Alameda County District Attorney

Independent Report on the Investigation into the Death of Phoenix Corwen Dunn on December 22, 2025

Contra Costa County

Antioch, California

October 2026

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Privacy Statement

This report includes redactions of the names and other identifying information of witnesses to this officer-involved fatality (OIF) and family members of the Decedent, Phoenix Corwen Dunn. Specific addresses of witnesses, victims, and family members are not provided in this report. Public interest in such information is limited as it is not necessary to gain an understanding of the incident. Thus, the interest in nondisclosure outweighs any public interest in disclosure.

For reasons related to privacy, as well as the readability of this report, all civilian witnesses are indexed as follows:

- Witness 1 (W-1)
- Witness 2 (W-2)
- Witness 3 (W-3)
- Witness 4 (W-4)

INTRODUCTION

On the morning of December 22, 2025, the Antioch Police Department (APD) received a 911-call for assistance from a private security officer for the Comfort Inn located in the Bay Area city of Antioch, California.[1] A white male individual, later identified as Phoenix Corwen Dunn (Dunn), age 27, was observed by an on-duty security officer on the Comfort Inn property to have maliciously pulled a fire alarm. The security officer chased Dunn who fled through the parking lot and jumped over a fence that bordered Kaiser Hospital's parking lot and eastbound California Delta State Route 4 (SR-4) just before the Somersville Road offramp. Dunn ran across multiple lanes of the freeway and was struck by a white Toyota Camry in the number one lane driven by on-duty District Attorney Inspector Sean Eriksen (DAI Eriksen). Dunn sustained multiple blunt force injuries and was pronounced deceased by the paramedics who arrived on scene. DAI Eriksen is a peace officer employed by the Contra Costa County District Attorney's Office (CCCDA) as an Investigator. DAI Eriksen received some injuries but stayed on location and fully cooperated with the investigation into the incident.



Figure-1. Courtesy of Google Maps, an overview of the areas described throughout report.

The Investigation and Purpose of this Report

The CCCDA's Office protocol required a full independent investigation of this incident be conducted by an investigative agency other than the CCCDA. Because of Dunn's death and the involvement of CCCDA Inspector Eriksen, the entire investigation into this matter was independently reviewed by the Alameda County District Attorney (ACDA) at the request of CCCDA.

The incident was thoroughly investigated by the Antioch Police Department (APD), the Contra Costa County Sheriff's Department (CCCSD), the Contra Costa County Coroner (CCCC), and the California Highway Patrol (CHP), as well as other first responders collectively referred to as "investigators." Each of these investigators provided their materials to the CCCDA who then provided the file to the ACDA for comprehensive independent review.

[1] Antioch is located approximately 45 miles north east of San Francisco and 60 miles southwest of Sacramento.

The incident will be described as an Officer-involved Fatality (OIF) as no active-duty use of police force or firearm was involved. The investigative review conducted by ACDA solely addresses whether any involved peace officer(s)[2], specifically DAI Eriksen, committed any crimes that proximately caused the death of Dunn. This investigation was limited to the afore-mentioned criminal inquiry and as a result the ACDA does not consider or offer opinions on issues of civil liability for any involved peace officers, peace officer tactics, or peace officer department policies and procedures.

The goal of this report is to ensure the residents of the Contra Costa County that the investigation and review of the events that resulted in the loss of life, were conducted by a fair and objective independent investigator in a manner that will serve the interests of justice to the community, the peace officers involved, and the injured person and their family. The ACDA understands how these events affect the community at large and believes the loss of life during any event involving any peace officer leaves everyone affected with extreme grief, questions, and concerns. It is the intention of the ACDA to do what can be done to explain what took place in the hope that the truth about the events will assist with the healing process.

As a result of the criminal investigation, comprehensive evidence review, and case evaluation, the ACDA has determined that there is insufficient evidence to support the filing of criminal charges against DAI Eriksen.

SUMMARY OF INCIDENT

The following information was taken from computer-aided dispatch (CAD) log records, body worn camera (BWC) video and audio footage, video surveillance footage obtained from involved locations, toxicology and medical reports, and official police and investigative reports generated by all agencies involved. This incident required a multi-jurisdictional investigative response as described above that resulted in hundreds of hours of field and investigative work by investigators specially trained to respond to fatal auto-pedestrian collisions, and cooperation between multiple agencies who came on scene and assisted with evidence and information gathering.

On December 22, 2025, at approximately 10:30 a.m., Antioch Police Department received a call for service relayed from a 911-caller, W-1. The 911-caller (W-1) reported that he worked at the Comfort Inn located at 2436 Mahogany Way in the City of Antioch[3] as a security guard and had witnessed an unknown white male wearing a "Mohammed Ali shirt" and black slippers, pull the hotel's fire alarm. The unknown white male, would later be identified as Dunn. W-1 chased Dunn who ran on foot towards the nearby Delta Bowl located at 3300 Delta Fair Boulevard. W-1 caught up to Dunn and briefly struggled with him. Dunn struck W-1 with a bag and was able to break free. Dunn then continued to run through the parking lot away from W-1 who pursued him.

Upon investigation of the activated alarm of the Comfort Inn hotel, investigators were able to determine that it had been activated. The alarm's yellow activation label was visible and documented.

[2] The terms "police officer," "law enforcement officer," and "peace officer" are synonymous and will be used throughout this report interchangeably. *See* Cal. Penal Code §§7(b)(8); 830 et seq.

[3] The Antioch Inn & Suites is now located at 2436 Mahogany Way, Antioch, California 94509.



Figure-2. Activated alarm inside Comfort Inn as shown to investigators. Yellow activation tag visible (red arrow).

Response to Call for Service by Antioch Police Officers Lorono and Yega

At 10:34 a.m., Antioch Police Officers Lorono (Lorono) [W-2] and Yega (Yega) [W-3] were dispatched via the 911-call for assistance to a reported altercation taking place near the Delta Bowl at 3300 Delta Fair Boulevard in Antioch. Dispatch relayed to the officers information about the people involved in the altercation who were described as an "unknown white male wearing a Mohammed Ali shirt" (Dunn) and a security guard (W-1) at the nearby Comfort Inn. Lorono and Yega responded to the location. Officer Yega responded to the Comfort Inn to meet with witnesses who had called for police assistance while Officer Lorono tried to locate the unknown white male (Dunn).

Lorono and Yega were dressed in full police uniform and drove clearly marked police vehicles equipped with light bars, public address (PA) systems, and police insignia.

Observations and Statement of Antioch Police Officer Lorono

While in his patrol vehicle, Lorono saw an unknown white man (Dunn) without shoes wearing a Mohammed Ali shirt. Lorono broadcasted that the man was running westbound behind the Kaiser Hospital Urgent Care located near the Delta Bowl. Lorono determined the barefoot man was the individual he was looking for and continued to update via police radio Dunn's direction of travel as he drove slowly closer. From Lorono's direction of travel (westbound), Dunn, who was running eastbound, initially ran towards the patrol vehicle. Lorono told investigators that he saw another man, believed to be a security guard (W-1) running behind Dunn. Lorono then broadcasted that Dunn jumped over the fence to the rear of Kaiser Hospital and was on the freeway (SR-4).

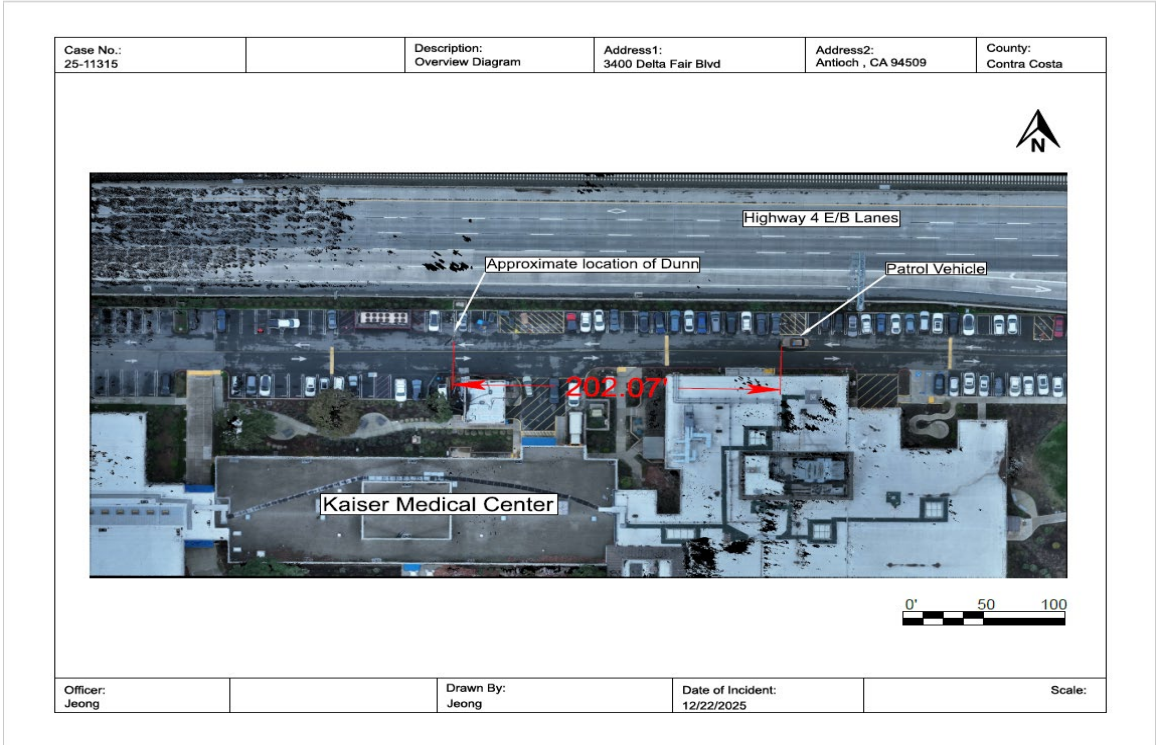


Figure-3. Map that shows position of Lorono's patrol car and the location where Decedent (Dunn) jumped over the fence/wall line adjacent to Highway 4.

Lorono requested dispatch notify California Highway Patrol (CHP) to alert them of Dunn's presence on the highway. The following is Lorono's summarized statement to investigators.

On arrival to a "priority one"[4] call from dispatch concerning an unknown white male (Dunn) who wore a "black t-shirt and sandals", Lorono saw a "heavy set Black male wearing an all gray sweatshirt with a multi-colored beanie." Lorono told investigators the Black male "flagged him down" and that the man had a "bunch of brown paint or dye across his chest." Lorono, consistent with Antioch departmental policy had already activated his body worn camera (BWC) to document what took place. The Black male (W-1) told Lorono he was a security guard and that he was chasing an unknown white man (Dunn) who had falsely activated a fire alarm and then ran from the location. The security guard told Lorono that the man had "punched" and "assaulted" him and then ran towards the nearby Kaiser hospital. Lorono instructed the security guard to stay where he was and left to locate the unknown man, later determined to be Dunn.

Lorono drove "around the back of the Delta Bowl and the Kaiser Hospital to look for Dunn and drove westbound" to the rear of the Kaiser hospital. Lorono told investigators he saw the same security guard from a distance of "approximately one hundred and twenty yards away from [Lorono's police vehicle] to the west" chasing a shoeless Dunn running towards Lorono's vehicle. The security guard stopped running but Dunn continued to run while "looking over his shoulder" in the direction of the security guard. Dunn got within 40 to 50 yards of Lorono's

[4] A priority one call is an emergency call for police that the situation requires an immediate response because there may be a threat to life or serious physical injury.

and “looked forward” appearing to “[see]” the patrol vehicle. Lorono activated his overhead lights “to the one position…[which is] just steady blue and red.”

Lorono told investigators before he could address Dunn with his PA system to give him commands, the man “ran just in between that [sic] straight to the chain link fence that separates Highway 4 [from] the Kaiser Parking lot…[and] jumped straight over.” Lorono radioed to CHP that Dunn jumped over the freeway. Lorono told investigators that Dunn “look[ed] over at the freeway…back at the security guard…over to the freeway…look[ed] back at me…and goes [sic]…he just got hit.”

Lorono’s Body Worn Camera

Lorono activated his BWC pursuant to APD policy. The video footage obtained documented Lorono’s actions as he looked for Dunn. After Lorono saw Dunn approach the freeway retaining wall, he exited his car and contacted the security guard (W-1) who had chased Dunn. W-1 on camera spontaneously stated, “He just got hit!” referring to Dunn. Lorono’s BWC vantage point documented Lorono running and looking through the chain link portion of the fence from where Dunn jumped. Lorono scaled the fence and jumped onto the freeway shoulder. Lorono raised his hand in effort to get traffic to stop so that he could cross the four lanes of traffic. BWC audio and video captured Lorono yelling multiple times loudly to oncoming drivers with his hand up to “Stop! Stop!” as he tried to get to Dunn. The roadway was visibly wet from rain and traffic was moderate to heavy. Lorono was able to eventually stop traffic at which point he ran towards the center median and contacted CHP Officer Varela. Varela told Lorono to re-direct traffic away from the innermost lanes of the freeway.

CHP Officer Varela attended to Dunn whom BWC captured laying on the shoulder near the center median. In the footage, Dunn appeared lifeless, was on his back, clothed in a black t-shirt and dark shorts. Dunn appeared to have multiple internal injuries based on how his body was positioned and with what appeared to be fresh blood on his face and near his mouth. Lorono’s BWC captured W-2 applying chest compressions to Dunn whom he commented had no discernible pulse. W-2 spontaneously told Lorono what he saw in the way of the collision.

Lorono’s BWC captured DAI Eriksen whom he approached as DAI Eriksen stood by a white Toyota Camry. The white Toyota Camry was stopped just a few feet forward from where Dunn lay and had clear fresh collision-related damage; notably, the front windshield was shattered. On video, Eriksen appeared dazed and strained to look west towards Dunn’s direction.

Lorono spoke to DAI Eriksen who wore a black shirt with his DAI embroidered badge and name visible. Eriksen told Lorono that he was alright but “[Still] confused as (expletive) as to what was happening.” Eriksen told Lorono that he was “driving along…and all of a sudden [a] pedestrian comes out of nowhere.” Eriksen told Lorono that he “tried to swerve to avoid him.” Lorono estimated his speed as 65 or 70 miles per hour, denied being distracted, and commented that because of the rain he drove at a cautious speed and allowed proper braking distance.

Observations and Statement of CHP Officer Varela

Officer Varela (Varela) told investigators he was by coincidence in his vehicle directly behind the white Toyota Camry driven by DAI Eriksen, with no vehicles between them. Varela braked

when he saw the white Toyota Camry strike Dunn as Dunn ran towards the number one lane of the freeway. Varela was in uniform in a marked CHP patrol vehicle and pulled immediately to the left shoulder after the collision. Varela assisted with providing aid to Dunn.

INVESTIGATION

Evidence Reviewed

Following the traffic-related death of Dunn, the Contra Costa County District Attorney's Investigations Unit (CCCDA) received extensive investigative materials related to this OIF incident. The CCCDA conducted and participated in multiple hours of officer and civilian interviews alongside other agencies. The CCCDA also took and received photographs of the crime scene and other photographic evidence obtained from all agencies involved, as well as video recorded footage from police body worn cameras (BWC), and all fire, paramedic, and police communications evidence (printouts from computer-aided dispatch systems and corresponding radio calls). All physical evidence at the scene on the roadway (debris, any vehicle or stationary object involved) was protected and collected by scene investigators as the accident location was secured and maintained for examination and preservation of evidence for CHP (see below). Finally, investigators received and reviewed the autopsy and toxicology reports for Decedent Dunn.

Multi-jurisdictional Agency Response

Because of the locations where the incidents occurred, CHP and partner agencies identified earlier, responded to the location to investigate.

The CHP has exclusive jurisdiction over California interstate highways and as part of their standard protocol when a major accident occurs on the interstate or at the request of an agency, CHP dispatches their Major Accident Investigation Team (MAIT) and performs an in-depth accident scene reconstruction utilizing 3-dimensional imagery and/or aerial photography collected by drone. CHP prepares schematics of the incident scene with the use of tools by which to measure physical evidence such as tire marks to determine speed before and at time of impact, impact-related debris, and other indicators to determine the physics of the collision that occurred including the documentation of ambient lighting, weather and roadway conditions, and topography of the location.

The MAIT team investigation completes their evaluation and issues a final report to an investigative agency and also documents the incident for determination of changes that may need to be made by the State of California to the relevant highway to address roadway safety issues.

Collision Scene Description and Surveillance Footage

The OIF occurred at approximately 10:40 a.m., near the Sommersville off-ramp of California Delta Highway (State Route 4). SR-4 is a multi-lane highway and primary artery for freeway travel that runs east and west through the City of Antioch's commercial areas, residential, and rural locations.

The location and wall Mr. Dunn was observed by multiple witnesses to climb, was examined and photographed by investigators. Later obtained surveillance video from the rear of the Kaiser Hospital parking lot substantially corroborated the witnesses statements about what they saw.

Images from the surveillance camera footage appear below in sequence to the events. The total time elapsed for images below was 00:18 seconds.



Figure-4. Surveillance footage capture of Dunn running towards blue dumpster. Dunn is in red circle. Freeway (SR-4) is to Dunn's left.

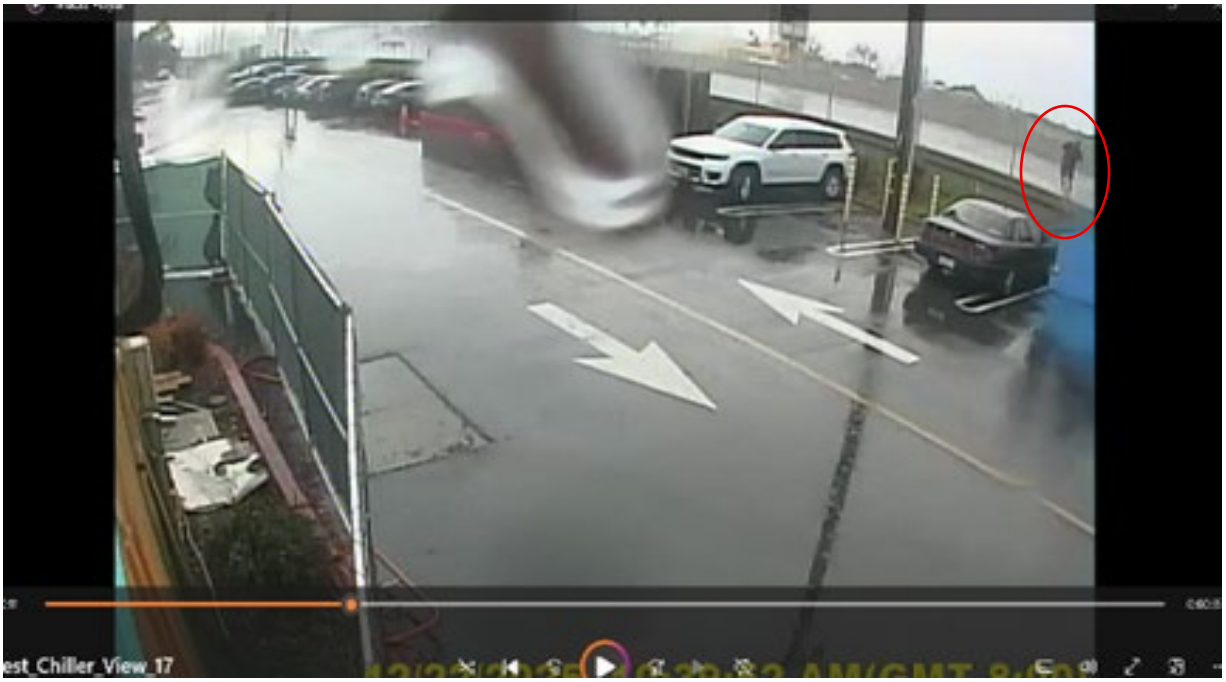


Figure-5. Surveillance footage capture of Dunn standing on freeway (SR-4) retaining wall with chain link fence.

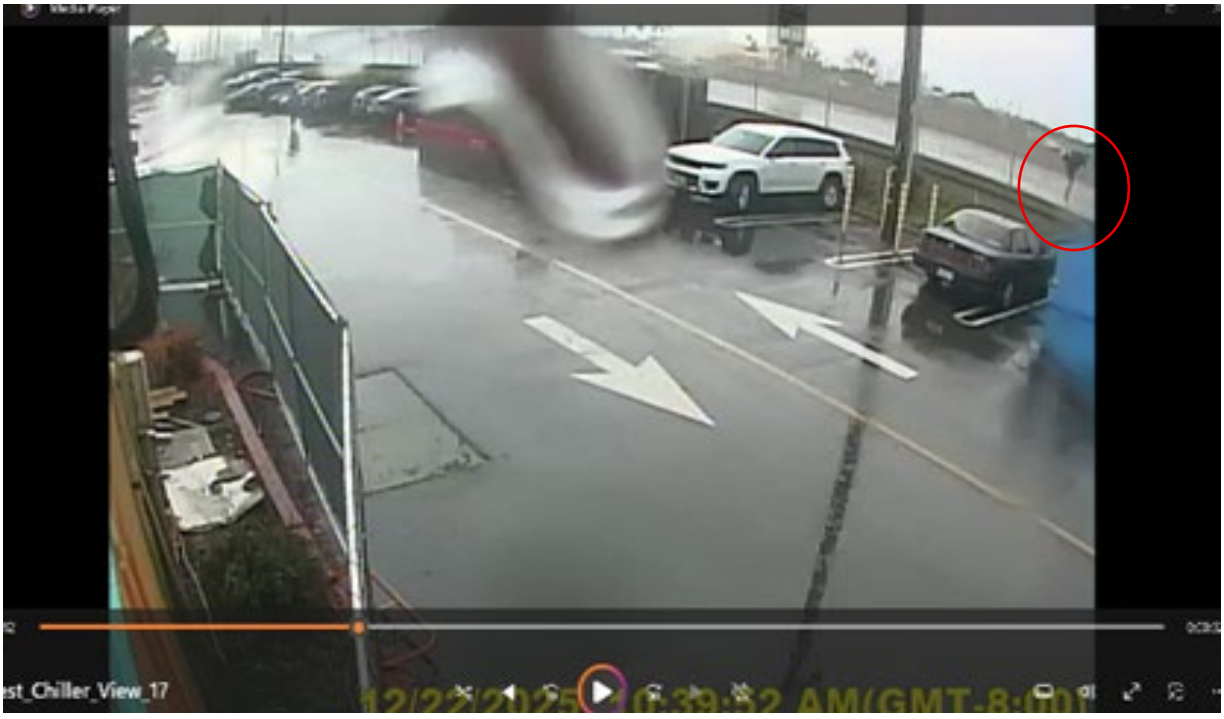


Figure-6. Surveillance footage capture of Dunn climbing over freeway (SR-4) retaining chain link fence.

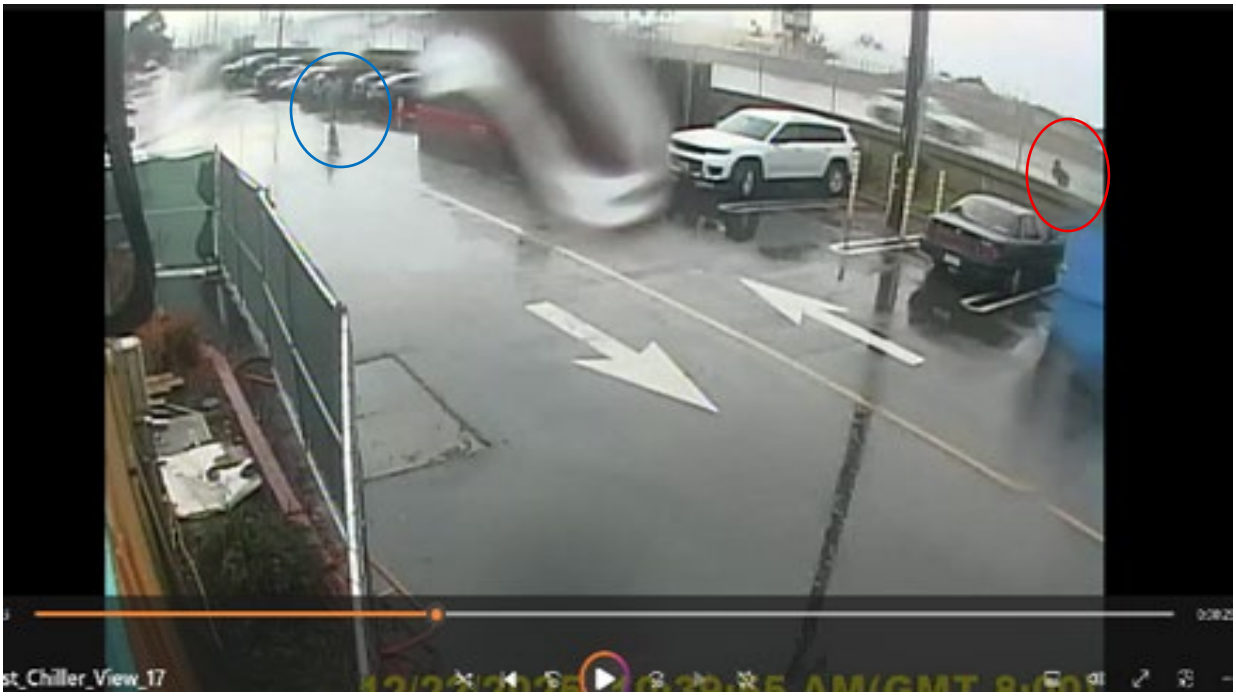


Figure-7. Surveillance footage capture of Dunn on freeway (SR-4) side of retaining wall. W-1 is visible in blue circle.



Figure-8. Surveillance footage of Dunn running across freeway (SR-4) towards center median.



Figure -9. Surveillance footage of Dunn near center median and in lane of traffic on freeway (SR-4). Lorono's patrol vehicle visible in green circle.

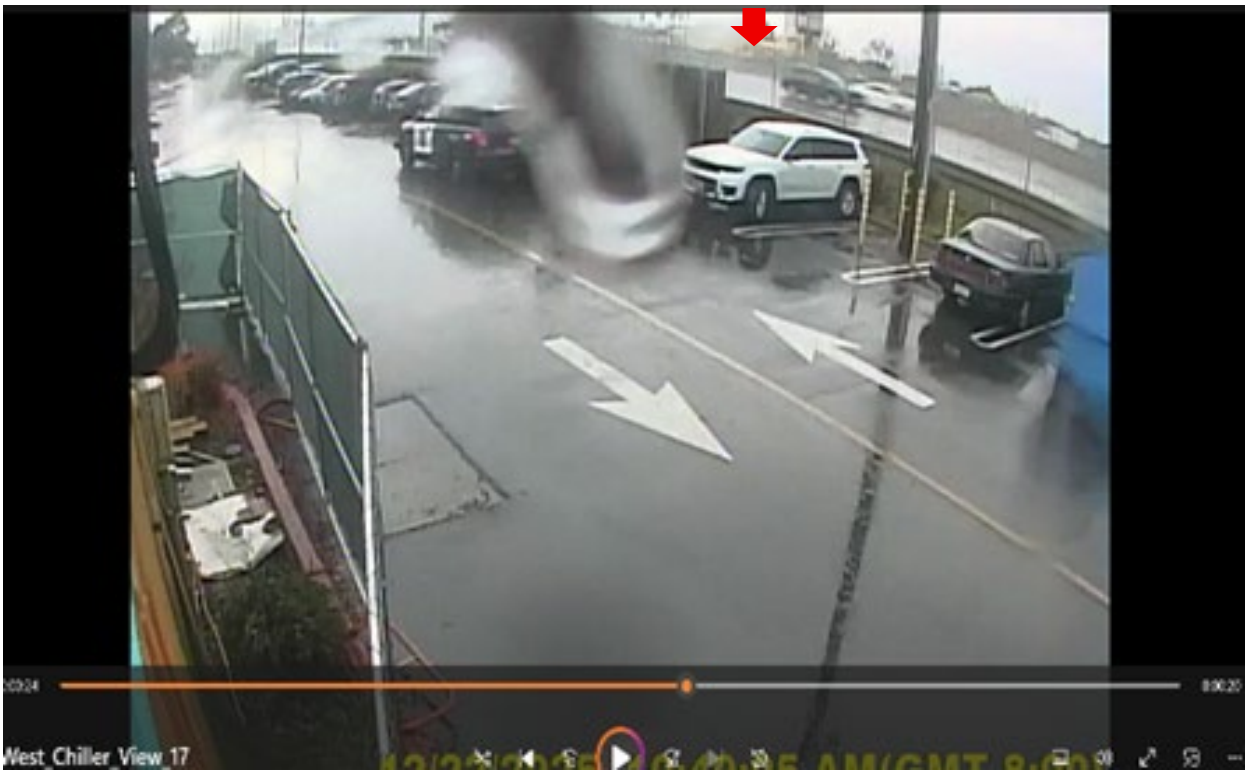


Figure-10. Surveillance footage with white car in freeway (SR-4) lane slightly east of where Dunn previously stood (denoted by red arrow). Dunn is no longer visible.



Figure-11. Parking lot behind Kaiser Hospital and location (in red circle) from where Dunn accessed freeway (SR-4).



Figure-12. Close up of area (in red circle) where Dunn accessed freeway (SR-4).

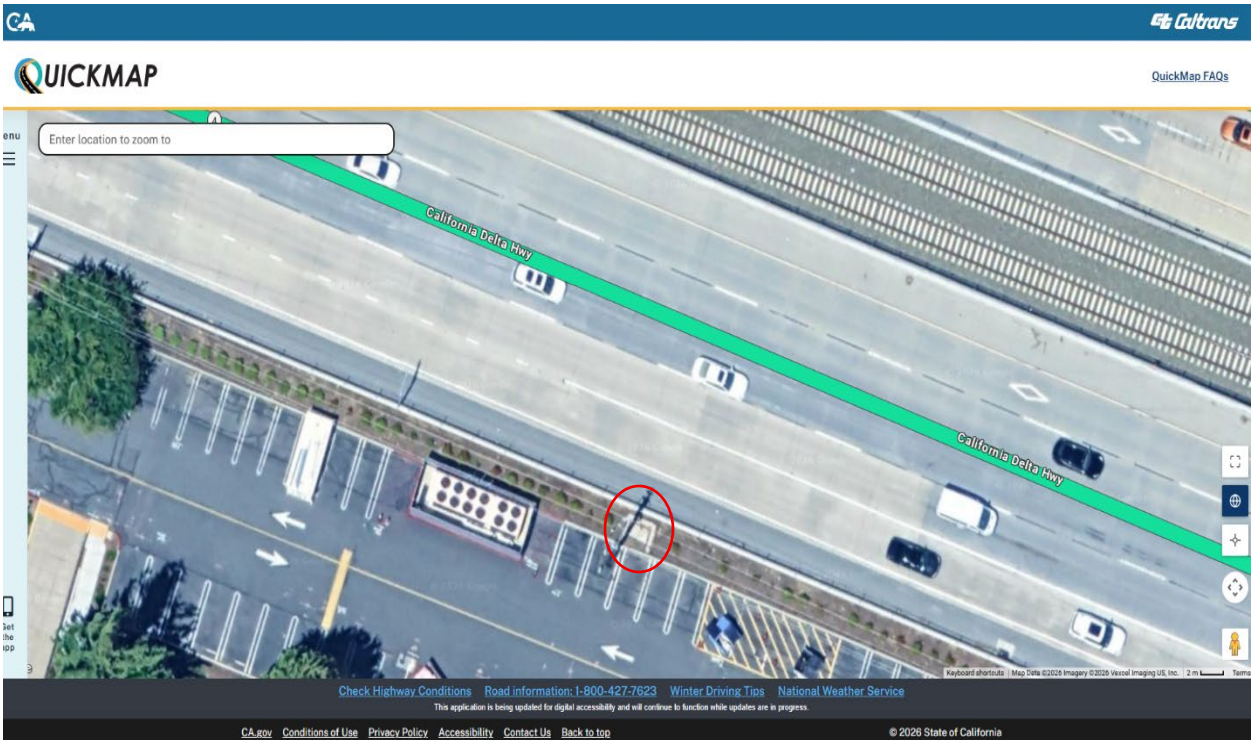


Figure-13. Satellite view of location (in red circle) where Dunn accessed freeway.[5]

[5] Source: www.quickmap.dot.ca.gov.

Officer-involved Processing

Antioch Police Department consistent with their protocol following an OIF processed the officer-involved for evidence at the Antioch Police Department. In this incident the following physical evidence related to DAI Eriksen was examined and preserved:

- Photos of DAI Eriksen
- Clothing of DAI Eriksen.

California Highway Patrol (CHP) Major Accident Investigation Team (MAIT) Findings

Under CHP Investigative Case No. M-360-315-25, the investigation in this matter was comprehensive and took place over approximately six months as CHP performed analyses of the mechanical performance for the 2020 Toyota Camry DAI Eriksen drove on December 22, 2025. Each system required for proper operation of the vehicle was examined by CHP. This included the braking system, steering system, engine system, acceleration system, and safety systems such as airbags which deployed as a result of the collision. Post examination of the damaged vehicle also was performed by CHP to ascertain point(s) of impact (POI) with the Decedent, and to assist in the approximation of estimated speed at the POI. The vehicle was also photographed and all damage from the collision was examined by the CHP MAIT team. This entire report was then independently reviewed by the ACDA.

The ACDA's review of the CHP investigation revealed the crash-data retrieval systems (black box) were also accessed by CHP to gain recorded information about the accident that physical inspection might not reveal. All systems required for safe operation of the vehicle were deemed to be within proper working order according to these systems.

CHP also reviewed all agency-involved reports on the matter and evidence collected post incident (i.e., police reports, fire documentation, medical records, 911 calls, video evidence, witness statements, law enforcement and first responder statements).

The ACDA review of all data and information collected by the CHP ultimately supported the opinion of CHP's 220-page report and that "based on the physical evidence, the area crash report, and the expectation of no pedestrian traffic due to the restriction of pedestrian travel on the freeway, [the] crash was determined to be unavoidable for [d]river Eriksen."[6] In addition, CHP concluded that "other than the actions of the [D]eceased, no evidence of criminal action was found." The CHP found Dunn to be "at fault" for the crash and that no active pursuit of Dunn by police was taking place at the time of the collision.

Similar to the ACDA's policies concerning on duty activities of DA Inspectors, CCCDA Inspectors are provided vehicles for job related duties such as subpoena service and witness transportation. The white Toyota Camry vehicle involved in the OIF was a licensed and insured vehicle

[6] A 20-page addendum was written by the assigned CHP investigator mostly summarizing prior findings.

maintained by the County of Contra Costa and operated by the Contra Costa District Attorney's Office for permitted DA Inspector duties.





Figures-14 and 15. The white Toyota Camry DAI Eriksen drove at the time of the collision.

Body Worn Camera and Surveillance Camera Footage

All officers who conducted interviews of any witness or were on scene at the time of the incident and captured any portion of the OIF provided their BWC footage to investigators. Responding officers who arrived on scene after the OIF incident occurred also wore and activated their BWCs per departmental protocol. All BWC footage was reviewed by investigators as the investigation required. As there are hundreds of hours of non-relevant BWC video footage, only relevant footage is included in this report.

Autopsy and Toxicological Report for Phoenix Dunn

A complete autopsy was performed by the Contra Costa County Sheriff-Coroner's medical staff for the purpose of establishing manner and cause of death of Phoenix Corwen Dunn, a 27-year old man, under Contra Costa County Coroner Case No. 2025-5519.

On April 14, 2026, Forensic pathologist, James Caruso, M.D., determined that Dunn's death was caused by "blunt injuries of the head, neck, and torso" and the manner was classified as an accident. In the autopsy findings, the blunt force injuries were separately listed as abrasions, contusions, and lacerations of the face; hemorrhage into the muscles of the posterior neck; subarachnoid hemorrhage; atlanto-occipital dislocation with transection of the brainstem; abrasions and a laceration of the torso; laceration of the aorta bilateral hemothorax; bilateral pulmonary contusions; laceration of the right lung; multiple rib fractures; left pelvic fractures; abrasions and laceration of the extremities; and dislocation of the left ankle. Dr. Caruso opined that Dunn's death was likely instantaneous to the collision given the extent of his injuries.

An image of the multiple injuries described above, as observed by Dr. Caruso appear in the image below. The image notations were created concurrent with the medical examination at autopsy.

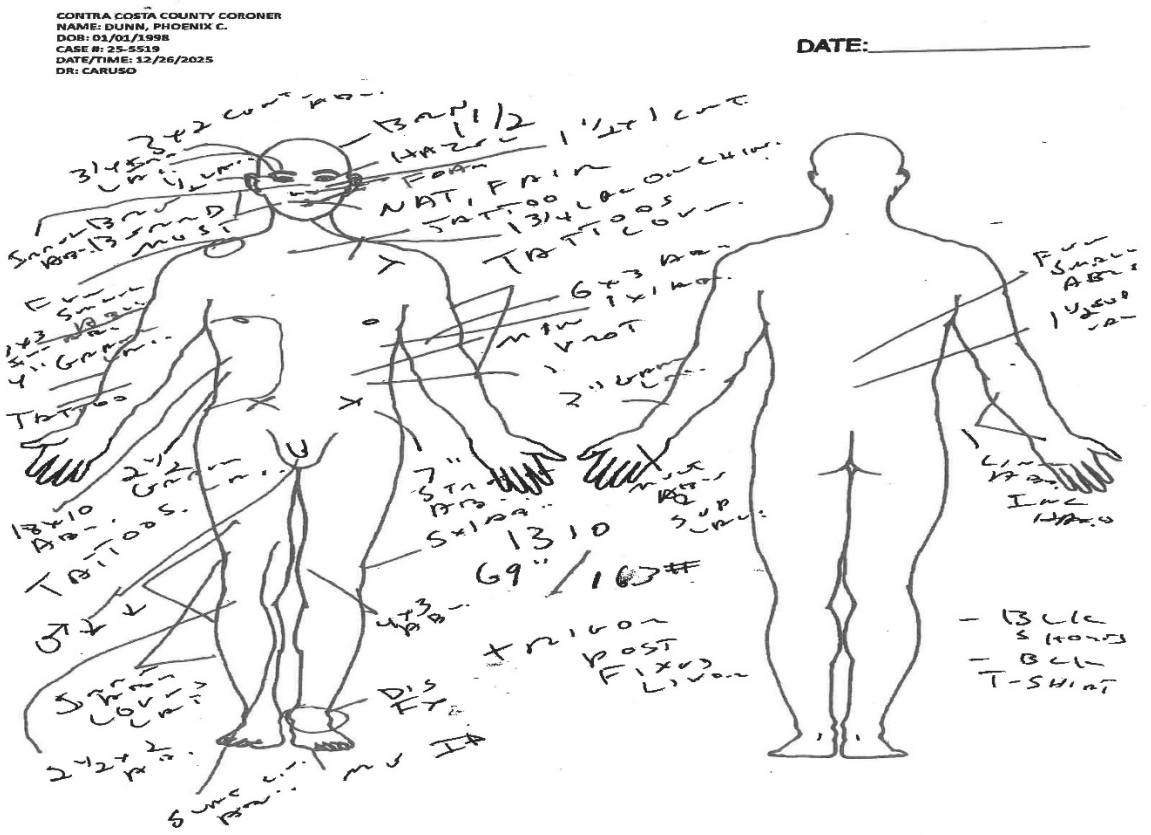


Figure-16. Coroner's diagram of Dunn's injuries.

Post-mortem toxicology tests of blood taken from Dunn's chest cavity revealed only through an unconfirmed analysis (screen), the presence of cannabinoids (unspecified) and the semi-synthetic opiate buprenorphine's metabolite, norbuprenorphine.

Buprenorphine (or naloxone) is a medication typically provided in a clinical setting to assist in treating opioid use disorder. Opioids include heroin, fentanyl, and prescription pain killers such as hydrocodone, oxycodone and morphine.[7]

Interviews of Civilian Witnesses

The following are summaries of recorded statements obtained from civilian witness interviews. These statements describe the incident from the point of view of each person. Not all witnesses who provided statements are included in this report.

[7] Poliwoda S, Noor N, Jenkins JS, Stark CW, Steib M, Hasoon J, Varrassi G, Urits I, Viswanath O, Kaye AM, Kaye AD. Buprenorphine and its formulations: a comprehensive review. Health Psychol Res. 2022 Aug 20;10(3):37517. doi: 10.52965/001c.37517. PMID: 35999975; PMCID: PMC9392838.

Statement of W-1

W-1 told investigators that he arrived at work and noticed an unknown white male individual (Dunn) on the first floor of the hotel. W-1 contacted Dunn and asked which room he was staying in, to which Dunn replied he was "[I]n 243-242, on the second floor." W-1 watched Dunn walk away and approach room 235. W-1 then observed Dunn lift the barrier glass of the fire alarm near the room, pull the fire alarm, and run.

W-1 reported to investigators that he saw Dunn run south on the stairway towards the first floor. Once on the first floor, Dunn ran southbound on the property. Dunn then jumped a fence on the property and continued southbound under the Highway 4 overpass that runs east to west. Dunn then ran across the street towards a Denny's restaurant located at 2006 Somersville Road and near the Delta Bowl at 3300 Fair Boulevard. W-1 got into his car but remained on the phone with Antioch Police Dispatch as he followed Dunn to the Delta Bowl. W-1 told investigators that when contacted, Dunn became aggressive, assumed a fighting stance and made his right hand into a fist. W-1 thought Dunn might try to hit him and cautioned him by saying "Don't swing at me."[8] Dunn then struck W-1 with a black bag he was holding in his left hand that contained what looked like makeup and again began to run this time towards Kaiser Hospital. W-1 followed him to the point where Dunn hopped over the fence onto the freeway.

W-1 declined to press any charges against Dunn but told police that he wanted him "trespassed [sic]" from the Comfort Inn Hotel. W-1 had no visible or claimed injuries but allowed investigators to photograph him wearing the brown substance splattered on his jacket which W-1 told police Dunn threw at him during the altercation. W-1 declined medical attention.



Figure-17. W-1's shirt with brown material.

[8] In the audio recording obtained by investigators W-1 audibly stated, "Don't swing on me," to an unknown person after which time the line was left open.

Statement of W-2

W-2, a 25-year veteran of the Hayward Police Department and trained paramedic, saw Dunn after Dunn was struck by the white Toyota Camry. W-2 stopped on the freeway to render aid to Dunn as he lie close to the center median of the highway. W-2 told investigators he was driving in the number two lane when he became aware something had occurred by the brake lights of the "white car in front" of him. W-2 told investigators the next thing he observed was the "gentleman…fly up in the air…and then land in the number one lane …and sort of slide off into the shoulder." W-2 instantly recognized the medical emergency and approached Dunn to assist with cardiac pulmonary resuscitation to try and keep Dunn's heart beating. As freeway traffic moved around W-2, he continued to apply chest compressions despite the fact Dunn had no discernible pulse. Emergency Medical Services (EMS) and the fire department arrived and relieved W-2.



Figure-18. A capture from Lorono's BWC of W-5 applying chest compressions to Dunn.

Statement of W-3

W-3, an employee of the nearby Kaiser Hospital told investigators he saw an unknown white male (Dunn), running through the Kaiser parking lot. At the time, W-3 believed that a driver of a dark colored SUV with an unknown driver was chasing Dunn. W-3 was not able to provide a license plate for the vehicle he saw. W-3 told investigators that near simultaneously as an Antioch Police car arrived on scene, W-3 saw Dunn jump the fence of the parking lot and onto the highway. W-3 watched as Dunn ran across multiple lanes of traffic while cars appeared to try to avoid striking him. W-3 told police Dunn was struck when one of the vehicles failed to avoid him.

Statement of W-4

Dunn's mother (W-4) agreed to speak to investigators by phone. She provided some background about Dunn. W-4 told investigators that the family was originally from Nashville,

Tennessee but had lived in San Francisco for the last five years. Dunn would periodically stay with his mother and brother but his struggles with mental illness caused him to go missing at times. W-4 stated that Dunn was diagnosed with "schizoaffective [disorder], or "schizophrenia with bi-polar [disorder]" W-4 told investigators Dunn first manifested as mentally ill in his teenage years and had suffered a psychotic break at age 16. W-4 stated Dunn "couldn't stay on his [prescribed] medication," and while he was not known to commit any violence, he would describe hearing voices and exhibit paranoid behavior.[9] W-4 told police that Dunn had recently been hospitalized for the fifth time in six months, but that she had lost touch with him and had not spoken to Dunn for "maybe two weeks" prior to his death. W-4 had reportedly "desperately tried to get him help" but Dunn was "homeless" and resistant to his mother's efforts to care for him.

W-4 described Dunn as someone whose "illness made him wander," and caused him to be fearful of law enforcement because of paranoia and belief that law enforcement "would kill him." W-4 told investigators that Dunn was "profoundly mentally ill…[and that] he had problems perceiving reality."

Emergency Medical Attention

The Contra Costa County Fire Department, Battalion 8 was dispatched at 10:41:53 a.m. and responded by 10:43:15 a.m. to provide on-scene medical care to a reported "vehicle accident" on SR-4 involving a pedestrian. These first responders arrived at10:46:57 a.m. to the scene where a civilian was providing cardio-pulmonary resuscitation (CPR) to Dunn. Dunn was pronounced deceased based on obvious signs of death, including the fact he was unresponsive, had non-reactive pupillary activity, and a lack of heart tones from the attached cardiac monitors which indicated complete cessation of electrical and physical activity in his heart (asystole). Dunn was also not breathing.

Death was pronounced at 10:49 a.m. by Contra Costa County EMS.

Interview of Involved Officer

The officer involved in this incident voluntarily provided a statement and fully cooperated in this investigation. Like all citizens of the United States, peace officers have the right to remain silent and decline to answer questions in the face of official questioning. (*Spielbauer v. County of Santa Clara* (2009) 45 Cal.4th 704, 714; and see generally *Miranda v. Arizona* (1966) 384 U.S. 436.)

Public employees, including police officers, may be compelled by an employer to answer questions for administrative purposes, but the use of such statements in criminal proceedings is prohibited. (*Lybarger v. City of Los Angeles* (1985) 40 Cal. 3d 822, 827-828, citing *Lefkowitz v. Turley* (1973) 414 U.S. 70, 77-79, Ga*rrity v. State of New Jersey* (1967) 385 U.S. 493, 500.) As the investigation was undertaken by multiple agencies for determination of any criminal liability for the involved officer, here DAI Eriksen, accordingly no compelled statements were considered as part of this investigation. Consistent with officer-related fatalities, DAI Eriksen was sequestered pending his voluntary statement.

[9] Investigators determined that Dunn had no criminal convictions and no history of any arrests for violence.

Typically, in this context, an officer interview consists of the officer's recollection of the incident. These recollections may be inconsistent with the facts ultimately determined by the investigation and independent review of the evidence including video footage.

District Attorney Inspector Sean Eriksen

DAI Eriksen (Eriksen) agreed to provide a voluntary statement to investigators. With his attorney present, Eriksen told investigators some of his background as a peace officer and his daily duties as an inspector working for the Contra Costa County DA.

On the date of the collision, Eriksen was driving a county vehicle which he is permitted to drive while on duty as an inspector. He was headed towards Antioch. Eriksen was driving in the number one lane at "freeway speeds of 65-70 miles an hour," when "a pedestrian appeared right in front of [him]." Eriksen told investigators that he "had very little…time to react efficiently…veer[ed] to the left…[and]the person collided with my car" although Eriksen did swerve reflexively. He described "losing visibility" as he swerved because he was "showered with glass" from the windshield shattering.

Eriksen pulled to the right to avoid hitting the center median and came to a complete stop. Eriksen recalled looking in the side view mirror and seeing a pedestrian on the ground as someone was performing chest compressions on the pedestrian's body. Just prior to the accident, Eriksen observed that he had enough space in front of him to be able to brake suddenly if needed and that he was going with the flow of traffic. He expressed some sense of loss of time and confusion after the collision about "how a pedestrian ended up in front of [him] when there was no indications [of brake lights]…[of any] obstruction on the freeway." Eriksen commented to investigators about the lack of warning ("[N]o brake lights…[n]o people swerving.") prior to the appearance of the pedestrian. Eriksen denied use of any medication or substance that would have impaired his driving or being distracted (use of a cellphone) while driving. He commented that the rain that day made him more cautious.

Eriksen was not seriously injured but described seeing blood on his pants and his face being sore. Eriksen's injuries consisted of cuts to his eyelids and injuries to his right arm. At the time of the interview which took place on December 29, 2025, Eriksen described some remaining signs of injury but overall described that he had mostly physically recovered. After the accident, Eriksen did go to the hospital to make sure that he did not have any serious injuries.

APPLICABLE LAW AND LEGAL STANDARDS

Homicide is the killing of one human being by another. (*People v. Beltran* (2013) 56 Cal.4th 935, 941.) Not all homicides are criminal, but all murders and manslaughters are homicides that are classified as criminal.

The Law of Murder

Murder is the unlawful killing of a human being with malice aforethought. (Pen. Code, § 187, subd. (a).) Murder is divided into first and second degrees. A willful, deliberate, and premeditated

killing is murder of the first degree. (Pen. Code, § 189; *People v. Hernandez* (2010) 183 Cal.App.4th 1327, 1332.)

Second degree murder is the unlawful killing of a human being with malice aforethought but without the additional elements of willfulness, premeditation, and deliberation that would support a conviction of first degree murder. (*People v. Knoller* (2007) 41 Cal.4th 139, 151.) The malice required for second degree murder may be express or implied. (Pen. Code, § 188; *Hernandez*, *supra*, 183 Cal.App.4th at p. 1332.) Malice is express when there is an "intent to kill." (Pen. Code, § 188; *People v. Delgado* (2017) 2 Cal.5th 544, 571.) Malice is implied "when the killing results from an intentional act, the natural consequences of which are dangerous to life, which act was deliberately performed by a person who knows that his [or her] conduct endangers the life of another and who acts with conscious disregard for life." (*People v. Dellinger* (1989) 49 Cal.3d 1212, 1215.)

The Law of Voluntary Manslaughter

A murder may be reduced to manslaughter. Manslaughter is an unlawful killing without malice. (Pen. Code, § 192; *People v. Thomas* (2012) 53 Cal.4th 771, 813.) Circumstances present during the killing may preclude the formation of malice and reduce a killing that would otherwise be murder to voluntary manslaughter, including: (1) heat of passion, and (2) imperfect self-defense. (*People v. Moye* (2009) 47 Cal.4th 537, 549.)

Imperfect self-defense is the killing of another human being under the actual but unreasonable belief that the killer was in imminent danger of death or great bodily injury and that the use of deadly force is necessary to defend against that danger. Such a killing is deemed to be without malice and thus cannot be murder. (*People v. Cruz* (2008) 44 Cal.4th 636, 664.) The doctrine of imperfect self-defense cannot be invoked, however, by a person whose own wrongful conduct (for example, a physical assault or commission of a felony) created the circumstances in which the adversary's attack is legally justified. (*People v. Booker* (2011) 51 Cal.4th 141, 182.)

Because of the lack of malice, or opportunity to reflect on the intentional act that caused death because of an impaired thought process, such as intense rage (heat of passion), or a sincerely held but erroneous belief that the killing was necessary to preserve life (imperfect self-defense), the killing is mitigated. Neither of these two types of killings will be determined to have been committed "on accident" because the actions that caused the killing were intentional.

The law of Gross Recklessness and Culpable Negligence: Involuntary Manslaughter

A killing that occurred because of gross negligence is unlawful and an involuntary manslaughter because the killing was the result of some unlawful action (or inaction) that while there is no intent to kill, the death of another human being occurred as the result of conduct that was criminally negligent. Criminal negligence in the homicide context is present when an

individual acts in a way that evidences more than "ordinary carelessness, inattention, or mistaken judgement." The person who commits a killing in a grossly reckless manner or is criminally negligent commits an act that is so different from the way an ordinarily careful person would act in the same situation that their action amounts to disregard for human life or indifference to the consequences of that act. *See* Cal. Crim. No. 581. This conduct is often commented on as conduct that "shocks the conscience" because of its departure from what an ordinarily cautious person would do in similar circumstance.

Involuntary manslaughter may also occur when an individual does a lawful act, but in a negligent way; acts in a way that is similar to the standard above. In summary, the determination that a homicide is involuntary manslaughter still requires the examination of the actor's culpable mental state and/or a determination of an appreciation but disregard for human life. Cal Crim. No. 582.

The Law of Vehicular Manslaughter

Manslaughter if committed with a vehicle, considers the conduct of a driver. Gross vehicular manslaughter and misdemeanor vehicular manslaughter define criminal liability under the circumstances where the operator of a vehicle while driving kills another person. For further distinction, the legislature created per se circumstances, none of which are applicable here, to identify what actions equate without question and qualify as "gross negligence." *See* Cal. Penal Code §192(e)(1)-(2). Similarly, the operator of a motor vehicle who with gross negligence while driving commits an unlawful act or drives and commits a lawful act in an unlawful manner, which might produce death, may commit vehicular manslaughter. Finally, an operator of a motor vehicle who drives may still commit vehicular manslaughter if while driving they commit an unlawful or lawful act even if no gross negligence was present. *See* Cal. Crim 592-593, and Cal. Penal Code §192.

Legal Standards

Burden of Proof and Prosecutorial Ethics

A prosecutor bears the burden of proving a criminal defendant's guilt beyond a reasonable doubt. (Pen. Code, § 1096.) Where an investigation is complete, and all of the evidence is available for review, prosecutors should file charges only if they believe there is sufficient admissible evidence to prove the charges beyond a reasonable doubt at trial. (See, e.g., Nat. Dist. Attys. Assn., National Prosecution Standards (3d ed. 2009) Part IV, § 2 pp. 52-53; United States Department of Justice Manual § 9-27.220; Melilli, Prosecutorial Discretion in an Adversary System (1992) B.Y.U. L.Rev. 669, 684-685 [surveying ethical standards used in the exercise of charging discretion by prosecutors]; accord, *People v. Catlin* (2001) 26 Cal.4th 81, 109 ["A prosecutor abides by elementary standards of fair play and decency by refusing to seek indictments until he or she is completely satisfied the defendant should be prosecuted and the office of the prosecutor will be able to promptly establish guilt beyond a reasonable doubt," quotation and internal quotation marks omitted]; *People v. Spicer* (2015) 235 Cal.App.4th 1359, 1374 [explaining that a prosecutor

may have probable cause to charge a crime but reasonably decline to do so if they believe there is a lack of sufficient evidence to prove the charge beyond a reasonable doubt at trial]; cf. Rules Prof. Conduct, Rule 3.8(a) [prosecutor should not initiate or continue prosecution of charge that is not supported by probable cause].)

In addition, the prosecution has the burden of proving beyond a reasonable doubt that a killing is legally not excused, or in the case of self-defense: justified.

The Application of the Law and Legal Standards

The Alameda County District Attorney (ACDA) has completed the independent investigation and review of the facts and circumstances that led to the death of Phoenix Dunn. This analysis is based on all the evidence obtained by the CCCDAO and investigators provided in this matter as described above.

The primary issue to determine prior to a finding that criminal charges in this matter would be warranted, would be whether a prosecuting agency would be able to affirmatively prove beyond a reasonable doubt that DAI Eriksen intentionally, or as a result of grossly negligent conduct, or without legal excuse committed the crime of murder or manslaughter with a vehicle when he collided with Phoenix Dunn on the freeway.

The detailed and comprehensive examination of all the provided evidence in this case revealed that the collision that proximately caused the death of Phoenix Dunn was completely accidental and the direct result of Dunn's unexpected presence as a pedestrian on a busy California freeway where the posted speed limit is 55 miles per hour through urban segments like Antioch or construction zones, and up to 65 miles per hour on multi-way portions in less populated areas.[10]

Pedestrians are Prohibited on Freeways

In California, California Vehicle Code (CVC) and the California Highway Design Manual (Cal. HDM)[11] provide definitions of highways and freeways. CVC S332 defines a "freeway" as a highway that "owners of abutting lands have no right or easement of access to." CVC §360 defines a "highway" as "a way or place of whatever nature, publicly maintained and open to the public for purpose of vehicular travel. A "highway" includes a street. Freeways are intended to be utilized for continuous, high-speed travel free from the limitations of street-highway travel such as stop signs or light-controlled intersections, and driver right of way obligations to pedestrians.

California law prohibits any type of pedestrian activity on freeways. *See* CVC §21960(a). Only in circumstances where a car is disabled, may the passengers on a freeway walk to the nearest exit, or emergency call box, and only on the side of the road where their vehicle is disabled. In no circumstances are pedestrians permitted to run across multiple lanes of a freeway. Such activity is dangerous to not only the pedestrian but to vehicles traveling at speeds posted or above as traffic

[10] https://www.eastbaytimes.com/2013/12/04/roadshow-has-the-speed-limit-on-highway-4-changed/
[11] Cal. HDM, Chapter 60, Nomenclature: Topic 62---Definitions: 62.3 Highway and Freeway.

may permit. And while a driver of a vehicle must exercise a duty of care to any pedestrian in the roadway, this obligation is a mutual one where the pedestrian may not be relieved from the duty of using due care for their own safety. *See* CVC 21950. Perhaps most importantly, a pedestrian may not "suddenly…leave a place of safety and walk or run into the path of a vehicle that is so close as to constitute an immediate hazard. See CVC§21950(b). The purpose for this subdivision being the obvious reality that a motorist proceeding on a freeway may be surprised by the presence of a pedestrian and because of the speeds permitted thereon, unable to stop their car quickly enough to avoid the unanticipated pedestrian. Additionally, an effort to avoid an unexpected pedestrian may cause a driving maneuver that endangers another motorist, or the driver themselves. This prohibition that applies to pedestrians on freeways also exists because on freeways there are no safe areas that pedestrians may retreat to such as a sidewalk.

Excusable Homicide: Accident

Cal. Criminal Jury Instruction 510 explains the legal defense of "accident" when a homicide has occurred. A person is not guilty of murder or manslaughter if they "killed someone by accident and misfortune or while doing a lawful act in a lawful way;" were "acting with usual and ordinary caution," and "without the necessary mental state" for either murder or manslaughter. "Usual and ordinary caution are present when a person acts like "a reasonably careful person would act in the same or similar situation." In order to find one criminally negligent, there must be evidence the individual acted in an unlawful manner and without due caution and circumspection. (See *People v. Garnett* (1908) 9 Cal.App.194, 203-204, disapproved on other grounds by *People v. Collup* (1946) 27 Cal.2d 829, 838-839 and *People v. Bouchard* (1957) 49 Cal.2d 438, 441-442. Also *see* Cal. Penal Code §195.

The Law of Accident and Misfortune

Cal. Criminal Jury Instruction No. 3403 explains the legal defense of "accident" to murder or manslaughter. "A person who commits a prohibited act (killing of another human being) through 'misfortune or by accident, when it appears that there was no evil design, intention, or culpable negligence' has not committed a crime. (*People v. Jefferes* (1996) 41 Cal App.4th 917, 922 [quoting Cal. Penal Code §26.]"

Legal Analysis

Unexpected or untimely loss of life through any means is always a tragedy perhaps most deeply felt by people close to the decedent. But because a death from a true accident carries no criminal liability as explained above, the tragedy does not translate to "fault" for the involved party.

All evidence supports the fact that DAI Eriksen was driving cautiously, within the posted speed limit, and by his own statement he had considered the wet roadway and needed braking distance. Moreover, DAI Eriksen had no reason to expect to suddenly encounter a pedestrian on a freeway

where speed limits of 55 miles per hour even in inclement weather may exceed that posted limit.[12] The evidence in this case overwhelmingly supports a finding that DAI Eriksen while the proximate cause of Phoenix Dunn's death, is excused as the act of homicide occurred without evidence of any negligence and through no fault of his own, DAI Eriksen collided with Dunn who suddenly appeared unexpectedly and unlawfully on the pedestrian-prohibited freeway of SR-4.

CONCLUSION

Based on the investigation and review of the evidence, along with the applicable statues, legal principles and subsequent application of the facts within the appropriate legal context, the ACDA finds there is insufficient evidence to support a criminal prosecution of DAI Eriksen. As a result no further criminal inquiry should occur.

[12] https://www.dmv.ca.gov/portal/handbook/california-driver-handbook/safe-driving/slippery roads.