Two (2) **H.R.S. Chapter 703 (2014 Repl.)** justification defenses apply to this case.⁴⁶ Each is referenced below:

1. Use of Force in Self-Protection.

H.R.S. Section 703-304 (2014 Repl.) states in relevant part as follows:

- (1) Subject to the provisions of this section and of [section 703-308](#), the use of force upon or toward another person is justifiable when the actor believes that such force is immediately necessary for the purpose of protecting himself against the use of unlawful force by the other person on the present occasion.
- (2) The use of deadly force is justifiable under this section if the actor believes that deadly force is necessary to protect himself against death, serious bodily injury, kidnapping, rape, or forcible sodomy.
- (3) Except as otherwise provided in subsections (4) and (5) of this section, a person employing protective force may estimate the necessity thereof under the circumstances as he believes them to be when the force is used without retreating, surrendering possession, doing any other act which he has no legal duty to do, or abstaining from any lawful action.

-
- (5) The use of deadly force is not justifiable under this section if:
 - (a) The actor, with the intent of causing death or serious bodily injury, provoked the use of force against himself in the same encounter; or
 - (b) The actor knows that he can avoid the necessity of using such force with complete safety by retreating or by surrendering possession of a thing to a person asserting a claim of right thereto or by complying with a demand that he abstain from any action which he has no duty to take, except that:
 - (i) The actor is not obliged to retreat from his dwelling or place of work, unless he was the initial aggressor or is

⁴⁶ **H.R.S. Section 703-301(1)** (2014 Repl.) states, “In any prosecution for an offense, justification, as defined in sections 703-302 through 703-309, is a defense.”

assailed in his place of work by another person whose place of work the actor knows it to be; and

- (ii) A public officer justified in using force in the performance of his duties, or a person justified in using force in his assistance or a person justified in using force in making an arrest or preventing an escape, is not obliged to desist from efforts to perform his duty, effect the arrest, or prevent the escape because of resistance or threatened resistance by or on behalf of the person against whom the action is directed.
- (6) The justification afforded by this section extends to the use of confinement as protective force only if the actor takes all reasonable measures to terminate the confinement as soon as he knows that he safely can, unless the person confined has been arrested on a charge of crime.

The use of deadly force in self-defense involves consideration of two (2) issues. First, did the actor use deadly force? Secondly, was the use of deadly force justified?⁴⁷

The use of deadly force upon or toward another person is justified if the actor reasonably believes that deadly force is immediately necessary to protect himself on the present occasion against death or serious bodily injury.⁴⁸ The reasonableness of the actor's belief that the use of protective deadly force was immediately necessary shall be determined from the viewpoint of a reasonable person in the actor's position under the circumstances of which the defendant was aware or as the defendant reasonably believed them to be when the deadly force was used.⁴⁹

2. Use of Force for the Protection of Other Persons.

H.R.S. Section 703-305 (2014 Repl.) states in relevant part:

- (1) Subject to the provisions of this section and of [section 703-310](#), the use of force upon or toward the person of another is justifiable to protect a third person when:
 - (a) Under the circumstances as the actor believes them to be, the person whom the actor seeks to protect would be justified in using such protective force; and

⁴⁷ HAWJIC 7.01A.

⁴⁸ HAWJIC 7.01A

⁴⁹ HAWJIC 7.01A

- (b) The actor believes that the actor's intervention is necessary for the protection of the other person.

The Use of Deadly Force for the Protection of Others defense involves the consideration of two (2) issues. First, did the actor use deadly force? Secondly, was the use of deadly force justified?⁵⁰

The use of force upon or toward the person of another is justifiable to protect a third person when, under the circumstances as the actor believes them to be, the person whom the actor seeks to protect would be justified in using such protective force; and the actor believes that the actor's intervention is immediately necessary to protect the third person.⁵¹ The reasonableness of the actor's belief that the use of deadly force was immediately necessary shall be determined from the viewpoint of a reasonable person in the actor's position under the circumstances of which the actor was aware or as the actor reasonably believed them to be when the deadly force was used.⁵²

IV. Analysis.

A. Use of Deadly Force in Self-Protection.

The first issue here is whether Sergeant 1, Officer 1, Officer 2, Officer 3, Officer 4, Officer 5 and Officer 6 were justified in using deadly force in self-protection when they shot or shot at Tafokitau on January 1, 2024, at about 4:14 p.m. With respect to whether the aforementioned officers were legally justified under the Use of Deadly Force in Self-Protection defense, the two (2) questions are: 1) Did they use deadly force; and 2) Was their use of deadly force justified?⁵³

As to the first question, Sergeant 1, Officer 1, Officer 2, Officer 3, Officer 4, Officer 5 and Officer 6 each stated they intentionally shot at Tafokitau. They either shot at him because he was directly shooting at them or because he still had the firearm in his hands.⁵⁴ Because intentionally shooting at someone constitutes the use of deadly force, it is not disputed that they used deadly force when they shot Tafokitau.⁵⁵

As to the second question, their use of deadly force was justified if they reasonably believed that deadly force was immediately necessary to protect themselves from death or serious bodily injury. The reasonableness of their belief that the use of

⁵⁰ HAWJIC 7.02A.

⁵¹ HAWJIC 7.02A.

⁵² HAWJIC 7.02A.

⁵³ HAWJIC 7.01A.

⁵⁴ It appears from their reports that Officer 2 and Officer 3 shot at Tafokitau as he was getting shot at by the other officers but still had his AR-15 within his control.

⁵⁵ HAWJIC 7.01A.

protective deadly force was immediately necessary is determined from the viewpoint of a reasonable person in their position under the circumstances of which they were aware or as they reasonably believed them to be when they used deadly force.

Initially, as law enforcement officers who were trying to apprehend and arrest Tafokitau for a multitude of offenses, Sergeant 1, Officer 1, Officer 2, Officer 3, Officer 4, Officer 5 and Officer 6 did not have a duty to retreat.⁵⁶

Secondly, under the circumstances that existed, it was objectively reasonable that the HPD officers used deadly force to protect themselves from death or serious bodily injury when they shot Tafokitau. On January 1, 2024, Tafokitau was on a violent rampage until the officers were able to neutralize his threat. To wit and as already noted above, the officers knew of the following:

- 7:18 a.m. (Scene 1): Tafokitau chased and pursued Witness 1 and shot her on the Moanalua Freeway several times.
- 11:35 a.m. to 11:39 a.m. (Scene 2): Tafokitau chased the D3 CRU Van from Gulick Avenue to the Likelike Highway (Scene 2) while firing multiple gun shots at the officers within the van.
- 11:45 a.m. (Scene 3): Tafokitau got into a motor vehicle collision after running a red light at the intersection of Kahekili Highway and Hui Iwa Street. He then proceeded to forcibly take Witness 5's Scion at gunpoint.
- 2:14 p.m. (Scene 4): Tafokitau drove in the stolen Scion and shot at Officer 11, Officer 12, and Officer 13 who were in the D8 CRU SUV that was parked on Alohea Avenue while they were conducting surveillance of Tafokitau.
- 2:52 p.m. (Scene 5): Tafokitau, while heading to the north shore, side-swiped Witness 8 who was riding his motorcycle on Kamehameha Highway while HPD officers were conducting a rolling surveillance of him.
- At 3:37 p.m. (Scene 6): Tafokitau, while heading back south from Kahuku on the Kamehameha Highway, fired shots at a HPD helicopter that was tracking him and trying to signal to bystanders to get away from the roadway.
- 4:10 p.m. (Scene 7): Tafokitau, after completing a U-turn at the Kalaniana'ole Highway and Kalaniiki Street intersection, fired shots at Officer 4, Officer 5, Officer 6, Officer 18, Captain 1, Sergeant 1, and Officer 1 who were attempting to track him.
- 4:14 p.m. (Scene 8) Tafokitau drove northbound on University Avenue just prior to the University Avenue and Dole Street intersection. While doing so, he first

⁵⁶ HAWJIC 7.01A, as modified, states in relevant part:

“When the defendant is a public officer justified in using force in the performance of his duties, the defendant is not obliged to desist from efforts to perform the duty or effect the arrest or prevent the escape, because of resistance or threatened resistance by or on behalf of the person against whom the action is directed.”

fired shots at Corporal 2 and Officer 22. Officer 22 was shot in the stomach.⁵⁷ After abruptly stopping the stolen Scion just after the aforementioned intersection, Tafokitau then exited his vehicle and started firing shots from his AR-15 at Sergeant 1, Officer 1, Officer 4, Officer 5, Officer 6 and Officer 18 who were following him in the D3 CRU Truck and D7 CRU Truck. One of the gunshots hit Officer 18 in the eye as the D7 CRU Truck took gunfire from Tafokitau.

It was at this point that Sergeant 1, Officer 1, Officer 4, Officer 5, and Officer 6 started to return fire at Tafokitau as they were being shot at. Officer 2 and Officer 3 arrived and started to fire shots at Tafokitau who still had the AR-15 in his hands and therefore remained to be a danger to them.

As a result, the following points clearly indicate that they were justified in shooting at Tafokitau based on the Use of Deadly Force in Self-Protection defense as they had personal knowledge of Tafokitau shooting Witness 1 and shooting at police officers throughout the day. Tafokitau then stopped the Scion, exited the vehicle and started to shoot directly at them with an AR-15. In this situation, the police had no other option but to shoot back at him.

This investigation therefore finds that Sergeant 1, Officer 1, Officer 2, Officer 3, Officer 4, Officer 5 and Officer 6 were obviously justified in using deadly force in self-protection when they shot or shot at Tafokitau.

B. Use of Deadly Force for the Protection of Other Persons.

Here, the aforementioned HPD officers were each justified in shooting or shooting at Tafokitau in order to protect one another from Tafokitau killing or seriously injuring them. The Use of Deadly Force for the Protection of Other Persons defense involves the consideration of two (2) questions: 1) Did the actor use “deadly force;” and 2) Was the use of deadly force justifiable?⁵⁸

As to the first question, it has already been stated that all of the officers used deadly force when they shot or shot at Tafokitau.

As to the second question, the use of deadly force upon or toward another person is justifiable to protect a third person if, under the circumstances as the actor reasonably believed them to be, the third person would be justified in using deadly force to protect himself against death or serious bodily injury and the actor reasonably believes that his intervention is immediately necessary to protect the third person. The

⁵⁷ It is worth noting that Sergeant 1, Officer 1, Officer 2, Officer 3, Officer 4, Officer 5 and Officer 6 did not know that Tafokitau had shot at Corporal 2 and shot Officer 22. However, Sergeant 1 and Officer 2 both stated that they had heard gunshots being fired before Tafokitau went through the University Avenue and Dole Street intersection.

⁵⁸ HAWJIC 7.02A.

reasonableness of the actor's belief that the use of deadly force was immediately necessary shall be determined from the viewpoint of the reasonable person in the actor's position under circumstances of which the actor was aware or as the actor reasonably believed them to be when the deadly force was used. The actor's belief that the use of deadly force was immediately necessary may be mistaken, but reasonable.

Here, as already noted above, all of the police officers were under no obligation to retreat.

Next, the facts support the conclusion that their use of deadly force was justifiable for each officer in order to protect one another whom Tafokitau was shooting at. Tafokitau exited his car and started to use his AR-15 to shoot at the officers who were following him. At that time, each individual officer (Sergeant 1, Officer 1, Officer 2, Officer 3, Officer 4, Officer 5 and Officer 6) believed that based on the facts that existed at the time, that Tafokitau could kill or cause serious bodily injury to the other, including other officers who were also present at the scene, such as Officer 18 who in fact was seriously injured from being shot in the eye by Tafokitau.

As a result, this investigation finds that their individual belief that their use of deadly force was immediately necessary to protect one another as well as other police officers was objectively reasonable. They were therefore all justified in shooting or shooting at Tafokitau based on the Use of Deadly Force for the Protection of Other Persons defense.

V. CONCLUSION

To secure a conviction for an offense under the Hawai'i Penal Code, the prosecution must disprove an applicable defense—other than an affirmative defense—beyond a reasonable doubt.⁵⁹ The defenses codified in **H.R.S. Section 703-304** and

⁵⁹ See, **H.R.S. Section 701-114** (2014 Repl.), **H.R.S. Section 701-115** (2014 Repl.) and **H.R.S. Section 702-205** (2014 Repl.).

H.R.S. Section 701-114 states:

- (1) Except as otherwise provided in section 701-115, no person may be convicted of an offense unless the following are proved beyond a reasonable doubt:
 - (a) Each element of the offense;
 - (b) The state of mind required to establish each element of the offense;
 - (c) Facts establishing jurisdiction;
 - (d) Facts establishing venue; and
 - (e) Facts establishing that the offense was committed within the time period specified in section 701-108.
- (2) In the absence of the proof required by subsection (1), the innocence of the defendant is presumed.

H.R.S. Section 703-305 are not affirmative defenses. As such, where these defenses are applicable they must be disproved (or negated) beyond a reasonable doubt.⁶⁰

Here, the PAT declines prosecution of Sergeant 1, Officer 1, Officer 2, Officer 3, Officer 4, Officer 5 and Officer 6 for any offenses under the Hawai'i Penal Code for using deadly force against Tafokitau because the PAT cannot disprove beyond a reasonable doubt that their use of deadly force was not justified for self-protection and that their use of deadly force was not justified for the protection of others. Therefore, the PAT further concludes that they were completely justified in shooting Tafokitau.

H.R.S. Section 701-115 states:

- (1) Except as otherwise provided in section 701-115, no person may be convicted of an offense unless the following are proved beyond a reasonable doubt:
 - (a) Each element of the offense;
 - (b) The state of mind required to establish each element of the offense;
 - (c) Facts establishing jurisdiction;
 - (d) Facts establishing venue; and
 - (e) Facts establishing that the offense was committed within the time period specified in section 701-108.
- (2) In the absence of the proof required by subsection (1), the innocence of the defendant is presumed.

H.R.S. Section 702-205 states:

The elements of an offense are such (1) conduct, (2) attendant circumstances, and (3) results of conduct, as:

- (a) Are specified by the definition of the offense, and
- (b) Negative a defense (other than a defense based on the statute of limitations, lack of venue, or lack of jurisdiction).

⁶⁰ See, e.g., **State v. Culkin**, 97 Hawai'i 206, 215, 35 P.3d 233, 242 (Sup. 2001) (stating that "Self-defense is not an affirmative defense, and the prosecution has the burden of disproving it once evidence of justification has been adduced.").

VI. Materials Considered.

HPD Report Numbers:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- A. HPD Reports under the Above HPD Report Numbers.
- B. Written and Recorded Statements Submitted under the Above HPD Report Numbers (if applicable).
- C. Body-Worn Camera Videos Submitted under the Above HPD Report Numbers (if applicable).
- D. Surveillance Video Recordings Submitted under the Above HPD Report Numbers (if applicable).
- E. 911 Emergency Phone Calls Submitted under the Above HPD Report Numbers (if applicable).
- F. HPD Evidence Reports Submitted under the Above HPD Report Numbers (if applicable).
- G. HPD Photographs Submitted under the Above HPD Report Numbers (if applicable).