

OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF VENTURA

JULY 9, 2014

REPORT ON THE OCTOBER 13, 2012,  
SHOOTINGS OF ALFONSO LIMON, JR.,  
JUSTIN VILLA, AND JOSE ZEPEDA, JR., BY  
OFFICERS OF THE OXNARD POLICE DEPARTMENT



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ATTACHMENT

## I. EXECUTIVE SUMMARY

During the late evening of October 13, 2012, Oxnard police officers shot and killed Alfonso Limon, Jr., when he unwittingly walked into the middle of a running gun battle initiated by Jose Zepeda, Jr. Mr. Limon was in every sense an innocent victim, who was helpless to prevent the extraordinary and unfortunate circumstances that coalesced that evening to cause his untimely death. The role of the District Attorney in reviewing any officer-involved shooting is to determine whether the officer's use of force was lawful. Accordingly, after a thorough investigation and review, we have concluded that the officers acted in lawful self-defense and defense of others. We acknowledge that our conclusion will offer no solace or comfort for Mr. Limon's family given the magnitude of this tragedy and the immense loss they have suffered. However, we hope the report that follows provides a clear picture and leaves no doubt about the events and actions of all involved in the October 13, 2012, shooting death of Alfonso Limon, Jr.

Events leading up to Mr. Limon's tragic death unfolded very rapidly. At approximately 10:08 p.m., while patrolling the La Colonia area of Oxnard, Officers Pedro Rodriguez and Roslynn Wilfert observed a black two-door Chevrolet Monte Carlo driven by Rafael Hernandez, run a stop sign. Jose Zepeda, Jr., and Justin Villa were passengers in that vehicle. When officers attempted to initiate a traffic stop, Hernandez initially pulled over, but as Officer Wilfert exited her patrol car, he pulled away from the curb and a short pursuit began. Police dispatch broadcast the failure to yield and additional police officers responded to the area.

The La Colonia neighborhood is known to be frequented by members of a violent street gang, “Colonia Chiques” (Colonia). Zepeda and Villa were wearing baseball caps with a “W” signifying their association with one of several “Westside” gangs who are rivals to Colonia, or “Eastside.” Almost simultaneous to the initial traffic stop, police received and broadcast a report that a person in a gray sweatshirt with a shaved head was brandishing a gun in the Colonia neighborhood. Zepeda and Villa’s presence in rival gang territory, combined with the earlier brandishing report, led officers to suspect that one or more of the occupants of the vehicle were armed and dangerous. These suspicions later proved to be correct; two loaded, operable firearms were in the vehicle at the time of the initial stop.

When Hernandez pulled over a second time, Villa started to leave the vehicle but changed his mind when Officer Wilfert pointed her handgun at him and ordered him back in the vehicle. When officers ordered the driver to turn off the engine, Zepeda and Villa could be heard shouting at the driver to take off. Given this suspicious behavior, Officer Wilfert requested expedited back up via radio broadcast.

By this time, numerous police officers had converged on the scene and were positioned behind the Monte Carlo with their weapons pointed at the occupants, shouting commands such as, “Show your hands!” and “Throw the keys out of the window!” Instead of complying, the occupants casually smoked cigarettes, Villa and Hernandez began speaking on their cell phones, and Zepeda counted out the number of police officers behind them and simulated shooting them with the index finger of his gloved hand.

Approximately 11 minutes after Hernandez pulled over for the second time, he again sped away. Officers pursued and quickly located the car pulled over to the side of the street with all its lights off. But once again the car pulled away and after another short pursuit, it suddenly stopped in the middle of the street adjacent to 136 Garfield Avenue. Zepeda and Villa quickly jumped out of the car and began to flee. When Villa tripped and fell to the ground, Zepeda jumped over him and began running. As he ran, Zepeda fired one round at Officer Lockner who had been the first officer to exit his vehicle and give chase. Officer Lockner immediately returned fire, wounding Zepeda and Villa. Tragically, Officer Lockner's return fire also wounded Alfonso Limon, Jr., who by pure happenstance, had just innocently walked into the line of fire. The round that struck Mr. Limon is believed to have gone through both legs causing him to fall immediately to the ground, disabled, and unable to flee for his own safety.

Zepeda fired a total of four shots at numerous police officers over the course of a running gun battle. He attempted to shoot or simulated shooting at police officers several additional times. Nine Oxnard police officers fired their weapons in response. Officers Don Ehrhardt, Ryan Lockner, Rocky Marquez, Ernie Orozco, Matthew Ross, Pedro Rodriguez, and Zachary Stiles each fired at Zepeda. Officers Marquez and Lockner's rounds hit and ultimately killed Zepeda. Approximately eight of Officer Orozco's shots unintentionally struck Mr. Limon as he lay wounded on the ground. By the time Officer Orozco fired these shots, Zepeda had already been hit and injured, fallen to the ground, and was in the process of attempting to fire at officers from a seated or kneeling position on the ground. Cell phone videos taken after the shooting stopped show Mr. Limon

partially obscured by bushes and directly in the line of fire between the officers and Zepeda.

From their location during the chaotic and rapidly evolving events, Officers Jess Aragon, John Brisslinger, and Matthew Ross were unaware of Zepeda's presence across the parking lot. However, they heard officers shouting, "He still has a gun," and thus shot at Mr. Limon under the mistaken belief that he was one of the armed suspects who was engaged in the gun battle. The following factors coalesced in leading the officers to that tragic and erroneous conclusion:

- a) An earlier police dispatch had reported that a man in a gray sweatshirt had brandished a weapon in the Colonia neighborhood. Mr. Limon was wearing a gray sweatshirt.
- b) There had been three occupants in the suspect vehicle which was now unoccupied, leading them to believe that two or three suspects were now at large and engaged in the gun battle with law enforcement.
- c) The running gun battle was occurring in the middle of Colonia where gang members are known to be extremely hostile to police.
- d) The officers were unaware that Mr. Limon had innocently walked into a gun battle where he had fallen after suffering disabling wounds.
- e) They observed that Mr. Limon had been shot and was bleeding, leading them to believe that Mr. Limon was the suspect engaged in the gun battle with other officers.

- f) Fellow officers, who had just been engaged in a running gun battle with one or more suspects, were shouting, “He still has a gun.”
- g) Mr. Limon’s confusion and pain from his serious wounds likely caused him to move abruptly and erratically.
- h) Mr. Limon’s movements appeared inconsistent with a suspect who was attempting to comply and/or surrender and instead appeared to be that of a suspect intent upon harming officers.

The entire running gun battle from start to finish had lasted 1 minute and 40 seconds.

Hernandez was removed from the vehicle and taken into custody by Officer Rodriguez. Villa was arrested shortly after the gunfight ended with a bullet wound to his right knee and dog bites from a police K-9 who had located him hiding in a nearby shed.

The District Attorney’s Office has a 24-hour on-call officer-involved shooting team available to all Ventura County law enforcement agencies to assist in the investigation of officer-involved shootings. When the District Attorney’s Office was notified of the shooting at 12:20 a.m. on October 14, 2012, Chief Deputy District Attorney Chuck Hughes and District Attorney Investigators Robert Coughlin, Tom Mendez, and Adam Wittkins responded to the shooting scene and consulted with the investigating officers.

Oxnard Chief of Police Jeri Williams requested that the Ventura County Sheriff’s Office conduct the officer-involved shooting investigation, and they arrived on scene at approximately 2:00 a.m. The Sheriff’s investigation included interviews of the involved

officers, other witnesses, and the collection and analysis of physical evidence. The Sheriff's Office also obtained surveillance video and a YouTube clip of a bystander video that captured portions of the confrontation between police and Zepeda.

The Sheriff's Office's investigation was initially submitted to the District Attorney's Office for review on May 31, 2013. Additional follow-up requests, including requests for digitized files and additional DNA and other analysis were submitted and received, some as recently as March 2014. Additionally, the District Attorney's Office retained the services of George T. Williams, an independent "use of force" expert.<sup>1</sup> His final report was submitted to the District Attorney's Office on May 30, 2014.

The scope of the District Attorney review was limited to a determination of whether the shootings of Alfonso Limon, Jr., Justin Villa, and Jose Zepeda, Jr., were justified and, if not, whether criminal charges should be filed.

The District Attorney's review was conducted by Senior Deputy District Attorney Christopher Harman, who authored this report. It included the review of more than 5,000 pages of reports and documents, transcripts of interviews of police and civilian witnesses, diagrams, photographs, video recordings, numerous recorded interviews, recordings of radio transmissions, examination of the scene of the shooting and consultation with a use

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<sup>1</sup> In order to independently and objectively assess the shooting deaths of Alfonso Limon, Jr., and Jose Zepeda, Jr., and the shooting of Justin Villa by Oxnard police officers on October 13, 2012, the services of an outside "use of force" expert, George T. Williams, were retained by the Ventura County District Attorney's Office. Mr. Williams' analysis and conclusions are included in the District Attorney's findings. A copy of Mr. Williams' CV is attached.

of force expert. All nine officers involved in the shooting gave voluntary interviews about their actions during the shooting.

Based on the information available for review, the District Attorney's investigation and the applicable legal authorities, it is the opinion of the District Attorney that the shooting of Alfonso Limon, Jr., by Oxnard Police Officers Jess Aragon, John Brisslinger, Ryan Lockner, Ernie Orozco, and Matthew Ross, although extraordinarily tragic, was legally justified and not a criminal act. The fatal rounds were fired by police officers who returned fire only after being shot at themselves, thus acting in defense of themselves, their fellow officers, and other residents. In trying to protect the community, officers were not aware that, as the shooting began, Alfonso Limon, Jr., and his brother, Gerardo Limon, innocently and unknowingly walked into the line of fire. Once Mr. Limon had been shot in the legs and fallen to the ground, his location, clothing, and naturally defensive motions caused some officers making split-second decisions in the line of fire, to erroneously conclude that he was one of the fleeing suspects who had been shooting at them.

It is also the opinion of the District Attorney that the shooting of Jose Zepeda, Jr., by Oxnard Police Officers Don Ehrhardt, Ryan Lockner, Rocky Marquez, Ernie Orozco, Matthew Ross, and Zachary Stiles and the shooting of Villa by Officer Lockner were legally justified and were not criminal acts. The shooting and/or killing of a suspect by a peace officer is justified when the officer acts in defense of himself or others or to overcome actual resistance by a felon fleeing from justice or resisting arrest.

## II. STATEMENT OF FACTS

### A. JOSE ZEPEDA, JR.'S, CRIMINAL HISTORY

Jose Zepeda, Jr., was born June 23, 1988. Zepeda had a criminal record that included convictions for residential burglary, fleeing the police, and weapons violations. In 2009, the probation for his residential burglary was terminated unsuccessfully and he was sentenced to the California Department of Corrections for two years. He was on parole and wanted for failing to report to his parole officer when he initiated the gun battle that resulted in his death and the death of Alfonso Limon, Jr.

### B. JUSTIN VILLA'S CRIMINAL HISTORY

Justin Villa was born December 16, 1987. Villa had a criminal record that included convictions for battery, vandalism, possession of stolen property and miscellaneous weapons violations. In 2008, he was convicted of a gang-related assault likely to inflict great bodily injury. He was eventually sentenced to the California Department of Corrections for three years for that offense, and was also on parole at the time of this shooting.

### C. TRAFFIC STOP

On October 13, 2012, at approximately 10:08 p.m., Oxnard Police Officer Pedro Rodriguez was driving a marked patrol car east on Cooper Road. Officer Roslynn Wilfert was also in the car. Their assigned beat was the La Colonia neighborhood, which is known as a high crime area with a very heavy gang presence. Due to that gang activity, all patrol cars on the nighttime "La Colonia beat" were staffed with two police officers.

At the same time, Rafael Hernandez was driving his black two-door Chevrolet Monte Carlo<sup>2</sup> south on Garfield Avenue in Oxnard. Justin Villa sat in the front passenger seat and Jose Zepeda, Jr., sat in the back seat. Both Villa and Zepeda were wearing baseball

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<sup>2</sup> The actual suspect vehicle was a black Chevrolet Monte Carlo. However, many makes and models including the Chevrolet Monte Carlo, Buick Regal, Pontiac Grand Prix, and Oldsmobile Cutlass have similar body styles and nearly every witness (police and civilians) described the suspect vehicle differently.

caps with a “W” logo. The “W” logo stands for “Westside” and can be a declaration of allegiance with a gang other than the gang that claimed the La Colonia neighborhood. It was later determined that there were at least two loaded handguns in the car.<sup>3</sup>

Officers Rodriguez and Wilfert observed Hernandez fail to stop for the stop sign at the intersection of Garfield Avenue and Cooper Road. In response, the officers initiated a traffic stop on the Monte Carlo as the vehicle turned on to Garfield Avenue.<sup>4</sup>

They activated their overhead emergency lights and the Monte Carlo temporarily pulled to the side of the road on Garfield Avenue. Officer Wilfert started to get out of the patrol car when the Monte Carlo again continued south on Garfield Avenue.

Officer Wilfert got back into the patrol car and activated her personal recording device. They continued following the Monte Carlo with their overhead emergency lights still activated. Officer Wilfert put out over the radio that the Monte Carlo was failing to yield to the traffic stop.

The Monte Carlo turned right onto Second Street, drove a short distance, and stopped in the middle of the street near Grant Avenue with the engine still running. Officers Rodriguez and Wilfert got out of their patrol car and yelled for Hernandez to turn off the engine. Villa opened the passenger door and started to get out of the car. Officer Wilfert unholstered her handgun, pointed it at Villa, and ordered him back into the car.

Villa got back into the car and was overheard by officers telling Hernandez, “Take off, homie, take off!”<sup>5</sup> Both Officer Wilfert and Officer Rodriguez began yelling for the three people in the car to, “Get your hands up!” Officer Wilfert put out a radio request to

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<sup>3</sup> Zepeda’s gun was recovered near his body after the shooting. A second loaded handgun with Villa’s DNA was recovered from the Monte Carlo in the front seat between where Hernandez and Villa had been sitting.

<sup>4</sup> Villa’s mother lived a couple of blocks east on Cooper Road.

<sup>5</sup> Voices that appear to be from the occupants of the car are audible on Officer Wilfert’s recording, but the voices are too muffled to understand what is being said.

“expedite units” to Second Street and Grant Avenue. Officer Rodriguez ordered Hernandez to turn off the engine and he complied.

Zepeda was wearing a black latex glove<sup>6</sup> on at least one of his hands. Gang members commonly use that type of glove to avoid leaving evidence such as DNA or fingerprints on weapons, as well as collecting incriminating gunshot residue on their hands. Both Villa and Zepeda dropped their hands out of view and appeared to be manipulating something near their waistbands.

The presence of the glove and the “W” hat, as well as the furtive movements with their hands hidden, indicated to the police that the occupants of the car were likely gang members in rival gang territory, and there were most likely firearms in the Monte Carlo. Earlier that evening, Officer Rodriguez had received a call that Colonia Chiques gang members, possibly in a black sedan, had been shooting at a Westside tagger. Westside and Colonia are rival gangs.

#### D. STANDOFF

Based on the actions of the car occupants, the stop had become a “felony stop” -- a tactic police train for that is intended to maximize the safety of both officers and suspects during a high risk stop where police suspect that the occupants of the car are armed and/or prone to violence. Officers Wilfert and Rodriguez kept their weapons trained on the occupants of the car as they ordered the suspects to put their hands where they could be seen or they would be shot. Throughout the felony stop, Zepeda and Villa repeatedly failed to put their hands where they could be seen despite the commands at gunpoint to do so.

Officers Jess Aragon and Rocky Marquez arrived at the traffic stop a little more than a minute after the “expedite backup” broadcast. Officers Rodriguez and Wilfert moved to a safer position and briefed the other officers on what was happening. Officer Wilfert

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<sup>6</sup> A single black latex glove was recovered from the back seat of the suspect vehicle. It was inside out (as if taken off quickly) and underneath a package of cigarettes.

related that Zepeda was wearing gloves and probably had a gun. Officer Rodriguez related that Villa was talking about “taking off.”

Additional officers responded to the scene, including Sergeants Chris Williams<sup>7</sup> and Brett Smith. Although typically during a felony stop the driver would be ordered out of the vehicle first, officers were concerned that Villa would jump into the driver’s seat and flee if Hernandez exited the car, so they instead first commanded Hernandez to throw the keys from the car.

Officers Rodriguez and Marquez remained behind the driver’s door of the patrol car. Additional officers remained positioned behind and around the Monte Carlo with their weapons pointed at the occupants of the car. Officer Wilfert had moved further away to speak to the sergeants.

A police dispatcher had just advised the officers on scene that a subject in a gray sweatshirt had been seen brandishing a gun nearby. The sergeants requested over the radio that an officer respond to the scene with a pepper ball device and a less lethal shotgun. They then sent Officer Wilfert to retrieve the Bearcat armored car to permit a safer approach to the suspects’ car. Additional officers were sent to set “stop-sticks”<sup>8</sup> in the path the Monte Carlo was likely to drive if the occupants decided to flee.

During the standoff, Villa spoke on his cell phone with a person later identified as his mother, who lived nearby.<sup>9</sup> Zepeda made odd gestures throughout the standoff. At one point, he flipped off the officers. Another time he made a gun with his left hand and

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<sup>7</sup> Sergeant Williams activated his personal recording device as soon as he arrived at the scene.

<sup>8</sup> “Stop-sticks” are tire deflation devices that can be deployed in front of vehicles.

<sup>9</sup> Analysis of Villa’s phone showed that the last phone call he made was a 1 minute 33 second call to his sister at 10:16 p.m. and the last phone call he received was an approximately 90-minute call from a number identified in his contacts as “Mom” at 10:20:05 p.m. Dispatch records show that Hernandez accelerated from the standoff at approximately 10:20:56 p.m., approximately 51 seconds after the call from “Mom” started. Villa’s phone was located on the driveway to the residence shed where he was hiding. That evidence suggests that he dropped his phone while fleeing and before terminating the call from his mother.

simulated shooting at police officers. Another time he turned and made a gesture with his hand which suggested that he was counting the number of officers behind him.

Police repeatedly ordered the occupants of the car to put their hands up and Hernandez to throw the keys from the car. Zepeda lit a cigarette for himself and then lit a cigarette for Villa. Both smoked their cigarettes with an exaggerated casualness.

#### E. PURSUIT

Approximately 11 minutes after stopping, Hernandez started the Monte Carlo and again accelerated away from the police officers. He made an immediate right turn on Grant Avenue.

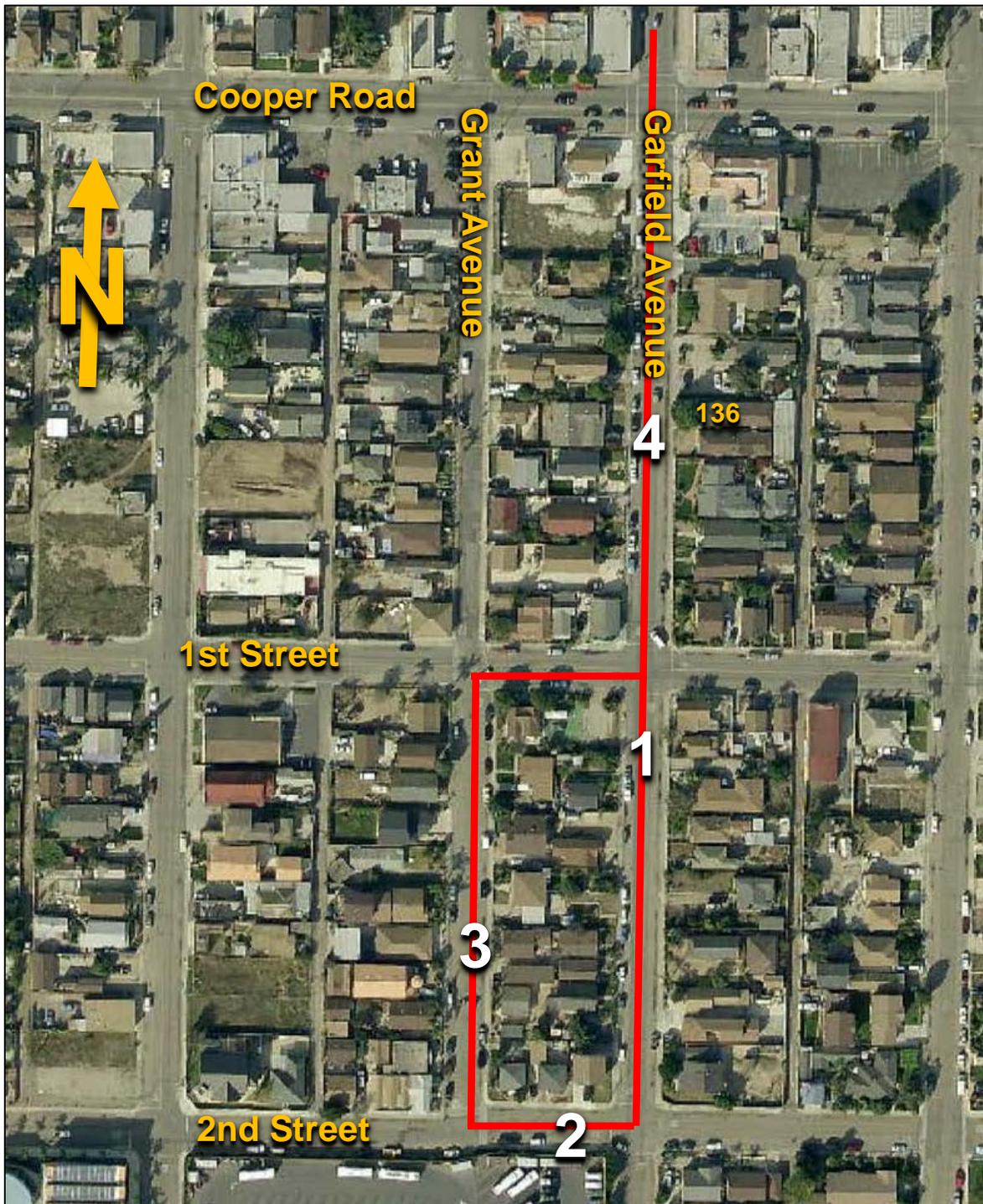
Officer Rodriguez's patrol car was already positioned directly behind the Monte Carlo. Officer Ryan Lockner entered Officer Rodriguez's patrol car and the pursuit began. They turned onto Grant Avenue and spotted the Monte Carlo pulled over to the side of the road with all of the car lights turned off. Officer Rodriguez illuminated the Monte Carlo with his spotlight. The suspects' car again drove forward with its lights back on. Other officers involved in the pursuit included Officer Aragon, Officer Brisslinger, Officer Carey Everhart, Officer Marquez, Officer Orozco, Officer Ross, and Officer Stiles.<sup>10</sup>

The Monte Carlo made a right turn onto First Street and proceeded east. The car fishtailed as it turned, then regained control. It then turned left onto Garfield Avenue, proceeded north, then stopped in the traffic lane adjacent to 136 Garfield Avenue. Officer Rodriguez stopped his car approximately one car length behind the Monte Carlo.

Villa and Zepeda immediately exited the car. Villa fell hard to the ground. Zepeda jumped over Villa and began to run while holding a gun in his hand. Villa rolled, stood up and started running north on Garfield Avenue.

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<sup>10</sup> Sergeant Williams and Officer Wilfert, the two officers who had activated recording devices, were not part of the pursuit and arrived at the shooting scene after the shooting incident had concluded.



A satellite overview of the route traveled by the Monte Carlo during the incident. The first contact occurred at the intersection of Cooper Road and Garfield Avenue. The Monte Carlo initially stopped just south of 1<sup>st</sup> Street (1). The Monte Carlo continued driving and stopped on 2<sup>nd</sup> Street between Garfield Avenue and Grant Avenue (2). The Monte Carlo fled, turned onto Grant Avenue and stopped (3). The Monte Carlo fled one more time and stopped for the last time next to the residence at 136 North Garfield Avenue (4) where Villa and Zepeda then ran from the car.



Aerial photo of Garfield Avenue. The Monte Carlo is stopped in front of 136 N. Garfield Avenue. Jose Zepeda fled from the Monte Carlo, fired two shots at pursuing officers while fleeing and took cover behind a green Honda parked in the parking lot of 506 Cooper Road. The distance between the Monte Carlo and the Honda was approximately 198 feet.

#### F. SHOOTING

Unbeknownst to the officers, Alfonso Limon, Jr., and his brother Gerardo Limon had just finished jogging at Pacifica High School and were walking home. Their path took them onto Garfield Avenue. Shortly after 10:00 p.m., they crossed the intersection of Cooper Road and Garfield Avenue and continued walking south on the east sidewalk of Garfield Avenue. As they were walking past the building at 506 Cooper Road at the corner of Garfield Avenue, the police pursuit was turning onto Garfield Avenue.



Alfonso Limon, Jr., and Gerardo Limon walking past 506 Cooper Road just before the shooting

At about that same time, Zepeda got out of the car while holding a revolver. The revolver was loaded with four live rounds. Zepeda began running north towards Alfonso and Gerardo Limon. Officers Rodriguez and Lockner got out of their car and began pursuing Zepeda. The Limon brothers had just passed the south side of a driveway, which leads into the parking lot on the southern side of 506 Cooper Road when Zepeda turned and fired a gunshot at Officers Lockner and Rodriguez.<sup>11</sup> Both officers returned fire at Zepeda, who had by then resumed running north toward Alfonso and Gerardo Limon.<sup>12</sup>

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<sup>11</sup> Officer Lockner, Officer Marquez, Officer Rodriguez, and two civilian witnesses corroborate the fact that Zepeda fired the first shot.

<sup>12</sup> Six .45 caliber casings from Officer Lockner's handgun were fairly tightly grouped just inside the fence for 136 Garfield Avenue, indicating Officer Lockner was west of that position when he fired his first shots. Three expended 9mm casings from Officer Rodriguez's handgun were located near the eastern curb between the Monte Carlo and Officer Rodriguez's patrol car, indicating he was west of that position when he fired.



Approximate locations of Zepeda and Officers Lockner and Rodriguez at the moment that Zepeda started the gun battle by firing the first shot at Officer Lockner and both officers returned Zepeda's fire.

At the sound of the gunshots, Gerardo Limon ducked and began running across the street. He took cover behind an SUV. Alfonso Limon, Jr., continued forward four to five steps without his brother and then dropped onto the ground.<sup>13</sup> It is believed that three of

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<sup>13</sup> The only camera image of the brothers at the time of the shooting shows Gerardo Limon separating from his brother, ducking and running across the street. According to the time stamp on the surveillance video, the Limon brothers began separating at 22:04:06. Alfonso Limon, Jr. continued walking a few steps then dropped below the fence obstructing the camera view. Gerardo Limon recalled his brother was talking on a cell phone at the time of the shooting, which would account for his slower reaction time, but no cell phone is visible in his hand in any of the surveillance video.

Officer Lockner's initial volley of rounds struck Zepeda in his right upper back, Villa in his right knee, and, tragically, Alfonso Limon, Jr., in his right lower thigh.<sup>14</sup>



Enhanced enlargement of last video image of Alfonso Limon, Jr., from Camera 2 at 22:04:07

As this was happening, Officer Rodriguez approached the Monte Carlo and saw Hernandez sitting in the driver's seat with his hands on the wheel. Officer Rodriguez told Hernandez that if he moved he would be shot. Hernandez replied that he was not going to do anything. Officer Everhart arrived at the Monte Carlo and the two officers pulled Hernandez out of the car and handcuffed him.

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<sup>14</sup> No bullet was recovered from the wound that this report identifies as causing the injury to Mr. Limon's right thigh (gunshot wound 15 in the autopsy report). The primary basis for attributing that wound to Officer Lockner is that Mr. Limon was directly downrange and in line with Zepeda's flight as he ran from Officer Lockner when the officer fired at the fleeing suspect and the position of the wound is consistent with striking Mr. Limon as he crouched in a position as if to turn or run at the time of the impact. Such a wound would explain why he did not run. On the surveillance video, Mr. Limon suddenly falls out of sight as his brother turns and sprints away. Officers who arrived after Mr. Limon was on the ground but before he was fatally shot commented that he was bleeding from the legs when they first saw him, indicating he had already been shot. Officer Rodriguez fired at the same time as Officer Lockner. However, the trajectories of his bullets were further south than Mr. Limon's position. The angle of Officer Rodriguez's bullet strikes indicate Zepeda was approximately three car lengths from Mr. Limon at the time he was shot.

Officers Aragon and Marquez stopped their patrol car behind Officer Rodriguez's patrol car. Officer Marquez got out of the car just before Zepeda fired at the police officers. Officer Marquez ran down the sidewalk after Officer Lockner and Zepeda. Officer Aragon followed at a distance. Zepeda slowed after being struck in the back, then turned and again fired his gun at the pursuing officers, as he continued running north. Officer Lockner again returned fire at Zepeda. Officer Aragon continued in the suspect's direction, but hearing a bullet pass by, moved into the street, believing it to be safer.



Approximate locations of Zepeda and Officers Lockner, Rodriguez and Marquez at the moment that Zepeda fired his second shot at Officer Lockner and Officer Lockner returned Zepeda's fire.

Zepeda ran into the parking lot for 506 Cooper Road. He ran to the passenger side of a green Honda that was parked in the parking lot and crouched down low. He had his gun in his left hand and was looking back the way he had come. Approximately 11 seconds passed from the time the first shots were fired to the time Zepeda had reached the Honda in the parking lot.

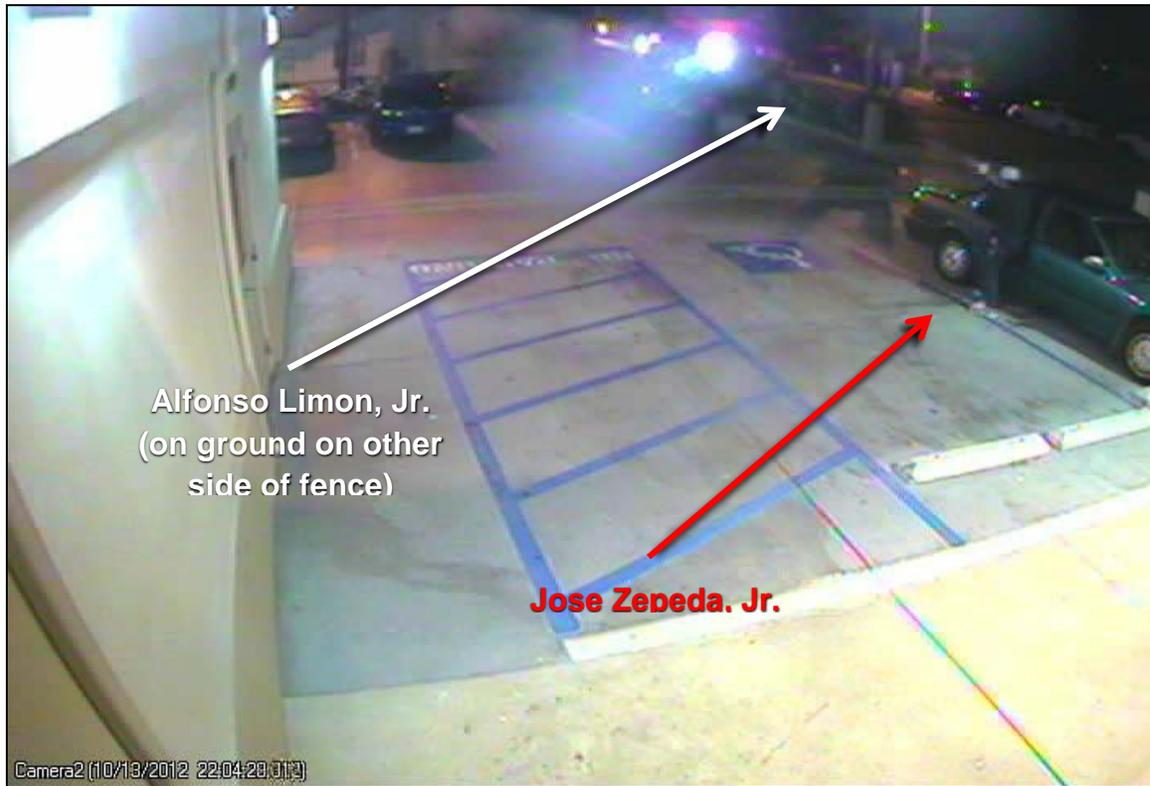


Jose Zepeda, Jr., running into the parking lot.

Officer Lockner had fired all of his ammunition. He stopped behind a red Jeep Liberty, parked in the street just south of the parking lot to reload his handgun. Officer Marquez ran past him and stopped short of an alley bordering the parking lot. The parking lot was bordered by a low cinder block wall topped with a painted metal fence. Vegetation grew around and behind the fence, obstructing the view through the fence and providing no protection from Zepeda's bullets.

Other police officers arrived on scene and ran toward 506 Cooper Road. Officer Marquez took a position near the sidewalk and Officer Lockner joined him after he had reloaded

his handgun. Mr. Limon was lying on his back in a planter area on the southwestern corner of the parking lot. Mr. Limon's head was pointed in the direction of Cooper Road and his feet were pointed toward the officers. Neither Officer Marquez nor Officer Lockner noticed Mr. Limon as they were focused on Zepeda. Zepeda then fired at the police officers from his position next to the green Honda.



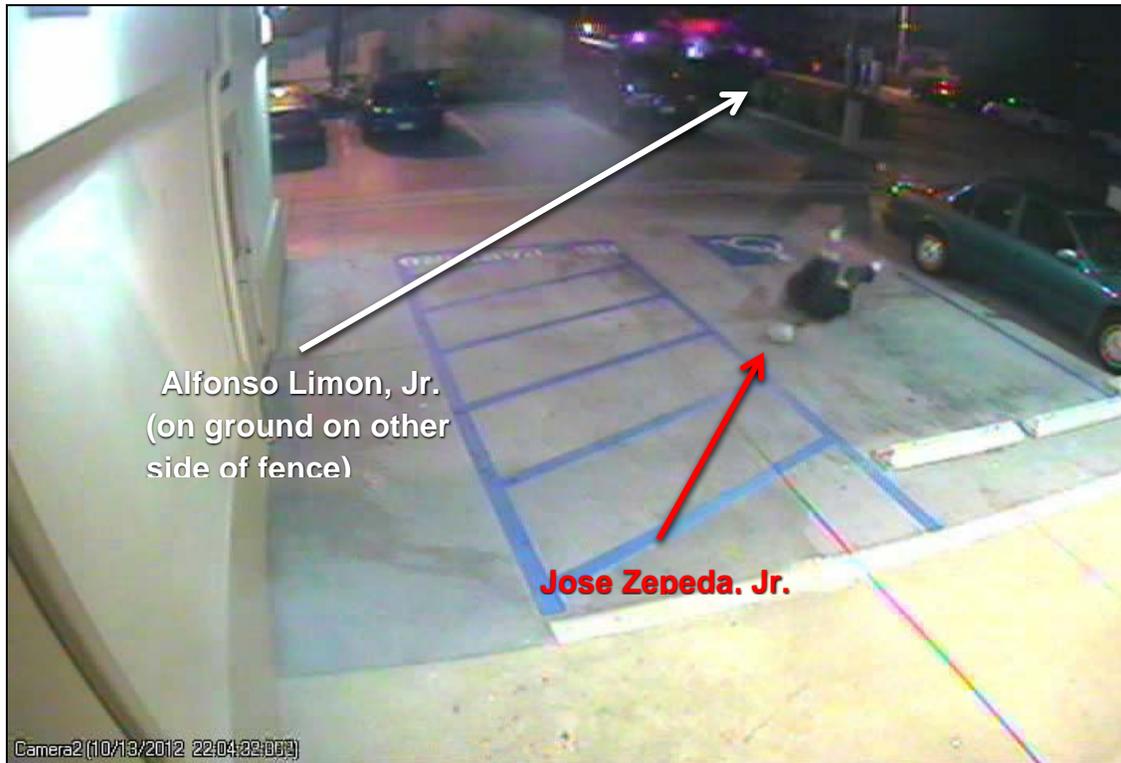
Jose Zepeda, Jr., firing his first shot in the parking lot.

Officer Marquez returned fire with his rifle, striking Zepeda, who fell to the ground. Officer Lockner yelled commands at Zepeda such as, "Drop the gun!" and, "Stay down!" and shouted warnings to Marquez and approaching officers that Zepeda still had a gun.



Approximate locations of Zepeda and police officers as Zepeda fired his third shot. Zepeda took cover behind a green Honda. Mr. Limon was on his back on the planter at the south west corner of the parking lot after being shot by one of the bullets Officer Lockner fired at Zepeda after he shot at Officer Lockner. Officer Marquez reached the northwest corner of 154 North Garfield Avenue while Officer Lockner was approaching Officer Marquez's location after reloading his handgun behind the red Jeep Liberty.

Events unfolded quickly as several additional police officers reached a location southwest of the parking lot at 506 Cooper Road.<sup>15</sup> Zepeda rolled backward in a half-somersault and then rolled forward after he was hit by Officer Marquez's rifle fire. The gun was still in his left hand and he fired what was later determined to be the last bullet in the gun as he rolled forward. Officer Marquez and other officers returned fire. He rolled sideways toward the parking curb and ended up lying on his back.



Jose Zepeda, Jr., firing his last bullet in the parking lot. The muzzle flash from Zepeda's handgun can be seen in this screen capture.

As Zepeda was rolling forward and firing his fourth shot, Officers Lockner and Marquez were still on the sidewalk next to 154 Garfield Avenue. Four other officers (Aragon, Brisslinger, Orozco, and Ross) had advanced up the street and taken up positions near the driver's side of a red Jeep Liberty, parked on the eastern side of Garfield Avenue just south of the parking lot. The two groups of officers were on opposite sides of the Jeep Liberty and Officer Orozco was furthest west in the street. Officer Marquez's rifle

<sup>15</sup> The approximate time between Hernandez's car stopping on Garfield Avenue and Zepeda firing his last bullet was 49 seconds.

malfunctioned and he yelled, “Red, red, red!”<sup>16</sup> to indicate that his weapon was inoperable.<sup>17</sup> He then unholstered his handgun.

Officer Lockner was yelling for Zepeda to stay down, and shouted a warning to the other officers, “He still has a gun.” Three of the officers on Garfield Avenue, Aragon, Brisslinger, and Ross, saw Mr. Limon in the planter and noted that he appeared to have been shot. The planter area was dark and they could not see Mr. Limon’s left side. Mr. Limon appeared to be wearing a gray sweatshirt similar to the one reportedly worn by the suspect in the earlier brandishing call. They also did not see Zepeda, who had fallen to the ground in the parking lot north of them. Each officer believed at the time that Mr. Limon was the suspect that the other officers were warning still had a gun.

At approximately the same instance that Zepeda was rolling forward and firing his last bullet, Mr. Limon made a large movement with his hand and body. Officers Aragon, Brisslinger, and Ross believed Mr. Limon was the armed suspect who had already been shot in the gunfight and about whom they had been warned still had a gun. None of them could see his left hand. The way he was lying on his back indicated to them that he had not surrendered. They were also all aware that Officer Marquez had announced that he was weaponless and that there was no cover between him and Mr. Limon, who was approximately 10 to 20 feet away from Officer Marquez at that moment.

All three of the officers interpreted Mr. Limon’s sudden movement as the beginning of another attempt to shoot at the police officers. Officer Ross fired a single shot at Mr. Limon; Officer Brisslinger fired six shots at Mr. Limon and Officer Aragon fired four shots at him. Mr. Limon then fell back to the ground.

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<sup>16</sup> The tactical code word, “Red!” can mean either that a weapon has run out of ammunition or has malfunctioned in some way. It is intended to alert other officers that the person with the inoperable weapon is unable use the weapon to protect themselves or others.

<sup>17</sup> Officer Marquez fired nine rounds from his rifle before it malfunctioned, hitting Zepeda four times.



Approximate locations of Zepeda, Mr. Limon and police officers after Zepeda fired his fourth shot. Officers Lockner and Marquez stood next to the fence in front of 154 North Garfield Avenue. Officers Aragon, Brisslinger, Orozco and Ross stood west of the red Jeep Liberty parked adjacent to 154 North Garfield Avenue. Zepeda fired at the police officers from a position next to a green Honda in the parking lot. Mr. Limon was on his back on the planter at the south west corner of the parking lot after being shot by one of the bullets Officer Lockner fired at Zepeda after he shot at Officer Lockner.

Officer Orozco saw Mr. Limon in the planter, but also saw what he believed were muzzle flashes and a dark figure crouched low in the parking lot just beyond Mr. Limon. Officer Orozco began shooting at the perceived imminent threat.

Officer Orozco later recalled that he fired his first round too low, so he raised his weapon. He believed he fired his fourth round too high, so he lowered his weapon.<sup>18</sup> He was unsure how many rounds he fired beyond that recollection but had actually fired every round in his a magazine. Officer Orozco recalled seeing “ricochets” striking Mr. Limon but did not realize that they were from his own weapon.<sup>19</sup> As many as eight of his rounds may have struck Mr. Limon.<sup>20</sup>

After he had been shot, Zepeda rolled north in the parking lot toward the front of the Honda. He then got to his knees, pointed the gun at the officers and pulled the trigger.<sup>21</sup> Officers Lockner and Marquez returned fire and Zepeda fell to his right side. He pointed the handgun at the officers again and tried to fire it, then dropped the revolver. He lay still for a few moments, then got to his hands and knees and picked up the weapon. He lay down on his stomach, pointed it at police and again tried to fire the gun, then dropped it.<sup>22</sup>

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<sup>18</sup> Gerardo Limon corroborated Officer Orozco when he described an officer “point his gun toward down, downward toward my brother and shot.” Gerardo Limon speculated as to why Officer Orozco pointed his gun at his brother stating, “I guess one of the cops seen he, that he was there” and then shot Mr. Limon.

<sup>19</sup> Sensory distortions such as not knowing how many rounds were fired or that a weapon was even fired, not hearing a gun fire, tunnel vision and time either compressing or expanding are common experiences by police officers in officer-involved shooting incidents. D. Klinger *Police Responses to Officer Involved Shootings* NIJ Journal Issue No. 253 (2006).

<sup>20</sup> Officer Orozco’s handgun magazine held 15 to 16 rounds and he changed magazines after the first. An empty 9mm magazine was recovered near the red Jeep Liberty. His second magazine had 12 bullets remaining, indicating he fired three rounds from it. Fifteen expended casings were recovered that were definitely fired from Officer Orozco’s handgun, and three other expended casings were recovered that were of the same type of ammunition, indicating Officer Orozco fired a total of 18 rounds.

<sup>21</sup> Zepeda had fired all of the live rounds in his handgun. He pointed his revolver at police and tried to fire it several times after his fourth shot but it was empty.

<sup>22</sup> Witness Olson, Zepeda’s “informal mother,” later told police Zepeda did not want to go back to prison and was “very suicidal.” She told police that he had gotten a tattoo of a toe tag on his foot the day before the shooting “so when he died they can identify his body,” but no such tattoo was observed during his autopsy.



Jose Zepeda, Jr., attempting to shoot at the police from his knees

After the shooting began, neighbors Isaac Garcia, Leticia Garcia, and Valentina Garcia came out into their front yard with unknown others (hereinafter referred to as the “Garcia party”). At least two members of the Garcia party are believed to have begun videotaping the incident.<sup>23</sup> The videos known to exist began after Mr. Limon had been shot, but still indicate the relative positions of the officers during the incident.<sup>24</sup>

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<sup>23</sup> One short video tape was posted on “YouTube.” A second longer videotape is narrated by Isaac Garcia. None of the individuals involved in capturing the video footage have come forward. The Garcias have been uncooperative with this investigation and refused to provide any images captured that evening. Numerous attempts have been made by this office to speak with Isaac Garcia and Valentine Garcia without success. District Attorney Investigator Adam Wittkins and Senior Deputy District Attorney Chris Harman spoke briefly with Claudia Garcia who refused to talk about the incident, explaining that her mother told her that she did not have to talk about it.

<sup>24</sup> Mr. Limon is not visible in the initial footage, but would be just past the north side of the alley. Surveillance video from Camera 2, located on an adjacent residential building, shortly after the shooting of the kneeling Zepeda shows blurry images of officers in a very similar position as the first image of the officers from the Garcia video.



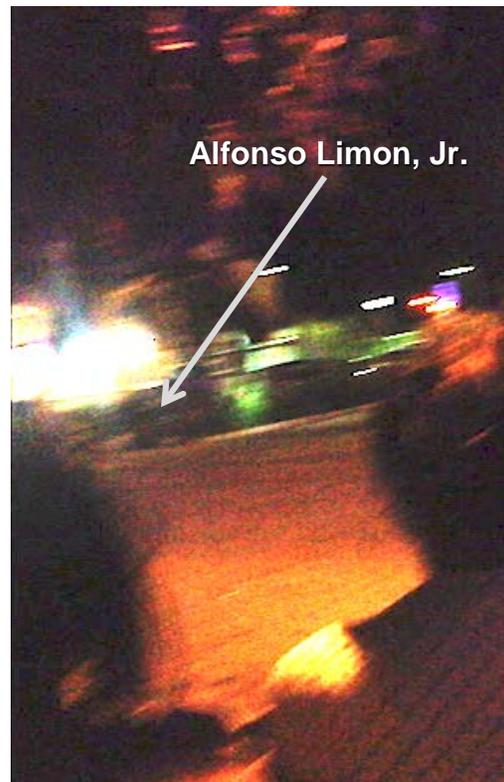
Unretouched still of first image of incident from Garcia video



Enhanced still of first image of incident from Garcia video



Unretouched still of first image of Alfonso Limon, Jr., from Garcia video



Enhanced still of first image of Alfonso Limon, Jr., from Garcia video

From their vantage point, the Garcia party would have been unable to see Zepeda in the parking lot, but were able to and did see Mr. Limon lying on the ground as police officers fired in his general direction.<sup>25</sup> They began shouting at the police to stop shooting.

Gerardo Limon, who had been crouched by a nearby SUV, walked up to the Garcia party and told them he and his brother had been walking home and that his brother did not have a gun. The Garcia party shouted to the police that Mr. Limon did not have a gun.

Valentina Garcia even walked into the street with her cell phone to get a better view of the incident.<sup>26</sup>

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<sup>25</sup> Mr. Limon is not visible in the initial footage, but would have been situated just past the north side of the alley. The first image of the officers appears less than one second after the video starts. The first image of Mr. Limon appears four seconds later.

<sup>26</sup> Valentina Garcia walking into the street clearly demonstrates that they were unaware that there was another shooter. When Zepeda appeared on the other side of the Honda, the Garcia party can be heard yelling at her to get back to the yard.



Unretouched still of incident from Garcia video

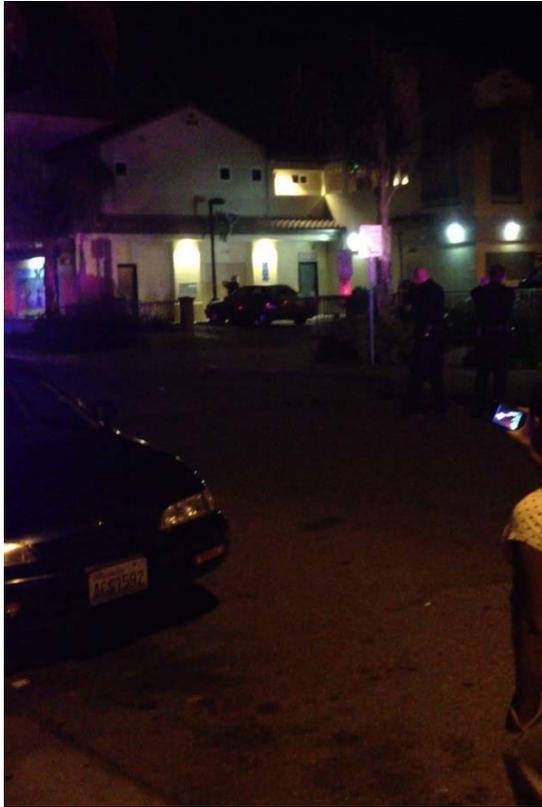


Enhanced still of incident from Garcia video

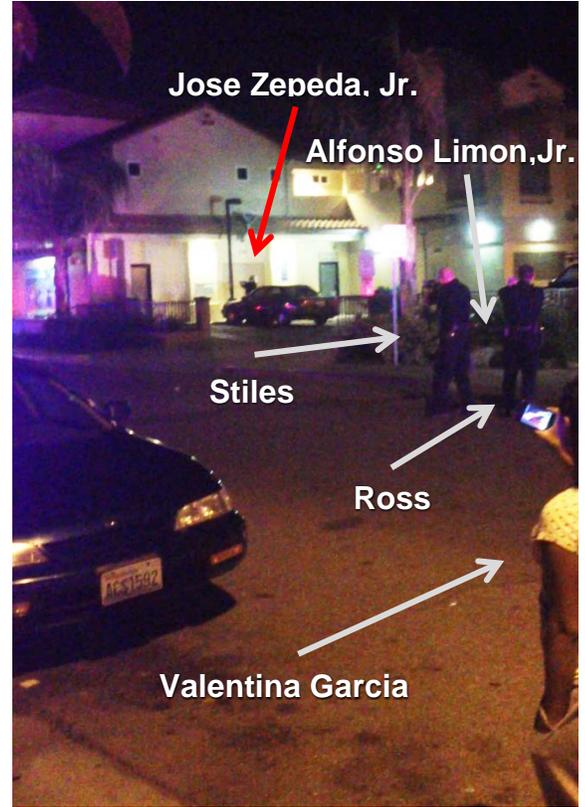
Other police officers began to arrive from Cooper Road. A couple of patrol cars headed south on Garfield Avenue from Cooper Road and pulled even with the parking lot. Officer Ehrhardt began walking south toward Mr. Limon. Officer Stiles arrived at the red Jeep Liberty with a shotgun. He saw Mr. Limon in the planter and then heard someone yell about someone with a gun. He moved to his right and saw Zepeda in the parking lot. Officers Stiles and Ross advanced toward the parking lot from the area of the red Jeep Liberty.

Zepeda slowly got to his feet and walked to the front of the Honda he had been using as cover. He crouched over, as if to rest. Officer Ehrhardt was still walking south and was unaware of Zepeda's presence. Seeing that he was directly in the line of fire, other officers began yelling at Officer Ehrhardt to move back. Officer Ehrhardt drew even with Zepeda and saw him. Zepeda

turned, stepped toward Officer Ehrhardt, and raised both of his hands toward the police officer in a shooting stance, as if pointing a handgun.



Unretouched still of Jose Zepeda, Jr., pointing hands at Officer Ehrhardt from Garcia video



Enhanced still of Jose Zepeda, Jr., pointing hands at Officer Ehrhardt from Garcia video

Officer Stiles fired two rounds from his shotgun and Officer Lockner fired several rounds from his handgun at Zepeda. Officers Ross and Ehrhardt fired one round each from their weapons.

Officer Marquez also fired one shot with his handgun, striking Zepeda in the head. Zepeda then fell to the ground. Approximately 1 minute 47 seconds had passed from Hernandez stopping the car on Garfield Avenue to the last shot at Zepeda by police officers.

## Composite Timeline from Surveillance Videos

Action	Camera	Elapsed Time	Time Stamp	Approximate Time
First lights on Camera 7	7	+ :00	22:03:59	10:23:18
Zepeda fires 1 <sup>st</sup> shot; Gerardo Limon stops	2	+ :08	22:04:07	10:23:26
Officers Lockner and Rodriguez return fire; Alfonso Limon, Jr., falls	2	+ :10	22:04:09	10:23:28
Zepeda reaches the Honda	2	+ :19	22:04:18	10:23:37
Officer Marquez reaches the south edge of the alley	2	+ :21	22:04:20	10:23:39
Officer Marquez reaches the south edge of the alley	2	+ :21	22:04:20	10:23:39
Zepeda fires 3 <sup>rd</sup> shot	2	+ :28	22:04:27	10:23:46
Officers Aragon, Brisslinger, Orozco, and Ross reach Jeep Liberty	2	+ :32	22:04:31	10:23:50
Zepeda fires 4 <sup>th</sup> shot	2	+ :33	22:04:32	10:23:51
Period during which shots are fired at Alfonso Limon, Jr.	2	+ :33 –:40	22:04:32- 22:04:39	10:23:51 to 10:23:58
Zepeda on knees with gun	2	+ :45	22:04:44	10:24:03
Zepeda on stomach with gun	2	+1:05	22:05:04	10:24:23
Zepeda assumes shooting stance	1	+1:45	22:05:44	10:25:03
Last shots fired by police	2	+1:47	22:05:46	10:25:05



Enlargement and enhancement of cellphone video at the moment officers began firing their last volley at Zepeda. Zepeda stands at the front of the Honda, hands pointed west in a shooting stance. Officer Stiles has a shotgun aimed at Zepeda and Officer Ross has a handgun aimed at Zepeda. Mr. Limon, lying in the planter, is visible between the two officers. Valentina Garcia is visible on the right side of the image holding a cellphone. Officer Ehrhardt is not visible, but would be standing in the street to the left of where the image cuts off.



Approximate locations of Zepeda and police officers when Zepeda assumed a shooting stance toward Officer Erhardt. Zepeda stood at the front of the green Honda, facing west. Mr. Limon was on his back on the planter at the southwest corner of the parking lot. Officer Ehrhardt was walking south on Garfield Avenue toward Mr. Limon's location. Officers Stiles and Ross stood in the street just south of Mr. Limon's position. Officers Lockner and Marquez still stood near the fence at the northwest corner of 154 North Garfield Avenue and Officer Orozco still stood west of the Jeep Liberty.

The police officers were unsure if Zepeda was still capable of resisting so they backed away. Officer Orozco ran across the street and joined Officer Ehrhardt behind cover. It was at that time that Officer Marquez and Officer Lockner became aware of Mr. Limon's location and realized that he needed medical assistance. They arranged for another officer to drive a patrol car up to provide cover as they pulled Mr. Limon back into an area where first aid could be provided.

Officers Lockner and Everhart immediately began carrying Mr. Limon from the planter area while other officers, including Officer Marquez, provided cover in case Zepeda resumed shooting. Officer Rodriguez joined them and they carried Mr. Limon three car-lengths south and laid him in the street adjacent to 148 North Garfield Avenue. They checked him for vital signs and he was breathing. His breathing stopped and they began providing CPR.

Officer David Kelley arrived on scene and arranged a team of officers to contact Zepeda. Officer Ehrhardt was part of that group. Four officers cautiously approached Zepeda with their handguns drawn. They located him lying on his back and he appeared to not be breathing.

#### G. ADDITIONAL POLICE RESPONSE AND INVESTIGATION

A crime scene perimeter was established and marked off. Emergency medical personnel arrived to treat Mr. Limon and Zepeda. Both were pronounced dead at the scene.

A neighbor reported that someone had crawled into a shed on their property. Officer Everhart and other Oxnard police officers, with the assistance of a Ventura County Sheriff's K9 Unit, located and arrested Justin Villa, who was hiding a short distance from the shooting. Villa had a gunshot wound to his right knee. He had also been bitten by police K9. He was transported to the Ventura County Medical Center for treatment.

Numerous bystanders started to gather around the area and were hostile towards the police officers. One officer who was not involved in the shooting was spat upon by one

of Mr. Limon's family members. That family member was restrained by the officer and then released. The Ventura County Sheriff's Office responded at the request of the Oxnard Police Department and assumed responsibility for the criminal investigation of the shooting.

All nine officers involved in the shooting were individually interviewed by Ventura County Sheriff's Detectives about the shooting. Each provided voluntary statements concerning the shooting.

#### H. WITNESS STATEMENTS

Numerous individuals were interviewed including the involved officers, emergency medical personnel, and many neighbors. Summaries of the most pertinent witness statements are set forth below.

##### 1. GERARDO LIMON

Gerardo Limon was present when his brother was shot by police on October 13, 2012. He was 20 years old at the time. He was interviewed on October 14, 2012, by Sheriff's Detectives Dean Worthy and Jose Lopez, and was interviewed by Senior Deputy District Attorney Christopher Harman and District Attorney Investigator Adam Wittkins in the presence of his family's attorney on November 8, 2013.

##### a. October 13, 2012, Interview

On the evening of October 13, 2012, Gerardo Limon and his brother, Alfonso Limon, Jr., were jogging at Pacifica High School in Oxnard. When they finished, they began walking home. As they walked down Garfield Avenue, they saw police lights south of their location where police appeared to be in pursuit of a car. The car stopped and then one person (Jose Zepeda, Jr.)<sup>27</sup> got out of the car and ran towards them on the sidewalk at "full speed."

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<sup>27</sup> Mr. Limon did not know Zepeda and did not use his name in the interview, but his name will be used for clarity.

The police were just getting out of their cars to pursue Zepeda. Gerardo Limon heard someone yell, "Get him, get him!" and the police started shooting in their direction. Gerardo Limon spun around and ran across the street, then hid behind a parked car. He crawled around the car to look at what was happening. He recalled hearing the gunshots as Zepeda was running toward them and before he passed them. He believes he heard approximately 10 gunshots at that time.

Gerardo Limon did not see his brother's initial reaction to the gunshots or see his brother being hit by the initial gunfire. He did see his brother after the first gunshots. His brother was on the sidewalk near some bushes. He "was crawling, he was on his back. He was on his back and, uh, he was just crawl-, like pushing himself up towards the bushes that were right there, trying to get away, like, you know, trying to hide." He believed that his brother was trying to stay out of the line of fire.

After they first heard gunshots, Zepeda ran past them into a parking lot just north of their location. Zepeda was "shooting back at the cops." He described Zepeda as reaching over a parked car while shooting at the officers. Gerardo Limon noted that the police officers "stayed back 'cause he [Zepeda] was shooting back."

Gerardo Limon observed approximately seven police officers standing on the east sidewalk of Garfield Avenue shooting at Zepeda with shotguns and automatic weapons. One of the police officers began shooting at his brother with a handgun. "I guess one of the cops seen he, that he [Alfonso] was there and, I seen, I don't know which one, but I seen him point his gun toward down, downward toward my brother and shot, from what I know twice. I seen the bullet, one of the bullets hit I think his thigh, and one his stomach. And then uh, so that's the last time I seen my brother." He believed that at least 30 rounds had been fired before the police officer shot his brother.

Gerardo Limon explained that other police officers were firing at Zepeda at the same time his brother was shot. His brother was lying on his back and pushing himself backwards. He did not recall where Alfonso's hands were, but simply recalls his brother "squirming

up, trying to get into bushes behind him.” He did not know at that time that his brother had been shot.

Gerardo Limon described seeing his brother’s entire body when he was being shot. His brother was mainly on the sidewalk because there were not very many bushes in the planter. All of the police officers “were like in a little group, um, bunched up, you know, behind each other and some in the front. And they were hiding behind the little fence, taking, well shooting towards the suspect. Where he was at and my brother was in the line of fire.” One of the police officers pointed their handgun down and “took a couple shots” at his brother and “then continued [shooting] back towards the suspect.”

Gerardo Limon further described the police shooting his brother. “I seen the officers still shooting with the suspect and the suspect shooting back and I had seen the suspect duck down, well I guess he, he went back down for cover and there was officers still shooting and uh, he pops back up and at that time one of the officers had already aimed down and take a couple shots at my brother and then he went back up to, cause the other officers were already engaging the suspect again.” He explained, “I think they seen that he was there, but like they, one of the officers like I guess just decided to shoot. I don’t know why, or what, but he just did.”

Gerardo Limon did not hear any officer give any commands to his brother. His brother did not say anything but began making moaning sounds that sounded like he was hurt. Gerardo Limon stood and began shouting, “Why are you guys shooting my brother? He doesn’t have a gun, he doesn’t have anything to do with this!” One of the police officers pointed a gun at Gerardo Limon, possibly believing that he may have been involved. Gerardo Limon raised his hands above his head and said, “That’s my brother, I’m gonna call an ambulance, you guys shot him.”

The police officer told Gerardo Limon to leave and he started running home to tell his parents what had happened. He turned onto First Street, where he was stopped by two

police officers who thought he might have been involved in the pursuit. They told him to get onto the ground but they eventually let him go.

Gerardo Limon ran home and told his parents about his brother getting shot by police. He returned to Garfield Avenue with several family members to learn if his brother was injured. He went to a friend's house on Garfield Avenue. While he was there, his friend's parents saw someone crawl into a shed on their property and reported it to the police.

b. November 8, 2013, Interview

Gerardo Limon related that on the night of October 13, 2012, his brother had wanted to go jogging and Gerardo Limon went with him to Pacifica High School. Another brother dropped them off and, after about an hour, they began walking home.

As they walked home, Mr. Limon heard sirens from the area of Oxnard Boulevard but thought that someone was probably getting a traffic ticket.

They reached Garfield Avenue and Cooper Road. His brother was talking on a cell phone. Mr. Limon noticed police emergency lights at the southern end of the street. At first the emergency lights appeared to be stopped, but then he noticed that they were approaching them.

They reached an alley and saw a lot more lights. Mr. Limon heard someone yell, "Get 'em!" then saw a person (Zepeda) running toward them. Then he heard gunshots. He lay down in the street and heard more gunshots. He then got up and ran across to the west side of the street and took cover behind a truck parked on the street.

Mr. Limon could see what was happening by looking under the truck. Zepeda was in the parking lot of 506 Cooper Road, just north of the alley, shooting at the police. He saw his brother lying down on the sidewalk "wiggling" or moving in an attempt to get out of the way of the gun fire. He saw Zepeda fire two to three shots at the officers during the gunfight.

Mr. Limon saw approximately nine police officers south of the alley who were exchanging gunfire with Zepeda. The officers extended from the sidewalk into the street. Mr. Limon also saw three to four of those police officers shooting at his brother with their handguns. His brother was wearing sweat pants and he could see the material move with each shot. He never heard any of those officers give any commands to his brother.

After the shooting stopped, Mr. Limon could hear his brother crying in pain. He yelled to the officers that his brother had not done anything wrong, and asked why they had shot him. A police officer approached Mr. Limon and told him to get back on the sidewalk and to go home. Mr. Limon told the officer that they had shot his brother and his brother did not have a gun.

Mr. Limon left to return home. While he was on his way home, he was stopped by police officers who were blocking the street. Mr. Limon believed he was stopped by these officers because they thought he might be a suspect. The officers called other officers and they determined Mr. Limon was not a suspect so they let him go. Mr. Limon returned home and updated his parents on what happened. Mr. Limon and his parents returned to the shooting scene. The officers would not let them see his brother or tell them anything about his condition.

## 2. WITNESS A<sup>28</sup>

Witness A was interviewed by Oxnard Police Detectives Jeff Kay and Gordon Currie on October 24, 2012. On the evening of October 13, 2012, Witness A attended a birthday party at a home on Garfield Avenue. Witness A was in the front yard and saw a black Buick Regal or Chevrolet Monte Carlo (Hernandez's car) drive south on Garfield Avenue.

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<sup>28</sup> The neighborhood around the shooting is located within gang territory. As a result, cooperation with law enforcement can result in retaliation by gang members. The names of the cooperating witnesses are being withheld for their protection.

The car was being followed by a marked Oxnard Police car with its overheard emergency lights and siren activated. The black car drove to Second Street, where it made a right turn and drove out of sight.

A few minutes later, Witness A and a friend decided to take some cake to a friend's house. As they were walking to the house, Witness A noticed the same black car parked facing westbound on Second Street. At least seven marked police cars were parked behind it. The police cars all had their emergency lights on, and police officers were standing outside their cars with their weapons drawn. Witness A did not hear any sound from the police officers or the car occupants. Three people were inside the car--a driver and front and rear passengers.

After they delivered the cake to their friend and were walking back to the house, the black car was still in the same location with police behind it. A police officer told them that they should leave the area because the police believed the vehicle occupants had guns. They then left the area.

As they were near the corner of Garfield Avenue and First Street, the same black car ran the stop sign as it turned onto Garfield Avenue from First Street. Police cars were pursuing the black car. The black car stopped and Witness A noticed two of the car's occupants exit the car and run north on Garfield Avenue. One of the individuals had long hair (Zepeda) and the other had a shaved head (Villa). Witness A believed the long haired individual exited the black car on the driver's side.

The person with the long hair fired a shot at the pursuing officers. The officers fired their own weapons at the fleeing individuals after that first shot. Witness A and the friend then took cover.

There was a pause in the shooting, so they walked toward a nearby house. Witness A heard a second volley of gunshots from the north while in the middle of the street and took cover behind a car. Witness A is unsure who fired the gunshots.

Witness A saw a man lying on the ground near a driveway. Several police officers were around the man. Witness A did not know what the man's relationship was to the incident and had never seen any of the car's occupants before.

### 3. WITNESS B

Witness B was interviewed by Ventura County Sheriff's Detectives Dean Worthy and Jose Lopez on October 18, 2012.

On October 13, 2012, Witness B was at a home in the area and saw the police stop a dark two-door car (Hernandez's car) on Second Street in front of the home. The car had three occupants. Witness B noticed that the rear passenger had long hair (Zepeda) and the front passenger was wearing a blue checkered shirt and a white baseball cap (Villa). Witness B did not notice what the driver was wearing.

A male and female officer approached the car and the front passenger started to get out of the car. The passenger tripped on the seat belt as he got out. The police officers yelled at him to get back into the car. The passenger got back into the car and the police officers retreated to their patrol car.

The police officers began yelling commands at the car's occupants, such as, "Put your hands up" and, "Throw the keys out of the car." At one point, the driver put his hands out the window, but he never threw the keys outside of the car. The rear passenger started smoking a cigarette and threw it out the window after he was done. The rear passenger also moved his hands and pointed them at the officers. Witness B felt that the rear passenger was somehow taunting the police officers.

People began to gather to watch the traffic stop and the police had to yell at them to disperse. Witness B felt the situation was becoming unsafe and moved to the back of the house. The car drove away and officers pursued it. Some of the bystanders ran up Garfield Avenue following the police cars as they pursued the dark colored car. A few

moments later Witness B heard four distinct gunshot “volleys.” Witness B estimated that the entire traffic stop lasted 10 to 15 minutes.

#### 4. VALENTINA GARCIA

Valentina Garcia was interviewed by Oxnard Police Detective Bob Eckman on October 14, 2012, at approximately 6:56 a.m. She was later interviewed by Oxnard Police Detective Gordon Currie about a bystander video that appeared to have been shot from her front yard.

Ms. Garcia lived on Garfield Avenue with her mother and five-year-old brother.

Ms. Garcia was very hesitant to answer questions and gave minimal responses.

Ms. Garcia was home all night on October 13, 2012. At some point after 10:00 p.m., she was at the back of her property and heard gunshots. Her little brother started screaming. She went to the front of her property where she saw police officers in the street. She heard two distinct volleys of shots and saw a portion of the shooting. She described what she saw.

Ms. Garcia stated, “Um, that guy when he was down right there, you guys kept on shooting at him. And we’re, because we were screaming at you guys to stop but you didn’t stop.”

Ms. Garcia explained that she noticed a man on the ground by the alley next to 154 Garfield Avenue (Alfonso Limon, Jr.). There were approximately seven to eight police officers in the middle of Garfield Avenue and one of them kept shooting at the man while he lay on the ground. There were also five to seven additional police officers further north in the street. The other police officers were also firing their weapons in the direction of the man on the ground. She did not see any other suspect in the area.

Ms. Garcia and the people she was with began yelling at the police to stop shooting at the person on the ground.<sup>29</sup>

After he was shot, some of the police dragged the person in the alley away down the street a short distance. An ambulance crew arrived at some point and started to give the person CPR. The ambulance crew continued the CPR for a short while and then stopped. Ms. Garcia was upset that after the CPR was stopped, they just left the person's body in the street.

On October 16, 2012, Detective Currie contacted Ms. Garcia and her sister Leticia Garcia about a video of the event that had been posted on YouTube. Both denied obtaining any video footage of the incident and both refused to talk to Detective Currie.<sup>30</sup>

#### 5. WITNESS C

Witness C was interviewed by Oxnard Police Detective Bob Eckman on October 14, 2012, at approximately 6:40 a.m.

Witness C heard the sound of sirens and a police pursuit at approximately 10:15 p.m. Witness C and a second person went outside to see what was happening.

Witness C saw a car stop in the street and a "guy open the [car] door" and run. Witness C heard police yelling at the person to stop. Witness C became scared and went back inside the home and lay on the floor as the shooting started.

#### 6. JUVENILE A

At the time of the incident, Juvenile A was 11 years old. Juvenile A was interviewed by Oxnard Police Detective Jeff Kay on October 14, 2012.

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<sup>29</sup> Two separate videos of the incident appear to have been shot from the residence next door. Those videos are discussed later in this report but it should be noted that when Ms. Garcia was interviewed specifically about those videos, she denied any knowledge of them.

<sup>30</sup> The bystander videos include images of Valentina Garcia standing on Garfield Avenue with a cell phone or camera in her hand. Voices on the video can be heard yelling, "Valentina, get over here!"

Juvenile A was lying in bed on the evening of October 13, 2012, and heard a male voice yelling, "Come on. Come on. Let's go. Let's go." Juvenile A then heard several gunshots.

Juvenile A heard the sounds of movement at a chain link fence and believed that someone had jumped over this fence and entered their property.

Juvenile A went to the kitchen and saw a black car stopped in the middle of Garfield Avenue and two men running north on Garfield. The men were not police officers and were about two car lengths in front of a black car when Juvenile A saw them. Both men were carrying handguns. Juvenile A later clarified that Juvenile A was not positive how many men were running from the police.

Juvenile A saw several police officers in the middle of Garfield Avenue. There were several police cars with their overhead emergency lights activated. The police officers yelled at the running men to stop. Both men turned toward the police and fired their guns at the police. At least two of the police officers then shot toward the running men.

The running men and the police continued north until Juvenile A could no longer see them. Juvenile A then heard several more gunshots north of the home. Juvenile A was very scared by the shooting and mentioned that the entire incident took a very short period of time.

## 7. JUVENILE B

At the time of the incident, Juvenile B was 12 years old. Juvenile B was interviewed by Oxnard Police Detective Jeff Kay on October 14, 2012.

Juvenile B was asleep and was awakened by the sound of gunshots. Juvenile B went to the kitchen and remembers that the clock said it was 10:07 p.m. Juvenile B went to the

kitchen window and saw a man running northbound on Garfield wearing a gray jacket. Juvenile B heard a police officer's voice yell, "Get your ass here, motherfucker!"

Juvenile B saw several police officers and marked police cars with their overhead emergency lights activated. Juvenile B saw two police officers each fire three shots to the north. At that time, the running man was almost past 148 North Garfield Avenue.

Juvenile B saw several police officers chasing the man. The officers and the man ran out of Juvenile B's vision. Juvenile B then heard approximately 10 additional gunshots but was unable to see where those shots were fired.

#### 8. RAFAEL HERNANDEZ

Rafael Hernandez, the driver of the black Monte Carlo, was interviewed by Sheriff's Detectives Todd Inglis and Matthew DeLaHuerta on October 14, 2012, at approximately 4:38 a.m. The interview took place at the Oxnard Police Department.

Prior to the interview, Hernandez was informed of his *Miranda* rights. He told the detectives, "I'd rather remain silent."

#### 9. JUSTIN VILLA

Justin Villa was interviewed at by Sheriff's Detectives Joe Evans and Albert Ramirez on October 14, 2012, at approximately 4:38 a.m. The interview took place at the Ventura County Medical Center.

Villa was lying in a hospital bed. He was handcuffed to the bed and had an IV attached to a dispenser of pain medication. Villa told the detectives that he had not self-administered any medication yet, but had been given morphine by the medical staff.

Detective Ramirez read Villa his *Miranda* rights and Villa stated that he understood those rights. Detective Evans asked him what happened and Villa stated that, "I've been drinking all day and I really don't want to talk about it."

Detective Evans asked how he got bit by the dog and Villa replied that “they let him out on me.” He explained that he was in a shed with his hands out when they let the police dog bite him. He further explained that he was inside the shed because he had been shot. He stated he had been shot one time and did not see who shot him.

Villa did not want to answer the detectives’ questions and asked to have an attorney. At that point, the detectives ceased questioning him and asked if there were any questions that they could answer. The interview was then terminated.

#### 10. OFFICER ROSLYNN WILFERT

On October 13, 2012, Officer Wilfert was working a two-officer patrol car with Officer Pedro Rodriguez. Their assigned beat was the La Colonia neighborhood, which is considered dangerous due to a high street gang presence. It was the only beat assignment that required two officers in the patrol car at night.

At approximately 10:08 p.m., Officer Wilfert and Officer Rodriguez were driving eastbound on Cooper Road. They spotted a black sedan with three occupants drive southbound through the stop sign at the intersection of Garfield Avenue and Cooper Road. The car was driven by Rafael Hernandez. Justin Villa was the front passenger and Jose Zepeda, Jr., was the rear passenger.<sup>31</sup>

They began following the black sedan and Officer Wilfert notified dispatch that they would be conducting a traffic stop. They activated their overhead lights and the sedan pulled to the side of the road on Garfield Avenue. Officer Rodriguez stopped the patrol car and Officer Wilfert started to get out of the car. The black sedan then drove away.

The dark sedan continued southbound on Garfield Avenue. Officer Wilfert activated her personal recording device and notified dispatch that the sedan had failed to yield.

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<sup>31</sup> Officer Wilfert did not know the names of the individuals, but the names are used for convenience based on her description of each of the car’s occupants.

The sedan turned right onto Second Street and stopped in the middle of the road. Both officers exited their cars and ordered Hernandez to “turn off the car.” As Officer Wilfert exited the patrol car, she unholstered her handgun. She kept it down at her side as she approached the sedan. The front passenger (Villa) got out of the sedan. Officer Wilfert pointed her gun at Villa. She ordered him to get back into the car. Villa got back into the car and slammed the car door.

Villa appeared very nervous after he got back into the car and was moving his hands around his waist. Officer Wilfert ordered Villa to put his hands on the dashboard. Villa did not comply with her commands.

Zepeda had medium length hair pulled into a ponytail. He was wearing a baseball cap with a “W” logo backwards on his head. Zepeda dropped his hands below his waist and placed them under his seat. Officer Wilfert ordered Zepeda to raise his hands. He eventually raised his hands and she noticed he was wearing dark latex gloves.

Officer Wilfert was aware that gang members commonly wear gloves when they possess handguns, so she believed that it was likely Zepeda had a handgun. She could hear Villa and Zepeda arguing with Hernandez trying to convince him to flee.

Officer Wilfert put out a radio request to “expedite back-up.” Additional police officers arrived at the scene. Officer Wilfert informed them that Zepeda kept reaching down and she thought he might have a gun. Sergeant Brett Smith arrived on scene and began to organize a high risk stop. Officer Wilfert had also heard a radio broadcast that the black sedan may have been involved in a brandishing of a firearm that had occurred in the area.

Other officers took over the contact with the occupants of the vehicle and shouted, “Driver throw the keys out now!” Officer Wilfert heard over the radio that one of the sedan’s occupants was simulating holding a gun. She looked at the sedan and noticed that the occupants were smoking cigarettes and talking on the phone. She grew concerned that

they were planning to shoot the responding officers. Officer Wilfert was sent to retrieve an armored vehicle to allow officers to safely approach the car.

She was called off that assignment and asked to watch the rear perimeter of the car based on the occupants' continued use of cell phones and the fear that they might be calling other gang members for back-up. She heard over the radio that subjects in the car were simulating having a gun but that no gun had been seen.

A few minutes later, Officer Wilfert heard over the radio that the sedan had driven away and turned right onto Grant Avenue. She could not find Officer Rodriguez, so she got into a patrol car driven by Officer Roque Rivera. They proceeded to Roosevelt Avenue, two blocks east of Grant Avenue, in an attempt to locate the black car.

As they drove, she heard radio traffic that shots were being fired.<sup>32</sup> They approached the intersection of Cooper Road and Garfield Avenue and she heard shots fired and saw people running eastbound on Cooper Road.<sup>33</sup>

Officer Wilfert and Officer Rivera joined other officers at the intersection. She was able to see a person down on the ground (Zepeda) in the parking lot at 506 Cooper Road. Other officers created a contact team to contact Zepeda and Officer Wilfert began to mark a crime scene with yellow tape.

Officer Wilfert remained on the perimeter and was contacted by Villa's mother and sister. They were crying. They told Officer Wilfert that they lived just around the corner. Villa's sister stated that her brother had called her and said he was pulled over by police. The sister could hear Villa telling the car's driver to drive away and she told her brother not to do it. Officer Wilfert asked them to return home where the police would contact them.

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<sup>32</sup> That call was approximately one minute after the report that Hernandez's car drove away.

<sup>33</sup> Officer Wilfert was on scene approximately three minutes after Hernandez drove away on First Street. No shots can be heard on her personal recorder indicating the shooting was over by that time.

## 11. SERGEANT CHRIS WILLIAMS

On October 13, 2012, Sergeant Williams was working as patrol supervisor when he heard radio traffic related to Officers Wilfert and Rodriguez making a traffic stop in the area of First Street and Garfield Avenue. He then heard that the car was not yielding and began driving to the area. While en route, he heard Officer Wilfert request expedited backup. He activated his lights and siren and drove to the location.

Sergeant Williams activated his personal recording device when he arrived on scene. He noticed three occupants of the car and several police officers with their weapons drawn.

The car's occupants were completely uncooperative. Sergeant Williams directed officers to form an arrest team. He requested other officers to deploy "stop-sticks" and asked for a pepper ball and less lethal shotguns to be brought to the scene. He also asked for Officer Wilfert to get the "Bearcat" armored vehicle to give the police officers cover to approach the car.

Sergeant Williams noticed that all three of the car's occupants were talking to each other. One of the occupants was talking on a cellular phone, and one of the occupants made an obscene gesture at the police. Dispatch notified that there had been a call about someone in a car brandishing a handgun in the area and he was not sure if the black sedan had been involved.

The driver (Hernandez) started the car and drove northbound on Grant and out of view. An unknown officer had taken Sergeant Williams' patrol car in the pursuit. Sergeant Williams found another car and, as he was getting into that car, he heard gunshots. Sergeant Brett Smith rode in the car with Sergeant Williams.

Sergeant Williams arrived on the scene, got out of the patrol car and began running toward Hernandez's car, which was parked in the street. Officer Jundef told him that one

of the suspects (Hernandez) was in custody in Officer Jundef's car. Sergeant Williams heard another volley of gunshots as he spoke with Officer Jundef.<sup>34</sup>

Sergeant Williams ran north on Garfield Avenue, toward the sound of the gunfire. He noticed several police officers with their guns drawn near 156 Garfield Avenue. One of the officers told him that a suspect (Zepeda) was in the parking lot of 506 Cooper Road. Sergeant Williams noticed a male (Mr. Limon) lying on the ground next to the alley. Mr. Limon's chest was rising and he was moaning. One of the officers told Sergeant Williams that Mr. Limon was not one of the suspects from the car.

Sergeant Williams requested another officer to bring a patrol car up to give officers cover to pull Mr. Limon to a safe area where they could give him medical assistance. Sergeant Smith called for emergency medical personnel to respond to the area. When the ambulance crew arrived on scene, they pronounced Mr. Limon dead. Medical personnel also pronounced Zepeda dead.

Sergeant Williams requested other enforcement agencies to assist in trying to maintain the integrity of the crime scene. He asked all officers who had fired their weapons to identify themselves and took measures to isolate them. He obtained a statement from each of the nine officers relating to how many rounds they had fired and in what direction:

- Officer Jess Aragon stated that he fired four to five AR-15 rounds in a northerly direction and believed he hit Mr. Limon.
- Officer John Brisslinger stated that he fired approximately five to six 9mm handgun rounds in a northerly direction and believed he hit Mr. Limon.
- Officer Don Ehrhardt stated that he fired one 9 mm handgun round in an easterly direction.

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<sup>34</sup> According to Sgt. Williams' recording device, gunshots can be heard approximately 48 seconds after Hernandez's car drove away. A second volley of gunshots can be heard approximately 1 minute 33 seconds after the first gunshots and after Sgt. Williams arrived on Garfield Avenue.

- Officer Ryan Lockner stated that he fired approximately 10 handgun rounds in a northerly direction.
- Officer Rocky Marquez stated that he fired seven to eight AR-15 rounds and approximately four to five .45 caliber handgun rounds in a northerly direction.
- Officer Ernie Orozco stated that he fired approximately six 9mm handgun rounds in a northerly direction and three 9mm handgun rounds in an easterly direction.
- Officer Pedro Rodriguez stated that he fired three to four 9mm handgun rounds in a northerly direction.
- Officer Matt Ross stated that he fired approximately three to four .45 caliber handgun rounds in a northerly direction.
- Officer Zack Stiles stated that he fired approximately two shotgun slug rounds in an easterly direction.

Sergeant Williams noticed several individuals, males and females, yelling at police officers who were standing near Mr. Limon's body. One of those men spit on Officer Everhart. Sergeant Williams asked the individuals to go inside their homes and they did.

A short while later, there was a report that someone was hiding in a shed at 148½ Garfield Avenue. Sergeant Smith formed an arrest team and they located and arrested Justin Villa.

Oxnard Police and Ventura County Sheriff's detectives arrived on the scene. Sergeant Williams briefed them and walked them through the crime scene. He stayed at the scene until 6:30 a.m. on October 14, 2012.

## 12. OFFICER JESS ARAGON

Officer Jess Aragon had been an Oxnard police officer for 10 years. He was interviewed by Ventura County Sheriff's Detectives Dean Worthy and Jose Lopez on October 14, 2012, at approximately 7:35 a.m.

Officer Aragon was assigned to the Special Enforcement Unit (SEU), which provides street gang enforcement to the police department. Officer Aragon, like all members of the SEU, also worked as a SWAT team member.<sup>35</sup>

Officer Aragon explained that the La Colonia area of Oxnard was home to the largest gang in Oxnard and is very busy with gang activity. Officer Aragon said he would classify the neighborhood as dangerous for law enforcement officers. Because of that fact, La Colonia is the only part of Oxnard that has mandatory two-person patrol cars during evening hours.

On October 13, 2012, at approximately 3:00 p.m., Officer Aragon arrived at work. Officer Aragon's partner for that shift was Officer Rocky Marquez, who was also part of SWAT/SEU.

Officer Aragon and Officer Marquez were responding to a possible gang related call when they heard Officer Wilfert broadcast that a car was failing to yield in the La Colonia area. They then heard an "expedite backup" call. They activated their emergency lights and siren and Officer Aragon drove to the location of the traffic stop on Second Street and Grant Avenue. Officer Aragon believed that dispatch had stated that the stopped car was related to an earlier incident involving the brandishing of a handgun.

Officer Aragon and Officer Marquez were the first assisting officers to arrive. The suspect car was parked facing westbound on Second Street. The car had three occupants: two in the front and one in the back. The primary patrol car was parked behind the suspect car and Officers Wilfert and Rodriguez were using the patrol car's doors for cover as they pointed their handguns at the suspect car.

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<sup>35</sup> The acronym "SWAT" stands for Special Weapons and Tactics. Oxnard Police Department describes its SWAT/Special Enforcement Unit's mission as being responsible for "handling high risk situations which challenge or exceed the weaponry or training level of patrol officers" and "is the primary 'Gang Enforcement Unit' for the Oxnard Police Department, implementing uniformed patrol specifically to deal with Oxnard gang members." <https://www.oxnardpd.org/bureaus/specialenforcement.asp?OpdSpecialOpdID=5>.

Officer Aragon exited his car and drew his handgun. He notified Officer Rodriguez that he was there and moved to a position left of Officer Rodriguez. Officer Marquez moved near Officer Wilfert. Officer Rodriguez was shouting at the occupants of the car to show their hands. None of the occupants of the car complied with those commands.

Numerous additional police officers arrived at the scene. Officers continued to shout commands at the occupants of the car. Officer Aragon does not recall if any of the commands were in Spanish.

Officer Aragon noticed that the rear occupant (Zepeda) was making odd facial expressions. Officer Aragon also noticed that Zepeda had a black latex glove on his left hand.<sup>36</sup> The glove concerned Officer Aragon because he was aware that gang members wear latex gloves to avoid leaving fingerprints and DNA on weapons. Zepeda and the front passenger (Villa) lit cigarettes and started smoking. They were looking at the police and laughing. He heard both passengers urging the driver to drive off. Officers began shouting for the driver to throw the keys out of the car.

Officer Aragon noticed Zepeda pointing at the officers with his fingers stating, "It almost felt like he was counting us off, one by one." Officer Aragon believed that the situation was becoming more than a routine felony stop.

Officer Aragon went to his patrol vehicle and retrieved his and Officer Marquez's rifles. He handed Officer Marquez his rifle and then chambered a round into his own rifle. Zepeda raised his hand, formed a gun with his hand, and began pointing it at the police officers. Officer Aragon initially believed it was a real gun.

The car's engine started and a few seconds later the car drove away. Officer Aragon and the other officers ran to their patrol cars and began pursuing the car. Officer Aragon was third in line of the pursuing police cars and drove with his rifle slung over his shoulder.

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<sup>36</sup> Officer Aragon stated that he never saw Zepeda's right hand.

They turned onto Garfield Street and observed that the police cars in front of him were stopped. As those police officers were starting to get out of their cars, Officer Aragon heard several gunshots.

Officer Marquez had already gotten out of the patrol car and was running northbound on the sidewalk. Officer Aragon got out of his car, ran to the sidewalk and then ran north after his partner. He explained he wanted to “help those officers who I believed were being shot at, getting involved in a shooting.”

As he ran, Officer Aragon heard a second volley of gunfire and moved into the street to use the parked cars for cover. “I thought I was gonna get shot...um ... those were my feelings, those were my thinkings. I was thinking my partners were gonna get shot. I don’t know how I even had the time to think this but, I literally thought I can’t believe I’m running toward gunfire.” ([Excerpts of Interview of Officer Aragon on October 13-14, 2012, Audio 1 link](#))

Officer Aragon arrived at the entrance to the alley south of 506 Cooper Road. He saw a male subject (Mr. Limon) lying on his back in a planter about 10 to 20 yards away from Officer Aragon. It appeared as though Mr. Limon had been shot but he was still alive and moving. Numerous officers were yelling commands at Mr. Limon. Officer Aragon did not see any other suspects in the area.

Officer Aragon noticed that Officer Marquez and at least one other police officer were on the sidewalk just south of and closer to Mr. Limon. Other officers were near Officer Aragon behind a car parked in the street. Officer Aragon was concerned that the officers on the sidewalk had no cover between them and Mr. Limon. He heard other officers yelling, “Don’t move” and he began yelling the same thing at Mr. Limon. He also heard an officer yell, “He still has a gun.” He believed those officers must have been able to see a gun in Mr. Limon’s left hand.

“At that point I end up getting to the front of where the cars stop and the alley stops basically. And I see a subject -- wearing a gray sweatshirt, I believe it to be like a gray sweatshirt, jeans, laying down on his back with officers yelling numerous commands to -- I heard, ‘Show me your hands,’ I heard, ‘Get on the ground,’ I heard, ‘Stay on the ground.’ And I see this subject laying down in like a planter area. And to me it appeared that he had been shot; however, he was still moving, still alive. My train of thought is I’m looking down at this entire area and to me there’s my suspect. That’s the subject that’s been firing at my officers.”

About that time, he heard Officer Marquez shout, “Red, red, red!” indicating that his weapon had either malfunctioned or was out of ammunition. Officer Aragon continued commanding Mr. Limon to not move. He heard other officers shouting “he has a gun” and believed that Mr. Limon was the “he” they were referring to. Mr. Limon then “distinctively rolls to his right side and starts moving up with his left hand. At that point, I believed that he was going to shoot at us again, he was going to shoot my partner who I believed had an empty weapon at that time and I opened fire.”

He further explained, “At first I didn’t know what he was doing. Until, to me, it was pretty obvious, the movement he finally made when I decided to fire, that he was trying to get up at that point. So the movement was completely different from the other movements he was making while we were giving those directions of, ‘Don’t move,’ or the commands of, ‘Don’t move,’ which were just kind of subtle movements. When he made that move that ultimately made me fire, he made a much more furtive movement to kind of get up and roll so to speak.”

Officer Aragon explained that he had contacted bystanders in previous incidents and pointed weapons at them before it was determined they were not involved in criminal activity. The normal reaction he encountered in such situations was “Fear, obeying our commands. Usually lying face down and covering themselves. . . . Laying (sic) down on the ground with their hands over their heads, on their stomachs basically trying to almost

morph into the ground.” He explained that Mr. Limon “didn’t look like he was frightened, scared, anything like that.”

Officer Aragon believed that he shot Mr. Limon three to four times. Officer Aragon heard other gunshots at the time he was shooting, but does not know when those other shots started. Mr. Limon stopped making any attempt to get off the ground. He heard other officers shouting, “He still has a gun” and became confused because he did not understand how Mr. Limon could still have a gun.

After he had fired, Officer Aragon heard officers shout, “Get on the ground,” which confused him more as Mr. Limon was already on the ground. He looked up into the parking lot and he saw the head of somebody (Zepeda) walking behind a vehicle. Officer Aragon had not seen Zepeda in the parking lot before that moment and believed Zepeda was another of the three suspects. He was unsure if Mr. Limon still posed a threat to police officers, so he kept his rifle aimed at Mr. Limon. Officer Aragon moved to have a better view of Zepeda.

Officer Aragon was scanning for other suspects and threats from other gang members. He explained that it is common for gang members to call other gang members to help during police contacts since the suspects had been talking on their cell phones during the traffic stop. Officer Aragon was concerned that more gang members were going to show up at the scene.

At that point, he heard another volley of gunfire. He looked at the parking lot and saw Zepeda lying on the ground with a handgun a short distance away from him. Officer Aragon focused his rifle on Zepeda in case he decided to try to get the gun. Several officers then approached Zepeda from the north and Officer Aragon lowered his rifle.

Shortly after the shooting stopped, officers performed a rescue on Mr. Limon by moving him from the scene and beginning to perform CPR. Officer Aragon walked around the back of the car he was using for cover and joined the other officers on the sidewalk.

Shortly afterward, all officers involved in the shooting incident were isolated and ordered not to discuss the incident with each other. At about that time, Officer Aragon heard that an additional suspect had been located hiding in a house.

Transportation was arranged to take all of the shooting officers back to the police station. As he was walking to the transport van, Officer Aragon heard someone yell “Fuck you pigs!” several times, followed by “CO CH.”<sup>37</sup>

### 13. OFFICER JOHN BRISSLINGER

Officer John Brisslinger was interviewed by Ventura County Sheriff’s Detectives Joe Evans and Albert Ramirez on October 14, 2012, at approximately 10:58 a.m.

Officer Brisslinger has been a peace officer since 1989 and had worked for the Oxnard Police Department for approximately 12 years. On October 13, 2012, he started work at 2:00 p.m. He was assigned to patrol the central and western portion of the city.

He was traveling on Fifth Street to an unrelated call at approximately 10:00 p.m. when he heard radio traffic from Officers Roslynn Wilfert and Pedro Rodriguez about a vehicle failing to pull over. He then heard that the vehicle had stopped and shortly afterward heard a request for expedited backup. He knew that their patrol area was Colonia and knew neither officer was prone to “crying wolf,” so he activated his lights and sirens and headed to the stop on Second Street and Grant Avenue.

Officer Brisslinger was the third or fourth officer to arrive. He saw a dark two-door Oldsmobile Cutlass stopped in the middle of Second Street. Three subjects were in the car, two in the front and one in the back. A patrol car was stopped behind the car and several police officers were stacked behind the patrol car. All of the police officers had their weapons out and all of the patrol cars had their emergency overhead lights activated.

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<sup>37</sup> A reference to an Oxnard street gang.

Officer Brisslinger decided to fan out to the northern side of the street and took cover behind a car that was parked there.

Officer Rodriguez was shouting commands at the Cutlass' occupants and Sergeant Brett Smith was broadcasting information over the radio. The commands he heard shouted included, "Get your hands up!" "Keep your hands up!" "Turn off the car!" and "Take the keys, place them out the window!" The Cutlass' occupants did not comply with any of the commands.

Officer Brisslinger was able to clearly see into the Cutlass. All of the occupants appeared to be moving around and the rear passenger (Zepeda) kept looking back at the police officers. He then simulated a gun with his hand and began pointing it at the police officers. Officer Brisslinger then heard a radio broadcast that police officers on scene believed one of the car's occupants had a gun.

Officer Brisslinger also recalled hearing a radio broadcast that the car may have been involved in an incident where a firearm had been brandished. He believed that the car's occupants may have been acting that way because they were caught and knew they were going to jail. Two of the occupants of the car lit cigarettes and started smoking them. Zepeda turned and began using his finger to count how many police officers were on scene.

Officer Brisslinger was concerned that the car's occupants were counting how many police there were compared to the number of bullets they had. He noticed that the front passenger (Villa) kept hunching down and the driver (Hernandez) kept turning to Villa as if they were formulating a plan. He recalled that one or two of the occupants were using cell phones to text or communicate and Officer Brisslinger was worried that they might be "calling for backup."

A cigarette was flicked from the car and it appeared to Officer Brisslinger that the occupants began breathing deep as if preparing for something. At that point, the Cutlass

engine started and the car drove off heading north, then turning right onto First Street, then turning north onto Garfield Avenue. Patrol cars were pursuing the Cutlass which eventually stopped on Garfield Avenue.

Officer Brisslinger heard gunshots as he pulled in behind pursuing officers. He explained, “So then once on Garfield, I believe I was the third or fourth car. I had my lights and siren on, and when they -- I just -- when I threw it into park, I can hear the gunshots, and I saw one of the officers out there, and I didn’t know if he was hit. I put out, ‘Shots fired! Shots fired!’ twice. You know, I didn’t even lift the mike up. I -- just -- ‘Shots fired! Shots fired!’ like that. Keyed it and bailed out on my unit. And by the time I was out of my unit, I can hear I hear like tssh, tssh, tssh, at least, you know, two, three gunshots.”  
[\(Excerpts of Interview of Officer Brisslinger on October 13-14, 2012, Audio 2 link\)](#)

Officer Brisslinger ran north toward the sound of the gunshots. He passed the suspect vehicle which he noticed had the rear windshield shot out, and he was unsure if someone had shot into the car or someone had been shooting out of it. He heard more gunshots and continued running north.

Officer Brisslinger explained, “There were gunshots. It sounded like on the sidewalk to my east, and I was just running, but it’s -- I was scared, man. I didn’t know where these shots were coming from. I was trying to get close to the vehicles. I -- no one is broadcasting, you know, shit, and I know that, you know, there’s three guys out there. Now I believe all three of these guys are armed.”

Officer Brisslinger stopped before the alley just south of 506 Cooper Road. A red vehicle was parked on the east side of the street and was the last vehicle on the street before the alley. Officer Brisslinger took cover behind that vehicle, then began to fan out into the street. He heard another police officer shout, “He’s still got the gun,” so he moved back behind the red vehicle for cover.

He fanned out from the red vehicle again and saw a male subject (Mr. Limon) lying in a grassy area east of the sidewalk in front of small block wall. Mr. Limon was lying on his back with his body slanted toward Garfield Avenue and his head pointing north. He was unable to see Mr. Limon's hands. Officer Brisslinger thought that Mr. Limon was the driver of the Cutlass.

Officer Rocky Marquez was on the sidewalk just east of Officer Brisslinger's location. Officer Brisslinger heard Officer Marquez shout, "Red, red, red!" Officer Brisslinger knew that to mean Officer Marquez was either out of ammunition or his weapon had malfunctioned.

Officer Brisslinger moved further away from the red vehicle to provide cover for Officer Marquez. Officer Jess Aragon moved with him. He heard other officers shouting, "Stay down!" He saw Mr. Limon move his hand up toward the police officers and start to raise his body. Officer Brisslinger feared that Mr. Limon was going to shoot Officer Marquez. He then fired five shots at Mr. Limon. Other officers, including Officer Aragon, were also firing. Officer Brisslinger stopped firing when Mr. Limon stopped moving up and fell back to the ground.

At that time, Officer Ernie Orozco came up on Officer Brisslinger's left side and opened fire. Officer Brisslinger initially thought Officer Orozco was shooting at Mr. Limon and he shouted for Officer Orozco to stop firing. He then looked up and noticed a second subject (Zepeda) in the parking lot just north of the alley. Zepeda was located in the direction Officer Orozco had been firing. Officer Brisslinger then moved back behind the red vehicle for cover and reloaded his handgun.

Mr. Limon lay on the ground and was still moving. The police officers discussed rendering first aid to him. Officers Brisslinger, Marquez and Aragon provided cover for Officers Matt Ross and Ryan Lockner, who pulled Mr. Limon back from the scene. He mentioned that someone must have moved his patrol car to provide cover for the rescue because it had been moved from where he originally parked it.

Officer Brisslinger moved his position and was able to see Zepeda lying on the ground in the parking lot with a gun approximately 10 to 15 feet away from him. Officer Brisslinger shouted, "He's down! He's down! I see the gun!"

Other officers dealt with Zepeda. Officer Brisslinger was aware that there was a third suspect outstanding, so he remained behind the red vehicle. Eventually he was instructed by a sergeant to not discuss the incident with anyone and was transported back to the police station.

#### 14. OFFICER DON EHRHARDT

Officer Don Ehrhardt was interviewed by Ventura County Sheriff's Detectives David Brantley, Greg Sharp, and Jose Lopez on October 14, 2012, at approximately 7:15 a.m.

Officer Ehrhardt had been an Oxnard police officer for 10 years. On the evening of October 13, 2012, he was working 6:00 p.m. to 6:30 a.m. the following day. Officer Ehrhardt had a civilian "ride-along" in his car with him.

Officer Ehrhardt was responding to a different call when he a radio call about a vehicle failing to yield to Officers Pedro Rodriguez and Roslynn Wilfert. He heard a request for expedited back up but continued to his call as he heard other officers responding. Officer Ehrhardt and Officer Aaron Zavala had been dispatched to the 100 block of Grant Avenue regarding someone brandishing a firearm.

The car stop was on Second Street between Grant Avenue and Garfield Avenue. Officer Ehrhardt had heard radio traffic about someone in the car simulating or brandishing a handgun. Based on the proximity, Officer Ehrhardt asked dispatch if the calls were related but did not recall receiving a response. Officer Ehrhardt continued to the call and the residents denied calling the police or seeing anyone with a firearm.

Officer Ehrhardt was walking back to a car when he saw some bystanders laughing. When asked what they were laughing about, they told him “a police pursuit.” Officer Ehrhardt then noticed a car speeding up Grant Avenue and turning quickly onto First Street. Officer Ehrhardt noticed a patrol car with its lights and siren on pursuing the speeding car.

Officer Ehrhardt got into his patrol car and made a U-turn to head north. He heard gunshots -- a set of two to three shots followed by four to five shots. Officer Ehrhardt drove north on Grant Avenue and heard three more groups of gunshots. He also heard radio traffic about shots having been fired by police officers.

Officer Ehrhardt turned right onto Cooper Road and continued toward Garfield Avenue. He stopped approximately 20 feet west of the intersection. He got out of the car unholstered his handgun. He told his ride-along to stay in the car. He began approaching Garfield Avenue.

As he approached, he heard an unknown officer shout, “Red!” indicating that officer was out of ammunition. He heard a different officer yell, “Green!” indicating that officer had reloaded. He then noticed a man (Mr. Limon) lying on the ground in a planter near the alley just south of 506 Cooper Road. Mr. Limon was lying on his back. Officer Ehrhardt could see his chest rising up and down with his breathing. Several officers had their weapons pointed at Mr. Limon and he heard them yelling commands at Mr. Limon. Officer Ehrhardt believed Mr. Limon must have been a suspect related to the shooting.

Officer Ehrhardt began moving south on Garfield Avenue toward Mr. Limon and loudly announced his presence so the other officers would know he was there. He looked to his left and saw another person (Zepeda) in the parking lot of 506 Cooper Road standing next to the front right fender of a green car. Officer Ehrhardt believed Zepeda to be a suspect and also realized that he (Officer Ehrhardt) was standing in the middle of the street with no cover between them. Officer Ehrhardt began backing up. Officer Ehrhardt’s focus

moved to Zepeda and he had no further knowledge of anything else that happened to Mr. Limon.

Zepeda was hunched over and breathing deeply, as if trying to catch his breath. Zepeda was also looking around. Officer Ehrhardt backed up and started to move toward a dark vehicle parked on the west side of Garfield Avenue. When he was approximately 60 to 65 feet away, Zepeda turned to face Officer Ehrhardt, looked at him and raised a black handgun toward him.

Officer Ehrhardt was wearing his police uniform. He believed that Zepeda knew he was a police officer and was trying to kill him. He fired one round at Zepeda and does not know if his round hit Zepeda. He heard several other gunshots from police officers who were southeast of his position. Zepeda went down and Officer Ehrhardt was unsure whether Zepeda had been hit or had taken cover.

Other officers approached Officer Ehrhardt. He requested that Officer Guy Hartson move his patrol car closer to help them illuminate the parking lot. Officer Ehrhardt walked next to the patrol car's right side as it moved into position. Officer David Kelley approached Officer Ehrhardt and they formed a contact team to either arrest or perform first aid on Zepeda. They approached the parking lot and saw Zepeda lying on his back. He was not breathing and there was a puddle of blood under his head. A gun was on the ground approximately three feet south of Zepeda's left hand.

A short while later Officer Ehrhardt heard radio traffic about a subject in a backyard on Grant Avenue and assumed it was related. He was concerned about his ride-along's safety and told her to stay with the car until she was contacted by investigators.<sup>38</sup>

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<sup>38</sup> The ride-along was interviewed by Sheriff's detectives. She was unable to see any of the incident from her vantage point in Officer Ehrhardt's patrol car.

Officer Ehrhardt was contacted by Sergeant Chris Williams and asked to give a statement. He told Sergeant Williams that he had a ride-along in his patrol car and was instructed to stand by. He was eventually transported to the Oxnard Police Department.

#### 15. OFFICER RYAN LOCKNER

Officer Ryan Lockner was interviewed by Ventura County Sheriff's Detectives Todd Inglis and Matthew DeLaHuerta on October 14, 2012, at approximately 7:10 a.m. Officer Lockner had been an Oxnard police officer for three and one-half years.

On October 13, 2012, Lockner attended briefing at 6:30 p.m. and started his shift. He was wearing a standard police uniform and assigned to a marked patrol car. He was assigned to patrol central Oxnard.

At approximately 10:00 p.m., he had just finished responding to an unrelated call for service when he heard over the radio that Officers Wilfert and Rodriguez were conducting a traffic stop. He next heard that the vehicle was failing to yield and that the vehicle had eventually stopped at Second Street and Grant Avenue. He then heard one of the officers request expedited backup.

Officer Lockner explained that expedited backup meant the officers on scene were experiencing serious difficulties, such as someone fleeing, someone having a weapon, or an officer being involved in a fight. Officer Lockner told dispatch that he would respond Code 3, meaning with his overheard emergency lights and siren activated.

As he drove, he heard one of the officers request responding officers to approach from the east. That indicated to him that it was a high risk vehicle stop and there might be a weapon involved.

When he reached the scene, other patrol cars were already there. He parked his patrol car in the middle of Second Street, about 40 feet behind Officers Rodriguez and Wilfert's

patrol car. He ran up to that car and took a position near the passenger side door, near Officers Jess Aragon and Pedro Rodriguez.

The stopped car was an older model Oldsmobile occupied by three males. He was able to see the front passenger (Villa) and the rear passenger (Zepeda) but all he could see of the driver (Hernandez) was a dark colored sleeve hanging out the driver's window.

It appeared to Officer Lockner that the occupants were not taking the situation seriously and were joking about being pulled over. Villa was talking on a cell phone. Zepeda was looking out the rear window and was making hand gestures. He turned around and lit a cigarette. Then Villa lit a cigarette off of Zepeda's cigarette and they both started smoking. This all occurred while police officers with drawn weapons were behind the car shouting commands at them.

Police officers ordered Hernandez out of the car. Villa started to nudge his body toward Hernandez. Officer Lockner thought that Villa intended to get into the driver's seat and drive away if Hernandez got out of the car.

Officer Aragon retrieved a rifle from his patrol car and asked Officer Lockner to get him a flash-bang.<sup>39</sup> Officer Lockner returned with the flash-bang and heard another police officer say that Zepeda was making gestures in the back window, simulating a gun with his hand. Officer Lockner felt that Zepeda was trying to provoke the officers to fire on the car.

Officer David Kelley arrived on scene. He was armed with a less lethal shotgun. He gave the less lethal weapon to Officer Lockner and took possession of the flash-bang. Then the engine of the car started and the vehicle accelerated away. Officer Lockner was standing next to the passenger side of Officer Rodriguez's patrol car. He jumped in and they drove off in pursuit of the car.

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<sup>39</sup> A "flash bang" is a device designed to distract and disorient a suspect through a combination of an extremely bright flash of light and a deafening sound.

Their patrol car was the first in line of pursuing police cars. The car turned right onto Grant Avenue. It drove 30 to 40 yards up the street and stopped. A passenger door opened and Officer Lockner thought someone was going to run from the car. The door closed without anyone getting out and the car again sped up Grant Avenue. The passenger door was not fully closed but it appeared that someone in the car was holding it shut.

The car turned right onto First Street. It was traveling too fast and fishtailed across First Street. It looked like Hernandez was having a hard time getting the car back under control. The car continued speeding up First Street, then took a left turn to head north on Garfield Avenue.

Officer Lockner tried to call the pursuit over the radio, but other radio traffic was preventing him from broadcasting. He was concerned by the suspects' actions and was convinced they were going to try to flee on foot.

When the car was approximately three-fourths of the way up Garfield Avenue, the passenger door to the car opened. The car continued moving another 10 yards, then stopped. The patrol car stopped 20 to 30 feet behind the Oldsmobile.

The car's passenger door opened wide. Villa got out of the front passenger seat and fell chest first onto the ground. Zepeda then exited and stepped over Villa who was struggling to get up from the ground. Zepeda ran a short distance then turned and, over his left side, pointed a long barreled handgun at Officer Lockner.

Officer Lockner described what happened next. Zepeda "pointed the gun directly at me while looking at me. He actually stopped his stride, looked back at me, fired one round. I heard -- I heard the first report<sup>40</sup> and saw the muzzle flash, and then I saw the second

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<sup>40</sup> The term "report" can be used to describe an explosive noise. The sound of gunfire is often referred to as a "report."

flash, but didn't hear the report. At that time, I drew my duty weapon and focused my attention on the subject who had just fired at me.”

Officer Lockner fired several shots at Zepeda in response. “At this point, I focused all of my attention on the person who was like directly shooting at me. There was still the subject in my foreground (Villa) directly in front of me, but he was laying down on the ground. I thought he was clear of the situation, and I didn't see him shooting at me at that time. I addressed the guy with the gun that was behind him (Zepeda) because I -- as soon as I heard that first report, I kind of like -- it -- everything clicked like this is real. Like this isn't a movie. I'm not watching something. This is actually happening right now. And I really kind of -- it just triggered something that made me think very -- I just knew at that point that these -- this guy was going to kill me or one of my partners while he was running away with this gun and I had to address that. So, at that point, I fired several rounds his direction. I believe it was approximately four or five rounds. The subject then began running northbound on the east sidewalk of Garfield.”

The area around the stopped car was well lit by the patrol car spotlights but everywhere else was dark. Officer Lockner did not see the driver, Hernandez. He saw Villa flee to the right, out of Officer Lockner's view. Officer Lockner began running after Zepeda. After firing his handgun, he was unable to hear and does not know if he yelled anything at Zepeda.

Officer Lockner was concerned that Zepeda might go into a home and create a hostage situation. Zepeda was running as if he might have been hit. He slowed down, looked back at Officer Lockner and fired one to two more shots at him. Officer Lockner fired four to five more rounds at Zepeda.

Officer Lockner explained that “during the second -- second engagement that I had with [Zepeda], I was firing like in essentially a northeasterly direction which I thought I saw the light up of the building. And I could only see my subject -- and parked cars here. And I saw -- my background was pretty clear because it was pretty lit up. And I didn't see

anyone. So when I fired again, I saw things clearly, and I saw a backdrop that was like somebody painted a picture. It was bright right behind [Zepeda].”

Zepeda resumed running north on the sidewalk. Officer Lockner felt his handgun’s slide lock open, indicating his magazine was empty. He ducked behind a vehicle parked on the street and reloaded his handgun.

Officer Marquez ran past Officer Lockner. Officer Lockner chambered a round in his handgun and ran after Officer Marquez. He saw Zepeda run into the parking lot for the building at 506 Cooper Road. Officer Lockner and Marquez stopped at an alley just south of the parking lot.

Zepeda raised his gun and fired two shots at Officers Marquez and Lockner. Officer Marquez fired several rounds at Zepeda with his rifle and Officer Lockner fired several shots at Zepeda with his handgun. Zepeda then fell to the ground.

Zepeda still had the gun in his hands while he was on the ground. He was looking at the officers and making motions; but Officer Lockner could not tell if Zepeda was aiming the gun or just crawling while holding it.

Additional police officers arrived on Garfield Avenue from the north. Zepeda raised his gun and pointed it in Officer Lockner’s direction. “I couldn’t tell if he had been shot again, but I knew that he had fired at me now three times and that I needed to pretty much end this threat there. I didn’t need him fleeing, or I didn’t want him fleeing through the rest of the neighborhood. I shot at him again, and the subject [Zepeda] fell back down out of view.”

At about that time, Officer Marquez yelled, “Red!” which means either his weapon jammed or he was out of ammunition and Officer Marquez switched to his handgun. Officer Lockner yelled, “Get down, get down” at Zepeda. Instead, Zepeda stood up and pointed his gun at police officers who were west of him on Garfield Avenue. Officer

Lockner yelled, "He has a gun!" to warn the other police officers. He and Officer Marquez fired several more shots at Zepeda, who again fell to the ground. Officer Marquez began yelling, "Cease fire! Cease fire!"

Officer Lockner heard other police officers west of him yelling commands such as, "Show me your hands!" He moved to the left and saw a subject (Mr. Limon) lying on his back in bushes on the north side of the alley. Mr. Limon was wearing a dark top and dark bottoms and appeared to have been shot. He did not know if Mr. Limon was armed and was concerned that Mr. Limon was so close to where he and Officer Marquez had been standing yet he had been unaware of his presence.

Officer Lockner also heard bystanders yelling that Mr. Limon had not been doing anything. Officer Lockner realized that Mr. Limon was not involved in the car stop and formed a rescue team to pull Mr. Limon back from the area of the gunfight. He requested someone to bring a patrol car forward to provide cover for the officers. Officers Lockner, Everhart and Rodriguez then pulled Mr. Limon out of the bushes and moved him several car lengths down the street.

Mr. Limon appeared to be breathing and was making noises. Officer Lockner felt for a pulse and found a faint pulse. He noticed that Mr. Limon was still breathing and started looking for gunshot wounds. He noticed a wound on Mr. Limon's right side and other wounds on his legs. They rolled Mr. Limon onto his right side in a rescue position and Officer Lockner could no longer find a pulse.

Officer Lockner began giving CPR chest compressions to Mr. Limon. He requested Officer Everhart to retrieve a CPR mask to give him breaths. Officer Everhart returned and began giving breaths to Mr. Limon while Officer Lockner continued giving chest compressions.

Emergency medical personnel arrived on scene and took over CPR. They hooked Mr. Limon up to a monitor and found a faint heartbeat. One of the medical personnel told

Officer Lockner that he was not sure if Mr. Limon was going to survive and it appeared to Officer Lockner that they had stopped providing CPR.

About 10 minutes later, Officer Lockner heard a commotion and walked back toward Mr. Limon. He saw a male subject in his forties pushing Officer Everhart as if he was trying to reach Mr. Limon's body. Officer Lockner assumed the man was a friend or family member of Mr. Limon. Officer Everhart told the man that he needed to leave and the man spit on Officer Everhart. The man then ran south on Garfield and out of sight.

Numerous residents had come out of their homes on Garfield Avenue and they were joined by many others. The scene began to become very volatile. Officer Lockner explained that the La Colonia neighborhood was the territory of a large street gang and the neighborhood was not friendly to police. He explained that residents would often come out during incidents and would often hide suspects inside their houses or back yards.

The shooting officers were eventually escorted from the scene and driven back to the police station.

#### 16. OFFICER ROCKY MARQUEZ

Officer Rocky Marquez was interviewed by Ventura County Sheriff's Detectives Todd Inglis and Matthew DeLaHuerta on October 14, 2012, at approximately 8:26 a.m.

Officer Marquez had worked as an Oxnard police officer almost 10 years. He was assigned to the Special Enforcement Unit (S.E.U.) which is the SWAT/ Gang Enforcement Unit. On October 13, 2012, he started his shift at 3:00 p.m. He was assigned to conduct gang enforcement in a marked patrol car in full uniform with Officer Jess Aragon.

While Officer Marquez and Officer Aragon were responding to a call about an incident where someone yelled "Westside," they heard over the radio that Officer Wilfert was

attempting to conduct a traffic stop on a car that was not pulling over. They arrived at their call and were unable to locate any disturbance. At about that time, they heard Officer Wilfert request expedited backup and drove to the scene of the traffic stop with their lights and siren activated.

Officer Marquez and Officer Aragon were the first assisting officers to arrive. They saw a black vehicle stopped on Second Street and Officer Wilfert and Officer Rodriguez's patrol car behind the suspect car. Officer Wilfert and Officer Rodriguez were taking cover behind their open patrol car doors.

Officer Marquez observed three occupants in the car. The occupants were moving around in the car and not complying with the officers' commands. Officer Marquez was advised that the car might also have been involved in a brandishing incident and that there might be a gun in the car.

The front passenger (Villa) and rear passenger (Zepeda) were arguing with the driver (Hernandez), telling him to drive away. Villa was nudging Hernandez with his elbow. Officer Rodriguez told Hernandez to throw the vehicle keys out of the window. Hernandez ignored the command.

Officer Marquez noticed that Zepeda was wearing a "W" baseball hat and dark latex gloves. He knew that people did not normally drive when wearing rubber gloves and was also aware that criminals wore such gloves to avoid leaving fingerprints or collecting gunshot residue on their hands. Zepeda also kept moving his hands out of sight and reaching down toward the floorboard. Officer Marquez believed that Zepeda was either hiding or retrieving an item, possibly a handgun.

The "W" hat also made him think of an earlier call where a subject had yelled "Westside." Officer Marquez explained that the term "Westside" is a term used by tagging crews and gangs that are located west of Oxnard Boulevard. "Westside" is a rival to "Eastside" which is used by the Colonia and Lemonwood gangs because they are on

the east side of town. Officer Marquez explained that the area of the traffic stop was “right in the heart of Colonia Chiques territory” and “Westside” is not usually displayed in Colonia territory. He was concerned that the car occupants were part of a rival gang driving into Colonia territory.

Officer Marquez also recognized Zepeda from a previous contact involving a call of shots fired from a vehicle. Zepeda had been one of the car’s occupants and had not cooperated with the police. Officer Marquez learned during that contact that Zepeda was on parole.

Officer Marquez stated that he was becoming really nervous at that point, so he retrieved his and Officer Aragon’s Colt Commando rifles.

Zepeda then started smoking a cigarette. He lit his cigarette slowly and took slow drags from the cigarette as if he was savoring it. Villa started smoking a cigarette as well.

Officer Marquez stated, “I’ve had situations in the past where guys, you know, when you – a guy is sitting there and he tries to light a cigarette because he’s going to go to jail or because he’s going to take off running or do something.”

Zepeda then turned around and started pointing at all of the officers. It appeared to Officer Marquez that Zepeda was counting the officers. Marquez explained, “He’s counting our guns, counting us thinking, okay, these are how many guys I have to fight it out with, or you know, maybe he’s picking who he’s going to shoot at first or what he’s going to take. So I’m really at this point really nervous, and I’m just downright getting to the point where, you know, I’m downright scared nervous waiting for something to happen because I have that anticipation that it seems like something is really going to happen.”

Zepeda dropped his gloved hand and then raised it again. He had his thumb up and index finger sticking out, as though he was simulating a gun, and pointing it directly at the police officers. Officer Marquez initially thought it was a gun. He believed that Zepeda was trying to provoke the police officers into shooting at him.

Police officers continued to give commands to the car's occupants but they would not comply. Officer Marquez heard some sergeants behind him discussing a plan to contact the car's occupants. Officer Marquez then heard the car's engine start and saw the car begin to accelerate away from the police.

Officers pursued the car. Officer Rodriguez was in the primary pursuit position, followed by Officer Everhart and Officers Aragon and Marquez. The car turned north onto Grant Avenue, east onto First Street and then north onto Garfield Avenue. Officer Marquez's car was a distance behind the car, and as they turned onto Garfield Avenue, he could see the car stopped in the road with the passenger door open. He also saw Zepeda running north on Garfield Avenue, followed by Officer Ryan Lockner.

Officer Marquez heard a gunshot and saw a muzzle flash from Zepeda. "It wasn't clear to me whether he was firing at the vehicles or Lockner, but he was definitely firing in our direction."

Officer Marquez explained, "I was scared. I have -- I mean, I have been shot at before and the feeling is utterly terrifying. I was scared. I thought -- just like previously, I thought, you know, one of us is going to get hit or I may get hit, and I was -- I just wanted, you know, do my job and stop him from shooting at us."

As he exited his patrol car, Officer Marquez heard different sounding gunshots, which he assumed was Officer Lockner returning fire. He moved toward the eastern sidewalk of Garfield Avenue and ran after Officer Lockner. He saw another muzzle flash and heard a second volley of shots between Zepeda and Officer Lockner. Zepeda continued running north. Officer Marquez ran past the suspects' car and saw Hernandez in the driver's seat being contacted by other officers.

Officer Marquez caught up with Officer Lockner, who appeared to be reloading his gun. Officer Marquez ran past him and continued chasing Zepeda. Officer Marquez explained,

“I’m in – I’m in fear for my safety, but I’m also moreover in fear for the safety of other officers and citizens. This guy is firing in the street, and I know that there’s other officers. I know that there was a lot of officers on that first initial stop. So I know there’s a lot of officers in the area, and my number one concern is that someone is going to have this guy in my sights and I know what he’s doing already. He’s already shooting at officers. So I feel like, though, he’s running from me and it’s -- you know, I have somewhat of a tactical advantage because I know what he’s doing, what his intentions are and other officers on scene don’t. So I’m worried that, you know, some other officer is going to stumble across him, try to stop him and get shot at, so I continued pursuing him northbound.”

Zepeda ran into a parking lot at the corner of Garfield Avenue and Cooper Road (506 Cooper Road). Officer Marquez reached the last house before an alley that bordered the parking lot. He saw Zepeda about three parking stalls into the lot. Zepeda raised his gun and fired. Officer Marquez did not hear a gunshot but saw a muzzle flash. Officer Marquez raised his rifle and fired a volley of shots at Zepeda in response.

Zepeda dropped his gun and moved around in the parking lot. Officer Marquez moved up to a fence surrounding the parking lot, drawing even with the second parking stall. Zepeda had regained his gun. He looked at Officer Marquez and raised his gun toward him. Officer Marquez fired three to four more shots at Zepeda. Officer Marquez’s rifle malfunctioned but he could hear other police officers shooting at Zepeda. Zepeda fell to the ground.

Officer Marquez saw Zepeda on the ground and yelled, “Cease fire!” He started yelling at Zepeda to stay on the ground. Zepeda was moving and started to get back up. Officer Lockner yelled, “He still has his gun!”

Officer Marquez explained, “I mean, at this point, I’m scared already. He’s been shooting at us, shooting at me. I’ve seen the muzzle flash. You know, we shot him. He appeared to be hit. He goes down, and he’s still trying to get up. He hasn’t discarded his gun yet. You

know, he's -- I guess kind of in my head think you're going to -- okay, he got hit, he's going to discard the gun and try to get medical attention, but he's, you know, still trying to fight with us which, you know, really got me nervous to think of what are his intentions here. It seems like he's trying to take, you know, this fight as far as he possibly can."

Zepeda got up again. He appeared to be pacing in the parking lot. At the same time, Officer Donald Ehrhardt and other police officers were running south from the intersection of Garfield Avenue and Cooper Road. Officer Marquez was unsure if those officers could see Zepeda. He and Officer Lockner began shouting at them to go back. Zepeda still had the gun in his hand and raised it toward Officer Ehrhardt and the other officers.

Officer Marquez stated, "As soon as I saw that, I became immediately concerned that he was going to fire at them as he's previously fired at us, and he was a lot closer to them than he was to us, so I thought his likelihood of hitting them was greater. And so I immediately just took aim. He was kind of standing. At this point, he had kind of moved to in front of the vehicle, the Honda that was parked there, and so I didn't have much of a shot so I just took aim for his head which is pretty much all I could really see was upper body and head, and I felt like I needed to do my best in my ability to stop him. And so I fired, I believe, two rounds at him, and other officers fired as well. I heard other officers fire from our position, and then the suspect just dropped down kind of falling backwards and out of my view momentarily." He further explained, "I was scared for them. I know that he had shot at us, and he shot at us from 20, 25 yards or maybe a little more. I don't know. But them? He was probably no more than 10, 15 yards from them. So I was concerned that they were basically easier for him to hit. He had shot at us, so I had no doubt that he was going to shoot at them so I was scared for them, and I wanted to stop him from shooting my partners and my friends." ([Excerpts of Interview of Officer Marquez on October 13-14, 2012, Audio 3 link](#))

Officer Marquez moved up and saw that Zepeda was on the ground. He and other officers yelled at Zepeda to stay on the ground and not move. Another police officer asked Officer Marquez, "What about this suspect?" Officer Marquez looked to his left and saw another subject (Mr. Limon) down in the bushes. Mr. Limon was half on the sidewalk and half in some bushes, and Officer Marquez could only see his legs. Officer Marquez was suddenly concerned that he had been so focused on Zepeda that he had not noticed a second suspect so nearby. He backed away for better cover.

Officer Marquez explained that there were two groups of officers. He, Officer Lockner, and maybe others were in one group near the fence line and there was another group of officers in the street. All of the officers were giving commands and firing their weapons, but at that time Officer Marquez had believed that the officers' commands and fire had all been directed at Zepeda.

One of the officers decided to effect a rescue on the man (Mr. Limon) lying in the bushes. Officers Marquez, Aragon and Brisslinger walked up to the fence line for 506 Cooper Road and kept their weapons trained on Zepeda. Other officers moved Mr. Limon back away from the initial scene for medical treatment. Still other officers approached Zepeda and announced that he was no longer a threat.

Sergeants Williams and Kelley then took control of the scene. Sergeant Williams determined which officers had fired shots and isolated them. He later arranged for them to be transported to the police station.

#### 17. OFFICER ERNIE OROZCO

Officer Ernie Orozco was interviewed by Ventura County Sheriff's Detectives Albert Ramirez and Joe Evans on October 14, 2012, at approximately 9:19 a.m.

Officer Orozco had been an Oxnard police officer for over 29 years. He was assigned to the traffic unit. He was normally assigned to a motorcycle, but he was driving a patrol car that evening as his motorcycle was in for repairs.

On the evening of October 13, 2012, Officer Orozco was eating lunch in the break room at Oxnard Police Department when he noticed several officers run out of the police station. He turned up the volume on his radio and heard radio traffic from Sergeant Brett Smith about blocking off portions of Second Street. He heard radio traffic about subjects not complying with police orders. Sergeant Smith asked for any unit with a pepper ball gun to respond to the scene. Officer Orozco went to the watch commander's office and grabbed two pepper ball gun cases.

As Officer Orozco walked to his patrol car, he heard radio traffic that one of the subjects was hiding his hands. As he drove on Third Street, Officer Orozco heard Sergeant Smith state over the radio that one of the subjects was moving his hands like he had a gun as if to instigate a gunfight and the passengers were telling the driver to leave.

Officer Orozco parked on Garfield Avenue just south of Second Street. He got out of his car and saw Officer Roslynn Wilfert. He asked her what was happening and she told him that the suspects were not being compliant. He looked up and saw a dark Monte Carlo type car with a number of police behind it. He was unable to see anyone in the car but had heard an earlier broadcast regarding a brandishing where the suspect had been wearing a gray sweatshirt.

Officer Orozco began loading the pepper balls into the gun's hopper. He heard someone shout that the car was "taking off." He looked up and saw the dark car driving on Second Street, make a quick right turn onto Grant Avenue and speed away.

Police officers ran to their cars and began chasing after the Monte Carlo. Officer Orozco put the pepper ball guns back into his car and drove north on Garfield Avenue. As he neared First Street, he saw the suspect car turn onto Garfield Avenue in front of him. Two to three police cars were following the car.

The dark car was at full acceleration, then suddenly stopped on Garfield Avenue just as Officer Orozco was crossing First Street. The pursuing police cars also stopped. Officer Orozco parked his car behind the other police cars and started to get out. Somebody yelled, "Gun!" and he heard the sound of a small caliber handgun being fired followed by the sound of a larger caliber handgun or rifle being fired. He immediately realized that the suspects were shooting at the pursuing police officers.

Officer Orozco ran north on Garfield Avenue. He reached the suspect car and saw one officer pulling the driver (Hernandez) from the car and another officer on the passenger side of the car pointing his gun at Hernandez. Officer Orozco continued to hear shots coming from the north, so he continued moving up the street toward the other police officers.

Officer Orozco continued to hear small and large caliber gunshots. He surmised that the smaller caliber shots were coming from the suspects. He ran toward the other officers and the sound of gunfire "to help them out in this gunfight 'cause I'm thinking they're going -- you know, one of us is going to get shot."

When Officer Orozco reached the alley south of 506 Cooper Road, he saw three to four other police officers on his right, between the street and the sidewalk.

Officer Orozco also noticed a man wearing a gray sweatshirt (Mr. Limon) lying on the ground about three to four feet away from him. Mr. Limon was on his left side facing a small brick wall with wrought iron fencing on top. Mr. Limon's left hand was down by his body but his right hand was in the air.

Shots were being fired at Mr. Limon. Officer Orozco saw ricochets coming off the sidewalk and dirt next to Mr. Limon. Mr. Limon was moving toward his right and Officer Orozco heard other officers shouting, "Lay down!" and "Don't get up!" at Mr. Limon. He also heard those officers shouting, "He's got a gun!" and "Watch out for the gun!"

Officer Orozco recalled that there were some rose bushes associated with the wall. He heard the same sound of small arms fire and saw what he believed to be two to three muzzle flashes come from the other side of the rose bushes. He saw what he perceived to be a dark figure (Zepeda) on the other side of the bushes who appeared to be crouched down. He believed that a suspect on the other side of the wall was firing a gun at him and the other officers. Mr. Limon was directly in the line of fire between Officer Orozco and Zepeda.

Officer Orozco was standing in the street and had no cover. He returned fire at Zepeda. He believes he fired four times and characterized his shots as, "I know my first one was low, I know my -- my fourth one was too high. My two and three were level with the -- with the rose bushes so I had -- so after the fourth one I had to bring it down again."

Someone yelled, "Cease fire!" Officer Orozco lost sight of Zepeda. Officer Orozco shouted, "Red, red, red!" to indicate that he needed to reload his handgun. A few moments later, Zepeda moved toward the right front fender of a blue car in the parking lot and then moved to the front of the blue car. Another officer was shouting, "Watch out, he's got the gun, he's got a gun, he still has the gun!"

At the same time, Officer Orozco could see Officer Donald Ehrhardt in the middle of Garfield Avenue directly across from Zepeda. There was approximately 30 to 35 feet between them. A police officer yelled at Officer Ehrhardt to take cover. Zepeda appeared fixated on Officer Ehrhardt which scared Officer Orozco.<sup>41</sup> Zepeda took a few steps in Officer Ehrhardt's direction. Zepeda then raised both hands in a shooting stance and pointed a gun at Officer Ehrhardt. Officer Orozco recalled that he fired three rounds at Zepeda.<sup>42</sup> Other police officers also fired and Zepeda went to the ground.

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<sup>41</sup> Officer Orozco described why he felt Zepeda was fixated on Officer Ehrhardt. "He was trans -- transfixed on Ehrhardt is what I -- the way I looked at him. It's like he was -- I don't want to say he was zombie'd out or something like that but he was just like didn't -- he, you know, he didn't care about his surroundings but strictly just looking straight ahead -- at Ehrhardt."

<sup>42</sup> Officer Orozco was unsure exactly how many rounds he fired during this volley. Evidence collected at the scene shows that he fired a total of 15 rounds.

Officer Orozco explained that he shot at Zepeda the second time because, “If this guy had shot -- had shot, he -- he could have killed Ehrhardt. So I had to protect Ehrhardt.”

Officer Orozco ran over to Ehrhardt and took cover behind a parked car. He had a partial magazine<sup>43</sup> in his handgun, so he shouted, “Red, red, red” to let the other officers know he had to reload. Officer Ehrhardt told Officer Orozco, “I got you covered.” Officer Orozco loaded a full magazine and said, “Green” to indicate he had reloaded. ([Excerpts of Interview of Officer Orozco on October 13-14, 2012, Audio 4 link](#))

The two officers maintained their position until a contact team determined that Zepeda was no longer a threat. Officer Orozco helped mark out a crime scene with yellow crime scene tape. He then remained on scene until he was transported to the police station.

#### 18. OFFICER PEDRO RODRIGUEZ

Officer Pedro Rodriguez was interviewed by Ventura County Sheriff’s Detectives David Brantley and Greg Sharp on October 14, 2012, at approximately 8:27 a.m.

Rodriguez had been a police officer with the Oxnard Police Department for five years. On the evening of October 13, 2012, he and Officer Roslynn Wilfert were assigned to a two-person car patrolling the La Colonia area of Oxnard.

He started his shift later than normal and met Officer Wilfert at the police station at approximately 4:30 p.m. Officer Rodriguez drove the car. At approximately 8:00 p.m., he received a call about Colonia gang members shooting at a “Westside” tagger.

Later that evening, he was driving east on Cooper Road when he observed a black two-door Buick Regal fail to stop at the intersection of Cooper Road and Garfield Avenue.

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<sup>43</sup> A semi-automatic firearm contains a removable magazine which holds ammunition. When a weapon has been fired or the magazine has not been loaded to maximum capacity, it is referred to as a partial magazine.

Officers Rodriguez and Wilfert decided to conduct a traffic stop on the car and the car pulled over in the 100 block of South Garfield Avenue. They both got out of their patrol car and the Buick Regal sped off.

Officers Rodriguez and Wilfert got back into their patrol car and pursued the car. Officer Wilfert advised dispatch that the car had not stopped. The car turned onto Second Street and then stopped east of Grant Avenue. Officer Rodriguez stopped his patrol car directly behind the Buick Regal. Both side windows were down and Officer Rodriguez could see into the car.

He observed three occupants in the car. The front passenger (Villa) and the rear passenger (Zepeda) were wearing baseball caps with a “W” on the front. Villa opened his door and got out of the car. He dropped something on the ground, then turned toward Officer Wilfert. She ordered him back into the car at gunpoint. Officer Rodriguez got out of the patrol car and also ordered Villa to get back in the car. Villa picked up the item he dropped and got back into the car. Villa patted the driver (Hernandez) and yelled, “Take off, homie! Take off, homie!”

Officer Rodriguez noticed Zepeda reaching down between his legs. He began yelling, “Rear passenger, let me see your hands!” Zepeda kept his hands in front of him.<sup>44</sup> Zepeda looked at Officer Rodriguez and “saw me, saw my gun and he didn’t care.”

Officer Rodriguez related that the area where the traffic stop occurred was considered to be the territory of the Colonia Chiques street gang. He recalled the earlier shooting call involving a Colonia gang member shooting at a “Westside” tagger. Officer Rodriguez believed that the occupants of the car were taggers from a “Westside” tagging crew armed with weapons and he was afraid they were going to try to harm him and Officer Wilfert.

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<sup>44</sup> Officer Wilfert recorded the encounter on her personal recording device. Both Officer Wilfert and Officer Rodriguez can be heard repeatedly telling the occupants of the car to put their hands up or they were going to get shot. One of the first assisting officers on scene can be heard telling Zepeda, “Hey, you with ‘W’ hat, if you do anything I am going to shoot you.”

Officer Wilfert requested expedited backup over the radio. Other police officers began arriving at the scene and an unknown officer had Officer Rodriguez move back to better cover. He moved behind his patrol car door and was approximately 10 feet behind the other car.

Officer Rodriguez continued yelling at the occupants of the car to show him their hands. Zepeda displayed his left hand while making a “what?” type of gesture, but would not show his right hand. Officer Rodriguez saw that Zepeda was now wearing a black glove on his left hand.

Hernandez appeared to be “frozen” with his hands on the steering wheel. Officer Rodriguez could hear Villa telling Hernandez to go. Hernandez asked Villa what he wanted him to do and Villa repeated, “Take off, homie, take off.”

Officer Rodriguez yelled at Hernandez to turn off the car and Hernandez turned the car off. Zepeda continued to reach his hands down and out of view. Zepeda then made a full body turn towards Officer Rodriguez and the other officers. He made a gun with his right hand and pointed it sideways -- “gangster style” -- at the officers, and pulled his index finger twice, as if pulling a trigger. Zepeda also simulated the recoil from a gun firing each time he made the trigger pulling gesture.

Zepeda turned and moved his hands out of sight. He appeared to be manipulating his front waistband. Officer Rodriguez again yelled for Zepeda to show his hands. Zepeda turned again and started pointing at the officers behind the car. Officer Rodriguez could see Zepeda’s mouth moving and it appeared as though he was saying, “One right there, one right there” as he pointed at numerous officers. He then observed Villa talking on a cellular phone.

Zepeda reached down, produced a cigarette, and lit it. He passed another cigarette to Villa and lit it with his own cigarette. Officer Rodriguez ordered the driver to throw the

keys out of the car, but Hernandez did not comply. Officer Rodriguez believed that Villa and Zepeda were arguing with Hernandez about fleeing.

The police officers discussed tactics, including getting the “Bearcat” armored vehicle and pepper ball guns brought to the scene of the traffic stop. There was also a discussion about putting spike strips in place to disable the car in case it drove off. Officer Rodriguez advised the other officers that he believed the occupants of the car had a gun based on their action.

Hernandez tried to start the car and it did not start until the second attempt. Then Hernandez accelerated away. Officer Rodriguez got into his car. He had become separated from Officer Wilfert during the traffic stop when she was pulled back by a sergeant who was forming a contact team. Officer Rodriguez, now with Officer Lockner in the passenger seat, drove after the car with his lights and siren activated.

They were driving north on Grant Avenue when the car stopped and blacked out. Officer Rodriguez stopped approximately 30 feet behind the car. He cautioned Officer Lockner that someone may have gotten out of the car. He pointed his car’s spotlight at the car and saw all three occupants were still inside the car. The car then sped away and turned on its headlights.

Officer Rodriguez continued to follow the car as it turned right onto First Street. The suspect’s vehicle lost traction and fishtailed as it turned onto First Street. The car then turned left onto Garfield Avenue. The car continued north on Garfield Avenue and suddenly stopped.

As the car stopped, the front passenger door opened and Villa got out of the car. Officer Rodriguez and Officer Lockner had already gotten out of their car and were moving toward the stopped Buick Regal. Villa immediately fell to the street and rolled, then began running north on the sidewalk. Zepeda then climbed out of the passenger door.

Officer Rodriguez saw that Zepeda was now holding a gun in his right hand. Officer Rodriguez began shouting, "Gun!"

Zepeda was starting to run north. As he ran, he pointed his gun at the officers and fired two shots at them. Officer Rodriguez did not see a muzzle flash but heard the sound of two gunshots. Officer Rodriguez was afraid he was going to get shot and fired four to five shots at Zepeda in response. Zepeda continued running northbound. Officer Lockner ran after Zepeda. Officer Rodriguez stopped shooting when he lost sight of Zepeda.

Officer Rodriguez stopped at the passenger side of the Buick Regal. Hernandez was still in the driver's seat. Officer Rodriguez told him not to move or he would be shot. Hernandez replied, "I'm not going to do anything." Officer Carey Everhart came up to the driver's side of the car, grabbed Hernandez's left hand, and pulled him out of the car. They put Hernandez onto the ground and handcuffed him. Officer Rodriguez patted him down for weapons. Officer Rodriguez stood Hernandez up and Officer Everhart ran north toward the sound of gunfire.

Officer Rodriguez heard a lot of gunfire as he was placing Hernandez in the back of his patrol car. Officer Jacob Jundef arrived on scene and Officer Rodriguez told him to stay with the prisoner. Officer Rodriguez then ran north toward the sound of the gunfire. As he ran, he heard the sound of a bullet pass nearby. Officer Rodriguez was still afraid for himself and Officer Lockner because he knew there were two suspects at large and that at least one of those suspects was shooting at them.

Officer Rodriguez continued north and joined other police officers taking cover on the west side of an SUV parked on the east side of Garfield Avenue. He heard the officers yelling commands at Zepeda who was in a parking lot north of their position. Another individual (Mr. Limon) was lying on the ground in a flower bed near the parking lot where Zepeda was located. He was lying on his back with his arms above his head and his legs down.

Zepeda was getting up off the ground next to the front of a black car in the parking lot. He took a couple of steps, then raised a gun and pointed it in the direction of a uniformed police officer who was walking south on Garfield Avenue. Officer Rodriguez heard several gunshots fired and Zepeda fell to the ground. Officer Rodriguez did not fire his weapon because other officers were between him and Zepeda.

Officer Rodriguez saw that Mr. Limon had blood on him and was breathing. He did not know if Mr. Limon had been shot, but knew that he was in some sort of distress. He told the other officers that they needed to help Mr. Limon. Officer Lockner and Everhart approached Mr. Limon and asked for another officer to help. Officer Rodriguez then assisted in pulling Mr. Limon away from the area of the gunfight.

They moved him a short distance south on Garfield Street and laid him in the street. Officer Lockner checked and told them that Mr. Limon still had a pulse and was still breathing. Officer Rodriguez rolled Mr. Limon onto his side and told Mr. Limon that he was going to be okay. Mr. Limon grunted. Officer Rodriguez then checked Mr. Limon's pulse and could not find one. Officer Lockner started chest compressions on Mr. Limon and Officer Everhart ran to get a CPR mask. He returned and began giving breaths to Mr. Limon. He provided two breaths and then ambulance personnel arrived and took over providing CPR. Officer Rodriguez did not know how Mr. Limon was connected to the shooting.

Officer Rodriguez did not know if the third suspect had been taken into custody and asked out loud where the third suspect was. Officer Lockner responded that he thought the third suspect had fled westbound.

Officer Rodriguez used his flashlight to provide light for the ambulance crew while they worked on Mr. Limon. While he was there, he heard a cellphone ringing. He located the phone lying in a nearby driveway. He marked the phone's location with an interview card. He overheard some officers state that Villa had been located in a residence near the driveway where he had found the phone.

Officer Rodriguez was eventually driven to the Oxnard Police Station with the other officers who had fired their weapons that night.

#### 19. OFFICER MATTHEW ROSS

Officer Matthew Ross was interviewed by Ventura County Sheriff's Detectives Dean Worthy and Jose Lopez on October 14, 2012, at approximately 9:40 a.m.

Officer Ross had been an Oxnard police officer for three years. On October 13, 2012, his shift began at 2:00 p.m. He wore a normal police uniform and was assigned a marked patrol car. He was returning from dropping off a juvenile at Juvenile Hall when he heard radio traffic relating to Officers Wilfert and Rodriguez conducting a traffic stop. He then heard Officer Wilfert request expedited backup in the area of Second Street and Grant Avenue.

Officer Ross perceived stress in Officer Wilfert's voice when she requested expedited backup. He had worked with Officer Wilfert and knew she only requested expedited backup when it was necessary. He activated his lights and siren as he responded to assist.

Officer Ross arrived at the scene and saw a car stopped on Second Street facing toward Grant Avenue. There were 10 to 15 police officers already at the scene. They had their weapons out and some of the officers were yelling for the car's occupants to put their hands up.

Numerous police cars were parked behind the stopped car. The scene was illuminated by the patrol cars' overhead emergency lights and a few of the patrol cars' spotlights.

Officer Ross drew his handgun and approached the patrol car closest to the stopped car. He stood next to Officer Rocky Marquez who was already standing behind the patrol car's passenger door.

There were three males in the car. Officer Ross recognized the rear passenger (Zepeda) from previous police contacts but could not recall his name. He knew that Zepeda was associated with a tagging crew. He explained that tagging crews operated just like street gangs and had the same reputation for violence. He recalled a previous incident involving Zepeda who was suspected of shooting into a residence and into a car from a vehicle. Officer Ross also recalled that Zepeda had been on parole at the time of the previous contact.

The occupants of the car did not appear to be cooperating and were acting very nonchalant, laughing and talking. They lit several cigarettes, which struck Officer Ross as a strange thing to do when police were pointing guns at the car and shouting various commands. He explained, "In my mind I was thinking this is, you know, kind of like is this their last cigarette before they go to jail, or is this the last cigarette before they do something, you know, stupid, you know."

At one point Zepeda turned around and started counting the officers as if he was trying to come up with a plan to harm the officers. Another time, he raised his left hand and simulated a handgun and pointed it at the police officers.

The front passenger (Villa) then made a phone call on his cell phone, which concerned Officer Ross. "It actually alarmed me for, I mean, multiple officer safety reasons. I'm wondering again if he's making a phone call to a loved one to say his goodbyes before he does something. I'm wondering if he's calling, you know, to set up a plan with -- you know, we're in the middle of like, you know, a known gang area, and I don't know if he's calling to set up an ambush or somebody to try to distract us while they do something. Or some type of ambush or setting up a plan where they can run to or what. But there's multiple things that I'm trying to think of what he could be doing."

Zepeda leaned forward toward Villa, who then leaned his seat forward. Officer Ross expected Zepeda to then run from the car, but he did not. Officer Ross heard over the radio that the car may have been involved in an earlier gun brandishing incident. That

information and the behavior of the car occupants made Officer Ross believe that there was at least one gun in the car and that the police had stopped the car after it had committed the brandishing.

The police officers began trying to figure a way to safely end the standoff. The driver (Hernandez) started the car and the car accelerated down Second Street. It then turned right onto Grant Avenue.

Officer Ross ran to his patrol car and headed north towards Garfield Avenue. He heard over the radio that the car had turned north onto Garfield Avenue. Officer Ross saw the car which was being followed by two to three other police cars. Officer Ross followed the other cars north on Garfield Avenue.

Officer Ross saw brake lights from some of the other patrol cars and then heard gunshots from the area where the suspect car had stopped. It sounded to him as if shots were being fired toward the officers by suspects and officers were returning fire. "So immediately I thought that, you know, officers were getting shot at and there's probably an exchange of gunfire and it's obviously an emergency situation. And, you know, my partner's life is in danger. I'm not that far behind. My life is in danger. Everybody behind us really."

Officer Ross stopped his patrol car and got out. He began running north on Garfield Avenue. It was dark but he saw police officers ahead of him also running north on the east sidewalk and another figure running in front of the officers. He passed the stopped suspect car. He noticed that the passenger door was open but he did not see anyone inside. He believed that the officers were chasing after one or more of the suspects from the car. Officer Ross also believed that the location where the car stopped might have been related to the phone calls made by Villa.

Officer Ross arrived near the alley bordering 506 Cooper Road. He heard gunshots from north of his position and gunshots from nearby police officers. He was standing in the

street taking cover behind one of the vehicles parked on the east side of the street. Approximately three other officers were standing in line with him.

Officer Ross noticed a subject in a gray sweatshirt (Mr. Limon) who was lying on his back, slightly turned to the left. He was lying in a planter box next to the sidewalk, about 20 to 25 feet away from Officer Ross. The planter box was next to a low wall which surrounded the parking lot.

Officer Ross recalled that the description of the suspect in the earlier call had been described as wearing a gray sweatshirt. Officer Ross believed, based on Mr. Limon's location and the gray sweatshirt, that Mr. Limon was involved in the traffic stop and shooting. He further believed that Mr. Limon had been the one shooting at the police and that he had been shot by return fire. He was lying on his back, not on his stomach.

Officer Ross explained, "I went around the corner and he's lying down on his back. Kind of based on my training and experience in dealing with people that have been, you know, shooting victims or have been shot or as opposed to somebody that listens to commands, people that we tell to get down on the ground tend to fall towards their chest because they can move that way and they tend to cover themselves and give you know, it's I guess more of a docile position to have their back turned towards us so they can't see and -- and that shows that they're giving up and they don't try to mean us any harm."

Many officers were shouting at Mr. Limon, telling him, "Don't move! Stay down! Don't get up! Stay on the ground!" He heard other officers shouting, "He still has a gun!" Officer Ross did not see any other suspects in the area and could not see Mr. Limon's face or his left hand. He never heard Mr. Limon say anything. He then heard a nearby officer shout, "Red, red, red!" indicating a weapon malfunction or need to reload.

At that point, Mr. Limon "makes kind of like a rolling motion forward towards his right side at the same time he brings his hand up. And I could see when -- I could kind of see his hand, and it seemed like he was holding a weapon based on kind of the way his hand

was formed. It wasn't out flat. I could see that much. I could see it was kind of curled up like he was possibly gripping something. Then at that time I -- I feared he was going to shoot us again. I feared he was going to, you know, maybe like a last ditch effort to try to kill us and take us out as kind of like a last hurrah or whatever, and I feared for my life, and I feared for my officers' lives, and I fired one time at him to end the threat because I thought we were going to get shot at or killed."

Officer Ross explained the timing of the encounter as, "It was pretty much I came up and immediately that's when he [Mr. Limon] started moving." Officer Ross fired one time. After he fired, he heard other police officers firing their weapons. Mr. Limon lay back down and Officer Ross began yelling, "Stop firing!" Other officers kept firing their weapons and Officer Ross could not understand why they were still shooting. He looked to the north and then saw another guy (Zepeda) stand up and start pacing next to a car in the parking lot. He recognized him as the rear passenger in Hernandez's car.

The way Zepeda was pacing made Officer Ross think he was trying to build courage for shooting at the officers again. Other officers were shouting at Zepeda to put the gun down and put his hands up.

Officer Ross then noticed Officer Ehrhardt walking south on Garfield Avenue. The building at 506 Cooper Road was blocking Officer Ehrhardt's view of Zepeda. Officer Ross yelled at Officer Ehrhardt to warn him about Zepeda, but Officer Ehrhardt did not seem to hear.

Officer Ehrhardt cleared the building and was in the middle of the street just west of Zepeda. He was out in the open with no cover between him and Zepeda. Zepeda raised his right hand to point at Officer Ehrhardt and Officer Ross fired one shot at Zepeda. Other officers around him shot at the same time and Zepeda fell to the ground.

Shortly after Zepeda went down, an unknown officer stated that Mr. Limon was not a suspect and had been caught in the middle of the gunfight. Officer Ross then said that

they needed to perform a rescue on Mr. Limon. Officer Ross and Officer Stiles moved up to cover Zepeda while Officers Lockner and Everhart carried Mr. Limon out of the line of fire.

Another group of officers contacted Zepeda and determined that he was no longer a threat. The officers then tried to figure out if there were any suspects who were still at large and could still pose a threat to them. Other officers dealt with the medical personnel and taking the third suspect into custody.

Officer Ross was then contacted by Sergeant Williams, who obtained public safety statements from all of the shooting officers. Officer Ross told Sergeant Williams that he had fired four rounds, but after reflecting, believed that he had only fired two rounds. The shooting officers were moved apart from the other police officers on scene and then were transported to the police station.

## 20. OFFICER ZACHARY STILES

Officer Zachary Stiles was interviewed by Ventura County Sheriff's Detectives Matthew DeLaHuerta and Todd Inglis on October 14, 2012, at approximately 10:35 a.m.

Officer Stiles had been an Oxnard police officer for three years. On the evening of October 13, 2012, Officer Stiles was assigned to the La Colonia beat along with partner Carey Everhart. Just prior to the shooting incident, they had responded with another unit to a report of a possible burglary at train station on Fifth Street. They were preparing to enter the station when they heard Officer Wilfert broadcast about a car failing to yield for a traffic stop.

They entered the building, then they heard Officer Wilfert request expedited backup. Officer Stiles told the other officers, "Let's go! Let's expedite!" and ran to his car. Officer Everhart had already started the engine so Officer Stiles jumped into the patrol car and they tried to figure out the best route to reach the traffic stop.

Officers Stiles and Everhart's patrol car was the third or fourth patrol car to respond. Officer Stiles saw five or six police officers on scene. They had their weapons drawn, were using police cars for cover, and were shouting at the occupants of a car stopped in the road to show their hands to the police.

Officer Stiles noticed that the officers were all bunched up. He and Officer John Brisslinger moved away from the patrol cars, taking a position behind a van parked on the north side of the street.

Officer Stiles was able to see three occupants of the car: two in front (Hernandez and Villa) and one in the back (Zepeda). He noticed Villa was wearing a baseball cap with a "W" on it. All three of the occupants appeared to be moving around in the car and were not complying with the police orders to show their hands.

Officer Stiles recalled that he had earlier heard about a brandishing incident where one of the individuals said "Westside." Officer Stiles had initially been confused, but when he saw the "W" hat Villa was wearing, he assumed all three of the car's occupants were claiming "Westside" as a gang and were doing something in a rival gang's territory.

Officer Stiles assumed that there was a gun in the car and became concerned about the possibility of gunfire. Although he thought about retrieving his shotgun from the police car, he did not want to leave Officer Brisslinger alone, so he stayed in his position.

Officer Stiles saw the subjects in the vehicle moving around a lot. The front passenger was talking on the phone and both passengers were motioning with their hands for the driver to drive away.

The rear passenger (Zepeda) was wearing a rubber glove on his hand. Zepeda turned toward the police officers and pointed his hand at them like it was a gun. Officer Stiles initially thought Zepeda was actually holding a gun. He believed Zepeda was counting

the number of officers to see if he would be able to run away or would have to get into a shootout with the police.

Hernandez began speaking on a cell phone and the other two passengers started smoking cigarettes. Officer Stiles believed that the passengers were taunting the police by smoking. He was very concerned because the car's occupants acted differently than in any other stop he had been a part of in the past.

The driver was ordered to throw the keys out of the car and to exit. Instead, Hernandez started the car and drove west on Second Street, then turned north onto Garfield Avenue. Two police cars followed the suspect car. Officer Stiles looked for Officer Everhart but could not find him. He got into their patrol car and drove after the other cars.

He was about two blocks away when he heard gunshots in the distance. He heard a radio broadcast that shots had been fired as he reached First Street. He was concerned that his fellow officers were in a shootout.

Officer Stiles stopped on Garfield Avenue and heard more gunshots as he began to exit his car. He grabbed his shotgun, loaded it, and took the safety off. He started running northbound and again heard more gunshots.

He reached the other police officers who were near 156 Garfield Avenue and saw a man on the ground (Mr. Limon). Officer Stiles assumed that Mr. Limon was a suspect because he had been shot. He could see that Mr. Limon was still moving and focused on identifying whether or not Mr. Limon had a gun and whether or not he posed a threat to Officer Stiles and the other officers. Officer Stiles then heard another police officer say, "This guy over here still got a gun. He's got a gun."

Officer Stiles could not see any other suspect, so he moved to his left and into the street. Officer Ross moved with him. Officer Stiles looked into the parking lot at 506 Cooper

Road and saw the rear passenger from the traffic stop—Zepeda — stand up in front of a green Honda.

Zepeda was approximately 60 to 75 feet away from Officer Stiles. Officer Stiles realized that the distance was too large for the buckshot in his shotgun to be effective, so he ejected the chambered buckshot round and replaced it with two slug rounds.

Zepeda moved his arms as if he was pointing his gun at other officers who were north of Officer Stile's position. "And so, at that time, I felt like I was, you know – I – he was in a very close proximity to where – from what I felt to the other officers, and I thought for sure he was standing up getting a line of sight and getting ready to shoot them so I fired twice."

He further explained why he shot at Zepeda. "He was going to shoot them. I was afraid for their lives. . . . They said that guy's got a gun over there, and so I'm like, okay, well, how am I going to provide help to the other officers?"

Other officers fired their weapons at the same time. Zepeda then fell to the ground. Officer Stiles was concerned because he could not see Zepeda and was afraid he might get back up. Other officers spoke about performing a rescue on Mr. Limon. Officer Stiles and Officer Matthew Ross provided cover for the other officers as they carried Mr. Limon to a safer spot to perform CPR.

After the rescue, Officer Stiles moved his position and saw Zepeda down in the parking lot. He recalls hearing someone say, "Cease fire."

## 21. PARAMEDIC SUPERVISOR JEFFREY SHULTZ

Alfonso Limon, Jr., was pronounced dead at approximately 10:34 p.m. on October 13, 2012, by Gold Coast Ambulance Paramedic Supervisor Jeffrey Shultz. Mr. Shultz was interviewed by Ventura County Sheriff's Detective Dan Ambarian at approximately 5:00 p.m. on January 8, 2013.

Mr. Shultz stated that he and his ambulance crew responded to the area of Garfield Avenue and Cooper Road on October 13, 2012, for a call relating to an officer involved shooting. When he arrived, an unknown police officer led them to a male subject lying in the street (Alfonso Limon, Jr.). Mr. Shultz noticed that Mr. Limon had multiple gunshot wounds and that a police officer was performing chest compressions on him.

Mr. Shultz connected Mr. Limon to a cardiac monitor and examined him. He determined that Mr. Limon was dead and made that pronouncement. He did not assist any other patients that day.

## 22. PARAMEDIC DAN PETERS

Jose Zepeda, Jr., was pronounced dead at approximately 10:32 p.m. on October 13, 2012, by Gold Coast Ambulance Paramedic Dan Peters. Mr. Peters also treated Justin Villa at the scene after he was apprehended. Mr. Peters was interviewed by Ventura County Sheriff's Detective Dan Ambarian at approximately 3:55 p.m. on January 9, 2013.

Mr. Peters stated that he and his ambulance crew responded to a shooting call in Oxnard on October 13, 2012. They staged in the area of Cooper Road west of Garfield Avenue. He noticed numerous police officers taping off a crime scene and a big crowd of people. He was contacted by an unknown officer and told there were two patients, one possibly deceased. Mr. Peters then called for a second ambulance crew. Mr. Peters then approached the first patient (Zepeda), who was located in a parking lot at the intersection of Garfield Avenue and Cooper Road. The second crew approached the second patient (Mr. Limon), who was lying on Garfield Avenue approximately 10 feet in front of a Buick Regal (Hernandez's car).

An officer stood nearby Zepeda's body lying supine on the ground of the parking lot. A handgun and a blood trail lay nearby. Zepeda had a gunshot wound to the head. He was unresponsive, not breathing, and did not have a pulse. Mr. Peters connected Zepeda to a

cardiac monitor, determined that he was dead, and made the pronouncement. He was then asked to stage because a third suspect had not been located.

Shortly thereafter, Mr. Peters was asked to return to the scene to render first aid to “the guy who got bit by a [the police] dog” (Villa). Mr. Peters contacted Villa in the front yard of a house one to three houses south of the Buick Regal. Villa was handcuffed and had dog bite lacerations as well as a gunshot wound to the leg. Villa was semi-cooperative. He did not recall Villa making any statements. He treated Villa, loaded him into the ambulance, and transported him to Ventura County Medical Center.

### 23. MELISSA OLSON

Melissa Olson was interviewed by Oxnard Police Detectives Jeff Kay and Gordon Currie on November 8, 2012. Ms. Olson described herself as Jose Zepeda, Jr.’s “informal mother” after his family abandoned him. Zepeda had been living with her and her son for the past three years.

Ms. Olson stated that Zepeda could not read or write. She further stated that Zepeda’s nickname “Troll” was given to him by his grandmother because his hair looked like a troll doll.

Ms. Olson acknowledged that Zepeda associated with members of the DWK tagging crew in the past and fought various gang members while staying in county jail. He had a reputation as an aggressive fighter.

Zepeda had told her he did not want to go back to prison and was “very suicidal.” The day before the shooting, Zepeda told her he had gotten a tattoo of a toe tag on his foot “so when he died they can identify his body.”

Ms. Olson explained the circumstances behind the shooting that she had learned from friends of the participants. She stated that Zepeda believed there was a warrant for his

arrest for not reporting to his parole officer and he was afraid he was facing 25 years to life in prison.

Zepeda was trying to collect money owed to him by a person named "Richard." Richard dropped Zepeda off in La Colonia and Zepeda asked for Richard's gun to hold until he returned with the money. Zepeda did not believe Richard would return, so he called Hernandez to pick him up in his car. She described Hernandez as a person who would help Zepeda if he was in trouble. Ms. Olson was not sure how Villa was picked up.

Ms. Olson spoke about the traffic stop that preceded the shooting. She stated that Zepeda and Villa were urging Hernandez to drive from the police but Hernandez did not want to get into a pursuit. Zepeda did not want to go back to jail because of the gun in the car. Hernandez was upset that they had involved him in a situation with the police. The three argued in the car about what to do and ignored the police commands because they were arguing.

### III. PHYSICAL EVIDENCE

#### A. GARFIELD AVENUE

The Ventura County Sheriff's Office, Major Crimes Unit undertook an exhaustive search of the crime scene which extended almost the entire block on Garfield Avenue between Cooper Road and First Street. After an extensive search for bullets, bullet strikes, and expended casings, 63 expended casings were recovered from the crime scene. Four of those casings were recovered from the cylinder of the revolver which Zepeda fired at the police. All crime scene evidence was measured, photographed, and diagrammed before it was removed from the crime scene for further analysis.

Approximately 53 bullet strikes were located in the parking lot of 506 Cooper Road, and four additional bullet strikes were located on vehicles parked on the east side of Garfield Avenue. Some of the bullets fired may have caused multiple strikes. One of those bullet strikes was from a small caliber bullet which struck the passenger side mirror of an SUV

and had been fired in a southward direction consistent with Zepeda firing at pursuing officers.

All of the bullets and bullet fragments recovered from the Medical Examiner's Office were obtained and booked into evidence. All crime scene bullets, fragments, casings, magazines and firearms were recovered and all firearms were test fired and found to be operable by Forensic Scientists Janey Dunn and James L. Roberts of the Sheriff's Office Forensic Sciences Laboratory. The tested firearms included: two .223 caliber Colt M16A2 Commando select-fire rifles, (Officers Aragon and Marquez), four 9 mm Luger caliber, Beretta model 92FS semi-automatic pistols (Officers Brisslinger, Ehrhart, Orozco and Rodriguez) , two .45 auto caliber, Glock Model 21 semi-automatic pistols (Officers Ross and Lockner), and one 12 gauge Remington 870 Police Magnum pump action shotgun (Officer Stiles). The analysis also included the .22 Magnum caliber Ruger revolver used by Zepeda and the .380 caliber, Walther PPK/S semi-automatic pistol and magazine recovered from the suspect vehicle.

On July 29, 2013, Roberts completed a trajectory analysis of the projectile strikes in and around the crime scene as well as bullets recovered from the bodies of Mr. Limon and Zepeda. This exhaustive examination included the ballistics examination of all recovered projectiles, and the identification of each bullet and casing to the weapon used. Dunn also completed additional reports regarding the involved weapons. The specific findings of the Sheriff's Office Forensic Sciences Lab are documented where relevant within the body of this report.

A black two-door Chevrolet Monte Carlo was parked in the northbound lane of Garfield Avenue, immediately adjacent to 136 Garfield Avenue.<sup>45</sup> Both doors were open and the keys were in the ignition. Police searched the car pursuant to a search warrant and recovered a cell phone and a Walther PPK .380 caliber semiautomatic from the middle of the front bench seat. The cell phone was connected to a charger. The handgun's grip was

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<sup>45</sup> A certificate of title for the Monte Carlo was located in Hernandez's apartment during a search warrant executed on October 18, 2012.

facing the driver's side and the barrel was tucked between the bottom and back cushions of the bench seat. The handgun's magazine contained six live rounds, but none were chambered.<sup>46</sup>

A black glove and an unsmoked cigarette were located on the rear bench seat, along with a child's booster seat. A pair of sunglasses, a "W" hat and a partially smoked cigarette were located on the rear floorboard.

Officer Rodriguez's patrol car was stopped a little less than one car-length behind the Monte Carlo. Eight expended .45 caliber casings were located in a fairly tight cluster in the front yard and sidewalk of 136 Garfield Avenue.<sup>47</sup> Three expended 9mm casings were located behind the Monte Carlo on the eastern side of Garfield Avenue in front of 136 Garfield Avenue. Those casings were several feet behind the .45 caliber casings.<sup>48</sup> A flashlight was also located along the eastern curb near 136 Garfield Avenue.<sup>49</sup>

Officer Brisslinger's patrol car was stopped approximately one car length in front of the Monte Carlo. Two expended 9mm casings were located on the east side of the street several feet behind the patrol car.

A cell phone belonging to Justin Villa was located about half way up the driveway, and a CPR breathing mask was located on the northern curb of the driveway at 148 Garfield Avenue.<sup>50</sup>

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<sup>46</sup> There were no identifiable prints on the handgun. However, DNA from the pistol's grip is a mixture of at least two people with one major profile identical to the DNA profile of Justin Villa. Both Zepeda and Hernandez were excluded as possible contributors. The cell phone is believed to be Hernandez's based on its location within the vehicle and the recovery of Villa's cell phone at the scene and Zepeda's cell phone from his clothing.

<sup>47</sup> Officer Lockner was armed with a .45 caliber handgun and the casings are believed to be from his initial shots at Zepeda. Officer Lockner's handgun ejected empty casings to the right, thus he would have been west of those casings when he fired.

<sup>48</sup> Officer Rodriguez carried a 9mm handgun and these casings are believed to be from his shots fired at Zepeda. As his weapon ejected empty casings to the right, the location of those casings indicate his approximate location in the street when he fired the rounds.

<sup>49</sup> Officer Stiles dropped his flashlight as he ran to 506 Cooper Road.

<sup>50</sup> Mr. Limon was carried to the street in front of 148 Garfield Avenue, where he was given first aid until he was pronounced dead by paramedics.

Three expended 9mm casings were collected from the street in front of 156 Garfield Avenue.<sup>51</sup> Three .223 caliber expended casings and a single .45 caliber expended casing were located in the yard to 156 Garfield Avenue. Three additional .45 caliber casings were located on the sidewalk in the front of that address.

A red Jeep Liberty was parked on the eastern curb in front of 154 North Garfield Avenue. An empty .45 caliber magazine was located on the curb behind the right rear tire of the car. Three expended .45 caliber casings and one live .45 caliber round were located on the sidewalk and in the curb just behind the empty magazine.<sup>52</sup> Five expended .45 caliber casings and six expended .223 casings were located in the yard of 154 Garfield Avenue. Five of the .223 casings and two of the .45 caliber casings were next to each other in a very tight cluster.

Twenty expended 9mm casings were located in the street next to and behind the Jeep Liberty.<sup>53</sup> An empty 9mm magazine was located in front of the left front tire, and four expended .223 casings were located along the left side of the SUV.<sup>54</sup> One live shotgun round was located against the curb just north of the Jeep Liberty, and two expended shotgun shells were located in the middle of the street even with the northern side of the alley.<sup>55</sup> One expended .45 caliber casing was located in the gutter next to the live shotgun round and another expended .45 caliber casing was located on the sidewalk a few feet north of the shotgun shell and casing.<sup>56</sup>

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<sup>51</sup> The house numbering on the street is misleading in that 154 Garfield and 156 Garfield are both part of the same structure. 154 Garfield is actually located north of 156 Garfield and was the part of the structure bordering the alley south of 506 Cooper Road.

<sup>52</sup> Officer Lockner stated that he reloaded while pursuing Zepeda and this would be the location where he reloaded as Officer Marquez continued past him.

<sup>53</sup> Officers Brisslinger, Orozco and Ross all carried 9mm handguns and were located west of the Jeep Liberty.

<sup>54</sup> Officer Orozco stated that he reloaded twice during the shooting. Officer Aragon was armed with a .223 rifle and the .223 casings are believed to be from his shots at Mr. Limon.

<sup>55</sup> Officer Stiles stated that he ejected a buckshot shell, loaded two slug shells, and fired twice while he was standing in the street.

<sup>56</sup> Officer Ross carried a .45 caliber handgun and the two .45 caliber casings are most likely from the two shots he fired.

A single expended 9mm casing was located in the street just west of the driveway to 506 Cooper Road.<sup>57</sup> Zepeda's body lay at the top of the third northern parking stall in the parking lot. Approximately six feet from his body was a Ruger .22 caliber revolver which was loaded with four expended casings. Numerous spent bullets were recovered from the parking lot. Among those bullets was a spent .22 caliber bullet which was consistent with having been fired by the Ruger revolver.

## B. SURVEILLANCE VIDEO

The building at 506 Cooper Road was outfitted with seven surveillance cameras. Four of those cameras captured video of the incident as it occurred: Cameras 1, 2, 3, and 7.<sup>58</sup> Camera 2 provided the best view of the incident. A time stamp on the surveillance video shows that only one minute and 39 seconds passed between Gerardo Limon beginning to run across the street and Zepeda falling to the ground after the final volley of shots.<sup>59</sup>

- Camera 1 faced west and showed the area of the parking lot around the front of the car where Zepeda took cover as he fired at the police.

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<sup>57</sup> Officer Ehrhardt carried a 9mm handgun and this casing is believed to be the shot Ehrhardt fired after seeing Zepeda raise his hands into a shooting stance.

<sup>58</sup> Camera 3 was located on the southern wall of the complex which blocks any view of Zepeda once he ran into the parking lot. Parked vehicles, the block wall and vegetation block any view of Mr. Limon or the officers. Camera 4 is mounted on the north part of the building bordering Cooper Road and looks east along Cooper Road. Camera 6 is mounted on the southern wall bordering the alley but only looks at the very southeastern portion of the parking lot. Camera 5 was operating, but due to its location, failed to capture any of the events. Some of the surveillance cameras were motion activated and did not capture all of the incident.

<sup>59</sup> The surveillance video system was run through a computer. The surveillance video time stamp was generated from the computer's BIOS (Basic Input/Output System). The BIOS clock was checked against a local cellphone clock which indicated the timestamp was reading approximately 19 minutes and 19 seconds slower than the actual time. Using that 19 minute time difference, it was possible to estimate the approximate actual time of the events captured on the surveillance video. As described in "Zepeda – Limon – Villa OIS Report" authored by use-of-force expert George T. Williams on May 30, 2014, the image capture rate as measured in frames per second is different for each video. Therefore, a comprehensive combined timeline composite which incorporates all videos cannot be definitively established.

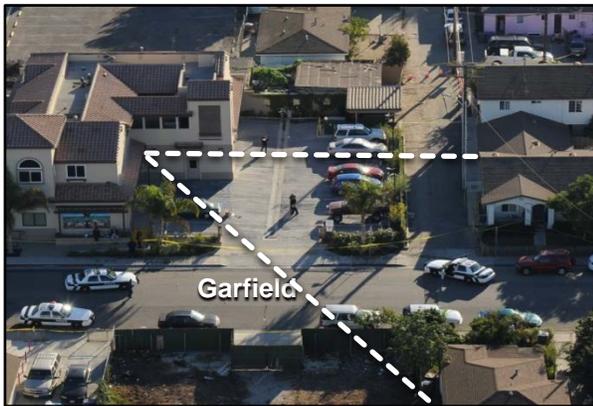


Approximate angle covered by Surveillance Camera 1



Screenshot from Surveillance Camera 1

- Camera 2 faced southwest from the parking lot toward Garfield Avenue and captured Zepeda as well as several officers. (The officers' actions and Mr. Limon are obscured by lights, the block wall, and foliage on the south side of the alley).



Approximate angle covered by Surveillance Camera 2



Screenshot from Surveillance Camera 2

- Camera 3 is further east and captured Gerardo Limon sprinting towards the east side of Garfield Avenue and Zepeda running into the parking lot.

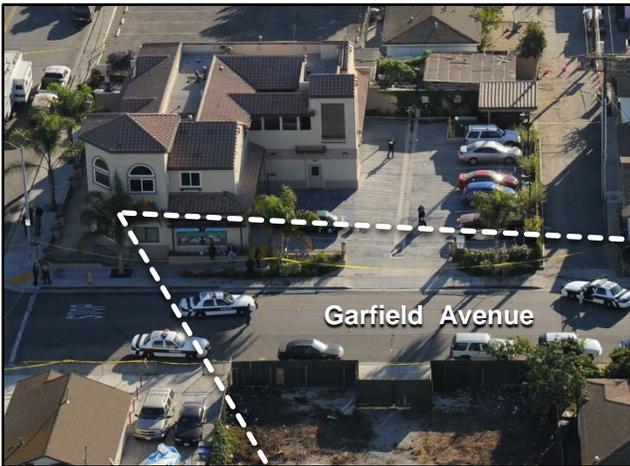


Approximate angle covered by Surveillance Camera 3



Screenshot from Surveillance Camera 3

- Camera 7 faced south on Garfield Avenue and captured the Limon brothers walking south on Cooper Road. However, glare, most likely from a police spotlight, obstructs any view of the incident other than Gerardo Limon running across the street.



Approximate angle covered by Surveillance Camera 7



Screenshot from Surveillance Camera 7

The surveillance video from camera 2 shows the Limon brothers walking south on the eastern sidewalk of Garfield Avenue. At 10:03:59, they had begun walking through the driveway to 506 Cooper Road. Reflections from police emergency lights had just

appeared on vehicles which were parked nearby. At 10:04:07, Gerardo Limon ducked down and began running across the street. Alfonso Limon, Jr., appeared to take a couple of additional steps and then moved downward and out of sight. His position is completely blocked by foliage on the southwestern corner of the parking lot.

At 10:04:13, Zepeda was first visible running north on the sidewalk past the location where Mr. Limon went to the ground. He ran into the parking lot and, by 10:04:18, he was hunched down next to the right front fender of a green Honda parked in the parking lot. He crouched down and moved to the right rear passenger door of the Honda, looking south down Garfield. At 10:04:25, Zepeda stood and raised his gun with both hands, pointing south. At 10:04:27, it appeared as though he fired one shot at the southwest corner of the parking lot. Overhead emergency police lights were visible in the direction he was pointing.<sup>60</sup>

No police officers were visible at that time but several bullet strikes appeared near Zepeda. At 10:04:30, Zepeda fell backward onto the ground while still pointing the handgun south with his left hand. He fell into a backward somersault, rolling backward halfway, and then kicked forward. At 10:04:32, he fired his handgun southwest as he moved forward. More bullet strikes were visible near him. He rolled left and lay on his back. He appeared to be clutching at his stomach area.

Zepeda still had the gun in his left hand. At 10:04:44, he climbed onto his knees and pointed his gun in the direction of the southwest corner of the parking lot. Several bullet strikes impacted around him and he fell to his left.

Zepeda lay on the ground, supported by his right elbow. At least three police officers were visible in the middle of Garfield Avenue south of the alley and next to a parked

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<sup>60</sup> There is what appears to be smoke next to his gun during what may be the first shot he fired in the parking lot, but there is no muzzle flash and the “smoke” may very well be glass in the Honda shattering from a strike by a police bullet. Two shots from his gun are accompanied by a distinct muzzle flash.

vehicle.<sup>61</sup> While lying on the ground, Zepeda pointed his gun two separate times at the southwestern portion of the parking lot. Each time he pointed his gun, bullet strikes impacted near him.

At 10:04:50, Zepeda dropped the gun onto the ground and rolled onto his stomach. He slowly moved to all fours and lay on his stomach, with his head pointing southwest. He picked up the handgun and, at 10:05:04, again pointed the handgun at the southwestern corner of the parking lot while lying on his stomach.

At 10:05:13, Zepeda let go of the gun and lay still on the ground. At 10:05:21, he began moving to all fours, then stood and walked to the right front of the Honda. He leaned down, resting his left hand on the hood of the Honda and his right hand on the cement base of a lighting fixture in front of the Honda.

At 10:05:37, a patrol car pulled adjacent to Zepeda with its emergency lights activated. It backed up and a second patrol car with its lights activated parked next to it. At 10:05:43, Zepeda stood. At 10:05:44, he raised both hands in a shooting stance and pointed them in the direction of the two patrol cars as one of the police officers began exiting a patrol car. Police were visible on Garfield Avenue southwest of the parking lot and several fired their weapons.

At least one bullet strike immediately appeared on the Honda's windshield. Zepeda dropped his hands and began turning toward the front of the Honda. At 10:05:46, Zepeda began falling to the ground. He fell in an uncontrolled manner, ending on his back with his hands covering his face. His hands then fell next to his head and there was no further movement from Zepeda.

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<sup>61</sup> The vehicle and the officers are not discernible on the video but, based on photos, the bystander video and the officer interviews, the surveillance video depicts Officers Aragon, Brisslinger, Orozco and Ross standing next to a red Jeep Liberty which was parked just south of the alley below 506 Cooper Road.

Police officers were visible west of Zepeda's body, taking cover behind their patrol cars. More patrol cars appeared adjacent to the parking lot and police officers were visible behind some of them. At 10:07:03, a patrol car drove to the northeastern corner of the alley and police officers can be seen moving around that patrol car.<sup>62</sup> At 10:09:57, four police officers, including Officer Ehrhardt, approached Zepeda with their guns drawn. They inspected the area and, at 10:10:21, determined that Zepeda was no longer a threat. ([Surveillance Camera 2, Video 1 link](#))

### C. BYSTANDER VIDEO

This office was able to obtain video of the encounter which appears to have come from two separate cell phones. Both of these videos appear to have been shot from the front yard of 153 Garfield Avenue. The videos show witness Valentina Garcia with what appears to be a cell phone in her hands, but it is unclear if she was taking still photos or video of the incident. Ms. Garcia and the other individuals who are identifiable through the videos have refused to be interviewed about the video recordings of the incident.<sup>63</sup>

One of the videos is one short continuous clip, 1 minute and 32 seconds in length. It appears to begin after Mr. Limon was shot and captured the final round of shots fired at Zepeda.<sup>64</sup>

The second video is actually a number of individual clips. The total length of all of the clips in the second video is 3 minutes and 30 seconds, but only one minute and five seconds of it captured the shooting. Because the clips were not continuous, it is impossible to create a clear timeline from the bystander video.

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<sup>62</sup> The patrol car pulled in at an angle just north of the red Jeep Liberty and was the patrol car brought in to give the officers cover to pull Mr. Limon back to a safe area to provide first aid.

<sup>63</sup> Ms. Garcia was interviewed the morning after the incident but she answered reluctantly and provided minimal information. She has refused any further requests to speak with the police or the District Attorney's Office.

<sup>64</sup> The same video was posted on YouTube.com under the title of *Oct. 13, 2012: Alfonso Limon, Jr. shot to death by the Oxnard Police.*

The first video clip was 16 seconds long. It began with a female voice asking, “What’s going on in the hood,” followed by a male voice, believed to be Isaac Garcia, who responded, “Oh, we’ve got some cops out here right now.” The video showed two marked patrol cars parked in a street without their emergency lights on. They were probably Officer Ehrhardt and Officer Zavala’s patrol cars parked in the street when they responded to the 100 block of Grant Avenue.<sup>65</sup> The video shows three women (including Leticia Garcia) and a small child in the same yard as the person shooting the video.

The second clip was 58 seconds long. It began with a moving camera and the sound of gunshots. Several officers could be seen standing next to a red SUV (Jeep Liberty) with their guns extended.<sup>66</sup> Gunshots were audible but there were no discernible muzzle flashes from the visible officers’ weapons. It is possible that this gunfire included the shots at Mr. Limon but the video does not provide conclusive evidence.

At approximately 28 seconds, Mr. Limon became visible, lying in the planter next to the sidewalk. He did not appear to be moving. The women in the video and Mr. Garcia began shouting at the police officers “Stop!” while the officers were firing. The camera moved to Gerardo Limon, standing on the sidewalk, who shouted, “He’s my brother, he has no gun!”

Gerardo Limon began walking south on the sidewalk and asked for the people filming to call an ambulance for his brother. Mr. Garcia stated, “Get in here, get in here!” but it is not clear who he was addressing. Mr. Limon told them that he and his brother were simply walking home. He then walked south out of camera view.

At approximately 50 seconds, Valentina Garcia jumped the fence from their yard and walked into the street. Isaac Garcia and an unknown woman’s voice yelled, “Valentina, get back here.”

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<sup>65</sup> 153 Garfield has a yard and driveway that extends all the way to Grant Avenue.

<sup>66</sup> Officers Aragon, Brisslinger and Orozco are identifiable in the video as three of the officers standing to the west of the Jeep Liberty.

The third clip was 54 seconds long. It began with Zepeda standing at the front of the Honda in the parking lot. The wall behind him was very bright and he appeared as a backlit shadow. Officer Stiles was visible in the middle of the frame with a shotgun and Officer Ross was standing next to him. Valentina Garcia is visible in the bottom of the frame standing in the street holding what appeared to be a cell phone. Zepeda raised his hands in a shooting stance pointing west and there was a loud volley of gunfire. Officer Stiles fired twice and Officer Ross fired one time. Zepeda fell out of the camera view and there was no more shooting.

Mr. Garcia screamed, “Stop!” and then repeated, “Stop,” quietly. It does not appear that the people with the video cameras were aware that Zepeda was in the parking lot next to the Honda.<sup>67</sup> Police officers yelled, “He’s down,” and an unknown female voice also yelled, “He’s down!” A female voice yelled, “Valentina, get the fuck inside.”

Fifteen seconds into the clip, the camera panned north to reveal police officers in the middle of Garfield Avenue, just west of Zepeda’s last position. Officer Orozco ran west to take cover behind cars on the west side of the street.

The voices spoke about how scary the situation was and the camera panned to officers who were illuminating Mr. Limon with their flashlights. The voices are heard asking each other where the police were shooting and Mr. Garcia responded, “They’re shooting at that car right there.” ([Bystander Video 2 link](#))

The fourth clip was 24 seconds long. It began with the police officers who had been brought in to cover the rescue of Mr. Limon standing near the patrol car on the east side of Garfield Avenue. An officer was visible crouching next to the front left fender of the patrol car with his gun pointed toward the parking lot, and another officer behind him standing behind the open driver’s door. Twenty seconds into the clip, two officers

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<sup>67</sup> When Valentina Garcia was interviewed on October 14, 2012, she only identified Mr. Limon as the person all of the police were shooting at. She denied seeing the police shoot at any other person.

appeared holding Mr. Limon's arms and legs and pulling him back from the planter. The voices on the camera began protesting them moving Mr. Limon and the clip ended.

The fifth clip was 54 seconds long. It began with the camera focused at the "rescue" patrol car and the Jeep Liberty on the east side of Garfield Avenue. The camera panned around the scene. Mr. Garcia stated, "There's someone -- there's someone over on the ground behind the red car, huh?" The camera panned around the scene and three officers became visible pulling Mr. Limon several car lengths from the greenbelt where he had come to rest after having been shot.

The sixth clip was 2 seconds long and showed two police officers next to Mr. Limon. One of the officers was standing and the second officer was crouched down with his hands reaching toward Mr. Limon's chest. The clip is too short to tell exactly what the officer was doing.

The seventh clip was 1 second long and appeared to be an out of focus shot of a helicopter in the sky.

#### D. ALFONSO LIMON, JR.

On October 15 and 16, 2012, Ventura County Chief Medical Examiner Jon J. Smith, M.D., conducted an autopsy on Alfonso Limon, Jr. Dr. Smith found that Mr. Limon died from multiple gunshot wounds and ruled that the killing was a homicide, which is defined as a death at the hands of another.

Dr. Smith determined that Mr. Limon suffered 21 distinct gunshot wounds. A single bullet caused more than one impact on at least 10 of those wounds. Dr. Smith numbered the wounds, as a means of describing the wounds, but not meant to identify the order in which the injuries occurred.

- Gunshot wound 1 - Was a grazing wound to the left upper back.

- Gunshot wound 2 - Entered on the middle of the left buttock and traveled up and toward the front of Mr. Limon's body. There was no corresponding exit wound.
- Gunshot wound 3 - Was a grazing of the right middle buttock which appeared to be associated with the path of the bullet recovered in gunshot wound 2.
- Gunshot wound 4 - Entered Mr. Limon's left middle buttock, with no exit wound.
- Gunshot wound 5 - Was another separate wound which entered Mr. Limon's left middle buttock, with no exit wound.
- Gunshot wound 6 - Was caused by a bullet which entered the right middle buttock and exited  $\frac{3}{4}$  of an inch from the entrance. Gunshot wound 6 appeared to be associated with gunshot wound 5, in that the bullet entered and exited in gunshot wound 6 and then re-entered Mr. Limon's body in gunshot wound 5.
- Gunshot wound 7 - Entered Mr. Limon's outer left buttock and did not have an exit wound.
- Gunshot wound 8 - Was a grazing wound to Mr. Limon's left upper thigh.
- Gunshot wound 9 - Entered the sole of Mr. Limon's left foot, fracturing the left heel, and did not have an exit wound.
- Gunshot wound 10 - Entered the side of Mr. Limon's right lower chest, traveled through the right lung and ended in his right neck.
- Gunshot wound 11 - Entered the side of Mr. Limon's right abdomen and traveled through both ventricles of his heart and ended in the left upper lung.
- Gunshot wound 12 - Was a grazing wound of the right lower abdomen. There was insufficient data to determine the path or caliber of the bullet.

- Gunshot wound 13 - Entered Mr. Limon's front right pubic area and there was no exit wound.
- Gunshot wound 14 - Entered Mr. Limon's right knee and exited his inner right thigh. It appears to be associated with the path of the bullet recovered in gunshot wound 18.
- Gunshot wound 15 - Is associated with gunshot wound 19 which is a grazing wound of Mr. Limon's inner left upper thigh.
- Gunshot wound 16 - Entered Mr. Limon's right lower thigh and exited his right upper thigh. It appeared to be associated with the path of the bullet in gunshot wound 13.
- Gunshot wound 17 - Entered the outer side of Mr. Limon's right foot and exited from the top of that foot.
- Gunshot wound 18 - Entered Mr. Limon's left mid-thigh and exited his right upper thigh and is associated with gunshot wound 14.
- Gunshot wound 19 - Is associated with gunshot wound 15 and is described above.
- Gunshot wound 20 - Entered Mr. Limon's left fourth finger and traveled into his left hand, with no exit wound.
- Gunshot wound 21 - Is a grazing wound across Mr. Limon's left upper back and no bullet was recovered.

All of the gunshot wounds, except for wounds 8 and 12, traveled in the same general direction -- back to front, left to right and up through the body, which is consistent with Mr. Limon lying in the planter at the time he received those injuries.

Gunshot wounds 8 and 12, however, are grazing marks that travel across Mr. Limon's body and are consistent with Mr. Limon standing at the time he received those injuries.

Gunshot wound 15 travels in the same general direction as the other gunshot wounds. However, the bullet path is also consistent with Mr. Limon standing at the time the bullet struck. Gunshot wound 15 entered Mr. Limon's right lower thigh and exited his right mid-thigh. It appears the wound is associated with the path of the bullet in gunshot wound 19, but no bullet was recovered from either wound. The bullet path when associated with gunshot wound 19 would indicate that the right leg was bent forward at the time the bullet entered the leg. It appears that this may have been the trajectory of the first round to hit and disable Mr. Limon.

#### E. JOSE ZEPEDA, JR.

On October 15, 2012, Ventura County Chief Medical Examiner Jon J. Smith, M.D., conducted an autopsy on Jose Zepeda, Jr. Dr. Smith found that Zepeda died from multiple gunshot wounds and that the killing was a homicide, meaning a death at the hands of another.

Dr. Smith determined that Zepeda suffered seven distinct gunshot wounds. Dr. Smith numbered the wounds, but the numbering was not meant to identify the order in which the injuries occurred.

- Gunshot wound 1 - Entered the right side of Zepeda's head, traveled through his brain, and lodged next to the back of his left skull.
- Gunshot wound 2 - Entered Zepeda's right upper back, fractured three ribs, and lodged in the upper chest wall without entering the thoracic cavity.

- Gunshot wound 3 - Entered Zepeda's right forearm below the elbow and exited next to the elbow. Gunshot wound 3 appears to be associated with gunshot wound 4.
- Gunshot wound 4 - Entered the side of Zepeda's right chest and traveled into his liver.
- Gunshot wound 5 - Entered Zepeda's right chest below gunshot wound 4. The bullet traveled through his liver, right transverse colon and diaphragm and lodged in his right back.
- Gunshot wound 6 - Entered the right chest and appeared to be a secondary impact from bullet shrapnel, with no exit wound.
- Gunshot wound 7 - Entered the side of Zepeda's left hip and traveled into his left back, with no exit wound.

Blood taken from Zepeda at the autopsy was analyzed by forensic scientists with the Ventura County Sheriff's Crime Lab. At the time of his death, Zepeda's blood alcohol level was .08 percent. He also tested positive for marijuana.

#### F. JUSTIN VILLA

Justin Villa was arrested on October 13, 2012, and taken to the Ventura County Medical Center for treatment. He was shot once in the right leg, which fractured his tibia. A .45 caliber bullet was recovered from his leg. Villa also tested positive for methamphetamine, alcohol, and marijuana.

### IV. LEGAL PRINCIPLES

#### A. LAW OF HOMICIDE

Homicide is the killing of one human being by another, either lawfully or unlawfully. Homicide encompasses murder and manslaughter, which are unlawful, and acts of excusable and justifiable homicide, which are lawful.

Homicide is justifiable when committed by any person “resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person.” (Penal Code § 197(1).)

Police officers have a duty “to maintain peace and security” and “to protect citizens from harm.” (*Batts v. Superior Court* (1972) 23 Cal.App.3d 435, 438.) A police officer may use deadly force when the circumstances create a reasonable fear of death or serious bodily injury in the mind of the officer. (*Graham v. Conner* (1989) 490 U.S. 386, 396-397.) Reasonableness includes “allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” (*Id.*)

Under the Fourth Amendment, police are “not required to use the least intrusive degree of force possible” but may use only such force as is objectively reasonable under the circumstances. (*Forrester v. City of San Diego* (9th Cir. 1994), 25 F.3d 804, 807.) An officer’s use of deadly force is reasonable only if “the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.” (*Tennessee v. Garner* (1985) 471 U.S. 1, 3.)

“The test of reasonableness in this context is an objective one, viewed from the vantage of a reasonable officer on the scene. It is also highly deferential to the police officer’s need to protect himself and others.” (*Martinez v. County of L.A.* (1996), 47 Cal.App.4th 334, 343 (quoting *Graham* 490 U.S. at 396-397).) The reasonableness test requires careful attention to the facts and circumstances of each particular case, including: (1) “the severity of the crime at issue”; (2) “whether the suspect poses an immediate threat to the safety of the officers or others”; and (3) “whether [the suspect] is actively resisting arrest or attempting to evade arrest by flight.” (*Graham*, 490 U.S. at 396.)

A killing by a peace officer is justifiable when it was “necessarily committed in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty” or “when necessarily committed in arresting persons charged

with [a] felony, and who are fleeing from justice or resisting such arrest.” (Pen. Code § 196.)

## B. THE LAW OF SELF DEFENSE

California jury instruction (CALCRIM 505) defines the law of self-defense:

A person is not guilty of murder/manslaughter if he/she was justified in killing someone in self-defense/defense of another. The person acted in lawful self-defense/defense of another if:

1. The person reasonably believed that he/she/ or someone else was in imminent danger of being killed or suffering great bodily injury;
2. The person reasonably believed that the immediate use of deadly force was necessary to defend against that danger;

AND

3. The person used no more force than was reasonably necessary to defend against that danger.

Belief in future harm is not sufficient, no matter how great or how likely the harm is believed to be. The defendant must have believed there was imminent danger of death or great bodily injury to himself/herself or someone else. The person’s belief must have been reasonable and he/she must have acted only because of that belief. The defendant is only entitled to use that amount of force that a reasonable person would believe is necessary in the same situation. If the defendant used more force than was reasonable, the attempted killing was not justified.

If a person intends to kill one person, but by mistake or accident killed someone else instead, then the crime, if any, is the same as if the intended person had been killed.

“[U]nder the doctrine of transferred intent, self-defense may also apply where the defendant intends to injure or kill the person who poses the threat, but inadvertently kills an innocent bystander instead.” (*People v. Curtis* (1994) 30 Cal.App.4th 1337, 1357.)

Additionally, “[T]he doctrine of self-defense is available to insulate one from criminal

responsibility where his act, justifiably in self-defense, inadvertently results in the injury of an innocent bystander.” (*People v. Mathews* (1979) 91 Cal.App.3d 1018, 1024.)

### C. JOSE ZEPEDA, JR.’S, CRIMINAL CONDUCT

Jose Zepeda, Jr., engaged in felony and misdemeanor criminal conduct immediately prior to the shooting. Had he survived, he could have been charged with the commission of the following crimes:

- The murder of Alfonso Limon, Jr., in violation of Penal Code section 187(a). [Under the provocative act murder doctrine, the perpetrator of a crime is held vicariously liable for the killing of an innocent victim by a police officer if acting with conscious disregard for life, the perpetrator intentionally commits an act likely to cause death and the officer kills in reasonable response to that act.] (*People v. Gilbert* (1965) 63 Cal.2d 690; *Pizano v. Superior Court*(1978) 21 Cal.3d 128)
- Attempted Murder of a Peace Officer in violation of Penal Code section 664/187(a) & (e).
- Assault with a Deadly Weapon in violation of Penal Code section 245(a) (1).
- Assault on a Peace Officer in violation of Penal Code section 245(c).
- Felon in Possession of a Firearm in violation of Penal Code section 29800(a) (1).
- Conspiracy to Flee from Pursuing Officers in violation of Penal Code section 182 and Vehicle Code section 2800.1.
- Resisting a Peace Officer in violation of Penal Code section 148(a).
- Threatening a Peace Officer in violation of Penal Code section 69.

### D. JUSTIN VILLA’S CRIMINAL CONDUCT

Justin Villa engaged in felony and misdemeanor criminal conduct immediately prior to the shooting. He could have been charged with the commission of the following crimes:

- Felon in Possession of a Firearm in violation of Penal Code section 29800(a)(1).
- Conspiracy to Flee from Pursuing Officers in violation of Penal Code section 182 and Vehicle Code section 2800.1

- Resisting a Peace Officer in violation of Penal Code section 148(a).
- Under the Influence of Methamphetamine in violation of Health & Safety Code section 11550.

## V. ANALYSIS

The shooting death of Alfonso Limon, Jr., is an overwhelming tragedy. Mr. Limon was an innocent victim who unknowingly walked into the middle of a violent police confrontation with armed gang members, at least one of whom was determined to and did attempt to kill police officers.

However, the scope of this investigation is limited to a determination of whether any action by any police officer on the night of October 13, 2012, was criminal and would justify the filing of criminal charges. The administrative review of departmental policies and the question of civil liability is not within the scope of this review.

Nine individual officers were identified as firing their weapons on October 13, 2012: Officers Ehrhardt, Lockner, Marquez, Orozco, Rodriguez, Ross, Stiles, Aragon, and Brislinger.

Police officers have a duty to preserve the peace and protect others from harm. By starting and continuing to engage in a running gunfight with police, Zepeda represented an immediate threat of death or injury to all of the involved officers as well as everyone who was in the area. Once he pointed his weapon, the police were justified and obligated to take action to end that threat. Moreover, every person, not only a police officer, has the right to stand their ground in self-defense and the right to pursue the assailant to end the threat.

Mr. Limon was truly an innocent bystander who took no action that evening that would have called for the use of deadly force against him. However, to determine whether criminal liability exists for the police officers, the focus of the investigation and the question to be answered is whether the circumstances perceived by the officer provided a

reasonable basis to believe that his life or the lives of others were in imminent danger, and that immediate use of deadly force was necessary to prevent that danger.

#### A. OFFICER RYAN LOCKNER

Officer Lockner was in the first pursuing patrol car and the first officer to begin pursuing Zepeda on foot as he ran north on Garfield Avenue. Officer Lockner was running with no cover when Zepeda fired a shot in his direction.

As Officer Lockner reached the sidewalk, Zepeda turned, looked at him, aimed, then fired one round from his revolver directly at Officer Lockner. Officer Lockner returned fire. As he was running, Zepeda turned and fired a second round. “I knew at that point that these – this guy was going to kill me or one of my partners while he was running away with his gun and I had to address that.” Officer Lockner again returned fire. Officer Lockner continued firing at Zepeda until his handgun locked open when he ran out of ammunition.<sup>68</sup> He then crouched down behind the red Jeep Liberty and changed magazines.

After reloading, Officer Lockner fired at Zepeda three more times – once when Zepeda fired at him and Officer Marquez, once when Zepeda pointed his handgun at him and Officer Marquez, and once when he saw Zepeda appear to point a gun at fellow officers who were walking southbound directly into Zepeda’s line of fire.

Officer Lockner was in reasonable fear for his own life, as well as the lives of other responding officers. Officer Lockner gave Zepeda Multiple opportunities to surrender and stop the gunfight and did not use more force than was necessary. Zepeda continued firing at officers, stumbled and fell and stood back up in a shooting stance. After he had seen the suspect fire three times at himself and other responding officers, he knew he “needed to pretty much end this threat.” Officer Lockner was legally justified in continuing to return fire until the threat was ended.

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<sup>68</sup> Five .45 caliber casings were located on the east sidewalk next to a Ford Explorer parked just south of the Jeep Liberty. An empty .45 caliber magazine was located south of the Jeep Liberty’s right rear tire.

Forensic firearms analysis conducted by Sheriff's Crime Laboratory personnel established that Officer Lockner's initial volley hit Zepeda, Alfonso Limon, Jr., and Villa, each of whom was directly in the line of fire. However, Officer Lockner did not intentionally shoot Mr. Limon or Villa. His intended target was Zepeda, who was running north on the same sidewalk on which Mr. Limon and his brother were walking south. Officer Lockner's attention was fully and completely focused on the person who was trying to kill him and fellow officers – Zepeda.<sup>69</sup> He continued to move toward the deadly threat in an attempt to protect others even as Zepeda intentionally targeted him. Tragically, one or more of these bullets struck Mr. Limon. The shooting of Mr. Limon and Villa was in reasonable self-defense from Zepeda's gunfire and therefore legally justified.

#### B. OFFICER PEDRO RODRIGUEZ

Officer Rodriguez was driving the lead unit in the vehicle pursuit with Officer Lockner as his passenger. At the end of the pursuit, he observed Zepeda exit the suspect vehicle with a firearm and yelled, "Gun, gun, gun" as he gave chase. Zepeda fired at him and Officer Lockner. He heard gunfire and heard a bullet go past him and returned fire. At the time he fired those shots, he was in reasonable fear for his own life as well as Officer Lockner's life and was legally justified in shooting at Zepeda. Officer Rodriguez then assisted in arresting Hernandez and did not fire another shot.

#### C. OFFICER ROCKY MARQUEZ

Officer Marquez and Officer Aragon were the first backup officers to arrive at the initial traffic stop, and the second car in the pursuit. Officer Marquez was able to watch the stand-off and the unusual way in which the car's occupants responded to having been pulled over as numerous police officers pointed guns in their direction. He saw Zepeda simulate pointing a gun at and count the officers deployed behind his car. These actions,

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<sup>69</sup> Moreover, a shooter's eye cannot focus on two separate focal planes--the active shooter and the background. It is natural for the officer's eye to choose to focus on the active and imminent threat posed by Zepeda.

as well as the fact that Zepeda pointed with a gloved hand, at least one suspect was wearing a baseball hat with a “W,” and there had been an earlier dispatch involving “Westside” gang members, all caused Officer Marquez’s heightened concern about the trio’s intentions toward the police officers.

After the short pursuit, Officer Marquez stopped the patrol car on Garfield Avenue and saw Zepeda fleeing with Officer Lockner in pursuit. He saw Zepeda turn and fire twice at Officer Lockner and the other police officers. Officer Marquez then ran after Officer Lockner and Zepeda.

Officer Marquez saw Zepeda fire at the pursuing police officers a second time and continue running north. Officer Marquez ran past Officer Lockner, who was taking cover to reload his gun. Officer Marquez then became the lead officer chasing Zepeda.

Zepeda ran into the parking lot at 506 Cooper Road and again fired at the pursuing officers. Officer Marquez was in reasonable fear for his life, the life of other police officers, and the lives of any other person in the area, and in response fired a volley of shots at Zepeda. At least one of those rounds hit Zepeda, who went to the ground.

Zepeda rolled backward as he hit the ground, then rolled forward and fired another shot at the police. Officer Marquez fired more shots at Zepeda and then his rifle malfunctioned. He alerted fellow officers that his weapon was inoperative and transitioned to his handgun. He knew Zepeda had been struck by several bullets and expected him to give up the fight. Officer Marquez gave Zepeda multiple opportunities to stop shooting and surrender but Zepeda continued trying to shoot at the officers.

Zepeda stood and raised his hands in a shooting stance toward police officers, including Officer Ehrhardt who was advancing from the west directly in Zepeda’s line of fire. Based on the lighting conditions, distance, and the circumstances of the pursuit and gunfight, Officer Marquez reasonably had no way of knowing that Zepeda had run out of

ammunition. Officer Marquez fired two shots from his handgun, one of which hit Zepeda in the head. Zepeda fell to the ground and Officer Marquez ceased fire.

Each time Officer Marquez fired a weapon at Zepeda, he was acting under a reasonable fear for his own life as well as the lives of other police officers. Officer Marquez used no more force than was necessary. Thus, he was legally justified in shooting.

#### D. OFFICER ZACHARY STILES

Officer Stiles responded to the traffic stop and saw Zepeda simulate pointing a gun at the police officers involved in the traffic stop. He observed the occupants talking on cell phones, smoking cigarettes, reaching down to the floorboard, and he noticed that Zepeda was wearing a baseball cap with a “W” for “Westside.” He believed that Zepeda and the others in the car were armed gang members who had traveled into “enemy” territory for a mission.

Officer Stiles did not see Zepeda shoot at police officers as he began fleeing on foot, but heard the gunshots. He ran north toward the sound of that gunfire and saw Mr. Limon on the ground. He believed that Mr. Limon was a suspect because he had been shot. Officer Stiles focused on whether Mr. Limon continued to pose a threat. He did not see any other suspect until he began moving to his left and saw Zepeda in the parking lot.

Officer Stiles saw Zepeda stand and raise his arms as if he was holding a gun. Video surveillance captured Zepeda pointing directly at approaching officers with what appeared to everyone to be a gun. Officer Stiles fired his shotgun two times at Zepeda.

Based on the totality of circumstances leading up to and during the pursuit and resulting gunfight, it was reasonable for Officer Stiles to believe and he did believe that Zepeda was again about to shoot at approaching officers. Officer Stiles ran to the aid of his fellow officers used no more force than was necessary to end the threat. Thus, he was legally justified to shoot at Zepeda.

#### E. OFFICER DONALD EHRHARDT

Officer Ehrhardt was responding to a police call on Grant Avenue with a ride-along when he heard radio traffic about the traffic stop. He then saw Hernandez's car speeding north on Grant Avenue and turning onto First Street. He heard gunshots and radio traffic about shots being fired.

He parked north of 506 Cooper Road and walked south on the street. He saw police officers pointing their guns at Mr. Limon. Based on the totality of circumstances, he believed that Mr. Limon was a suspect and began approaching the officers while loudly announcing his presence. From that vantage point, Officer Ehrhardt was unable to see Zepeda until he was even with him and already in Zepeda's field of fire. Officer Ehrhardt had been walking in the middle of the street and quickly realized there was no cover between him and Zepeda.

Officer Ehrhardt began backing toward cars parked on the west side of the street to obtain cover. Zepeda stood, looked at Officer Ehrhardt, and started raising what Officer Ehrhardt believed to be a gun. Video surveillance captured that moment. Just as he pulled the trigger, there was a volley from officers to the south and Zepeda went down.

Based on the totality of the circumstances, it was reasonable for Officer Ehrhardt to believe that Zepeda was about to shoot at him. Officer Ehrhardt used no more force than was necessary and was legally justified to shoot at Zepeda.

#### F. OFFICER MATTHEW ROSS

Officer Ross arrived at the initial traffic stop after many other officers were already on scene. He saw those officers behind Hernandez's car, pointing their guns at the car and yelling for the occupants of the car to show their hands.

He was able to see three people in the car and recognized Zepeda as a parolee he had contacted before. He was aware that Zepeda associated with a tagging crew. He also

heard over the radio that the car may have been involved in a gun brandishing incident involving a person in a gray sweatshirt.

Officer Ross observed Villa and Zepeda casually light and smoke cigarettes during the standoff. He observed Villa make a cell phone call and Zepeda count the officers and simulate shooting at them. He became concerned that the car occupants were planning an attack on the police.

Hernandez drove away on Second Street and Officer Ross drove north on Garfield Avenue, where he joined the short pursuit as it stopped. He heard gunshots before he was able to get out of his car. He saw police officers running north and followed them. He passed Hernandez's car and did not see anyone in the car which indicated to him that all three suspects were at large and possibly involved in the shooting. He was also concerned that Villa's phone calls might have set up an ambush.

Officer Ross reached the Jeep Liberty south of 506 Cooper Road and stood in the street with other officers. The area was not well lit. He saw Mr. Limon lying on his back on the ground next to a block wall. Mr. Limon was wearing a gray sweatshirt and it appeared that he had been shot. Officer Ross could not see Mr. Limon's left side or left hand and under those circumstances, he believed that Mr. Limon was the person involved in the brandishing dispatch who had run from the car and shot at police officers.

At that time, Officer Ross heard numerous officers shouting, "He's got a gun" and "Stay down." It appeared to Officer Ross that those officers were shouting at Mr. Limon.<sup>70</sup> Suddenly, Officer Marquez, who had no cover between himself and Mr. Limon, shouted,

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<sup>70</sup> There was a palm tree in the block wall which obstructed Officer Ross's view of Zepeda crouching in the parking lot. It should be noted that the voices heard on the bystander video are shouting for the police to stop shooting Mr. Limon. The way the bystanders shouted and talked about the ongoing shooting indicates that they were unaware, until later, that Zepeda was in the parking lot and they assumed all of the officers were shooting Mr. Limon. Their vantage point was the same as the officers behind the Jeep Liberty, although further back. The fact that they, who were not in the actual stress of the gunfight, also failed to perceive Zepeda's presence corroborates the justifiable confusion that led to officers wrongly, although justifiably, targeting Mr. Limon.

“Red, red, red” indicating his weapon was inoperative. As officers were shouting, “He’s got a gun,” Mr. Limon made a rolling motion toward his right and brought his left hand up. Mr. Limon’s left hand was curled and Officer Ross perceived that he was holding a gun. He believed that Mr. Limon was about to shoot at the police officers and in response, he fired one shot, hitting Mr. Limon in the left flank.

As depicted in the surveillance video, Zepeda was low to ground and the officers’ view was blocked by foliage and a thick palm tree. Because of lighting conditions and the foliage, two other police officers -- Officers Aragon and Brisslinger -- were also unable to see Zepeda and independently perceived Mr. Limon to be the shooting suspect who was posing an immediate risk of harm to them and the other officers. Similarly, the bystanders who were videotaping the incident perceived Mr. Limon as the only subject of the police encounter.

Officer Ross fired at Mr. Limon because he believed Mr. Limon was about to shoot fellow police officers. He believed that the danger was immediate and required prompt action to prevent harm to other officers.

The circumstances as they were known to Officer Ross gave rise to a reasonable belief that Mr. Limon was about to harm another police officer. He was not required by law to wait until that harm was actually inflicted before he acted to stop it. Thus, his shooting of Mr. Limon, though incredibly tragic and unfortunate, was justifiable.

Officer Ross first became aware of Zepeda’s presence after he shot Mr. Limon. When Officer Ross first saw Zepeda, he was bent over near the front of the parked Honda. Other officers were shouting at Zepeda to drop his gun and put his hands up. Suddenly, Officer Ross saw Officer Ehrhardt walking south into Zepeda’s field of fire and yelled at him to move back. Zepeda raised both hands in a shooting stance pointed toward Officer Ehrhardt. Officer Ross believed Zepeda was pointing a gun at Officer Ehrhardt. In response, Officer Ross fired a single shot at Zepeda, who fell to the ground.

Based on the lighting conditions, the distance, and the circumstances of the gunfight, it was reasonable for Officer Ross to believe Zepeda intended to shoot Officer Ehrhardt. He used no more force than was necessary to stop Zepeda and was legally justified to shoot at him.

#### G. OFFICER JESS ARAGON

Officer Aragon was one of the first backup officers on scene. He witnessed most of the standoff. He saw that there were three males in the car and noted that none of the car's occupants were complying with commands shouted at them by police officers who had their guns trained on the car. He saw a black latex glove on Zepeda's hand and immediately believed that the car occupants were armed. He retrieved his and Officer Marquez's rifles based on the threat he perceived during the initial traffic stop.

He saw Zepeda count the officers deployed behind his car, then saw him simulate firing a gun at those officers. He then observed the suspect car drive away.

When the pursuit stopped on Garfield Avenue, Officer Aragon and Officer Marquez parked behind Officer Rodriguez's car. Officer Aragon heard gunshots and believed they were fired at him and his fellow police officers. He feared for his life as he ran toward the gunfire, later stating, "I thought I was going to get shot. . . I can't believe I'm running to gunfire."

He reached the Jeep Liberty and saw Mr. Limon lying in the planter. He was unable to see Mr. Limon's left hand. He was also unable to see Zepeda lying in the parking lot north of his position. Officer Aragon was immediately concerned that Mr. Limon was not acting like other innocent bystanders he had encountered in similar situations who have lain on their stomachs and tried to hide. He mistakenly believed that Mr. Limon was the suspect who had been shooting at police and that the commands police were yelling were directed at Mr. Limon. Officer Aragon also began yelling for Mr. Limon not to move.

Officer Aragon noticed Officer Marquez standing on the sidewalk near Mr. Limon. He saw other officers standing near Officer Marquez. One of those officers yelled, "He still has a gun!" Officer Aragon believed that those officers must have been able to see a gun in Mr. Limon's left hand.

Suddenly, his partner, Officer Marquez, shouted, "Red!" meaning his firearm was presently inoperative. At almost the same time, Mr. Limon began rolling toward his right side and moving his left hand up toward Officer Marquez. Officer Aragon was afraid that Mr. Limon was going to shoot Officer Marquez, so he fired four times at Mr. Limon, striking him at least twice.

Officer Aragon fired at Mr. Limon because he believed Mr. Limon was about to shoot Officer Marquez, who had just announced his weapon was inoperable. He believed that the danger was immediate and required prompt action to prevent harm to Officer Marquez.

The circumstances as they were known to Officer Aragon gave rise to his reasonable belief that Mr. Limon was about to harm Officer Marquez. Officer Aragon was not required to wait until that harm was actually inflicted before he acted to stop it. Officer Aragon used no more force than was necessary if the situation had been as he believed it to be. Thus, Officer Aragon's shooting was legally justified.

#### H. OFFICER JOHN BRISSLINGER

Officer Brisslinger was the third or fourth police officer to arrive as backup for Officers Wilfert and Rodriguez. He was able to observe three occupants in the car. He also saw that the police officers already on scene had their weapons out and pointed at the car. Police were yelling numerous commands at the car's occupants who were not complying with any of those commands.

Officer Brisslinger saw Zepeda simulate firing a gun at the officers after having heard over the radio that the car had been involved in a gun brandishing incident. He also heard

that another officer believed there was a gun in the car. He saw Villa and Zepeda light and smoke cigarettes, Zepeda begin counting off police officers and Villa talking on a cell phone. All of those observations made Officer Brisslinger fear that the trio was planning to attack the police.

When the suspect car drove off on Second Street, Officer Brisslinger joined the pursuit, which stopped a short distance away. As he stopped his car, he heard gunshots and reported over the radio that shots had been fired.

Officer Brisslinger saw a police officer on foot as shots were being fired and was concerned that the officer might have been shot. He admitted that he had no idea where the shots were coming from. He also believed that there were three armed suspects at large. He got out of his car and heard three more gunshots. He ran north toward the sound of gunfire.

Officer Brisslinger reached the Jeep Liberty then moved out into the street as he heard an officer shouting, "He's got a gun!" He returned to the Jeep Liberty for cover. He saw Mr. Limon lying on his back in the planter and thought he recognized him as the driver of the car. He could not see Mr. Limon's hands but he believed that all three suspects were armed. He also could not see Zepeda in the parking lot.

Officer Brisslinger heard Officer Marquez shout, "Red!" and realized that Officer Marquez's firearm was not functional. Officer Marquez was standing on the sidewalk. Officer Brisslinger moved west away from the Jeep Liberty with Officer Aragon. Mr. Limon started raising his body and moving his hand toward Officer Marquez. Officer Brisslinger believed that Mr. Limon was a suspect armed with a handgun who posed an immediate threat to a defenseless Officer Marquez. He fired five shots at Mr. Limon, striking him three or four times. He stopped firing after Mr. Limon fell to the ground.

Officer Brisslinger fired at Mr. Limon because he believed Mr. Limon was about to shoot Officer Marquez, who had just announced that his weapon was inoperable. He believed

that the danger was immediate and required prompt action to prevent harm to Officer Marquez.

The circumstances as they were known to Officer Brisslinger gave rise to a reasonable belief that Mr. Limon was about to harm Officer Marquez. He was not required to wait until that harm was actually inflicted before he acted to stop it and he used no more force than was reasonable if the circumstances had been how he perceived it to be. Thus, Officer Brisslinger's shooting of Mr. Limon, while incredibly tragic and unfortunate, was legally justified for the purposes of criminal liability.

#### I. OFFICER ERNIE OROZCO

Officer Orozco heard radio traffic about the initial traffic stop and arrived on scene shortly before Hernandez drove away. He was too far from the car to see the car's occupants.

As the car drove away on Second Street, Officer Orozco drove north on Garfield Avenue where he joined the end of the pursuit. He heard someone yell, "Gun!" as he was getting out of his patrol car, then heard the sounds of different types of guns being fired. Officer Orozco ran north toward the sound of gunfire. He saw Hernandez being pulled from the car, then continued toward the gunfire.

Officer Orozco stopped next to the red Jeep Liberty and stood there with three other officers. He noticed Mr. Limon on the ground and observed bullets striking around him. He perceived muzzle flashes from the other side of the bushes and observed a dark figure crouched down on or near the ground. He believed that Zepeda was the suspect who was shooting at him and the other officers, and quickly returned fire.

Mr. Limon was on the ground directly in Officer Orozco's line of fire toward Zepeda. He was always aiming at Zepeda who he perceived was firing at officers.

Officer Orozco emptied his magazine when he fired that first volley, although he was unsure how many shots he actually fired. Approximately eight of the bullets fired by Officer Orozco may have hit Mr. Limon, several of them as ricochets.

Officer Orozco saw Zepeda crawl out of view. He reloaded his handgun and saw Zepeda standing by the front bumper. He also saw Officer Ehrhardt approaching from the north on Garfield Avenue. He saw Zepeda take a few steps toward Officer Ehrhardt and point what he believed to be a gun in Officer Ehrhardt's direction. Officer Orozco fired three more rounds at Zepeda, who fell to the ground.

When Officer Orozco initially fired at Zepeda, he fired because he reasonably feared that Zepeda was shooting at him and other officers. He was legally justified under criminal law to shoot at that time. Officer Orozco was also legally justified to fire his second volley at Zepeda because he reasonably feared Zepeda was about to shoot Officer Ehrhardt.

Approximately eight of Officer Orozco's bullets unintentionally struck Mr. Limon as he fired at Zepeda. The bystander video and the statements of the involved officers establish that both Mr. Limon and Zepeda were on the ground and Mr. Limon was directly in the line of fire between Officer Orozco and Zepeda. Zepeda was initially crouching by the rear right fender of the Honda and then fell to the ground after he was struck by bullets. Officer Orozco did not begin to fire until he saw two to three muzzle flashes, which he perceived to be Zepeda firing at him.

Officer Orozco did not intentionally shoot Mr. Limon. Zepeda was his intended target. Mr. Limon was inadvertently struck by bullets which Officer Orozco had been justified in firing at Zepeda. Thus, Officer Orozco's shooting of Mr. Limon, although incredibly tragic and unfortunate, was justifiable.

## VI. CONCLUSION

While all officer-involved shootings require officers to make decisions under stress, here a highly volatile running gun battle necessitated split second, life and death decisions under the most extreme circumstances encountered by law enforcement. Each of the officers ran towards gunfire with the actual and present fear that they could get shot. The stress of being under fire in an active shooter situation causes physiological changes that affect shooting accuracy. A RAND Corporation study of New York police shootings reported that “police officers often miss their targets.” The RAND study was based on a review of NYPD data showing that between 1996 and 2006, the average hit rate by police during a gunfight was only 18 percent.<sup>71</sup>

The events which unfolded on October 13, 2012, caused the tragic and untimely death of an innocent man, Alfonso Limon, Jr. However, but for the actions of Zepeda, Mr. Limon would be alive today. When Zepeda, Villa, and Hernandez collectively decided to flee from the police, ignore commands and instead taunt responding officers; and when Zepeda decided to initiate a running gun battle in a neighborhood full of families, responding officers in reasonable fear for their lives, the lives of fellow officers, and the lives of the citizens in the community were justified in returning fire.

It is the conclusion of the District Attorney that:

1. Officers Ehrhardt, Lockner, Marquez, Orozco, Ross, and Stiles honestly and reasonably believed that they and their fellow officers were in imminent threat of death or great bodily injury from Jose Zepeda, Jr., when they fired their weapons.
2. Officers Ehrhardt, Lockner, Marquez, Orozco, Ross, and Stiles honestly and reasonably believed that the immediate use of deadly force was necessary to defend themselves against the danger posed to them by Jesus Zepeda, Jr. at the time they fired their weapons.

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<sup>71</sup> Bernard D. Rostker, Lawrence M. Hanser, William M. Hix, Carl Jensen, Andrew R. Morral, Greg Ridgeway, Terry L. Schell *Evaluation of the New York City Police Department Firearm Training and Firearm-Discharge Review Process* RAND Center on Quality Policing 2008. The study found that the hit rate increased to 30% in shootings where the suspect did not fire at police.

3. Officers Ehrhardt, Lockner, Marquez, Orozco, Ross, and Stiles used no more force than was reasonably necessary to defend against the danger that they believed was posed to them by Jose Zepeda, Jr.
4. The fatal shooting of Jose Zepeda, Jr., was a justifiable homicide that will not support the filing of criminal charges.
5. Officer Lockner's shooting of Justin Villa is justifiable for purposes of criminal liability as he justifiably intended to injure or kill Jose Zepeda, Jr., but instead struck Justin Villa.
6. Officer Lockner's shooting of Alfonso Limon, Jr., is justifiable for purposes of criminal liability as he justifiably intended to injure or kill Jose Zepeda, Jr., but instead struck Alfonso Limon, Jr.
7. Officer Orozco's shooting of Alfonso Limon, Jr., is justifiable for purposes of criminal liability as he justifiably intended to injure or kill Jose Zepeda, Jr. but instead struck Alfonso Limon, Jr.
8. Officers Aragon, Brisslinger, and Ross honestly and reasonably believed that they and their fellow officers were in imminent threat of death or great bodily injury from Alfonso Limon, Jr., when they fired their weapons.
9. Officers Aragon, Brisslinger, and Ross honestly and reasonably though erroneously, believed that the immediate use of deadly force was necessary to defend themselves and other officers against the perceived danger posed to them by Alfonso Limon, Jr., at the time they fired their weapons.
10. Officers Aragon, Brisslinger, and Ross used no more force than was reasonably necessary to defend against the danger that they believed was posed to them and other officers by Alfonso Limon, Jr.

11. The fatal shooting of Alfonso Limon, Jr., although tragic, was a justifiable homicide that will not support the filing of criminal charges.



# ATTACHMENT

1 **Zepeda-Limon-Villa OIS Report**  
2 **Ventura County District Attorney**  
3 **For Senior Deputy District Attorney Christopher Harman**  
4

5 **Expert Report by George T. Williams**  
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7 **1. IDENTIFICATION AND QUALIFICATIONS OF EXPERT WITNESS**

8 My full name is George Thomas Williams. I am a police trainer, Law Enforcement Master  
9 Instructor (certified by the California Commission on Peace Officer Standards and Training, or  
10 California P.O.S.T.), training and policy consultant, and police author. I have performed in this function  
11 since 1981, and in a full-time capacity since 1987. I have also been continually acting in the capacity of  
12 “expert witness” in federal and state courts throughout the U.S. since 1991. I am currently employed as  
13 the Director of Training for Cutting Edge Training in Bellingham, Washington.

14 I have served as an expert witness in federal, state, and municipal courts since 1991, as well as in  
15 arbitration hearings. I have testified as an expert witness in 18 cases in federal courts in California,  
16 Oregon, and Washington, 25 cases in superior courts in California and Texas, and in municipal courts in  
17 California and Washington, as well as two Grand Juries in California. As an expert, I have testified in 7  
18 cases in arbitration hearings. I have been accepted as a force expert in deadly force, defensive tactics,  
19 less- and non-lethal force, handcuffing and searching, and other force questions. I have been accepted  
20 as an expert in other areas of police work as well, including procedures, police canine, suicide-by-cop,  
21 excited delirium deaths, and many other topics. I have never been disqualified as an expert for any  
22 reason.

23 As a Police Training Specialist, I am tasked with creating original, relevant training for law  
24 enforcement officers nationwide. My physical skills training programs are centered upon the latest  
25 research in motion dynamics and human limitations in the force environment. These courses focus upon  
26 creating “habits of success” in individual officers who may have little time in training before having to  
27 implement those skills in life-saving defense situations. This training includes all physical/psycho-  
28 motor skills: firearms employment (including all police weapons), defensive tactics, duty knife, impact  
29 weapon, and the tactical response to hazardous calls. I am a member of the International Association of  
30 Law Enforcement Firearms Instructors, the International Law Enforcement Educators and Trainers  
31 Association. Each of these organizations is devoted to promoting and promulgating the latest methods  
32 of producing positive predictable results in officers under stressful and dynamic conditions.

33 I served as a full-time faculty member of the California Governor’s Office of Emergency  
34 Services, California Specialized Training Institute, assigned as the Coordinator and primary instructor  
35 for the Officer Safety and Field Tactics program (California P.O.S.T. certified). My instructional duties  
36 included lead firearms trainer (including the effective response to threat within the human Body Alarm  
37 Reaction), lead defensive tactics trainer, and lead building entry and search trainer. I had adjunct  
38 teaching responsibilities in the Terrorism Awareness Program (specifically training federal, state, and  
39 local law enforcement in current terrorist methodologies, tactics, and weapons), and in the Earthquake  
40 Preparedness Course. I held this post for six and one-half years after serving as an adjunct faculty  
41 member for three and one-half years prior to my full-time appointment.

42 I was the Training Specialist for the Tracy, California, Police Department for over two years. I  
43 was responsible for all training activities within the police department. This included acting as the lead

1 trainer and coordinator of all training, including firearms, defensive tactics, SWAT, impact weapons,  
2 OC pepper spray, less-lethal, TASER, and all tactical response by officers. I conducted “train-the-  
3 trainer” courses for this agency’s instructors. I was responsible for developing the Tracy Police  
4 Department’s Use of Force Policy. I reviewed all force reports as part of my training duties, and was  
5 also part of the management team and responsible for secondary evaluation of City of Tracy police  
6 officers’ force response for reasonableness and policy compliance.

7 In addition to being the lead and primary trainer of the Tracy Police Department SWAT team,  
8 conducting semi-monthly training courses, I have served as a consultant and trainer to dozens of SWAT  
9 and narcotics teams, training teams throughout the Western and Central United States. This training  
10 includes practical individual movement through team warrant service skills, high-risk arrest, and hostage  
11 rescue. Additionally, the reasonable employment of firearms (handguns, shotguns, rifles, and  
12 submachine guns), less-lethal munitions, and chemical munitions within the SWAT environment have  
13 been key components in this training.

14 I was an adjunct faculty member to both the Allan Hancock Police Academy in Santa Maria,  
15 California, for three years, and the Sacramento County Sheriff’s Academy in Carmichael, California, for  
16 two years. At the Allan Hancock Police Academy, I acted as an instructor of recruits in Arrest &  
17 Control, firearms, and baton. I developed the curriculum employed to meet California POST academy  
18 Learning Domains in the classes I taught. I was also responsible for evaluating recruit force  
19 employment within tactical scenario final testing. At the Sacramento County Sheriff’s Academy, I  
20 trained police supervisors, managers, and administrators in constitutional limits to the use of force by  
21 police. I also trained recruits there in the California P.O.S.T. mandated “Laws of Force,” satisfying  
22 California P.O.S.T. requirements for academy graduation.

23 I have trained peace officers from a minimum of 408 different jurisdictions in the State of  
24 California, 176 police agencies in Washington State, all 50 states and many territories of the Union, and  
25 14 foreign countries. This includes veteran officers, deputies, agents, Special Agents, rangers, reserve  
26 officers, and police recruits. I continue to train police officers and federal agents nationwide in my full-  
27 time training position. To date, I have trained in excess of 25,729 law enforcement officers.

28 I am an advanced firearms trainer, certifying the trainers of law enforcement in firearms. I have  
29 trained thousands of officers from the recruit through veteran officer, from municipal agencies through  
30 the federal government. This includes patrol through SWAT application. I am aware of and familiar  
31 with most of the training methods and firearms employment philosophies currently being presented to  
32 law enforcement. I was an instructor of TASERs to law enforcement from 1995-2003. From 2000-  
33 2003, I was a trainer of police trainers for Tasertron, and later, TASER Technologies. I am certified in  
34 the TASER X26<sup>®</sup>, and conversant in the operation and employment of the M26 Advanced TASER<sup>®</sup>. I  
35 continue to instruct police officers in the reasonable employment of conducted energy weapons.

36 I certify the trainers of law enforcement in defensive tactics, certifying them in all areas of  
37 subject control and officer defense, including the use of impact weapons. I hold the rank of 5<sup>th</sup> dan (5<sup>th</sup>  
38 degree black belt) Master Instructor in the Korean fighting art of Tang Soo Do, and a 2<sup>nd</sup> dan in Kuk  
39 Sool Hapki. I am a certified defensive tactics instructor through the FBI. Over a lifetime of learning,  
40 including formal university courses in kinesiology and human movement, I have studied, been trained  
41 in, researched, and have and continue to conduct training to officers and the instructors of officers in  
42 physical skills learning theory, including reaction times, physiological and psychological reactions to  
43 physical, emotional, and life-threatening stress. This training also includes the evaluation of physical  
44 actions in combative environments, including what is required to create effective human combatives  
45 responses and decision-making under duress. I am extremely familiar with the methods of restraint,  
46 takedown, and defense currently taught and applied by U.S. law enforcement.

1 I have, for over 30 years, been a student, practitioner, and observer of the causes of injuries and  
2 death to human beings from contact and collision sports, martial arts, fighting, and the application of  
3 police force and weapons. I was a member of the International Wound Ballistics Association for six  
4 years while it existed, and have studied and observed the causative factors in the injuring and killing of  
5 humans for all of my adult life. I train peace officers in the types of injuries that can be expected from  
6 the various methods of restraint, including limb restraints, takedown, and weapons employment  
7 common to police work. I have trained military personnel in the expected injury of various methods of  
8 weapon and skill employment commonly utilized in their profession at arms. I have reviewed literally  
9 hundreds of autopsies in this pursuit, as well as having interviewed pathologists, Emergency Room  
10 doctors, surgeons, and others who are knowledgeable in the field in seeking to obtain a realistic  
11 knowledge of the actual injuries that might be expected from various weapons, as well as from types and  
12 durations of force. I currently train officers in recognition and mitigation of "Sudden In-Custody Death"  
13 factors, and have since before 1995. I continue as a full-time trainer of police in all facets of police  
14 force response and tactical force employment, from shooting to defensive tactics through SWAT  
15 training. I provide training in constitutional limitations to the police force response, and civil liability in  
16 the force response to well over a thousand officers per year. I provide training to police command staff  
17 personnel in the evaluation of police force. I was a National Advisory Board Member of The Police  
18 Marksman Association for over 15 years, and am regularly published, having had over 180 articles  
19 accepted over the years in various prestigious national and international trade publications. Several have  
20 been peer reviewed. These articles range from defensive tactics, firearms and deadly force, officer  
21 safety, risk management, training concepts, and more. I have also published two books, a text book on  
22 force report writing for police officers, and a book on preparing for deposition testimony.

23 I have reviewed, analyzed, and reported on the circumstances leading to all of the peace officer  
24 murders in the State of California from the years 1980 to 1998. From these studies, training suggestions  
25 regarding the actual safety needs of officers continue to be published. This affected, and continues to  
26 affect officer safety, defensive tactics, and firearms training statewide as well as nationally. I continue  
27 with a less-formal study to this day of officer murders throughout the country.

28 I attach my curriculum vitae and incorporate it into the body of this report by this reference. My  
29 professional experiences and activities are more fully set forth in my vitae, along with my publications  
30 for the preceding ten years. It also contains a list of other cases I have reviewed or in which I have  
31 testified as an expert, in deposition or in trial.

32 A considerable portion of my professional life involves the study and analysis of the conduct of  
33 peace officers and law enforcement agencies and their practices, including liability issues. I have  
34 analyzed the performance of specific officers and departments in the context of litigation and discipline,  
35 and have rendered opinions, as is more fully set forth in my vitae.

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37 **2. DATA AND OTHER INFORMATION CONSIDERED WHEN FORMING MY EXPERT**  
38 **OPINION.**

39 In forming my opinions in this case, I reviewed, studied, and considered materials that are specific to  
40 this case as well as materials of general circulation. I have also drawn on the totality of the materials I  
41 have read, studied, and examined, as well as the experiences and instruction I have had and/or provided  
42 to law enforcement over the entire course of my career. The materials listed herein are the type, quality,  
43 and quantity, albeit limited in this case, upon which I and others in my profession rely in examining the  
44 events surrounding a police force response and in forming opinions and conclusions regarding the  
45 matters addressed herein.

1 I anticipate that additional Discovery material will be made available in the future for my review.  
2 I reserve the option to modify, amend, and change any opinion expressed in this document at any time,  
3 including at trial, should additional information be provided affecting my understanding of the fact  
4 pattern in this case.

5 The specific case materials I have reviewed to date are:

- 6 • Photos.
- 7 • Video: The execution of Alfonso Limon Shooting 10-13-12.
- 8 • 10-13-2012 video.
- 9 • 12-17 De la Cruz, Anthony.
- 10 • 12-17 Garcia-1<sup>st</sup> Contact 9-25-13.
- 11 • Isaac Garcia Interview Summary.
- 12 • Isaac Garcia video.
- 13 • SI 12-17 Rodriguez, Augustine.
- 14 • Surveillance camera still pictures, Camera 1.
- 15 • Surveillance camera still pictures, Camera 2.
- 16 • Surveillance camera still pictures, Camera 3.
- 17 • Surveillance camera still pictures, Camera 4.
- 18 • Surveillance camera still pictures, Camera 5.
- 19 • Surveillance camera still pictures, Camera 6.
- 20 • Surveillance camera still pictures, Camera 7.
- 21 • Surveillance camera video, Camera 1.
- 22 • Surveillance camera video, Camera 2.
- 23 • Surveillance camera video, Camera 3.
- 24 • Surveillance camera video, Camera 4.
- 25 • Surveillance camera video, Camera 5.
- 26 • Surveillance camera video, Camera 6.
- 27 • Surveillance camera video, Camera 7.
- 28 • Southern California High Tech Task Force.
- 29 • 52930652-Ofc. Everhart 10-13-12.
- 30 • 49430305-3 Ofc. Ehrhardt 10-13-12.
- 31 • 52990110-4 Ofc. Jundef 10-13-12.
- 32 • 52630246 Ofc. McBride 10-13-12.
- 33 • 52750288 Ofc. R. Lockner 10-13-12.
- 34 • 52172070 Ofc. Wilfert 10-13-12.
- 35 • 53380488 Ofc T. Eglin 10-13-12.
- 36 • 52160201 Ofc. T. Martin 10-13-12.

- 1 • DWK Search Warrants.
- 2 • DWK video.
- 3 • 12-20615 Erica Cortez POV photos.
- 4 • 12-20615 Photo of handgun 1340 Edgewood Way.
- 5 • 12-20615 Villa photos by Cole.
- 6 • 12-20615 Canvass POV photos.
- 7 • 12-20715 Photos of contact with Rudy Alvarez.
- 8 • 12-23072 BSH2963 Suspect R. Hernandez.
- 9 • 12-23072 JB3027 Location 3.
- 10 • 12-23072 RR4539 Follow up to 10-23-12.
- 11 • 12-23072 ZD 4008 Aerials 10-14-12.
- 12 • 12-23072 ZD 4008 Autopsies Day One 10-15-12.
- 13 • 12-23072 ZD 4008 Autopsies Day Two 10-16-12.
- 14 • 12-23072 ZD 4008 Business 10-14-12.
- 15 • 12-23072 ZD 4008 Officers 10-14-12.
- 16 • 12-23072 ZD 4008 Officers guns 10-14-12.
- 17 • 12-23072 ZD 4008 Scene 10-14-12.
- 18 • 12-23072 ZD 4008 Surveillance System 10-14-12.
- 19 • 12-23072 ZD 4008 Vehicle 10-14-12.
- 20 • 12-23072 –A.
- 21 • 12-23072 –B.
- 22 • OIS 10-2012 Tagging in Marina West Area.
- 23 • Photos from Tom Contreras.
- 24 • Photos of Villa from Miranda.
- 25 • 1220615 band 1.wav.
- 26 • 1220615 band 2.wav.
- 27 • 1220615 band 3.wav.
- 28 • 1220615 fire.wav.
- 29 • 1220615 BI scene-Briscoe photos.
- 30 • 1220615 BI scene-Johnson photos.
- 31 • 1220615 Trajectory.
- 32 • 1220615 Patrol photos.
- 33 • 1220615 Binder 11-20-12.
  - 34 ○ OPD Follow up Report: Everhart, 10/14/12.
  - 35 ○ OPD Follow up Report: Guy Hartson, 10/14/12.
  - 36 ○ OPD Follow up Report: Yvonne Negrete, 10/14/12.

- 1       ○ OPD Follow up Report: Jared Schacher, 10/14/12.
- 2       ○ OPD Follow up Report: Anthony McCowan, 10/14/12.
- 3       ○ OPD Follow up Report: Robert Shank, 10/14/12.
- 4       ○ OPD Follow up Report: Larry Ecklund, 10/14/12.
- 5       ○ OPD Follow up Report: David Lacara, 10/14/12.
- 6       ○ OPD Follow up Report: Abel Alaniz, 10/14/12.
- 7       ○ OPD Follow up Report: Nicholas Curtis, 10/14/12.
- 8       ○ OPD Follow up Report: Aaron Zavala, 10/14/12.
- 9       ○ OPD Follow up Report: Gregory Utter, 10/14/12.
- 10      ○ OPD Follow up Report: Jose Diaz, 10/14/12.
- 11      ○ OPD Follow up Report: Michael Cole, 10/14/12.
- 12      ○ OPD Follow up Report: Timothy Eglin, 10/14/12.
- 13      ○ OPD Follow up Report: David McAlpine, 10/14/12.
- 14      ○ OPD Follow up Report: Alex Arnett, 10/14/12.
- 15      ○ OPD Follow up Report: Ross Spaulding, 10/14/12.
- 16      ○ OPD Follow up Report: David Kelly, 10/14/12.
- 17      ○ OPD Follow up Report: Sgt. Chris Williams, 10/14/12.
- 18      ○ OPD Follow up Report: Roque Rivera, 10/14/12.
- 19      ○ OPD Follow up Report: John McBride, 10/14/12.
- 20      ○ OPD Follow up Report: Craig Goodvin, 10/14/12.
- 21      ○ OPD Follow up Report: Jacob Jundef, 10/14/12.
- 22      ○ OPD Follow up Report: Randy White, 10/14/12.
- 23      ○ OPD Follow up Report: Christopher Jimenez, 10/14/12.
- 24      ○ OPD Follow up Report: Thomas Martin, 10/14/12.
- 25      ○ OPD Follow up Report: Roslynn Wilfert, 10/15/12.
- 26      ○ OPD Follow up Report: Michael Cole, 10/15/12.
- 27      ○ OPD Follow up Report: Michael Young, 10/15/12.
- 28      ○ OPD Follow up Report: Brett Smith, 10/15/12.
- 29      ○ OPD Follow up Report: Brian Bishop, 10/15/12.
- 30      ○ OPD Follow up Report: Robert Eckman, 10/14/12.
- 31      ○ OPD Follow up Report: Derek Miller, 10/16/12.
- 32      ○ OPD Follow up Report: Steve Eckman, 10/16/12.
- 33      ○ OPD Follow up Report: Timothy Kelley, 10/16/12.
- 34      ○ OPD Follow up Report: Juanita Suarez, 10/16/12.
- 35      ○ OPD Follow up Report: Juanita Suarez, 10/17/12.
- 36      ○ OPD Follow up Report: Jaime Miranda, 10/16/12.
- 37      ○ OPD Follow up Report: Jaime Miranda, 10/16/12.

- 1 ○ OPD Follow up Report: Chris Woodruff, 10/16/12.
- 2 ○ OPD Follow up Report: Juanita Suarez, 10/16/12.
- 3 ○ OPD Follow up Report: Gordon Currie, 10/16/12.
- 4 ○ OPD Follow up Report: Gordon Currie, 10/17/12.
- 5 ○ OPD Follow up Report: Greg Hebert, 10/17/12.
- 6 ○ OPD Follow up Report: Bill Johnson, 10/17/12.
- 7 ○ OPD Follow up Report: Gordon Currie, 10/17/12.
- 8 ○ OPD Follow up Report: Moses Martinez, 10/17/12.
- 9 ○ OPD Follow up Report: Gordon Currie, 10/17/12.
- 10 ○ OPD Follow up Report: Robert Eckman, 10/16/12.
- 11 ○ OPD Follow up Report: Deana Briscoe, 10/17/12.
- 12 ○ OPD Follow up Report: Jeff Kay, 10/17/12.
- 13 ○ OPD Follow up Report: Gordon Currie, 10/17/12.
- 14 ○ OPD Follow up Report: Jamie Brown, 10/18/12.
- 15 ○ OPD Follow up Report: Rick Klein, 10/18/12.
- 16 ○ OPD Follow up Report: Interview of Gaye Ward.
- 17 ○ OPD Follow up Report: Bakari Myers, 10/19/12.
- 18 ○ OPD Follow up Report: David McAlpine, 10/19/12.
- 19 ○ OPD Follow up Report: Jake Jundef, 10/19/12.
- 20 ○ OPD Follow up Report: Carey Everhart, 10/19/12.
- 21 ○ OPD Follow up Report: Bakari Myers, 10/19/12.
- 22 ○ OPD Follow up Report: Bakari Myers, 10/22/12.
- 23 ○ OPD Follow up Report: Robert Eckman, 10/16/12.
- 24 ○ OPD Follow up Report: Robert Eckman, 10/23/12.
- 25 ○ OPD Follow up Report: Robert Eckman, 10/24/12.
- 26 ○ OPD Follow up Report: Jeff Kay, 10/24/12.
- 27 ○ OPD Follow up Report: Jeff Kay, 10/26/12.
- 28 ○ OPD Follow up Report: Jeff Kay, 10/26/12.
- 29 ○ OPD Follow up Report: Robert Eckman, 10/16/12.
- 30 ○ OPD Follow up Report: Gordon Currie, 11/13/12.
- 31 ○ OPD Follow up Report: Hugo Garcia, 10/16/12.
- 32 ● CAD event summary, 10/13/12.
- 33 ● CAD event history records, 10/13/12.
- 34 ● 12-20615 OPD Reports 09-24-13 Version.
- 35 ● 12-20615 #136 Command Duties at the Scene.
- 36 ● 12-20615 #137 Intv Eddie Bersi and Loretta Noriega.
- 37 ● 12-20615 #138 Erasmo Morales.

- 1 • 12-20615 #139 Joseph Zaragoza.
- 2 • California Commission on Peace Officer Standards and Training, Basic Course Workbook
- 3 Series, Learning Domain 20, Use of Force, Version 3.1.
- 4 • Dr. Alexis Artwohl and Loren W. Christensen, Deadly Force Encounters: what cops need to
- 5 know to mentally and physically prepare for and survive a gunfight, Paladin Press, Boulder,
- 6 Colorado, 1997.
- 7 • Scott v. Harris, 127 S.Ct. 1769 (2007).
- 8 • Graham v. Connor, 490 US 386, 109 S.Ct. 1865 (1989).

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### 10 3. EXPERT OPINION: BASIS AND REASONS THEREOF

11 **General Opinion:** This case involved a minimum of nineteen Oxnard, California, police officers who  
 12 responded to the threatening behavior of three suspects, Messrs. Jose Zepeda, Jr., Justin Villa, and  
 13 Rafael Hernandez, who were suspected of being armed gang members holding officers at bay during a  
 14 high risk or “felony” car stop. These suspects, after a seven minute, nineteen second standoff (Sgt.  
 15 Chris Williams, Follow-up Report, page 58), fled in their vehicle. Less than forty seconds later, Mr.  
 16 Villa jumped out of the suspect vehicle as it was stopping, tripped and fell heavily to the ground. Mr.  
 17 Zepeda exited, ran a few steps, turned and fired his handgun at pursuing officers. This began an  
 18 approximately 97 second running gun battle with the police that concluded with two men dead, one  
 19 wounded, and another in custody (timeline began approximately at or about 22:03:59 on surveillance  
 20 Camera 7 and ended at 22:05:56 on Camera 1)

21 After my review of the materials to date and based upon the totality of the facts and  
 22 circumstances known to them at the time, eventually nine Oxnard, California, Police Officers reasonably  
 23 responded with gunfire to what they believed to be an imminent and on-going deadly threat created by  
 24 the direct actions of Mr. Jose Zepeda, Jr., as well as the contributing actions of the other suspects in that  
 25 stopped vehicle on October 13, 2012. As a result of this return fire, three individuals were struck by  
 26 police bullets:

- 27 • Mr. Jose Zepeda, Jr., was intentionally shot and killed. It is my opinion this was a reasonable
- 28 deadly force response to the officers’ reasonable perception of Mr. Zepeda’s on-going and
- 29 continuing imminent threat to officers and the community.
- 30 • Mr. Justin Villa was unintentionally hit by police fire when he fled directly in the line of fire.
- 31 Mr. Villa was fleeing at the end of the vehicle pursuit when Mr. Zepeda fired at pursuing
- 32 officers. Mr. Villa was in the line of fire and was wounded in the leg by police returning fire
- 33 after being shot by Mr. Zepeda. Mr. Villa being hit was an unfortunate result of a reasonable
- 34 shooting by an officer who was in reasonable fear of imminent death or serious physical injury
- 35 by Mr. Zepeda.
- 36 • Mr. Alfonso Limón, Jr., was shot and killed by police fire. Mr. Limon was struck by one or
- 37 more rounds of the initial burst of return fire directed at Mr. Zepeda. It was a tragic result of a
- 38 reasonable shooting by an officer who was in reasonable fear of imminent death or serious
- 39 physical injury by Mr. Zepeda. Due to circumstances discussed in the body of this report, three
- 40 officers mistakenly but reasonably believed Mr. Limon to be a suspect who was an imminent
- 41 threat and intentionally fired directly at him, killing him. He was also unintentionally hit by an
- 42 officer who was reasonably responding to his belief of imminent danger of death or serious
- 43 bodily injury to himself and others.

1 The three suspects held officers at bay during a known-risk traffic stop, failing to cooperate with  
2 lawful orders and resisting all attempts to safely contact them. The suspects then chose to flee in their vehicle.  
3 Following a short vehicle pursuit, I believe the following fact pattern, based on the forensic evidence as well  
4 as officer and witness statements, reports, and interviews led to the three men being shot:

5 Mr. Hernandez was driving the fleeing vehicle with Mr. Villa in the front passenger seat of the two  
6 door Monte Carlo. Mr. Zepeda was in the back seat. After fleeing less than forty seconds, Mr. Hernandez  
7 suddenly stopped facing northbound in the middle of the street near 136 North Garfield Avenue.

8 Simultaneously, brothers Alfonso, Jr. and Gerardo Limón, were walking southbound on the east  
9 sidewalk of N. Garfield Avenue (For purposes of clarity, the brothers will be referred to by their first names.  
10 When “Mr. Limón” is used, it references Mr. Alfonso Limón, Jr., unless specified otherwise.). Per video  
11 surveillance, Alfonso is walking shoulder to shoulder with his brother on the eastside of the sidewalk, with  
12 Gerardo closest to the street (Camera 7, 22:03:03.031). A third unidentified and apparently unassociated male  
13 crossed the street and was walking southbound ahead of the two men. He turned into the east-west alleyway  
14 south of 506 Cooper Street and opening on to N. Garfield Avenue prior to the Limón brothers approaching the  
15 mouth of the alley.

16 As the fleeing suspects’ car stopped, Mr. Villa suddenly opened the door and exited the passenger  
17 door and moved toward the sidewalk. As he was running, he looked back at the pursuing officers and fell  
18 heavily, face down, with his legs coming up over his back (Lockner interview, page 1060, line 6). As Mr.  
19 Villa was flailing about attempting to get back to his feet, Mr. Zepeda stepped over him while running  
20 northbound to the east sidewalk. Officers Lockner and Rodriguez were in foot pursuit. Officer Lockner drew  
21 his handgun as he ran. Officer Rodriguez, the driver of the primary pursuing patrol car, had just cleared the  
22 front of the patrol when he saw the handgun in Mr. Zepeda’s hand (Rodriguez interview, page 801, line 23)  
23 and yelled, “Gun, gun, gun, gun!” (Rodriguez interview, page 800, line 4).

24 Mr. Zepeda slowed, suddenly spun with the revolver in his hand, and came up with it at Officer  
25 Lockner (Lockner interview, page 1060, line 6). Mr. Zepeda looked directly at Officer Lockner, leveled the  
26 handgun and fired directly at him (Rodriguez interview, page 802, line 24). The suspect fired at the officers:

- 27 • Officer Lockner heard the report and saw the muzzle flash. He saw the second muzzle flash, but did  
28 not hear the report of the second gunshot (Lockner interview, page 1060, line 21).
- 29 • Officer Rodriguez heard but did not see the muzzle flashes from two gunshots by Mr. Zepeda  
30 (Rodriguez interview, page 803, line 16)

31 Officer Lockner’s attention was focused on Mr. Zepeda. He knew the second suspect, Mr. Villa, was  
32 on the ground between him and the suspect who was shooting at him. He believed Mr. Villa was not in his  
33 line of fire and fired six .45 caliber rounds at Mr. Zepeda, hitting him in the upper back (Zepeda Autopsy  
34 Report). Officer Rodriguez fired three 9mm rounds at Mr. Zepeda but stopped firing because the parked cars  
35 between them masked the suspect and he was no longer able to target the man.

- 36 • Officer Lockner was on the sidewalk to the front of 136 N. Garfield Avenue. He stopped, took aim  
37 and fired directly north along the sidewalk at Mr. Zepeda as the man ran northbound.
- 38 • Officer Rodriguez was located in the street and west of Officer Lockner when he fired at the fleeing  
39 suspect.
- 40 • The officers’ approximate locations were determined by positions of their empty casings.

41 Mr. Villa, wounded by one of the rounds fired by Officer Lockner, continued to flee eastbound.  
42 Because he was apparently not an armed threat, the officers continued to pursue Mr. Zepeda.

43 The Limón brothers had just reached the north corner of the alley when Mr. Zepeda opened fire on the  
44 officers, then turned and sprinted northbound along the sidewalk (Gerardo Limón interview, page 83). When

1 Officer Lockner responded with gunfire, all but two of his rounds struck in the area where the brothers were  
2 walking in the line of fire (although they may have stopped when Mr. Zepeda first started shooting to listen  
3 and determine from where the close range gunfire was originating). As the bullets began passing by, both  
4 instinctively ducked down (Gerardo Limón interview, page 82). Gerardo quickly turned and ran northwest  
5 across N. Garfield Avenue. Mr. Limón was struck by at least one of Officer Lockner's bullets that missed Mr.  
6 Zepeda, causing two entry wounds in his legs (Autopsy GSW #15 and #19). He fell face up, partially in the  
7 planter bordering the parking lot of the combined commercial-residential building at 506 Cooper Road with  
8 his head to the north-northwest on the planter and his feet to the south-southeast on the surface of the alley  
9 way.

10 Mr. Zepeda turned and fired his second round southbound along the sidewalk at Officer Lockner and  
11 the officers behind him (Officers Marquez and Aragon). Officer Lockner again returned fire, this time  
12 emptying his magazine resulting in his slide locking back.

13 Mr. Zepeda ran past the alley entrance and along the sidewalk where he turned east into the parking  
14 lot of 506 Cooper Road and took cover behind a green Honda Civic parked near the building (having run 198  
15 feet from the suspect vehicle). This parking lot was bordered to the south and west by a short block wall  
16 topped by short wrought iron decorative fencing. Inside the wall, there were shrubs. Parked along the wall  
17 were several cars or trucks in parking stalls.

18 As or before Mr. Zepeda was entering the parking lot, Officer Rodriguez discovered that the suspect  
19 driver, Mr. Hernandez, was still in the driver's seat. He held Mr. Hernandez at gunpoint until Officer Everhart  
20 arrived, made contact and took Mr. Hernandez into custody. Officer Rodriguez assisted in the handcuffing  
21 and searching of the prisoner. Officer Everhart then ran toward gunfire to the north. In turn, Officer  
22 Rodriguez eventually handed the prisoner off to Officer Jundeff who remained in charge of the prisoner while  
23 Officer Rodriguez moved to the source of gunfire.

24 Officer Aragon was on the sidewalk running after Officer Marquez when he heard a bullet go by his  
25 head and yet another volley of shots (Aragon interview, page 621, line 27). He took evasive action by moving  
26 west into the street to get out of the line of fire as he ran forward to the west of the line of parked cars at the  
27 east curb (Aragon interview, page 622, line 2).

28 As Mr. Zepeda was still fleeing, Officer Lockner ducked behind a parked red Jeep Liberty to reload  
29 his empty weapon. Officer Marquez, who had arrived with Officer Aragon driving and armed with an Colt  
30 Commando select-fire (5.56 mm) carbine, was sprinting after Officer Lockner when he witnessed the fleeing  
31 suspect (Mr. Zepeda) fire two shots and the officers returning fire down the sidewalk (Marquez interview,  
32 page 738, line 11). He ran past Officer Lockner as he was reloading (Marquez interview, page 738, line 21).

33 Mr. Zepeda was crouched down on the passenger side of the Honda. He eased toward the rear, then  
34 raised his handgun, took careful aim at the weapon-mounted light shining at him from the alley. Officer  
35 Marquez fired a volley of rounds from his M4 carbine at Mr. Zepeda as he was aiming, causing the suspect to  
36 unintentionally lean down and back to avoid the fire. Mr. Zepeda then raised the handgun and fired as he was  
37 being shot at (Marquez interview, page 739, line 24). One of the bullets struck the Honda's rear window,  
38 spraying glass fragments, and Mr. Zepeda moved east away from car where he was struck in the torso by one  
39 of the rifle bullets. He reacted by falling backward to the cement, rolling on his back with his feet high over  
40 his head.

41 From the perspective of Camera 2, Mr. Zepeda came back up into a seated position. As he did, he  
42 apparently had an unintentional discharge, firing the revolver high and well to the right of the officers'  
43 positions. He pointed the handgun again at officers, holding it in his left hand. Officers again respond to his  
44 gunfire and menacing and Mr. Zepeda was hit again, reacting by rolling back to the concrete parking divider  
45 (Camera 2). He held his stomach, handgun in hand, face up for some seconds.

1           **Note:** *From the point of Mr. Zepeda falling backward into the parking stall and then rolling forward*  
2 *and firing his second round from the parking lot (fourth shot total) until Mr. Zepeda is kneeling and attempts*  
3 *to fire, determining the exact sequence of the individual officers' gunshots firing at Mr. Zepeda is not possible.*  
4 *The evidence strongly suggests the officers who shot Mr. Limón commenced and concluded their fire between*  
5 *these two events. Some repetition of events occur in attempting to recount the positioning, perceptions, and*  
6 *actions of multiple individuals and their timing.*

7           As officers moved forward after arriving at the terminus of the pursuit and hearing gunfire, they ran up  
8 singly and formed two distinct groups of officers: officers to the east of the parked cars and officers on the  
9 street to the west of the cars. This positioning and difference in the time of arrival would determine each  
10 officers' understanding of the events and their perception of who constituted an imminent threat to their lives.  
11 That difference determined the course of their decisions and actions.

- 12       • EAST: Remaining in the alley and reacting to Mr. Zepeda's gunfire and repeatedly pointing his  
13 revolver at officers, Officer Marquez again fired another volley with his M4 carbine at Mr. Zepeda  
14 (Marquez interview, page 740, line 10). His rifle malfunctioned and he called out, "Red, red, red!" as  
15 a signal to other officers that his weapon was inoperative due to malfunction or lack of ammunition.  
16 He then transitioned to his handgun. He had fired nine rounds from the AR15, hitting the suspect four  
17 times.
- 18       • EAST: Officer Lockner, his handgun now fully loaded, ran up and saw the suspect fire two times.  
19 Officer Lockner, on the east side of the parked cars returned fire as Officer Marquez fired at the  
20 suspect with his rifle. He saw the suspect go down, then fire again as he sat up. Mr. Zepeda raised his  
21 weapon and Officer Lockner again fired at the man (Lockner interview, page 1063, lines 8 and 18).

22           Once Mr. Zepeda was down, Officer Lockner yelled at Mr. Zepeda to "Stay down. Stay on the  
23 ground!" (Lockner interview, page 741, line 9). As the suspect was attempting to get up, he heard someone  
24 yell, "He still has a gun!" (Lockner interview, page 741, line 19).

25           As this is taking place and officers on the west side of the parked cars are focused on Mr. Zepeda in  
26 the parking lot, wholly unaware of Mr. Limón lying on the ground a few yards to their left. Other officers  
27 were nearing the red Jeep from the west or street side as the latest volley took place. None of them are aware  
28 of Mr. Zepeda or his location. All they know is that officers to the north and east of them are exchanging fire  
29 with a suspect as they approach and they have no idea where officers are firing or where the suspect(s) might  
30 be.

- 31       • WEST: Officer Aragon had moved up the driver's side of the red Jeep. He saw Mr. Limón on the  
32 ground on the north side of the alley. The man was wearing a gray sweatshirt (associating him with  
33 the brandishing report that had just occurred prior to the traffic stop) and officers were yelling at him  
34 to "Show me your hands!" "Get on the ground!" and "Stay on the ground!" Officer Aragon believed,  
35 "That's the subject that's been firing at my officers" (Aragon interview, page 622, line 26). Because  
36 officers on the east side of the street were saying that the man still has a gun, Officer Aragon believed  
37 that Mr. Limón had a handgun in his left hand, hidden from Officer Aragon's view. Then he heard  
38 Officer Marquez shout, "Red, red, red!" He believed Officer Marquez to be defenseless at that  
39 moment against any deadly assault (Aragon interview, page 627, line 9).
- 40       • WEST: Officer Brisslinger heard a volley of shots upon arriving and radioed, "Shots fired. Shots  
41 fired!" (Brisslinger interview, page 1116, line 17). He ran forward toward the shooting along the west  
42 side of the parked cars on the east curb. At the parked red Jeep near the alley, he began to fan out  
43 from the Jeep as he heard and officer warn, "He's still got the gun!" As he saw Mr. Limón in the  
44 grass and weeds by the block wall, he heard, "He's still got a gun!" and Officer Marquez shout, "Red,  
45 red, red!" (Brisslinger interview, page 1117, line 24). Officer Aragon was next to him in the street.

1 He then heard, “Stay down. Stay down!” (Brisslinger interview, page 1118, line 26). Officer  
2 Brisslinger told Mr. Limón to not move (Brisslinger interview, page 1127, line 2).

- 3 • WEST: Officer Ross was still in his patrol car at the terminus of the pursuit when he heard officers  
4 being shot at and returning fire. He immediately exited and ran northbound in the middle of the street  
5 toward the direction the suspect had run. He heard gunfire ahead and to his right on the other side of  
6 the parked cars at the east curb (Ross interview, page 992, line 26). As he was coming up the alley, he  
7 heard a volley of fire off to his right from multiple officers shooting. He saw Mr. Limón on his back  
8 in the planter and east sidewalk, wearing a gray sweatshirt (as reported being worn by the brandishing  
9 suspects: Ross interview, page 999, line 5). He was hearing many officers shouting orders of, “Don’t  
10 move! Stay down! Don’t get up! Stay on the ground!” Other officers were yelling, “He still has a  
11 gun!” and “Show me your hands!” (Ross interview, page 1003, line 20). Then he heard Officer  
12 Marquez yell, “Red, red, red!” When Officer Ross heard, “He has a gun!” he believed Mr. Limón  
13 was one of the suspects who fled from the vehicle and had possibly been shot (Ross interview, page  
14 1008, line 18). He was also hearing officers shouting orders, “Stay on the ground. Stay down. Don’t  
15 get up!” (Ross interview, page 1008, line 25).
- 16 • WEST: Officer Orozco had arrived on-scene and heard both small and large caliber gunfire. He ran  
17 northbound in the street toward the sound of gunfire. As he came up on the outside of the officers in  
18 the street on the west side of the red Jeep, he saw Mr. Limón down in the planter, wearing what he  
19 believed to be the gray sweatshirt as described in the recent brandishing report (Orozco interview,  
20 page 910, line 24). He heard, “Watch out, he’s got a gun! He’s got a gun! He’s still got a gun!”  
21 (Orozco interview, page 913, line 18). He believes he hears officers yelling at Mr. Limón, “Lay  
22 down, lay down. Don’t get up. He’s got a gun!”

23 Mr. Zepeda having already rolled back up and unintentionally fired his second round from the parking  
24 lot (22:04:32 on Camera 2) and has aimed at the officers. Officers Lockner and Marquez fire in response and  
25 Mr. Zepeda fell and rolled to the concrete parking divider at the north end of the parking stall. Within  
26 seconds, Officer Marquez signals his weapon is inoperative, “Red, red, red!” while Officer Lockner shouts  
27 orders to Mr. Zepeda. Mr. Limón began to roll or attempt to sit up, making a “pretty distinct move” (Aragon  
28 interview, page 636, line 20). His hidden left hand raised quickly from the ground.

- 29 • Officer Marquez and Officer Lockner are unaware of Mr. Limón due to their intense attentional focus  
30 on the known threat of Mr. Zepeda.
- 31 • Officers Aragon, Ross, and Brisslinger, believing Mr. Limon to be the object of the orders and an  
32 armed suspect, fire at Mr. Limón in defense of the officers to the east of the parked red Jeep whom  
33 each believed had no cover and were exposed to gunfire if Mr. Limón was permitted a chance to  
34 shoot.

35 Officer Orozco sees Mr. Limón begin to turn over. He sees shots fired at the man on the ground  
36 whom he believed officers had been shouting warnings. He believed Mr. Limón was still armed with a  
37 handgun (Orozco interview, page 910, line 27). Officer Orozco then sees what he interprets as gunfire and  
38 muzzle flashes come from behind the rose bushes inside the wrought iron fence line. He sees two to three  
39 muzzle flashes and he believes a second suspect is attempting to shoot him or other officers from a position of  
40 concealment and advantage behind the wall and bushes. He urgently responds, firing a volley of gunshots  
41 toward the “suspect” in the bushes whom he believes is existentially threatening to him and his fellow  
42 officers. Mr. Limón and the perceived threat in the bushes are directly in line, with Mr. Limón between him  
43 and the second suspect.

44 Mr. Limón, still breathing and with a pulse, rolled to his back and moved inadvertently as a result of  
45 being shot by these officers.

1 Officer Brisslinger heard and saw Officer Orozco continuing to fire in the direction of Mr. Limón. He  
2 began shouting, “Hold your fire, hold your fire, hold your fire!” (Brisslinger interview, page 1119, line 16).  
3 Officers from the east side of the red Jeep continued to warn that, “He still has a gun, he still has a gun!”  
4 (Aragon interview, page 630, line 16) and “Stay on the ground! Stay on the ground!” (Aragon interview, page  
5 637, line 15). The officers in the street on the west side of the red Jeep began wondering why other officers  
6 were continuing to fire when Mr. Limón was obviously no longer moving (Aragon interview, page 630, line  
7 16).

8 Mr. Zepeda then rose up to his knees approximately 11 seconds after being hit and rolling back to the  
9 concrete parking divider at the north of the parking stall. The handgun is in his outstretched left hand and  
10 pointed at officers. Bullets strike all around him and he goes down to his side, apparently hit again, still  
11 pointing the handgun at officers and tries to fire it again. Realizing it is empty, Mr. Zepeda tosses the  
12 handgun forward a few feet toward the officers’ direction into the parking stall, gets on all fours, then crawls  
13 to the revolver. He grasps the handgun and moves into a prone position, with his right arm outstretched. He  
14 again aims the weapon at officers. He then slumps, head down on the concrete, unmoving for up to five  
15 seconds. Mr. Zepeda then pushes up to his hands and knees, stands up and moves to stand at the front of the  
16 Honda.

17 It was then the officers on the east of the parked cars saw Mr. Zepeda as he stood up and walked  
18 behind the green Honda in the parking lot to the north of them. The officers believed the man in the parking  
19 lot was a second suspect (Aragon interview, page 639, line 15). Officer Aragon didn’t know if the first  
20 “suspect” who was now down was still a threat, so he remained focused on Mr. Limón, protecting the other  
21 officers from any recurring threat from the man he believed to have threatened them (Aragon interview, page  
22 639, line 15).

23 As this shooting incident continued, multiple Oxnard police officers converged from all directions,  
24 setting up containment perimeters and moving toward the gunfire in an attempt to assist in safely taking the  
25 suspects into custody. Officer Don Ehrhardt was at another nearby call for service when he heard the report  
26 of the vehicle pursuit. During his efforts to respond to the location, he heard at least four volleys of gunshots  
27 (Ehrhardt interview, page 850, line 21). He had a civilian ride-along with him in his patrol car and parked to  
28 the west of the intersection of Cooper Street and N. Garfield Avenue, telling his ride-along to “stay in the car”  
29 (Ehrhardt interview, page 851, line 11). Officer Ehrhardt began quickly moving down the middle of the street  
30 southbound N. Garfield Avenue on foot toward what he perceived to be a suspect down at the alley south of  
31 the parking lot of 506 Cooper Road. He saw a group of officers and perceived they had their weapons trained  
32 on the downed “suspect” (Ehrhardt interview, page 853, line 9 through page 855, line 5).

33 Officer Rodriguez had moved up to the east side of parked cars, south of the alley, and was standing  
34 behind Officers Lockner and Marquez.

35 Mr. Zepeda had already moved to the front of the Honda and was leaning over, using its hood and the  
36 nearby light post to support himself. His handgun had been left on the cement in the parking stall where he  
37 had last been lying. A patrol car with its emergency lights activated traveling southbound on N. Garfield  
38 Avenue pulls into Mr. Zepeda’s view (Camera 1, 22:05:36). That patrol car’s driver realized his tactical  
39 disadvantage, backing and then parking almost out of Mr. Zepeda’s view (Camera 1, 22:05:42.125). Mr.  
40 Zepeda looked up just as the patrol car was backing up.

41 Officer Ehrhardt was just to the west and in the open view of Mr. Zepeda. He loudly announced to the  
42 officers at the alley, “Hey, I’m coming in from the north” (Ehrhardt interview, page 859, line 28). Officers to  
43 his south recognized the danger of his approach and began yelling for Officer Ehrhardt to move (Orozco  
44 interview, page 926, line 3; Ehrhardt interview, page 742, line 7; Ross interview, page 1013, line 4). Officer  
45 Ehrhardt saw movement to his left. Mr. Zepeda was focused on the officer standing in the open in the street to

1 the west of him. Officer Ehrhardt suddenly realized his perilous position and began back pedaling as he drew  
2 his handgun.

3 Mr. Zepeda quickly raised both arms, simulating pointing a handgun at the officer in the open  
4 (Camera 1; Isaac Garcia video). Officers Ehrhardt, Orozco, Stiles, Marquez, Ross, and Lockner fired at Mr.  
5 Zepeda. He was hit in the head and fell to the concrete face up. He quickly perished and was later  
6 pronounced dead by EMS personnel.

7 Officers then organized a rescue of Mr. Limón to attempt to render aid to the man. Three officers  
8 carried him south as other officers placed their bodies between any possible threats to the north and to the east  
9 in the alley to protect Mr. Limón and the officers carrying him from assault. Officers Lockner, Everhart, and  
10 Rodriguez placed him on the street between two parked cars and began resuscitation efforts. Officer Lockner  
11 began chest compressions as Officer Everhart used the CPR mask for rescue breathing (Rodriguez interview,  
12 page 823, line 4). Emergency Medical Services personnel took over the resuscitation efforts until Mr. Limón  
13 was pronounced deceased.

14 Mr. Villa was later discovered to be hiding in a storage shed in the backyard of a house on N.  
15 Garfield. After being repeatedly ordered out of the shed, it required the services of a police service dog team  
16 to take Mr. Villa safely into custody. In addition to minor dog bites, it was discovered that he had been shot in  
17 the leg.

18 **General opinion:** It is my opinion each police officer who responded with gunfire in each instance was  
19 placed into extremely difficult circumstances involving multiple suspects in a running gun battle with the  
20 police through an inhabited city neighborhood known for its high density population of violent gang  
21 members. It was approximately 10:00 pm and dark, with illumination from ambient lighting of the city and  
22 streetlights on N. Garfield Avenue. The parking lot of 506 Cooper Road was well lit, something that likely  
23 interfered with officers' observation of Mr. Limón. As officers arrived on-scene, each was privy only to a  
24 portion of the total picture and sequence of events, forcing each to rely upon his own training, experience, and  
25 perceptions in an attempt to protect himself, other officers, and the community members among whose homes  
26 this extended shooting was taking place.

27 This incident provides a widely varied perspective of human experience. We see incredible valor by  
28 police officers who were understandably and deeply concerned for their own and others lives by the gunfire  
29 they saw and heard directed at them, yet then disregarded their personal safety and chose to run to the fight in  
30 order to protect their fellow officers. Mr. Villa was unintentionally shot by police, but his personal and freely  
31 made decisions prior to that shooting as well as his subsequently forcing officers to respond with a police  
32 service dog and being bitten makes him the architect of his own fate. It also occasioned great tragedy for the  
33 Limón family as well as for the officers involved in inadvertently wounding and subsequently mistakenly  
34 shooting Mr. Alfonso Limón to death. Mr. Limón was erroneously identified as an imminent threat to  
35 officers' lives stemming from a confluence of inopportune radio reports and commands to another unseen  
36 suspect. He was shot in response to several officers' perceptions of the vulnerability of other exposed officers.  
37 Each involved officer responded reasonably to the threat he perceived throughout this highly threatening and  
38 dangerous incident. It is my opinion there is no criminal liability for any of the officers' actions taken that  
39 fateful evening.

40 ////

41 **3A. From the first contact until each of the suspects were taken into custody, their actions, resistance,**  
42 **defiant, and unusual behavior created each officer's state of mind, leading each officer to believe**  
43 **the three suspects were armed or dangerous. The suspects' behavior was so threatening and so**  
44 **unusual during the traffic stop that it affected the state of mind of the officers in their response to**  
45 **their perceptions of imminent danger of death or serious bodily injury to themselves, their fellow**  
46 **officers, and the members of the community.**

1 Peace officers' actions and decisions regarding any force response is judged on the facts and  
2 circumstances known to that officer at the time. Officers are trained that they may not rely upon 20/20  
3 hindsight to exonerate their actions and decisions. In the same vein, officers are not to be evaluated, per  
4 Graham, based on perceptions that are later revealed to be contrary to the actual facts or different than an  
5 officer believed it to be at the time. Since officers are judged on their contextual state of mind, meaning all of  
6 the facts and circumstances, including prior knowledge or information relevant to their decision to respond  
7 with force, it is vital in the evaluation to include an examination of the events and prior knowledge about the  
8 suspect(s) leading to the officers' decisions.

9 The suspects were first contacted by Oxnard Police after two officers observed them rolling a stop sign.  
10 When the officers signaled the car to stop, it briefly stopped, then drove off again. The officers followed the  
11 vehicle and it finally came to stop in the middle of the road. A known-risk traffic stop, also known as a "high-  
12 risk" or "felony" traffic stop was conducted for approximately eleven minutes before the suspects sped away  
13 and the vehicle pursuit then terminated on N. Garfield Avenue. The shooting then ensued.

14 The examination of the events and reasonable perceptions of subject behavior the individual officers  
15 relied upon includes training and experiences that officers might or should see as indicators of threat to their  
16 safety. These can be termed "red flags" that officers are cautioned to consider when in contact with subjects in  
17 the field. While the presence of one or even several threat indicators in a single event may have no negative  
18 result for any of the participants, clusters of these red flags generally signal a threatening situation that may  
19 result in the officer(s) responding with force, including deadly force, in defense of life or safety. There is a  
20 singular class of red flags, however, such as the suspicion that one or more subjects possesses a firearm, is a  
21 member of a street gang (including tagging crews that can generally be hyper-violent), or a history of violent or  
22 aggressive conduct that should result in a higher degree of tactical behavior and preparation by officers to  
23 respond to any threats that might be offered by the suspect.

24 For purposes of both clarity and brevity, rather than attempting to reconstruct a chronological account  
25 of the actions and perceptions reported by the officers in this case, the following listing of the observations of at  
26 least one officer and more often most of the officers who were later forced to respond with gunfire contributed  
27 to their collective and individual state of mind.

- 28 • **Suspect vehicle failure to yield.** The officer saw or heard a radioed report of the suspect vehicle  
29 failing to yield to officers when signaled to stop. *Context:* the driver and occupants may not be aware  
30 of the officers signaling them to stop or it may mean the subjects are deliberating on whether or not to  
31 stop. Fundamentally it signals individuals who are uncooperative from the outset of the contact. This  
32 in turn, is an officer safety red flag, or warning sign.
- 33 • **Vehicle stopped in the middle of the street.** The suspect vehicle, after failing to yield, stopped in the  
34 middle of the street rather than pulling to the curb. This is a very unusual action by a driver when being  
35 signaled to stop for a traffic infraction. While it may be an indication of an intoxicated driver, it could  
36 also be an indicator the occupants have not determined whether or not to cooperate. This lack of  
37 cooperation combined with the positioning of the car in the roadway has led to dangerous vehicle  
38 pursuits or assaults on officers in the past, including shootings. This is an officer safety red flag.
- 39 • **Colonia is an area with a high level of violent gang activity.** By their very association with criminal  
40 groups, gang members represent a significant safety threat to officers. The Colonia district of Oxnard  
41 is the only patrol beat in the city where two-officer patrol cars are mandated due to the high risk nature  
42 of gang contacts. Every car stop in the Colonia area must be treated with a great deal of caution until  
43 the driver and occupants demonstrate they are not a threat to the officers. Additionally, the  
44 concentration of so many gang members in the district means officers must be on guard against  
45 uninvolved subjects intervening in the traffic stop, including being shot at. A traffic stop in the Colonia  
46 area has a higher than average threat potential.

- 1 • **There had been an earlier shooting involving gang members in Colonia shooting at Westside**  
2 **taggers.** Earlier in the shift, officers had been dispatched to reports of a shooting by Colonia gang  
3 members at a Westside tagging crew, a rival gang. When a rival gang or tagging crew venture into  
4 another gang's territory, it runs a real risk of being violently confronted or fired upon. Therefore, it  
5 would be unusual for members of a tagging crew purposely entering into rival gang turf to be unarmed.  
6 This is an officer safety red flag.
- 7 • **Heard Officer Wilfert radio, "Expedite backup."** A police radio broadcast requesting other officers  
8 to "expedite" their response is an emergency call. This will often result in officers responding Code 3  
9 (emergency lights and siren) to the requesting officer's location. An "expedite backup" request signals  
10 responding officers that the circumstances at that location involve increasingly high safety threats to the  
11 officer by a suspect or suspects and additional officers are necessary to safely resolve the incident. The  
12 fact that an officer with her partner already on-scene felt sufficiently threatened to radio this request  
13 indicates a safety threat to all officers responding. This is a significant officer safety red flag.
- 14 • **Officers conducted a known risk stop because of the threatening circumstances and the behavior**  
15 **of the suspects.** When the circumstances surrounding a traffic stop are sufficiently threatening,  
16 officers conduct a "known-risk traffic stop." This is also known as a "high-risk" or "felony" traffic  
17 stop. A known-risk traffic stop freezes the situation, permitting a systematic removal of the subjects  
18 from a suspect vehicle. Known-risk stops are safer for the officers as well as the involved subjects.  
19 The choreographed orders and movements by cooperative subjects allows for little misunderstanding  
20 of intentions and actions by everyone on-scene. Known-risk traffic stops are employed for a wide  
21 range of contacts, from merely threatening circumstances to extremely violent and armed felons.  
22 Dealing with subjects requiring a known risk traffic stop is an officer safety red flag.
- 23 • **The three suspects acted like they didn't care/it was no big deal that officers were pointing**  
24 **firearms at them.** Officers are permitted to threaten with firearms suspects who are suspected of  
25 possessing weapons or when the situation is sufficiently threatening. Pointing a loaded firearm at a  
26 person is the ultimate threatening act an officer possesses short of firing at that subject. When a suspect  
27 or group of suspects are nonchalant about officers yelling orders and pointing firearms at them, police  
28 training and experience show that these individuals may be willing to die. That willingness to die,  
29 especially in the street gang culture, also means a desire to "go out in a blaze of glory," or taking out as  
30 many officers in their path as possible before dying. This unusual attitude, though not rare, is directly  
31 threatening to officers. This behavior is a trained warning to officers that deadly force may be  
32 inevitable and the suspect may go to extraordinary lengths even though grievously injured to create a  
33 legacy that will be remembered as street legend. Ignoring officers or nonchalance in the presence of  
34 firearms being pointed at a suspect is a significant and perhaps even an extreme officer safety red flag.
- 35 • **Mr. Zepeda was recognized from prior contacts as a violent/non-cooperative suspect, including**  
36 **being suspected of being involved in shooting into a residence.** An officer who had prior contacts  
37 with Mr. Zepeda recognized him as a violent and non-cooperative individual suspected of being  
38 involved in a prior drive-by shooting at a residence some months before. Officer training and  
39 experience provides that when a subject is suspected to have been so reckless and uncaring about the  
40 consequences of shooting into an occupied dwelling, the subject should be contacted and treated as  
41 someone who is armed and dangerous until proven otherwise. As a violent and uncooperative subject  
42 who was suspected of being willing to shoot into a home in the past, it must be assumed he is likely  
43 armed and willing to fire at anyone who gets in his way, including the police. Prior knowledge of this  
44 suspect's suspected violent criminal past is an extreme officer safety red flag.
- 45 • **The front (Mr. Villa) and rear passenger (Mr. Zepeda) kept moving their hands to their waists**  
46 **or as if manipulating an object.** It is officers' training and experience that suspects during known-

1 risk traffic stops cooperate by not moving and by keeping their hands in plain view of officers.  
2 Additionally, officers are trained and through their experience know that armed subjects conceal  
3 firearms in their waistbands and pockets as well as on floorboards and under seats in cars. That these  
4 suspects continually kept reaching to their waistbands and were apparently manipulating what  
5 appeared to be unknown objects should be viewed as highly threatening to officers. Officers are  
6 trained to suspect any object to be a deadly weapon until it is proven otherwise and to suspect actions  
7 such as these to be the act of obtaining or preparing a deadly weapon by the suspects. This behavior is  
8 a significant officer safety red flag.

- 9 • **The rear passenger (Mr. Zepeda) reached down to the floorboards and under the seat as if**  
10 **retrieving something.** Officers are trained and it is their experience that suspects hide or carry  
11 firearms on the floorboards of automobiles. They are also trained to believe that a suspect who is  
12 reaching to the floorboard during a known-risk traffic stop with police officers pointing weapons at him  
13 may be accessing a firearm. This act of reaching to the floorboard in this situation is a significant  
14 officer safety red flag.
- 15 • **Suspect(s) did not comply with orders to put their hands up/show hands.** It is the training and  
16 experience of police that “hands kill police officers.” In the history of officer murders when a deadly  
17 weapon is employed, it is the suspect’s dominant hand that universally wields the murder weapon.  
18 Therefore, officers are trained to, above all, clear a subject’s hands of any potential weapon and to  
19 maintain visual observation of the suspect’s hands throughout the contact. Despite repeated orders to  
20 show their hands, the suspects either intermittently revealed their hands or failed to comply. Failing to  
21 comply with orders to show their hands, especially at gunpoint by multiple officers who are taking  
22 tactical positions around these suspects would justifiably create a significant fear in the officers’ minds  
23 that these men are very likely to be armed and even more significantly, unconcerned that officers might  
24 know they possess firearms. This refusal is an extreme officer safety red flag.
- 25 • **Suspect(s) did not comply with any orders or cooperate with police.** Failing to comply with police  
26 officers’ orders, especially at gunpoint, is a very significant safety concern. It should put officers on  
27 their guard against assault or flight. This non-compliance is a significant officer safety red flag.
- 28 • **The suspects were actively moving around and looking back at the officers during the high-risk**  
29 **stop.** During a known-risk traffic stop, the normal behavior of suspects who have multiple officers  
30 pointing firearms at them is to remain very still and to strictly comply with the officers’ orders. A great  
31 deal of moving around and looking back at the officers is highly unusual. Officers are trained to  
32 consider unusual behavior, especially when related to gang members, possible possession of firearms,  
33 and other non-cooperative behavior as a significant officer safety red flag.
- 34 • **Driver (Mr. Hernandez) was ignoring commands to throw out the ignition key.** The driver  
35 retaining the ignition key is a non-compliant act and he retains the option of fleeing in his vehicle from  
36 the officers. This is unusual during a known-risk stop. This demonstrates the driver has not decided to  
37 comply with orders and is an officer safety red flag.
- 38 • **Messrs. Villa and Zepeda were animatedly arguing with (driver) Mr. Hernandez, attempting to**  
39 **get him to drive away.** Not only were the suspects not complying with police orders at gunpoint to  
40 cooperate and show their hands, they were also actively attempting to persuade the driver to flee.  
41 Based on prior knowledge of being suspected in participating in a drive-by shooting of an occupied  
42 dwelling and of there being at least one firearm in the vehicle, officers were now forced to contend  
43 with the probability of these possibly armed or dangerous and non-cooperative suspects fleeing into the  
44 community where they may be provided refuge or assistance by a resident. This is an officer safety red  
45 flag.

- 1 • **Rear passenger (Mr. Zepeda) put on a black latex glove(s).** Officers are trained and through their  
2 experience know that criminals, and especially gang members, don latex gloves when they are armed  
3 with firearms in an effort to prevent the transfer of latent fingerprints to the weapon as well as to avoid  
4 being contaminated with incriminating gunshot residue. Putting on a latex glove in the midst of a  
5 known-risk traffic stop signals to officers the suspect is announcing his possession of a firearm as well  
6 as his intent to use it against them. This is an extreme officer safety red flag.
- 7 • **Dispatch radioed that the suspect vehicle was possibly involved in a “417 just occurred” or that a**  
8 **“brandishing had just occurred.”** The report that an act of brandishing a firearm at someone had just  
9 occurred prior to the traffic stop and that this vehicle might be associated with it, combined with the  
10 observations of the suspects’ behavior would tend to cement in the officers’ minds that these suspects  
11 not only possessed at least one firearm but were also willing to threaten a person with it. The step  
12 between illegally brandishing a firearm and shooting that person is a small one. This is an extreme  
13 officer safety red flag.
- 14 • **The 417 PC suspect in possession of the handgun is wearing a gray sweatshirt.** After a report of  
15 the brandishing suspect wearing a gray sweatshirt, when confronting a person wearing a gray  
16 sweatshirt (or a similar gray top) who is believed to be a suspect, the officers will likely employ more  
17 caution while being ready to quickly respond to any perceived threat. If that person appears to have  
18 already been involved in a shooting with police and is wounded and apparently failed to comply with  
19 orders to remain still and to show his hands, and who then moved in a manner that caused officers to  
20 believe he may be threat, the officers are more likely to urgently react based upon their reasonable  
21 belief that the suspect is attempting to murder officers. Confronting a suspect under very suspicious  
22 circumstances who may have already fired upon officers, remains armed, and was wounded by return  
23 fire is an extreme officer safety red flag.
- 24 • **Rear passenger (Mr. Zepeda) is wearing a baseball cap with a “W.”** In Oxnard, gang  
25 paraphernalia identifies a particular gang set or particular group of gang members. The “W” on a hat is  
26 an indicator that that person represents to other gang members that he is a member of the “Westside”  
27 gang or taggers, rivals to the Colonia gang set members. It would be uncommon—and reckless—for  
28 members of a gang to travel into a rival gang’s territory without the capability of defending themselves.  
29 Wearing the baseball hat with the “W” in the Colonia district would be an extreme officer safety red  
30 flag and would indicate the individual probably had access to a firearm in the car.
- 31 • **Front passenger (Mr. Villa) is wearing a baseball cap with a “W.”** As explained in the prior  
32 bulleted point, this is an extreme officer safety red flag.
- 33 • **One or more of the suspects was using a cell phone to communicate with a person or persons**  
34 **unknown to the officers.** The use of a cell phone during any police contact is forbidden due to the  
35 danger of uninvolved individuals being alerted by the detained subject and then intervening in some  
36 manner. The Colonia area is by its nature a safety problem for officers. It is an area where officers on  
37 traffic stops are circled and stalked by car loads of young men and where if an officer becomes  
38 isolated, he or she is in great risk from an opportunistic ambush. In an area of high gang member  
39 concentration when dealing with uncooperative, probably armed gang members, a suspect(s) speaking  
40 on the phone may be setting officers up to be ambushed. This can occur at the location of the known-  
41 risk car stop from many angles, including gang members approaching and shooting at officers from  
42 behind. It can also include, especially because the driver refused to surrender his ignition key, an  
43 ambush at a designated location to which the suspect will flee with the officers pursuing. This  
44 communication could also signal the subject saying his farewells to loved ones or friends before he  
45 chooses to engage officers in a life-threatening assault. Any subject making a cellular phone call and  
46 refusing orders to stop during a detention is an extreme officer safety red flag.

- 1 • **Rear passenger (Mr. Zepeda) lit a cigarette and smoked it in a leisurely manner, as if enjoying it**  
2 **as his last.** It is not unusual for a suspect who knows he is about to be arrested to delay being taken  
3 into custody by prolonging an enjoyable activity such as finishing a beer or a cigarette. In the case of  
4 smoking a cigarette in a leisurely manner and exaggerating his enjoyment, the suspect is acting as if he  
5 is savoring his last smoke while free. Officers observing the suspect exaggerating his enjoyment and  
6 lighting cigarettes in defiance of orders might normally believe this suspect was readying himself to  
7 submit to arrest and to be taken into custody. In this case, officers would justifiably believe this suspect  
8 was readying himself for something big, likely involving the firearms he was taking great pains to keep  
9 hidden from police while at the same time advertising its presence. This would be an extreme officer  
10 safety red flag.
- 11 • **Front passenger (Mr. Villa) lit a cigarette and smoked it in a leisurely manner as if enjoying his**  
12 **last cigarette.** As explained in the prior bulleted point, in this situation this behavior is an extreme  
13 officer safety red flag.
- 14 • **The rear passenger (Mr. Zepeda) began counting each of the officers as if figuring out how many**  
15 **officers the suspects were going to have to fight.** It is a highly unusual action for a suspect to  
16 obviously count the officers with his latex-gloved hand while at gunpoint. Officers should naturally  
17 have suspected this was part of his calculation as to whether or not he/they could survive a shootout  
18 with the officers holding them at gunpoint. Any person apparently calculating whether or not to attack  
19 officers with a firearm is an officer safety risk and constitutes an extreme officer safety red flag.
- 20 • **The rear passenger (Mr. Zepeda) dropped his hand and then raised it quickly, simulating a**  
21 **handgun with his forefinger and abruptly pointed at a series of officers as if practicing or**  
22 **attempting to force officers to shoot him.** Suspects who are attempting to commit “suicide-by-cop”  
23 will sometimes gesture in this manner in an effort to force officers to fire in self-defense given the split-  
24 second nature of these situations. In this case, where Mr. Zepeda ultimately simulated pointing a  
25 firearm at a police officer and was fatally wounded, suicide-by-cop cannot be ruled out as a motivation  
26 in his suddenly bringing his gloved hand up in a threatening gesture and pointing it at officers. When  
27 no one fired, he continued to point it at officer after officer while simulating pulling the trigger or  
28 recoil. This could also have been a mental rehearsal for his decision to shoot it out with the police.  
29 Officers seeing this behavior should have been very concerned for their safety and for the safety of  
30 other officers and people in the community by his actions, especially in light of all of the behavior they  
31 had observed. This action should be interpreted as an extreme officer safety red flag.
- 32 • **It was the strangest and/or most threatening known-risk stop the officer had ever experienced.**  
33 The actions and behavior of the suspects in this known-risk traffic stop would individually make this  
34 incident unusual. Taken as a whole, the suspects’ behavior in this traffic stop with more than a score of  
35 officers taking tactical positions and holding them at gunpoint would make this particular event unique  
36 in the experience of these officers who work in a very active jurisdiction with a high incidence of  
37 violent gang conflict. The belief that this was the strangest or most threatening known-risk traffic stop  
38 in the officer’s career is an extreme officer safety red flag.
- 39 • **Based on all of the suspects’ behavior and the information he had at the time, the officer believed**  
40 **there to be at least one firearm in the car.** Given the totality of the facts known to the officer at the  
41 time, all of the factors he perceived or knew led to the reasonable belief that the suspects had one or  
42 more firearms in the car.

43 The following chart details each factor the individual officer stated that he perceived or knew during  
44 the incident. Each officer who responded with deadly force saw, heard, or knew some combination of prior  
45 facts contributing to his mindset and his perception of danger. This chart is intended to identify the minimum  
46 of the totality of the facts or circumstances that were known to the officers at the time of the shooting following

- 1 the vehicle pursuit that terminated on N. Garfield Avenue and helped to form the basis of that officer's
- 2 decision-making and perceptions as stated in their interviews. This list of factors may not be complete or
- 3 exhaustive for each officer.

<b>Suspect circumstance or activity</b>	<b>Lockner</b>	<b>Aragon</b>	<b>Orozco</b>	<b>Ross</b>	<b>Brisslinger</b>	<b>Stiles</b>	<b>Marquez</b>	<b>Rodriguez</b>	<b>Ehrhardt</b>
Suspect vehicle had failed to yield (saw/heard radio)	X	X				X	X	X	X
Vehicle stopped in the middle of the street								X	
Colonia is an area with a high level of violent gang activity				X	X			X	
There had been an earlier shooting involving gang members in Colonia shooting at Westside taggers								X	
Heard Officer Wilfert radio, "Expedite backup"	X	X		X	X	X	X	X	
<b>Suspect circumstance or activity</b>	<b>Lockner</b>	<b>Aragon</b>	<b>Orozco</b>	<b>Ross</b>	<b>Brisslinger</b>	<b>Stiles</b>	<b>Marquez</b>	<b>Rodriguez</b>	<b>Ehrhardt</b>
Officers conducted a known-risk stop because of the threatening circumstances and the behavior of the suspects	X	X	X	X	X	X	X	X	X
The three suspects acted like they didn't care/it was no big deal that officers were pointing firearms at them	X	X		X				X	
Mr. Zepeda was recognized from prior contacts as a violent/non-cooperative suspect, including having been involved in shooting into a residence				X			X		
The front (Mr. Villa) and rear (Mr. Zepeda) passengers kept moving their hands to their waists or as if manipulating an object			X	X	X		X	X	
The rear passenger (Mr. Zepeda) reached down to the floorboards and under the seat as if retrieving something	X	X			X	X	X	X	
Suspect(s) did not comply with orders to put their hands up/show hands	X	X	X	X		X			
Suspect(s) did not comply with any orders or cooperate with police		X	X	X			X		
The suspects were actively moving around and looking back at the officers during the high-risk stop	X	X		X	X	X	X	X	
Driver (Mr. Hernandez) was ignoring commands to throw out the ignition key	X	X				X	X	X	
Messrs. Villa and Zepeda were animatedly arguing with (driver) Mr. Hernandez, attempting to get him to drive away		X			X	X	X	X	
Rear passenger (Mr. Zepeda) put on a black latex glove(s)		X				X	X	X	
Dispatch radioed that the suspect vehicle was possibly involved in a "417 just occurred" or that a "brandishing had just occurred."		X	X	X	X	X	X		
The 417 PC/brandishing suspect in possession of the handgun is wearing a gray sweatshirt		X	X	X	X		X		
Rear passenger (Mr. Zepeda) was wearing a baseball cap with a "W"				X			X	X	

Front passenger (Mr. Villa) was wearing a baseball cap with a “W”						X		X	
One or more of the suspects were using cell phones to communicate with a person or persons unknown to the officers	X			X		X		X	
Rear passenger (Mr. Zepeda) lit a cigarette and smoked it in a leisurely manner, as if enjoying his last cigarette	X	X		X	X	X	X		
Front passenger (Mr. Villa) lit a cigarette and smoked it in a leisurely manner, as if enjoying his last cigarette /////	X	X		X	X	X	X	X	
<b>Suspect circumstance or activity</b>	<b>Lockner</b>	<b>Aragon</b>	<b>Orozco</b>	<b>Ross</b>	<b>Brisslinger</b>	<b>Stiles</b>	<b>Marquez</b>	<b>Rodriguez</b>	<b>Ehrhardt</b>
The rear passenger (Mr. Zepeda) began counting each of the officers as if figuring out how many officers the suspects were going to have to fight.	X	X		X	X	X	X	X	
The rear passenger (Mr. Zepeda) dropped his hand and then raised it quickly, simulating a handgun with his forefinger and abruptly pointed at officers as if practicing or attempting to have officers shoot him	X	X		X	X	X	X	X	X
It was the strangest and/or most threatening known-risk stop the officer had ever experienced		X			X	X			
Based on all of the suspects’ behavior and the information he had at the time, the officer believed there to be at least one firearm in the car. /////		X		X		X		X	

1    /////

2    **3B. Each of the officers responding with deadly force acted in self-defense or defense of others’ lives.**  
3    **Each was in reasonable fear based upon the facts he knew at the time of his decision(s) to return**  
4    **fire or to fire upon what he perceived to be an imminent threat to life or lives.**

5           An examination of each officer’s justification for firing his firearm at a person must be undertaken and  
6    must consider all of the facts known to the officer at the time. It must be understood that while there are  
7    various video recordings of some of the events in this shooting incident, these officers, like any human being,  
8    do not have video-like memories of the event. None of the video evidence casts doubt upon the veracity of any  
9    officer in his recounting of his perceptions and actions during this highly threatening, frightening, and time-  
10   compressed gunfight.

11           Fundamental to each analysis of the individual officer’s deadly force response is the nature and  
12   location of this event.

- 13           • The Colonia district of Oxnard is densely populated by violent street gang members requiring the  
14    police department and its officers to take extraordinary measures to protect against life-threatening  
15    assault on a daily basis. While most of the residents are law abiding citizens, the presence of so many  
16    gang members and their aggressive behavior toward law enforcement operating in this neighborhood  
17    creates an underlying and realistic perception of danger to officers.
- 18           • By training and experience, officers would reasonably believe that known gang members traveling in  
19    rival gang neighborhoods are likely to be armed. Officers would also know that gang culture is  
20    typically violent and that gang members often believe they will die young. In support of these beliefs,  
21    officers would reasonably know that the gang culture supports and furthers the ideation of “dying in a

1 blaze of glory,” or attempting to take out or kill as many officers as possible before being shot to death.  
2 Even if the gang member suspect is not killed, his defiance and attempts to murder officers buys him  
3 “street cred” (credibility) and carries significant social weight in prison.

- 4 • This was a highly mobile and chaotic event. From the moment Mr. Hernandez stopped his car and Mr.  
5 Villa exited the suspect vehicle until the moment Mr. Zepeda was fatally wounded was likely no more  
6 than approximately 97 seconds, or perhaps a bit more. Much happened during this one and a half  
7 minutes to cause each officer a great deal of existential fear. The pressures and effects of a deadly  
8 force encounter on the human body are well understood and studied, and is universally a topic of  
9 training for police. Perceptual distortions—sometimes to the extreme—and a corresponding decrease  
10 in cognitive processing and physical skill competencies are the rule rather than the exception. Events  
11 become distorted, complex problem-solving slows, and the ability to shoot with precision degrades as  
12 the degree of perceived existential threat drives the need to survive for each next tenth of a second  
13 increases. The combination of this perceptual, mental, and skill competency negatively influences the  
14 ability of the officer to effectively respond with a fine motor skill such as shooting at even relatively  
15 short distances. The effect of these affects range from mild to severe. Sometimes a single individual  
16 can experience a wide range of debilitating effects in a single event, where that individual may be  
17 mildly affected and then his skills, perceptions, and memories of events drastically impaired or altered  
18 as the immediacy of threat suddenly increases only to be mildly affected again as the threat remains but  
19 is now perceived as less personally urgent.

20 When an event becomes mobile and officers are forced to deal with a suspect who is not only  
21 an imminent threat to life but is also moving and changing position, officers must scramble in an  
22 attempt to safely contain the suspect while simultaneously moving from position to position, running  
23 toward gunfire directed at officers, and a markedly decreased sense of control of the situation. This  
24 suspect mobility creates a hazard not only to officers but also to members of the community. Officers  
25 may begin with a safe background against which to respond with fire but that may change drastically  
26 when the suspect moves. The extremely urgent pressure and natural human response to focus on a  
27 single threat prevents the human being in the uniform from being able to see and clear the background  
28 while shooting to save his life or the lives of others—there is just no time for both.

29 Typically in these circumstances, we see officers who are in fear of their lives (or the lives of  
30 other officers and/or citizens) being forced to operate on incomplete or erroneous information. This  
31 results, for example, in officers moving into suspect’s fields of fire because they either didn’t know a  
32 suspect was still at large, believed a suspect was down, or completely misunderstand the situation.  
33 Circumstances may mistakenly indicate that an uninvolved subject is not only involved but is a threat  
34 to the officers. The greater the chaos caused by the suspect as well as his (their) degree of mobility  
35 generally results in the more hurried and disorganized response of the police. This, in turn, naturally  
36 creates a greater degree of reasonably perceived threat and urgency by the officers who are attempting  
37 to stop the shooting.

- 38 • The knowledge that three suspects were at-large and suspected to be armed dramatically increased the  
39 perceived threat and complexity of this response. Some officers had to choose to bypass the suspect  
40 vehicle that had not been cleared and might possibly contain an armed suspect who could fire on them  
41 as they passed by. Others had to choose to leave their fellow officers to their own devices as they  
42 discovered an armed suspect in the car and chose to take him into custody. Other officers ran to the  
43 sound of gunfire, with bullets passing close to them, knowing only the possible location of one of the  
44 three with the corresponding hazard of one or both of the outstanding suspect being able to flank and  
45 attack unsuspecting officers. Because the nature of this response caused officers to deploy piecemeal  
46 to the scene, each was able to grasp only a small part of the entire picture. Each officer, in turn, was

1 forced to rely upon that small picture for his survival and decision-making in defense of himself and  
2 others.

- 3 • Human factors play a huge role in every police contact and especially in a deadly force response.  
4 Officers are human beings inside of their uniforms and are no more capable than any other human of  
5 being all-seeing and all-knowing of the locations and status of the other participants in any event. Two  
6 fundamental human limitations are each officer's visual focal point as well as their attentional focus. A  
7 person can only see what he or she is able to visually focus upon. That focal plane is where the vision  
8 is crisp and sharp. The field of view where precise detail can be distinguished is very small,  
9 approximately the same size as a person's thumbnail when held at arm's length. If the person's eye is  
10 focused on one point, it cannot be focused on another, e.g., if the officer is focused on one suspect, that  
11 officer is focused on only a small and very specific part of that suspect's body or face. If the officer is  
12 looking at the suspect's right hand, the officer cannot see in detail what the left hand is doing. For this,  
13 the human depends upon peripheral vision which is tuned to movement and alerts us that something  
14 just moved and we then move our focal vision to that left hand to see exactly what it is doing with our  
15 precise focal vision. Additionally, the human eye will see detail at one distance. If there are three  
16 objects, close, middle, and distant and the eye focuses on the middle object, the eye cannot  
17 simultaneously focus on the close or distant objects as well.

18 This applies equally and similarly to the human's attentional focus. Attentional focus is  
19 defined in police training as the ability to focus attention on cues in the environment that are relevant to  
20 the task in hand and can include suppression of distracting stimuli. Attentional load refers to the  
21 limited capacity of a human to keep track of or concentrate on various environmental or internal  
22 stimuli. The more urgent the perceived need to focus one's attention on some aspect of one's internal  
23 or external environment, the more likely other contradicting or competing stimuli will be suppressed  
24 until they become so compelling as to literally rip the attentional focus away and on to the new  
25 stimuli—only then does the human become aware of the second stimuli. Because an officer has been  
26 trained to focus upon those individuals who present an imminent threat to life as well as the officer's  
27 natural self-preservation or drive to protect others from deadly threat, police officers tend to focus most  
28 or all of their attentional focus on a person they perceive as a potential or actual deadly threat. Once a  
29 person is identified as a suspect who is possibly armed and/or has already shot at officers, and this  
30 perception is reinforced by external confirmation such as other officers warning that the suspect is still  
31 armed and orders to stay down, actions by that perceived "suspect" will create a trained response by  
32 that officer. That person will remain a "suspect" and the focus of that officer's attention until the  
33 officer perceives a greater need to divert his or her focus to another source.

34 Fundamentally, if the first officer does not see an object or person that might be plainly obvious  
35 to another officer on-scene, in actuality, the first officer operates as if that object or person does not  
36 exist. That officer takes in the signals he is receiving and then acts upon his reasonable belief and  
37 perceptions. This is how humans function in their environment.

- 38 • Each officer sprinted and maneuvered more than 60 yards toward gunfire. The fear combined with the  
39 exertion in running with 20 to 30 pounds of equipment creates a taxing physical effort. This effort  
40 combined with the perceptual and physical changes these events tend to elicit will generally decrease  
41 the ability of officers to reliably put rounds on target with desired precision.

42 With this foundational information serving as the background of the events surrounding this shooting,  
43 each of the involved-officers' decisions and actions will be evaluated.

44 ////

### 45 **3B.1 OFFICER RYAN LOCKNER**

1           Officer Lockner minimally knew the following as stated in his interview and served as a basis of his  
2 contextual understanding of the dangers he faced as he pursued the fleeing suspects on foot at the terminus of  
3 the vehicle pursuit:

- 4       • The suspect vehicle had failed to yield.
- 5       • He had heard Officer Wilfert radio for expedited backup.
- 6       • He participated in the known-risk traffic stop on the suspect vehicle containing the three suspects.
- 7       • The three suspects acted like they didn't care or it was "no big deal" that multiple officers were  
8 pointing firearms and shouting orders at them. Officer Lockner had a heightened sense that the  
9 suspects were playing with the officers in this dangerous situation (page 1057, line 11)
- 10      • He saw Mr. Zepeda reach down to the car's floorboard or under the seat as if retrieving something.
- 11      • The suspects did not comply with orders to show their hands.
- 12      • The suspects were moving around and looking back at officers and this was very unusual.
- 13      • The driver ignored orders to throw the ignition key out of the window.
- 14      • One or more of the suspects was using a cell phone to communicate with an unknown person or  
15 persons.
- 16      • Both the front and rear passengers were smoking in a leisurely, exaggerated fashion.
- 17      • The rear passenger (Mr. Zepeda) began counting each of the officers as if figuring out how many  
18 officers the suspects were going to have to fight. Officer Lockner stated (page 1088, line 8) that he saw  
19 the suspect's (Mr. Zepeda) lips moving as he counted off the officers, then he made the gun motion at  
20 the officers. This really heightened that fact to this officer that "*this guy is not fucking around.*"
- 21      • Mr. Zepeda raised his gloved hand quickly and pointed it like a gun at officers and made a show of  
22 "shooting" them one at a time.

23           With these facts and perceptions in mind, Officer Lockner was in the primary pursuit vehicle driven by  
24 Officer Rodriguez. At the terminus of the vehicle pursuit, he saw the passenger door of the Monte Carlo open  
25 as the car slowed. He observed Mr. Villa step out of the car and turn to look at pursuing officers. Mr. Villa fell  
26 heavily forward on to his chest with his legs whipping up over his back (Lockner interview, page 1060, line 6).  
27 The officer saw Mr. Zepeda exit the suspect vehicle and begin to run to the sidewalk to the east. Mr. Zepeda  
28 passed Mr. Villa who was still struggling to rise after having fallen so hard. As Officer Lockner reached the  
29 sidewalk, Mr. Zepeda turned, looked at Officer Lockner and aimed, then fired one round from his revolver  
30 directly at Officer Lockner. Officer Lockner saw a muzzle flash and heard the gunshot's report. Mr. Zepeda  
31 immediately turned and sprinted northbound along the sidewalk.

32           Officer Lockner noted that Mr. Villa was still on the ground between him and the fleeing suspect and  
33 was clear of the situation. He did not perceive Mr. Villa to be an imminent threat at that moment (Lockner  
34 interview, page 1061, line 1).

35           Officer Lockner "focused all of my attention" on the person who had shot at him. "*I addressed the guy  
36 behind him (Mr. Villa) bec...--as soon as I hear that first report, I kind of like—it—everything clicked, like this  
37 is real. Like this isn't a movie. This is happening right now. And I really kind of—it just triggered something  
38 that made me think very—I just knew at this point that these—this guy was going to kill me or one of my  
39 partners while he was running away with this gun and I had to address that*" (page 1061, line 5). He fired  
40 multiple rounds at the fleeing suspect. He saw the suspect slow a bit and adjust his shoulders (page 1061, line  
41 23). The suspect appeared to be no longer running smoothly and Officer Lockner was pretty sure he hit Mr.  
42 Zepeda in the first volley (Lockner interview, page 1085, line 3).

1 *ANALYSIS:* Eight spent .45 caliber ACP casings were recovered as evidence from the front yard or sidewalk  
2 of 136 N. Garfield Avenue and are forensically associated with having been fired by Officer Lockner's  
3 handgun. This is likely the volley in which Mr. Zepeda was hit in the back by Officer Lockner's bullet, Mr.  
4 Villa hit in the leg with one bullet, and Mr. Limón was hit in both legs by one bullet, causing him to fall to the  
5 ground.

6 Officer Lockner was completely focused upon the suspect who had just fired at him. He believed that  
7 Mr. Villa was down and not in the line of fire. Having cleared Mr. Villa in his mind from being in his line of  
8 fire, the officer aimed up the sidewalk at the fleeing suspect's back and fired eight quick rounds, hitting the  
9 suspect once. However, after Officer Lockner mentally cleared Mr. Villa in his immediate position and  
10 focused on Mr. Zepeda, Mr. Villa recovered, got to his feet, began running through Officer Lockner's fire and  
11 was hit in the back and top of his right calf, fracturing his tibia. He turned eastbound up a driveway and was  
12 later discovered to be hiding in an outdoor storage shed.

13 Officer Lockner was also unable to see the Limón brothers walking southbound on the same sidewalk,  
14 directly in the path of Mr. Zepeda's northward flight. As the officer fired at Mr. Zepeda, the six rounds that  
15 missed Messrs. Zepeda and Villa streaked toward the brother's position at the north opening of the alley. Both  
16 ducked or crouched instinctively. Gerardo was able to spin and run northwest across the street. Alfonso, Jr.,  
17 was probably struck by at least one bullet that penetrated both legs and caused him to fall (Autopsy gunshot  
18 wounds 15 and 19). Others of the bullets fired at Mr. Zepeda while he was fleeing up the sidewalk may have  
19 caused one or two of his grazing wounds (Autopsy gunshot wounds 8 and possibly 12).

20 Because the human eye can focus upon one focal distance, everything in the foreground and everything  
21 in the background of the running suspect would be out of focus. Human attention can only focus fixedly upon  
22 one point. Officer Lockner was naturally focused on aiming at the source of the imminent threat to his life: the  
23 suspect who had just attempted to murder him.

24 When Officer Lockner fired down the sidewalk after Mr. Zepeda intentionally fired at him, his fire  
25 unintentionally struck Mr. Villa and Mr. Limón. Officer Lockner believed he was clear to fire over or past Mr.  
26 Villa. He believed the background to the north in the path of Mr. Zepeda's flight down the middle of the  
27 sidewalk was "pretty clear" (page 1084, line 15). Both times the officer fired in response to Mr. Zepeda's  
28 shooting at him, Officer Lockner believed he was only targeting Mr. Zepeda. It is unreasonable—and  
29 impractical—to ask of any human being when faced with this very real existential threat to calmly take note of  
30 all possible areas where some unknown person could possibly be prior to firing in defense of life.

31 *CONCLUSION:* Officer Lockner:

- 32 • Reasonably responded to a reasonable fear of death or serious bodily injury by firing at and probably  
33 hitting Mr. Zepeda in self-defense after the suspect fired at him.
- 34 • He unintentionally shot Mr. Villa under reasonable circumstances and within the course and scope of  
35 his duties as a police officer.
- 36 • He unintentionally shot Mr. Limón under reasonable circumstances and within the course and scope of  
37 his duties as a police officer.

38 *CONTINUING:* Officer Lockner then began chasing Mr. Zepeda again. Mr. Zepeda turned again, aimed, and  
39 fired at the pursuing officer. Officer Lockner, seeing the muzzle flash but not hearing the weapon's report,  
40 stopped running and fired his handgun magazine's remaining rounds. His handgun's slide locked back.  
41 Officer Lockner ducked behind a parked car in the street and reloaded his weapon. Officer Marquez ran by as  
42 he was reloading.

43 *ANALYSIS:* Officer Lockner fired his remaining six rounds at Mr. Zepeda who stumbled as the bullets sped  
44 past him. Six spent .45 caliber ACP casings were collected as evidence on or near the sidewalk of 154 N.  
45 Garfield Avenue. It was reasonable for this officer to fire in response to the second attempt in seconds to

1 murder him. The fact that he saw but did not hear the gunshot is one of the most common reported perceptual  
2 distortions reported by officers who are in existential fear caused by suspect assault (88% of officers report  
3 their hearing was distorted or absent during their shooting. Artwohl, page 49).

4 • Officer Lockner reasonably responded to a reasonable fear of death or serious bodily injury by  
5 responding with gunfire at Mr. Zepeda after the suspect fired at him. The officer fired in self-defense.

6 *CONTINUING:* Officer Lockner ran to the southern edge of the alley and joined Officer Marquez who was  
7 armed with a M4 select-fire carbine. When the suspect stood up and fired at the officers, Officer Lockner  
8 returned fire and saw the suspect go down. He fired again at the suspect when he saw Mr. Zepeda point the  
9 handgun at him again. Officer Lockner stated in his interview (page 1086, line 22), *“I was very, very scared to  
10 be hanging out like that, and I just wanted...him to stop. I just wanted him to stop. And I wanted to get out of  
11 that situation as fast as I could. I wanted to just finish the situation as fast as I could.”*

12 *ANALYSIS:* Officer Lockner stated that he had seen the suspect fire three times at officers and that, *“...I  
13 needed to pretty much end this threat”* (page 1063, line 18).

14 • Officer Lockner responded with fire based on his fear of death or serious bodily injury in self-defense  
15 and defense other officers.

16 *CONTINUING:* Officer Lockner saw the suspect he had been shooting at raise his hands in a shooting  
17 position, pointing his weapon to the west where officers were driving and walking southbound on N. Garfield  
18 Avenue. Officer Lockner fired in response.

19 *ANALYSIS:* Mr. Zepeda remained a continuing threat. Even though video as well as crime scene evidence  
20 proves Mr. Zepeda no longer possessed the empty revolver, he mimicked possessing one convincingly enough  
21 to cause multiple officers to believe they had actually seen a handgun in his hands at the time. Given the  
22 immediately preceding actions that included firing directly at pursuing officers, it was reasonable for Officer  
23 Lockner to believe the man to be an imminent threat.

24 • Officer Locker fired upon Mr. Zepeda in the reasonable belief that Mr. Zepeda continued to be armed  
25 and was immediately targeting an officer(s) to the man’s west. Based upon the officer’s knowledge of  
26 this suspect’s preceding actions and behavior, it was reasonable to believe Mr. Zepeda was an  
27 imminent threat to the life or lives of others. This shooting was reasonable.

28 *CONCLUDING OPINION:* Officer Ryan Lockner intentionally fired in response to his reasonable perception  
29 of Mr. Zepeda’s attempting to murder him. The officer was also concerned for the safety of his fellow officers  
30 and the danger to others from the suspect firing in a neighborhood. He clearly saw and heard Mr. Zepeda turn,  
31 take aim, and fire at him. This happened twice. In both instances, the officer reasonably believed his life was  
32 in immediate danger of death or serious bodily injury and he responded per his training.

33 Officer Lockner described perceptual distortions in response to the threat created by Mr. Zepeda’s  
34 extremely threatening actions when he stated (page 1064, line 1), Officer Lockner yelled, *“‘Get down. Get  
35 down. Get down,’ and I remember again when he (Mr. Zepeda) stood back up, when that subject stood back  
36 up, I remember, ‘He has a gun,’ and I heard myself yelling it. That—I didn’t hear anything in between when I  
37 got out of car until that last point, and I think it was that last report (gunshot) that jogged me, jogged me  
38 back.”* His lack of being able to hear is the most commonly reported perceptual distortion by officers  
39 (Artwohl, 1997, page 49).

40 Officer Lockner’s attentional focus would be zeroed in on his perceived existential threat, Mr. Zepeda.  
41 With nothing in his field of vision more compelling that could compete with this attentional draw, the officer  
42 could not see Mr. Villa rising from the ground in front of him nor could he see the Limón brothers in the  
43 background. Both of these men were fired upon unintentionally while Officer Lockner intentionally responded  
44 per his training to Mr. Zepeda’s deadly threat.

1           Officer Lockner continued to fire each time he perceived Mr. Zepeda was attempting to again shoot  
2 officers. In each instance, he reasonably fired in response to the suspect's deadly threat to himself or others.

3           In each instance, Officer Lockner responded as he was trained. He responded to the danger with valor  
4 and continually moved toward the deadly threat in an attempt to protect others even as the suspect intentionally  
5 targeted him. His intentionally shooting at Mr. Zepeda was reasonable when reacting to an imminent threat to  
6 life and safety. His hitting Mr. Villa was unintentional but reasonably performed as part of his police duties  
7 within the totality of the circumstances known to him at the time. Tragically, his one or more of his bullets,  
8 fired as part of performing his police duties, also started the chain events that led to Mr. Alfonso Limón, Jr.,  
9 being misidentified as an armed and threatening suspect, ultimately leading to his being shot to death. Officer  
10 Lockner's part in this was unintentional and is without blame. In every instance of this event, Officer Lockner  
11 reasonably reacted per his training in his effort to protect his life and the life of others.

12       /////

### 13 **3B.2 OFFICER PEDRO RODRIGUEZ**

14           Officer Rodriguez minimally knew the following as stated in his interview and served as a basis of his  
15 contextual understanding of the dangers he faced as he pursued the fleeing suspects on foot at the terminus of  
16 the vehicle pursuit:

- 17       • The suspect vehicle had failed to yield.
- 18       • The suspect vehicle stopped in the middle of the street.
- 19       • Colonia is an area with a high level of violent gang activity.
- 20       • There had been an earlier shooting involving gang members in Colonia shooting at Westside taggers.
- 21       • He had heard Officer Wilfert radio for expedited backup.
- 22       • Officers conducted a known-risk traffic stop because of the threatening circumstances and the behavior  
23 of the suspects.
- 24       • The three suspects acted like they didn't care/it was no big deal that officers were pointing firearms at  
25 them.
- 26       • He participated in the known-risk traffic stop on the suspect vehicle containing the three suspects.
- 27       • The front (Mr. Villa) and rear (Mr. Zepeda) passengers kept moving their hands to their waists or as if  
28 manipulating an object.
- 29       • The rear passenger (Mr. Zepeda) reached down to the floorboards and under the seat as if retrieving  
30 something.
- 31       • The suspects were actively moving around and looking back at the officers during the high-risk stop.
- 32       • Driver (Mr. Hernandez) was ignoring commands to throw out the ignition key.
- 33       • Messrs. Villa and Zepeda were animatedly arguing with (driver) Mr. Hernandez, attempting to get him  
34 to drive away.
- 35       • Rear passenger (Mr. Zepeda) put on a black latex glove(s).
- 36       • Rear passenger (Mr. Zepeda) was wearing a baseball cap with a "W." Officer Rodriguez stated that  
37 rival gangs tend to arm themselves when coming into other's areas.
- 38       • Front passenger (Mr. Villa) was wearing a baseball cap with a "W."
- 39       • One or more of the suspects were using cell phones to communicate with a person or persons unknown  
40 to the officers.

- 1 • Front passenger (Mr. Villa) lit a cigarette and smoked it in a leisurely manner, as if enjoying his last  
2 cigarette.
- 3 • The rear passenger (Mr. Zepeda) began counting each of the officers as if figuring out how many  
4 officers the suspects were going to have to fight.
- 5 • The rear passenger (Mr. Zepeda) dropped his hand and then raised it quickly, simulating a handgun  
6 with his forefinger and abruptly pointed at officers as if practicing or attempting to have officers shoot  
7 him.
- 8 • Based on all of the suspects' behavior and the information he had at the time, the officer believed there  
9 to be at least one firearm in the car.

10 With these facts and perceptions in mind, Officer Rodriguez was driving the lead unit in the vehicle  
11 pursuit of the suspects with Officer Lockner as the passenger officer. At the terminus, the front passenger  
12 suspect opened the passenger door of the suspect vehicle and tripped to the ground. The rear passenger then  
13 exited the passenger side holding a handgun. Officer Rodriguez loudly yelled, "Gun, gun, gun, gun!" Both he  
14 and Officer Lockner were out of their patrol car and Officer Rodriguez had already cleared the front of the car  
15 when he first saw the handgun.

16 Mr. Zepeda, running northbound, reached back with his right hand, pointing the handgun to the south  
17 at officers and fired. Officer Rodriguez didn't see the muzzle flash, but heard the gunfire. Officer Rodriguez  
18 returned fire but lost sight of the suspect as he continued northbound with Officer Lockner still chasing the  
19 suspect on foot. When he was first shot at, he was in fear of his life and thought he was going to be shot (page  
20 807, line 18).

21 *ANALYSIS:* Officer Rodriguez responded per his training when he first saw Mr. Zepeda running with a  
22 handgun in his hand and yelled out a warning to his partner. When Mr. Zepeda turned and fired at the officers,  
23 Officer Rodriguez reasonably responded in self-defense and defense of others per his training and fired in  
24 response to the imminent deadly threat presented by the fleeing suspect.

25 *CONTINUING:* Officer Rodriguez assisted in taking the driver of the suspect vehicle, Mr. Hernandez, into  
26 custody. He then ran northbound to assist officers and heard a bullet go past him (page 805, page 11). He  
27 continued north to the officers' location with "a heightened level of fear" (page 807, line 23). As he made it to  
28 the officer's location just south of the alley, he saw a suspect (Mr. Zepeda) stand up in front of a vehicle and  
29 display a gun at officers approaching from the west. He didn't fire because he was masked by other officers  
30 (other officers were blocking his safely firing on the suspect). Other officers fired a volley of gunshots and the  
31 suspect was hit and fell directly to the pavement. Officer Rodriguez stated (page 810, line 24), the sound of the  
32 gunfire was so low "*...it sounded like popcorn popping.*"

33 He then saw a second subject (Mr. Limón) down. He saw that Mr. Limon had been in the line of the  
34 chase and Mr. Zepeda was directly in line behind him (page 813, line 10). Officer Rodriguez participated in  
35 attempting to rescue Mr. Limón and provide him with medical treatment.

36 *CONCLUDING OPINION:* Officer Rodriguez responded to this extremely dangerous incident with valor and  
37 per his training. When placed in reasonable apprehension of imminent death or serious bodily injury, he  
38 returned fire in defense of Officer Lockner's and his own life. When he discovered Mr. Hernandez still in the  
39 suspect vehicle, he broke off pursuit and took the man safely into custody. He then ran toward gunfire as a  
40 bullet passed by him to assist other officers. Officer Rodriguez acted reasonably in his defense of life when he  
41 fired at Mr. Zepeda.

42 ////

### 43 **3B.3 OFFICER ROCKY MARQUEZ**

1           Officer Marquez minimally knew the following as stated in his interview and served as a basis of his  
2 contextual understanding of the dangers he faced as he pursued the fleeing suspects on foot at the terminus of  
3 the vehicle pursuit:

- 4       • The suspect vehicle had failed to yield.
- 5       • He had heard Officer Wilfert radio for expedited backup.
- 6       • He participated in the known-risk traffic stop on the suspect vehicle containing the three suspects.
- 7       • The front (Mr. Villa) and rear (Mr. Zepeda) passenger kept moving their hands to their waists or as if  
8       manipulating an object.
- 9       • The rear passenger (Mr. Zepeda) reached down to the floorboards and under the seat as if retrieving  
10       something. Officer Marquez stated (page 733, line 10) that when Mr. Zepeda reached to the  
11       floorboards, Officer Marquez “...*really got nervous at that point*” and had his sights on the suspect  
12       because he thought the man would produce a handgun at any second. Based on his training and  
13       experience, he needed to be really alert about that behavior.
- 14       • The suspects were actively moving around and looking back at the officers during the high-risk stop.
- 15       • Driver (Mr. Hernandez) was ignoring commands to throw out the ignition key.
- 16       • Messrs. Villa and Zepeda were animatedly arguing with (driver) Mr. Hernandez, attempting to get him  
17       to drive away.
- 18       • Rear passenger (Mr. Zepeda) put on a black latex glove(s). Officer Marquez stated (interview, page  
19       732, line 7), “...*and that immediately, you know, hinked me up. I thought, obviously, you know, no one*  
20       *just drives around with rubber gloves on. I know that’s something commonly used by...criminals to*  
21       *prevent finger prints and gunshot residue if they’re using guns. So I was really nervous at that point.*”
- 22       • Rear passenger (Mr. Zepeda) was wearing a baseball cap with a “W.” Officer Marquez stated (page  
23       732, line 17) that he really directed his attention to the rear passenger who was wearing the hat with the  
24       “W.” He thought about an earlier call involving Westside gangsters. It is uncommon to see a “W” hat  
25       in Colonia and that guys wearing that hat is not a neighborhood norm and made him nervous.
- 26       • Front passenger (Mr. Villa) was wearing a baseball cap with a “W.”
- 27       • One or more of the suspects were using cell phones to communicate with a person or persons unknown  
28       to the officers.
- 29       • Rear passenger (Mr. Zepeda) lit a cigarette and smoked it in a leisurely manner, as if enjoying his last  
30       cigarette. Officer Marquez stated (page 733, line 17), “*I kind of felt like maybe this is one last cigarette*  
31       *before he does something, whatever it may be.*” Officer Marquez told Officer Ross that it looked like  
32       something is going to happen, “*He’s going to do something*” and to get back.
- 33       • Front passenger (Mr. Villa) lit a cigarette and smoked it in a leisurely manner, as if enjoying his last  
34       cigarette.
- 35       • The rear passenger (Mr. Zepeda) began counting each of the officers as if figuring out how many  
36       officers the suspects were going to have to fight. Officer Marquez stated (page 734, line 16), “*That*  
37       *really got me nervous at this point because I see him. He’s counting our guns, counting us because*  
38       *he’s thinking, okay, there are how many guys I have to fight out with, or you know, maybe he’s picking*  
39       *who he’s going to shoot first or what he’s going to take. So I’m really, at this point, nervous, and I’m*  
40       *just downright getting to the point where, you know, I’m downright scared nervous waiting for*  
41       *something to happen because I have that anticipation that it seems something is really going to*  
42       *happen.*”

- 1 • The rear passenger (Mr. Zepeda) dropped his hand and then raised it quickly, simulating a handgun  
2 with his forefinger and abruptly pointed at officers as if practicing or attempting to have officers shoot  
3 him. Officer Marquez stated (page 735, line 4) he was surprised no one shot the suspect when he  
4 abruptly raised his hand and pointed it like a gun. For a moment, Officer Marquez thought the man  
5 had actually raised and pointed a gun at officers. He said, “*I just wanted to be really sure whether he*  
6 *had something or not...*” and he took an extra second to make sure before deciding not to shoot the  
7 suspect.
- 8 • Based on all of the suspects’ behavior and the information he had at the time, the officer believed there  
9 to be at least one firearm in the car.

10 Officer Marquez, armed with his issued Colt Commando M4 select-fire carbine and his issued  
11 holstered handgun at the terminus of the vehicle pursuit, observed Mr. Zepeda running northeast toward the  
12 east sidewalk, then northbound up the sidewalk with Officer Lockner in foot pursuit. He heard a gunshot and  
13 heard what he interpreted as return fire from Officer Lockner who was on the sidewalk. As he was crossing  
14 the street to the east sidewalk, he saw another muzzle flash from the suspect’s weapon and heard the shot. The  
15 suspect again turned and ran northbound up the sidewalk. Officer Lockner again returned fire. Officer  
16 Lockner then ducked behind a parked car to reload his handgun as Officer Marquez sprinted by him in pursuit  
17 of the suspect he’d seen run into the lighted parking lot to the north of the alley. The officer has the suspect in  
18 sight and believed he had the tactical advantage of knowing the suspect’s intentions of shooting officers. He  
19 believed that if other officers stumbled upon this suspect they may be shot at and injured or killed (page 738,  
20 line 21).

- 21 • As Officer Marquez was running toward Officer Lockner, he saw officers contacting the driver of the  
22 suspect vehicle (page 758, line 10), however, he knew Officer Lockner was by himself and Officer  
23 Marquez’s priority was to help him so he was not in a gunfight by himself.

24 The suspect, standing near a car in the parking lot, turned and raised his handgun. Officer Marquez  
25 saw the muzzle flash and returned fire with a volley of shots. He believed the suspect dropped his weapon and  
26 moved around, while officer Marquez moved quickly to the corner of the alley, off to his right against the fence  
27 line east of N. Garfield Avenue. When Mr. Zepeda raised his handgun and again pointed it officers, Officer  
28 Marquez again returned a volley of fire. After firing 9 total rounds, his M4 carbine malfunctioned. He  
29 transitioned to his handgun.

30 There were police officers in the street west of him and someone was yelling, “Cease fire!” and “Stay  
31 down, stay on the ground” (page 741, line 9). He saw the suspect trying to get up from the ground and he  
32 heard someone yell, “He still has a gun!” (page 741, line 19). He saw a muzzle flash from the suspect and the  
33 officers, including Officer Marquez, began returning fire, apparently hitting him again and causing him to fall.  
34 Officer Marquez thought the man had been hit and would discard his handgun in order to get medical treatment  
35 but, instead, he was still trying to fight. The man was apparently “...going to take this fight as far as he  
36 possible can” (page 741, line 19).

37 **ANALYSIS:** Officer Marquez reacted per his training when he returned fire or acted upon his reasonable belief  
38 of Mr. Zepeda’s actions constituting an imminent threat of death or serious bodily injury. He witnessed this  
39 suspect turn, take aim, and fire twice at Officer Lockner. Then he witnessed the suspect in the parking lot take  
40 careful aim at him and fire a total of two rounds, one of which was while he was on the ground. In each  
41 instance, Officer Marquez was in reasonable and justifiable existential fear for himself and others. His firing  
42 upon and hitting Mr. Zepeda was reasonable under the circumstances.

43 **CONTINUING:** Officer Marquez saw the suspect get up to his hands and knees and then to his feet and pace  
44 at the front of the parked car in the parking lot. He believed the suspect had the handgun in his hand. Suddenly  
45 other officers, including Officer Ehrhardt, were advancing southbound on N. Garfield, directly into the

1 suspect's line of fire to the west. The suspect raised his hands and pointed at the officers to the west. Officer  
2 Marquez immediately believed the suspect was about to fire on the officers who were a lot closer than  
3 Marquez was from the alley. He felt the greater proximity put those officer to the west in greater danger.  
4 Officer Marquez aimed for the man's head because it was the only shot he had and he felt it was the best option  
5 to stop the suspect (interview, page 743, line 12). He fired two rounds as other officers fired, and the suspect  
6 dropped to the pavement.

7 *ANALYSIS:* Mr. Zepeda, although factually unarmed, was believed to have been armed at the moment Officer  
8 Marquez decided to fire in defense of life of the officers immediately to the west of the suspect. Officers are  
9 permitted reasonable mistakes in their perception during the course of their duties based on the totality of the  
10 facts known to the officers at the time.

11 *CONTINUING:* Officer Marquez stated (page 743, line 27), "*We were pretty much standing right there by the*  
12 *entrance to that alley and I heard someone say—well, someone said, 'What about this suspect?' And I looked*  
13 *over...to my left more towards the street, and I saw that there was a subject down in the bushes.*" He  
14 immediately became concerned about his safety because the "suspect" (Mr. Limón) was still moving and  
15 breathing. He knew there were multiple suspects at-large, but he had had tunnel vision on the guy he was  
16 shooting at and had missed the "suspect" who was so close to him. He realized he had been in a terrible  
17 position and if the second "suspect" had decided to, it would have been easy to shoot him and the officers from  
18 just a few feet to the side of him. Officer Marquez immediately moved back.

19 An officer said the suspect needed to be moved. At that point, Officers Aragon, Brisslinger, and  
20 Marquez moved up to the fence line to cover the rescue officers as they carried the "suspect" to the rear for  
21 medical treatment. Officers then confirmed the first suspect (Mr. Zepeda) was down, and everything slowed  
22 down as they awaited supervisory direction.

23 *ANALYSIS:* This highly threatening event caused Officer Marquez to focus his attention solely upon the  
24 perceived threat of the suspect who was shooting at him to the exclusion of a possible "suspect" on the ground  
25 just feet from him. Upon realizing Mr. Limón's position, the officer took action to move to a safer position,  
26 after immediately realizing the "suspect" could have easily shot him and other officers. As soon as officers  
27 communicated that a rescue attempt was to be made, Officer Marquez stepped between the suspect and officers  
28 as a shield to protect them from harm.

29 *CONCLUDING OPINION:* This was a highly threatening situation where Officer Marquez and other officers  
30 could have been shot and killed or seriously injured by three suspects who were, to Officer Marquez's  
31 knowledge, at-large. Officer Marquez was already reasonably alarmed by the behavior of the suspects during  
32 the known-risk traffic stop. Then he witnessed one of the suspects fleeing, turning, and deliberately attempting  
33 to shoot an officer who was pursuing him on foot. Officer Marquez stated (page 738, line 21), "*Because at this*  
34 *point, I mean, I'm in—I'm in fear for my safety, but I'm also moreover in fear for the safety of other officers*  
35 *and citizens. This guy is firing in the street, and I know that there's other officers.*" This officer believed this  
36 suspect would take the fight to the officers as far as it would go.

37 In each instance, Officer Marquez responded as he was trained. He responded to the danger with valor  
38 while continually moving toward the deadly threat represented by Mr. Zepeda in an attempt to stop this  
39 dangerous criminal. He stated (page 751, line 25), "*...the feeling was utterly terrifying. I was scared,*"  
40 because he thought one of them was going to be hit. His intentionally shooting at Mr. Zepeda was reasonable  
41 under the totality of the circumstances known to him at the time, was within the conduct of his police duties,  
42 and his reasonable perception of Mr. Zepeda's imminent threat to life and safety. Officer Marquez reasonably  
43 reacted per his training in his effort to protect his life and the life of others.

44 ////

#### 45 **3B.4 OFFICER JESS ARAGON**

1           Officer Aragon minimally knew the following as stated in his interview and served as a basis of his  
2 contextual understanding of the dangers he faced as he pursued the fleeing suspects on foot at the terminus of  
3 the vehicle pursuit:

- 4       • The suspect vehicle had failed to yield.
- 5       • He had heard Officer Wilfert radio for expedited backup.
- 6       • He participated in the known-risk traffic stop on the suspect vehicle containing the three suspects.
- 7       • The three suspects acted like they didn't care or it was "no big deal" that multiple officers were  
8 pointing firearms and shouting orders at them.
- 9       • The rear passenger (Mr. Zepeda) reached down to the floorboards and under the seat as if retrieving  
10 something.
- 11       • Suspect(s) did not comply with orders to put their hands up/show hands.
- 12       • Suspect(s) did not comply with any orders or cooperate with police.
- 13       • The suspects were actively moving around and looking back at the officers during the high-risk stop.  
14 Officer Aragon noted (interview, page 606, line 23) that the suspect would laugh at the officers.
- 15       • Driver (Mr. Hernandez) was ignoring commands to throw out the ignition key. He heard one of the  
16 suspects tell the driver to, "Drive away" (page 609, line 10).
- 17       • Messrs. Villa and Zepeda were animatedly arguing with (driver) Mr. Hernandez, attempting to get him  
18 to drive away.
- 19       • Dispatch radioed that the suspect vehicle was possibly involved in a "417 just occurred" or that a  
20 "brandishing had just occurred."
- 21       • The 417 PC suspect in possession of the handgun is wearing a gray sweatshirt.
- 22       • Rear passenger (Mr. Zepeda) put on a black latex glove(s). This heightened Officer Aragon's sense of  
23 awareness. He began putting this action together with the brandishing call that had just come over the  
24 radio (page 607, line 21). He then realized this call was going to go a different route than he had  
25 expected. It was then he told other officers that he was going back for his shoulder weapon (page 608,  
26 line 13).
- 27       • Rear passenger (Mr. Zepeda) lit a cigarette and smoked it in a leisurely manner, as if enjoying his last  
28 cigarette.
- 29       • Front passenger (Mr. Villa) lit a cigarette and smoked it in a leisurely manner, as if enjoying his last  
30 cigarette.
- 31       • With a smirk on his face, the rear passenger (Mr. Zepeda) began counting each of the officers as if  
32 figuring out how many officers the suspects were going to have to fight.
- 33       • The rear passenger (Mr. Zepeda) dropped his hand and then raised it quickly, simulating a handgun  
34 with his forefinger and abruptly pointed at officers as if practicing or attempting to have officers shoot  
35 him. When the suspect did this, it "*...really...threw my heightened awareness to another level*" (page  
36 612, lines 4 and 6).
- 37       • It was the strangest and/or most threatening known-risk stop the officer had ever experienced.
- 38       • Based on all of the suspects' behavior and the information he had at the time, the officer believed there  
39 to be at least one firearm in the car.

40           As a result of these observations and perceptions, Officer Aragon armed himself with his issued AR15  
41 semiautomatic rifle and later drove his patrol car in pursuit of the fleeing suspect vehicle. At the terminus of

1 the pursuit he stopped approximately three cars back from the suspect vehicle. He was putting the patrol car  
2 into park when he heard the first gunshots (interview, page 618, line 18). He saw Officer Marquez running  
3 northbound on the east sidewalk. Officer Aragon ran to the same sidewalk, following Officer Marquez  
4 although he was quite a way behind him. He was past the suspect vehicle when he heard another gunshot,  
5 *“Believing the shot came down that sidewalk area”* (interview, page 620, line 16) and moved to continue  
6 northward up the street on the west side of the line of parked cars on the east curb. Officer Aragon stated (page  
7 626, line 4), that as he was running northbound and making his way up the parked cars, *“I thought I was going  
8 to get shot,”* and thought his partners were going to be shot. *“...I can’t believe I’m running to gunfire”* (page  
9 626, line 9).

10 As he arrived at the red Jeep Liberty near the opening to the alley, he could see a subject in a gray  
11 sweatshirt and jeans lying on his back who appeared to have been shot and was still moving. Officer Aragon  
12 could hear officers yelling commands:

- 13 • “Show me your hands.”
- 14 • “Get on the ground.”
- 15 • “Stay on the ground.”

16 At this point, Officer Aragon stated (page 622, line 26), *“My turn of thought is I’m looking down at this entire  
17 area and to me, there’s my suspect. That’s the subject that’s been firing at my officers.”* Officer Aragon was  
18 standing a few feet back from the front of the Jeep, keeping the engine block between him and the suspect on  
19 the ground (page 631, line 28). He could see the “suspect’s” gray sweatshirt (page 632, line 20).

20 He looked to his right and saw two officers on the sidewalk area *“...and I distinctly remember like it  
21 was slow motion that I was going to yell at these officers to get out of there ‘cause they didn’t have cover”*  
22 *(page 623, line 10)*. Officer Aragon heard other officers shouting, “Don’t move.” Officer Aragon was also  
23 telling the “suspect” not to move. He also heard a couple of officers warn, “He’s still got a gun.” Officer  
24 Aragon thought (page 624, line 6), *“Here’s our guy that just shot at us.”* To the officer, the subject on the  
25 ground didn’t look anything like he might not be involved because he didn’t look frightened (page 677, line  
26 11). Other officers were saying he still had a gun. As a result, Officer Aragon believed the “suspect” had a  
27 handgun in his hidden left hand. In his mind (page 625, line 7), *“This is the suspect.”*

28 Officer Aragon could still see the “suspect’s” left hand and body moving as he heard an officer yell,  
29 “He’s still got a gun!” Then he heard Officer Marquez yell, “Red, red, red!” and that took Officer Aragon to  
30 another level of alarm (page 627, line 4). He never heard Officer Marquez yell, “Green.”

31 He saw Mr. Limón roll to his side and begin lifting his left hand. He didn’t know what the man was  
32 doing when Mr. Limón was first moving until it became obvious that he was trying to get up (page 634, line  
33 12). Mr. Limón’s movement at that time was completely different from other movements he was making  
34 when officers were giving him orders not to move (page 634, line 16). Officer Aragon stated (page 634, line  
35 23), *“When he made that move that ultimately made me fire...he made a much more furtive movement to kind  
36 of get up and roll...”*

- 37 • *“It was a pretty distinct move”* (page 636, line 20).

38 Officer Aragon stated (page 627, line 28), *“At that point, I believe he was going to shoot at us again,  
39 he was going to shoot my partner who I believed had an empty weapon at that time and I opened fire.”* *“...I  
40 believed he was coming up with the weapon again”* (page 628, line 21). Officer Aragon fired four times at Mr.  
41 Limón.

42 Officer Aragon doesn’t know if other officers fired at Mr. Limon because (page 629, line 10), *“I mean,  
43 I was pretty much zoned in on what I was doing.”*

1 ANALYSIS: An officer's decisions and actions are evaluated based only on the totality of the facts known to  
2 him as well as the circumstances in which he is making those evaluations at the time without the benefit or  
3 consequence of 20/20 hindsight (Graham, 1989). At that moment:

- 4 • Officer Aragon was aware only of one subject who apparently had been shot by the police.
- 5 • The bleeding man was apparently the subject of police orders as well as warnings to other officers that  
6 he *still* (emphasis added) had a gun. By saying the man still had a gun would reasonably mean that  
7 individual was in possession of a gun before this point. Officers would logically conclude the man had  
8 been shot because he menaced officers with the weapon and had shot at them.
- 9 • The man's left hand was hidden from view. With the warnings that he was still armed, it is reasonable  
10 for an officer to act on the assumption that the gun the officers were warning about was in his left hand.
- 11 • The subject's position put officers on the east of the Jeep in a very vulnerable position as they were  
12 without cover protecting them from the suspect on the ground.
- 13 • Officer Marquez alerted other officers that his weapon was either empty of ammunition or had  
14 malfunctioned and that he was unable to defend himself against gunfire.

15 When Mr. Limón moved in a manner that elicited a belief that he was acting to shoot the exposed and  
16 vulnerable officers, Officer Aragon, along with two other officers, fired in defense of other officer's lives.  
17 Fragments consistent with a .223 caliber rifle bullet were recovered from Autopsy gunshot wound 11.

18 Officer Aragon was affected by the common phenomena of time distortion while experiencing a high-  
19 pressure, high-threat event. Commonly termed "tache-psychia" or experiencing events in slow-motion, is  
20 reported by almost two out of three officers who are involved in a shooting (Arthwohl, 1997, page 49). It is  
21 evidence of a high degree of perceived threat.

22 CONCLUSION: It was reasonable for Officer Aragon to:

- 23 • Believe Mr. Limón was the suspect based on his injury status, the commands that officers were  
24 apparently directing at him, as well as the warnings officers were providing to other officers that the  
25 man was apparently *still* armed.
- 26 • Fire on Mr. Limón based on his reasonable perception of imminent deadly threat to other officers, at  
27 least one of whom Officer Aragon believed was unable to protect himself.
- 28 • Based upon the reasonable officer standard (Another officer in the same or similar circumstances and  
29 given the same training and experience might make the same decisions or respond the same way), it is  
30 likely that another officer in this situation would have come to the same mistaken conclusions and  
31 reasonably fired upon Mr. Limón. In this particular circumstance, two other officers came to the same  
32 decision at the same time given much of the same information possessed by Officer Aragon.

33 CONTINUING: After Officer Aragon shot Mr. Limón, the man moved very little afterward. Officer Aragon  
34 began hearing officers again saying, "Don't move, don't move, don't move!" Officer Aragon maintained his  
35 focus on the "suspect" on the ground in front of him. Then he heard officers warning, "He still has a gun. He  
36 still has a gun!" This confused Officer Aragon because he could see no reason to be concerned with Mr.  
37 Limón's actions. Officer Aragon began to look around, he heard other officers shouting, "Stay on the ground.  
38 Stay on the ground," and then heard officers firing (page 637, line 13).

39 Officer Aragon looked at the background afforded by the building across the parking lot to the north  
40 and finally saw the head of somebody walking behind a vehicle. He thought it was a second suspect (page  
41 639, line 15). He didn't know if the "first" suspect (Mr. Limón) was still a threat or not, so he kept his focus on  
42 Mr. Limón to protect officers should he again attempt to shoot them. Mr. Limón was the closest threat to  
43 Officer Aragon and other officers (page 643, line 18 and 25).

1 Officer Aragon heard officers saying they wanted to perform a rescue on Mr. Limón to render medical  
2 aid. Officer Aragon moved to the east side of the Jeep as officers moved Mr. Limón. Officer Aragon then  
3 acted as overwatch security, maintaining his focus down the alley to the east to protect officers from any  
4 outstanding suspect or possible third party who might attempt to ambush officers (because the suspects during  
5 the traffic stop had been using cell phones) (page 653, line 7). He heard many orders for the suspect standing  
6 in front of the Honda to get down and to show his hands. He also heard officers warn that the suspect still had  
7 a gun. Officer Aragon was looking down the alley when he heard another volley of gunfire as Mr. Zepeda was  
8 fatally shot.

9 *CONCLUDING OPINION:* Officer Aragon acted with valor as he ran toward the scene where the suspect was  
10 shooting at officers. When he arrived at the red Jeep parked at the east curb, all indications pointed to the man  
11 lying on his back on the north side of the alley was the suspect who had been shooting at officers. Officers  
12 were being warned that he still had a gun. When Mr. Limón abruptly moved, Officer Aragon perceived it to be  
13 an imminent threat and he responded per his training and, within the conduct of his police duties, intentionally  
14 shot Mr. Limón.

15 Mr. Limón was, in fact, an uninvolved party. The fact that he was shot and killed by police is an  
16 unabashed tragedy. That said, it was reasonable for Officer Aragon to mistake him for an armed suspect given  
17 the totality of the facts and the circumstances leading up to the shooting. Two other officers, given much of the  
18 same information, also mistook Mr. Limón for an imminent threat and shot him. Officer Aragon acted upon  
19 his training in an effort to protect officers who could not have protected themselves had Mr. Limón, indeed,  
20 been armed and attempting to murder them.

21 ////

### 22 **3B.5. OFFICER MATTHEW ROSS**

23 Officer Ross minimally knew the following as stated in his interview and served as a basis of his  
24 contextual understanding of the dangers he faced as he pursued the fleeing suspects on foot at the terminus of  
25 the vehicle pursuit:

- 26 • The suspect vehicle had failed to yield.
- 27 • He had heard Officer Wilfert radio for expedited backup.
- 28 • He participated in the known-risk traffic stop on the suspect vehicle containing the three suspects.
- 29 • Colonia is an area with a high level of violent gang activity.
- 30 • The three suspects acted like they didn't care or it was "no big deal" that multiple officers were  
31 pointing firearms and shouting orders at them. The attitude of nonchalance exhibited by the rear  
32 passenger "raised the hairs on the back of my neck." It was not what a normal person would do. It was  
33 beyond a "don't care attitude." It was very casual, as if the suspect was exhibiting an attitude of "I  
34 don't care what happens to me" (page 1036, line 20). It made Officer Ross very uncomfortable and  
35 increased his need to protect himself. The suspect's attitude made it more real and much more scary,  
36 like he wasn't scared of 15 to 20 guns pointed at him...he didn't care (page 1037, line 4).
- 37 • He recognized Mr. Zepeda from a prior contact as a violent/non-cooperative suspect, including having  
38 been involved in a shooting into a residence. Officer Ross recognized the rear passenger (Mr. Zepeda),  
39 having past experiences with him, as "very uncooperative and very uncaring" (page 985, line 17).
- 40 • The front (Mr. Villa) and rear (Mr. Zepeda) passengers kept moving their hands to their waists or as if  
41 manipulating an object.
- 42 • Suspect(s) did not comply with orders to put their hands up/show hands.
- 43 • Suspect(s) did not comply with any orders or cooperate with police.

- 1       • The suspects were actively moving around and looking back at the officers during the high-risk stop.
- 2       • Dispatch radioed that the suspect vehicle was possibly involved in a “417 just occurred” or that a  
3       “brandishing had just occurred.” Officer Ross stated, “*I thought this was the brandishing vehicle*” and  
4       this was why the suspects were acting like this (page 986, lines 16 and 26).
- 5       • The 417 PC suspect in possession of the handgun is wearing a gray sweatshirt.
- 6       • Rear passenger (Mr. Zepeda) was wearing a baseball cap with a “W.” The rear passenger was  
7       associated with a tagging crew. Tagging crews are very, very violent and operated just like gangs with  
8       the same enforcement of rules, conduct, and retaliations with numerous weapons and fights. They  
9       participate in murders and assaults. He also believed that Mr. Zepeda was on parole (page 1035, line  
10       17).
- 11       • One or more of the passengers were using cell phones to communicate with a person or persons  
12       unknown to the officers. It alarmed Officer Ross because the suspects might have been calling a  
13       family member to say good-bye or they may have been setting up a plan to ambush the officers  
14       because, after all, they were in the middle of a big gang area (page 983, line 22).
- 15       • Rear passenger (Mr. Zepeda) lit a cigarette and smoked it in a leisurely manner, as if enjoying his last  
16       cigarette. Officer Ross thought that these cigarettes were either the last before going to jail or before  
17       they were going to do something stupid (page 983, line 15).
- 18       • Front passenger (Mr. Villa) lit a cigarette and smoked it in a leisurely manner, as if enjoying his last  
19       cigarette.
- 20       • With a smirk on his face, the rear passenger (Mr. Zepeda) began counting each of the officers as if  
21       figuring out how many officers the suspects were going to have to fight. Officer Ross believed he was  
22       attempting to come up with a plan on how to shoot the officers (page 1036, line 10).
- 23       • The rear passenger (Mr. Zepeda) dropped his hand and then raised it quickly, simulating a handgun  
24       with his forefinger and abruptly pointed at officers as if practicing or attempting to have officers shoot  
25       him. When Mr. Zepeda did this, “*I was, you know, very close to protecting myself and my officers*”  
26       (page 928, line 3). He saw the suspect’s hand come up very fast and it was very close to causing  
27       Officer Ross to shoot.
- 28       • Based on all of the suspects’ behavior and the information he had at the time, the officer believed there  
29       to be at least one firearm in the car. Officer Ross believed, based on their actions and the brandishing  
30       call, the likelihood of them having a firearm was definitely higher (page 987, line 7).

31       With his perceptions of the suspects’ threatening behavior, Officer Ross was still in his patrol car  
32       following the vehicle pursuit when he heard shots being fired where the suspect vehicle was stopped. He  
33       thought officers were being shot at and there had been an exchange of fire. The suspects were shooting  
34       southbound and the officers returned fire northbound (page 992, line 20). Officer Ross stated (page 991, line  
35       13), “*And, you know, my partner’s life is in danger. I’m not that far behind. My life is in danger. Everybody  
36       behind us, really.*”

37       Officer Ross immediately exited his patrol car and ran down the middle of the street northbound on N.  
38       Garfield Avenue. He could see a figure in the distance running away and thought officers were chasing one or  
39       more suspects. It was too dark to identify who the figures were running up the sidewalk. As he passed the  
40       suspect vehicle, he didn’t see anyone inside and believed that all three had fled (page 991, line 22). He was  
41       struck by something he felt was “weird,” that the suspects stopped so close to the location of the known-risk  
42       traffic stop and that perhaps the cell phone calls had been to set up an ambush at the present location (page 992,  
43       line 3).

1 As he was running up the street, he heard gunshots again. These gunshots appeared to come from  
2 different locations, farther away and much closer (page 994, line 22). Officer Ross stated (page 995, line 8),  
3 *“At that point, I’m—I’m, you know, I’m scared. I’m scared that my fellow officers are going to get shot. You*  
4 *know, I’m scared I’m going to get shot...I can’t see where the gunshots were coming from. I don’t know if I*  
5 *was running into gunshots, and I don’t know where, you know, shots were getting fired from really. You know,*  
6 *and I just—I just wanted to make sure everybody was safe and to protect myself and my other officers, and so I*  
7 *ran towards where the—where I heard the gunshots coming.”*

8 Officer Ross saw what appeared to be a suspect running from officers. As Officer Ross was coming up  
9 on the corner of the alley south of Cooper Road, he heard shots fired to the north of him and then heard another  
10 volley of rapid fire off to his right as multiple officers fired multiple rounds. Officer Ross immediately saw a  
11 subject (Mr. Limón) in a light gray sweatshirt on his back in the planter on the north side of the alley. Another  
12 officer immediately came up behind Officer Ross in the street. Because the suspect described in the  
13 brandishing report was wearing a gray sweatshirt and based on all of the circumstances known to him at that  
14 moment, Officer Ross stated (page 998, line 21), *“My focus was on the guy in the gray sweatshirt.”* At the  
15 traffic stop, Officer Ross could not see either the driver or front passenger in the car (page 1002, line 27).

16 Officer Ross saw three officers to the east of the parked car. His experience in dealing with suspects  
17 who had been shot or were surrendering was that they “give their back” to officers as a show of giving up.  
18 However, this “suspect” was lying on his back, something Officer Ross took as a sign of resistance (page 1003,  
19 line 23). He heard “almost everybody” yelling, “Don’t move,” “Stay down,” “Don’t get up,” “Stay on the  
20 ground,” and “Show me your hands.” He also heard other officers yelling, “He still has a gun. He still has a  
21 gun!” (page 1003, line 20). He believes the commands are directed at the suspect on the ground (page 1004,  
22 line 10). Then he hears, “Red, red, red!” Now he believes that Officer Marquez is unable to defend himself  
23 and he has seen that the officers to the east have no cover (page 1003, line 4 and 13).

- 24 • Page 1024, line 8: Officer Ross didn’t hear the bystanders yelling. At that moment, his entire focus  
25 was on the threats coming at the officers. It was scary, and that (Mr. Limón) is where the threat was.

26 At this moment, along with all of his observations from the traffic stop, Officer Ross believes the man  
27 on his back in the gray sweatshirt is the suspect (page 1008, line 18):

- 28 • Based on the way he’s lying on his back;
- 29 • Believes he is one of the suspects who fled from the suspect vehicle;
- 30 • Believes he was shooting at officers;
- 31 • Believes he has been shot by police; and
- 32 • Based on the orders, he believes they are being directed at the supine suspect to stay down, stay on the  
33 ground, and don’t get up.

34 Officer Ross sees the man on the ground making a rolling motion toward the right side and at the same  
35 time bringing up his hand in the direction of the officers to the east. It appears his hand is formed as if holding  
36 an object rather than flat and empty (page 1009, line 14). Officer Ross stated (page 1009, line 23), *“I feared he*  
37 *was going to shoot us again. I feared he was going to shoot, you know, maybe like a last ditch effort to try to*  
38 *kill us and take us out as a kind of last hurrah or whatever, and I feared for my life, and I feared for my*  
39 *officers’ lives, and I fired one time at him to end the threat because I thought we were going to get shot and*  
40 *killed.”*

41 Officer Ross fired one round at the “suspect” on the ground. As he did, he heard a volley of shots  
42 which he estimated as 15 to 20 rounds fired. Although he could not see bullets hitting the “suspect,” he saw  
43 him roll back to a supine position. Because the officers were continuing to fire, Officer Ross began shouting,  
44 *“Stop firing. Stop firing!”* He thought the officers were still firing at the “suspect” on the ground but he could

1 not see the man being hit. He could hear officers to his right firing. When he looked up, he could see another  
2 suspect to the north (page 1010, line 15).

3 *ANALYSIS:* An officer's decisions and actions are evaluated based only on the totality of the facts known to  
4 him as well as the circumstances in which he is making those evaluations at the time without the benefit or  
5 consequence of 20/20 hindsight (Graham, 1989).

6 Officer Ross had every indication that Mr. Limón was one of the suspects from the known-risk traffic stop  
7 as he ran up to the red Jeep Liberty:

- 8 • Officer Ross heard shots being fired and was in reasonable fear of his being shot or in having his fellow  
9 officers shot by fleeing suspects.
- 10 • He came up on the scene observing Mr. Limón lying on his back and perhaps having been shot by  
11 officers.
- 12 • He believed the officers giving commands to stop moving, to stay down, and to show his hands were  
13 directed at Mr. Limón.
- 14 • He believed he heard officers warning that Mr. Limon *still* (emphasis added) had a gun, meaning that  
15 this man had had a firearm before.

16 When he moved, Mr. Limón was perceived to be an imminent threat to life following Officer Ross'  
17 hearing Officer Marquez signal that his weapon was not functioning, leaving him without the ability to defend  
18 himself against the "suspect" if he attempted to shoot Officer Marquez, as well as seeing three police officers to  
19 the east who were vulnerable to Mr. Limón's position if he were to fire on them when:

- 20 • The "suspect" moved in complete disregard to police orders.
- 21 • The "suspect" raised his hand that was hidden and apparently held the gun the officers were warning  
22 others about.

23 Officers are trained that waiting to confirm a suspect is actually in possession of a handgun before  
24 firing would result in the suspect being able to fire two or three rounds before the officers' reaction time could  
25 catch up and the officers could respond. Because of the often split-second nature of tense, uncertain, and  
26 rapidly evolving circumstances that greatly imperil the lives of the police, officers are permitted to make  
27 mistakes if they react to what their reasonable beliefs would tell them is an imminent threat to life or safety.  
28 One bullet forensically associated with Officer Ross's handgun was recovered from Mr. Limon's body  
29 (Autopsy gunshot wound 8).

30 *CONCLUSION:* It was reasonable for Officer Ross to:

- 31 • Believe Mr. Limón was the suspect based on his injury status, the commands that officers were  
32 apparently directly to him, as well as the warnings officers were providing to other officers that the  
33 man was apparently *still* armed.
- 34 • Fire on Mr. Limón based on his reasonable perception of imminent deadly threat to other officers, at  
35 least one of whom Officer Ross believed was unable to protect himself.
- 36 • Based upon the reasonable officer standard, in this particular circumstance, two other officers came to  
37 the same decision at the same time given the same information possessed by Officer Ross.

38 *CONTINUING:* He saw the suspect (Mr. Zepeda) get up and begin pacing and thought the suspect was "trying  
39 to get up his courage" (page 1010, line 12). Officers were giving him commands but the suspect did not  
40 comply. Suddenly, Officer Ross saw Officer Ehrhardt walking southbound on N. Garfield Avenue. Officer  
41 Ross began shouting, "Go back! Go back!" As Officer Ehrhardt moved past the building and into the view of  
42 the suspect (Mr. Zepeda) at the front of the parked car, Mr. Zepeda brought his hands up as fast as possible.

1 Believing the suspect was about to shoot Officer Ehrhardt, Officer Ross fired one round at Mr. Zepeda. Other  
2 officers fired as well and the suspect fell to the pavement (page 1013, line 8).

3 *ANALYSIS:* Officer Ross fired in defense of another officer when Mr. Zepeda, after firing at officers,  
4 simulated pointing a weapon at the officer he saw walking southbound in the street. It was reasonable, based  
5 on the totality of the facts and his immediate perceptions of imminent threat to the life and safety of Officer  
6 Ehrhardt, to fire on Mr. Zepeda.

7 *CONCLUDING OPINION:* Officer Ross responded to the imminent threats he perceived from both Mr.  
8 Limón and Mr. Zepeda per his training and within the conduct of his police duties. He acted with valor as he  
9 ran north toward the gunfire that was being directed at officers and him. He responded with deadly force,  
10 firing one round at each of the men he perceived to be armed and presenting themselves as imminent threats to  
11 the lives and safety of others:

- 12 • Officer Ross had only seconds to digest the situation involving Mr. Limón: orders to comply, warnings  
13 that the man remained armed, the man's positioning combined with the vulnerability of the officers to  
14 the east of Officer Ross, the man's clothing associating him with gun crime, as well as other factors.  
15 When Officer Marquez signaled his weapon was inoperable and Mr. Limón coincidentally moved a  
16 few moments later in a manner that would have been imminently threatening if he had possessed a  
17 handgun, Officer Ross fired in defense of other officers' lives.
- 18 • Officer Ross saw the suspect he recognized as Mr. Zepeda standing at the front of the parked car.  
19 Believing him to be armed, he saw the suspect raise his hands in a shooting stance directed at another  
20 officer who was in a vulnerable position. Officer Ross fired on this suspect in defense of another  
21 officer's life.

22 That Mr. Limón was an uninvolved party shot and killed by police is a tragedy. Based the totality of  
23 the facts and the extremely threatening circumstances leading up to the shooting as well as his reasonably  
24 perceiving the situation surrounding Mr. Limón as an imminent threat to other officers, Officer Ross  
25 reasonably reacted upon his training in an effort to protect officers who could not have protected themselves.

26 ////

### 27 **3B.6 OFFICER JOHN BRISSLINGER**

28 Officer Brisslinger minimally knew the following as stated in his interview and served as a basis of his  
29 contextual understanding of the dangers he faced as he pursued the fleeing suspects on foot at the terminus of  
30 the vehicle pursuit:

- 31 • He had heard Officer Wilfert radio for expedited backup.
- 32 • He participated in the known-risk traffic stop on the suspect vehicle containing the three suspects.
- 33 • The front (Mr. Villa) and rear (Mr. Zepeda) passengers kept moving their hands to their waists or as if  
34 manipulating an object.
- 35 • The rear passenger (Mr. Zepeda) reached down to the floorboards and under the seat as if retrieving  
36 something.
- 37 • The suspects were actively moving around and looking back at the officers during the high-risk stop.
- 38 • Messrs. Villa and Zepeda were animatedly arguing with (driver) Mr. Hernandez, attempting to get him  
39 to drive away.
- 40 • Dispatch radioed that the suspect vehicle was possibly involved in a "417 just occurred" or that a  
41 "brandishing had just occurred."
- 42 • The 417 PC suspect in possession of the handgun was wearing a gray sweatshirt.

- 1 • Front passenger (Mr. Villa) was wearing a baseball cap with a “W.”
- 2 • Rear passenger (Mr. Zepeda) lit a cigarette and smoked it in a leisurely manner, as if enjoying his last  
3 cigarette.
- 4 • Front passenger (Mr. Villa) lit a cigarette and smoked it in a leisurely manner, as if enjoying his last  
5 cigarette.
- 6 • With a smirk on his face, the rear passenger (Mr. Zepeda) began counting each of the officers as if  
7 figuring out how many officers the suspects were going to have to fight. Officer Brisslinger thought  
8 the man was weighing his odds (page 1114, line 11).
- 9 • The rear passenger (Mr. Zepeda) dropped his hand and then raised it quickly, simulating a handgun  
10 with his forefinger and abruptly pointed at officers as if practicing or attempting to have officers shoot  
11 him.
- 12 • It was the strangest and/or most threatening known-risk traffic stop the officer had ever experienced.
- 13 • Based on all of the suspects’ behavior and the information he had at the time, the officer believed there  
14 to be at least one firearm in the car.
- 15 Based on (page 1115, line 4):
- 16 • Hearing the recent 417 PC call;
- 17 • The suspects’ behavior;
- 18 • The suspect counting the cops;
- 19 • People moving around in the car;
- 20 • The right front passenger lurching down;
- 21 • The driver looking at the front passenger and telling him something like they were getting a plan  
22 together; and
- 23 • Flicking a cigarette out of the window;

24 It appeared the suspects were “pumping themselves up for something.”

25 Officer Brisslinger was in the third or fourth patrol car during the vehicle pursuit. He heard gunshots  
26 and radioed, “Shots fired” (page 1116, line 17). Officer Brisslinger ran toward the suspect vehicle and saw that  
27 its rear windshield had been shot. As he ran by that vehicle, he could hear gunshots to the east on the  
28 sidewalk. Officer Brisslinger stated (page 1117, line 1), “*I was scared, man.*” He didn’t know where the shots  
29 were coming from and he tried to get close to the vehicles as he moved north. There was no one on the radio  
30 broadcasting their situation and he believed there were three armed suspects at-large nearby.

31 He moved to the red Jeep parked south of the mouth of the alley and began to fan out into the street.  
32 He was hearing, “He’s still got the gun.” He saw a subject (Mr. Limón) lying in the grass and weeds. Then he  
33 heard Officer Marquez yell, “Red, red, red!” meaning he was out of ammunition (page 1117, line 24). As he  
34 fanned out into the street, Officer Aragon was standing next to him. He heard someone yelling, “Stay down,  
35 stay down!” He could not see the “suspect’s” left hand (page 1126, line 25). Officers were giving orders to the  
36 man (page 1126, line 27). He and other officers were ordering the “suspect” to “Don’t move!” (page 1127,  
37 lines 2 and 6). He saw the “suspect” in a long sleeve gray sweatshirt starting to raise his body and lift his hand  
38 up. Officer Brisslinger stated (page 1118, line 26), “*I thought he was going to shoot...Rocky.*” Officer  
39 Brisslinger fired several rounds at Mr. Limón.

40 **ANALYSIS:** An officer’s decisions and actions are evaluated based only on the totality of the facts known to  
41 him as well as the circumstances in which he is making those evaluations at the time without the benefit or  
42 consequence of 20/20 hindsight (Graham, 1989).

- 1 • At the traffic stop, he heard the driver had on a gray and black shirt. He thought the “suspect” on the  
2 ground was the driver (page 1126, line 12).
- 3 • Officers were trying to contain the “suspect” on the ground at gunpoint (page 1127, line 21).
- 4 • It looked like the “suspect” was trying to sit up and extend his arm out at the officers on the sidewalk  
5 (page 1128, line 8).
- 6 • He thought the “suspect” was “engaging” Officer Marquez (page 1129, line 22).
- 7 • He fired “just a millisecond” after telling the “suspect” not to move (page 1129, line 27).
- 8 • One of the suspect’s shots whizzed by his left ear, causing him to duck down and move to the red car.  
9 He heard shots in response by the officers to the east (page 1139, line 19). Then he heard, “He’s still  
10 get the gun,” immediately followed by Officer Marquez shouting, “Red, red, red!” (page 1140, line  
11 11). Officer Marquez was on the sidewalk east of the red car (page 1141, line 12).
- 12 • When he came up, Officer Brisslinger didn’t know about the suspect (Mr. Zepeda) behind the car in the  
13 parking lot (page 1143, line 23).

14 Officer Brisslinger believed that Mr. Limón was the driver of the suspect vehicle because he had heard  
15 a 417 PC suspect description that could have matched Mr. Limon’s sweatshirt and that he had been told the  
16 driver of the suspect vehicle was wearing a gray and black shirt. He focused on Mr. Limón because it appeared  
17 to him the officers nearby were giving him orders and warning other officers that the man *still had the gun*  
18 (emphasis added). Mr. Limón’s left hand was hidden from Officer Brisslinger’s view. When Officer Marquez  
19 communicated that his weapon was inoperable, Mr. Limón moved moments later in a manner that led this  
20 officer and other officers to believe the man was an imminent threat to the lives and safety of other officers.  
21 Officer Brisslinger, acting upon his training and experience as a police officer for 22 years and the totality of  
22 the facts and circumstances known to him at the time, reasonably fired upon Mr. Limón. Two bullets  
23 forensically associated with Officer Brisslinger’s handgun were recovered from Mr. Limón (Autopsy gunshot  
24 wounds 5 and 12).

25 *CONTINUING:* As Officer Brisslinger finished firing, Officer Orozco moved up to his left and began firing a  
26 string of rounds. Officer Brisslinger, seeing Mr. Limón was no longer presenting an imminent threat, began  
27 yelling, “Hold your fire! Hold your fire!” (page 1119, line 16). Then he looked into the parking lot to the car  
28 and thought, “*Oh shit! There’s the other guy!*” It was suspect number two from the suspect vehicle (page  
29 1119, line 25).

- 30 • He saw Officer Orozco shooting downrange in the same direction he had been and was seeing  
31 “flashes” (page 1130, lines 22 and 25).
- 32 • He thought Officer Orozco was shooting at the same guy he was, then saw the second suspect  
33 approximately five to ten seconds later, after shooting the first suspect (page 1131, lines 4 and 15).
- 34 • Officer Brisslinger stated (page 1131, line 18), “*It’s like right after he—he (Orozco) fired the shots*  
35 *I...told him, ‘Hold your fire. Hold your fire. Hold your fire,’ and I’m looking at where he’s firing. I’m*  
36 *like, he didn’t hit this guy and I realized that beyond range where this guy is, you know, beyond the*  
37 *scope where my line of vision—there’s a—I see a head moving back and forth.”*
- 38 • The second subject was in the direct background of the man Officer Brisslinger had just shot at (page  
39 1132, line 2).
- 40 • Officer Brisslinger was fixated on the guy on the ground. When he first came up, he didn’t know about  
41 the suspect behind the car in the parking lot until Officer Orozco began firing (page 1143, lines 19, 23,  
42 and 27).

1           Officer Brisslinger reloaded his handgun and heard more shots fired. After moving, he could see the  
2 second suspect was down (page 1145, line 5). He heard officers talking about whether or not the “suspect”  
3 (Mr. Limón) was moving and about rendering aid. Officers Ross and Lockner moved up and covered the  
4 rescue effort as did Officers Aragon, Marquez, and he (page 1120, line 15).

5 *CONCLUDING OPINION:* Officer Brisslinger responded per his training to the perceived imminent threat to  
6 vulnerable officers to the east of the parked car from Mr. Limón. He acted with valor as he ran north toward  
7 the gunfire that was being directed at officers and him. He responded with deadly force, within the conduct of  
8 his police duties, reasonably even though the circumstances led him to mistakenly believe that Mr. Limón was  
9 an armed suspect. Only with 20/20 hindsight, which is prohibited in evaluating any officer’s force response,  
10 could this officer have known Mr. Limón was uninvolved. Officer Brisslinger acted within the reasonable  
11 officer standard as did two other officers when all three made a near simultaneous decision to fire on Mr.  
12 Limón based on their assessment of the circumstances.

13 //

### 14 **3B.7 OFFICER ERNIE OROZCO**

15           Officer Orozco minimally knew the following as stated in his interview and served as a basis of his  
16 contextual understanding of the dangers he faced as he pursued the fleeing suspects on foot at the terminus of  
17 the vehicle pursuit:

- 18       • He had heard Officer Wilfert radio for expedited backup.
- 19       • He was present during the known-risk traffic stop on the suspect vehicle containing the three suspects.
- 20       • The front (Mr. Villa) and rear (Mr. Zepeda) passengers kept moving their hands to their waists or as if  
21       manipulating an object.
- 22       • Suspect(s) did not comply with orders to put their hands up/show their hands.
- 23       • Suspect(s) did not comply with any orders or cooperate with police.
- 24       • Dispatch radioed that the suspect vehicle was possibly involved in a “417 just occurred” or that a  
25       “brandishing had just occurred.”
- 26       • The 417 PC suspect in possession of the handgun is wearing a gray sweatshirt. Officer Orozco stated  
27       (page 907, line 6), “...*I remember somebody saying the description that one...they had received a call*  
28       *of brandishing in the area and I believe one of them was wearing a gray sweatshirt or one of the*  
29       *suspects, something like that. Someone said something about a gray sweatshirt...*”

30           Based on the radio communications he was hearing as he responded to the location where officers were  
31 conducting a known-risk traffic stop, Officer Orozco knew the situation was “getting big” (page 905, line 13).

32           As Officer Orozco arrived at the terminus of the pursuit, he heard someone yell, “Gun!” As he got out  
33 of his patrol car, he heard a small caliber handgun followed by a larger caliber handgun or rifle and thought,  
34 “...*officer-involved shooting...these guys are shooting at us*” (page 908, line 10). Officer Orozco ran  
35 northbound on N. Garfield past the suspect vehicle where an officer had grabbed a suspect’s hand and ordered  
36 him to “Get out.” There was a second officer present (page 908, line 22).

37           Officer Orozco runs toward the location of other officers and hears officers’ rifles (“.223s”) firing in  
38 response. Officer Orozco stated (page 910, line 3), “*And I’m running towards them to help them out in this*  
39 *gunfight ‘cause I’m thinking they’re going—you know, one of us is going get shot.*” By the time he reaches a  
40 point south of the alley, he has assessed that there are three or four officers, maybe more to the east of the  
41 parked cars. He stated (page 910, line 7), “*I’m in the middle of the street, I’m—I have no cover. There is no*  
42 *cover to be taken.*”

1           Officer Orozco states (page 910, line 24), “*And I’m hearing shots being fired, I’m seeing a guy that’s*  
2 *lying on the ground wearing a gray shirt.*” He then states (page 910, line 27), “*the—I’m hearing officers*  
3 *yelling at him, you know, lay down, lay down, don’t get up. He’s got a gun. Watch out for the—watch out for*  
4 *the gun. Shots are being fired at this guy that’s on the ground in the gray sweatshirt. At that moment as the*  
5 *guy in the gray sweatshirt starts to turn over on—towards his right, I’m seeing...*” a guy lying near the brick  
6 wall with the iron fence on top.

- 7           • Officer Orozco states (page 920, line 3), “*What I was seeing was that I was hearing officers yelling,*  
8 *you know, stay down, stay down. Don’t move, stay down. And at the same this guy is on his left side,*  
9 *facing the brick wall. And he’s turning towards the officers with his right hand in the air and his left*  
10 *hand kind of tucked down but coming across.*”
- 11           • On page 920, line 10, he states, “*His—and his left hand by his body. At the same time I’m seeing*  
12 *ricochets coming off the sidewalk and in the dirt*” within inches of him (Mr. Limón) (page 920, line  
13 13).
- 14           • On page 920, line 18, he states, “*I’m thinking we have a second shooter. This is the first shooter, the*  
15 *guy in gray. I have a second shooter behind him.*” The “suspect” in gray and the second shooter are  
16 directly in line (page 920, line 24).
- 17           • The muzzle flashes were directly behind and over the shoulder of the “suspect” in gray, approximately  
18 three or feet away from the first suspect (page 921, lines 1 and 7).
- 19           • On page 948, line 11, he saw muzzle flashes in the area with a bunch of shrubbery under the palm tree  
20 near the wrought iron fence.
- 21           • On page 948, line 16, he saw the man in the gray sweatshirt on the ground in the corner within feet of  
22 the area he saw the muzzle flashes.

23           Officer Orozco saw muzzle flashes and heard gunfire from behind the rose bushes. He saw a dark  
24 figure crouched low and the muzzle flashes emitted from a small caliber handgun. He thought the man was  
25 trying to shoot him and the other officers (page 911, lines 18 and 23). Officer Orozco stated (page 911, line  
26 27), “*I’m bringing my gun up and I’m firing, one, two, three, four is too high. This—and so I have to bring my*  
27 *gun back down and I’m shooting two to three rounds. I...can’t tell you how many, exactly how many.*” It  
28 seemed like it took milliseconds before he heard someone calling, “Cease fire!” He could see the dark figure  
29 he was shooting at crawl eastbound, then turn north. He saw the dark figure crouch down by the quarter panel  
30 of a car parked in the parking lot to the north, then pop up again in front of the car at the bumper (page 913, line  
31 2).

32 **ANALYSIS:** Each analysis of a police officer’s shooting must necessarily examine the state of mind of the  
33 officer including the facts known to the officers as well as the reasonable beliefs the officer might have leading  
34 to the deadly force response. The effects of the human being inside the uniform cannot be divorced from the  
35 situation in which that human being is being forced to cope with nor from the memory that person has of the  
36 event. In this situation, Officer Orozco and the other officers responding to this situation find themselves in a  
37 highly threatening, highly fluid and mobile situation where one or more suspects are firing at officers.  
38 Additionally, each officer would know and understand the threatening nature of being in what has been  
39 described as the “heart of the Colonia gang territory” while involved in a gunfight with gang members where  
40 officers must constantly guard against being ambushed unexpectedly by persons who play no part in the call  
41 for service.

42           With this totality of the facts and events in mind, Officer Orozco arrives near the red Jeep and sees Mr.  
43 Limón, believes he is a suspect, sees him move and hears a volley of gunshots. Suddenly he perceives shots  
44 being fired from a second and previously unknown suspect from a position of cover (the low block wall) and  
45 concealment (immediately behind the shrubbery). Officer Orozco recognizes that he and other officers are

1 extremely vulnerable to this sudden threat. It is a common human response to extraordinary and unexpected  
2 threats to have perceptual and memory distortions that later, in safety, seem very difficult to explain (Artwohl,  
3 1997).

- 4 • Officer Orozco reports that he saw “muzzle flashes” and heard the sound of gunfire from a “dark figure  
5 just behind the bushes behind the block wall and metal fence.
- 6 • Officer Brisslinger saw Officer Orozco shooting downrange in the same direction he had been and was  
7 seeing “flashes” (page 1130, lines 22 and 25). Investigators did not pursue what Officer Brisslinger  
8 meant when he reported he was also seeing flashes.

9 Could the flashes have been bullet strikes on the metal fence from another officer’s rounds striking the  
10 metal fence? Evidence markers AM, AN, AL, AK, and AJ are bullet strikes to the fence. When bullets hit  
11 metal, they tend to spark (an example of this can be seen in the Issac Garcia video when a bullet strikes the  
12 fence causing the damage labeled “AI”). In the high existential threat environment of this incident where  
13 tenths of a second may save a life or end in his or other officers being murdered, it is reasonable to believe both  
14 of these officers’ reports of “flashes” could have been interpreted by Officer Orozco as muzzle flashes.

15 When officers are confronted with sudden and unexpected deadly assaults, especially when they  
16 perceive that threat to be closer than it actually is due to perceptual distortions caused by survival stress, some  
17 tend to reactively fire their weapons as their survival instincts kick in. This leads to extremely rapid and often  
18 inaccurate fire. This is just one reason that typically fewer than one in five police bullets fired in defense of life  
19 actually hits its mark. Officer Orozco stated (page 918, line 8), “*During the shooting, my—my fear was one of*  
20 *the—one of our guys was going to get killed.*” He believed they “got lucky” that no one was killed by this dark  
21 figure firing from behind the bushes.

- 22 • Officer Orozco states (page 923, line 8), “*I—and my—I had tunnel vision basically—towards where*  
23 *I’m looking at straight and, and I’m—not looking the—which officer’s next to me.*” Tunnel vision, or a  
24 perceptual distortion where the sense of the focal vision is intensified and the peripheral vision is  
25 autonomically blocked is reported by 82% of officers who are involved in a shooting (Artwohl, 1997,  
26 page 49). Tunnel vision occurs only when a human is suddenly confronted with an existential threat  
27 and rapidly dissipates (less than a second once the perception of that threat is resolved). It has been  
28 accurately described as looking at the suspect through a thin paper towel tube while fighting to save  
29 your life.
- 30 • Officer Orozco may have been able to see Mr. Zepeda through the bushes, but his hyper-acute tunnel  
31 vision did not allow for accurate depth perception. Against the lighted background, Mr. Zepeda indeed  
32 appeared to be a “dark figure” (as seen in the Isaac Garcia video). Fundamentally, his description of  
33 the dark figure’s movements is similar to Mr. Zepeda’s following the Limón shooting:
  - 34 ○ He saw *the dark figure shooting while crawling* (page 912, line 17) corresponds with Mr.  
35 Zepeda crawling toward his handgun and then taking a prone firing position (Camera 2,  
36 22:04:58).
  - 37 ○ He saw *the dark figure crouch behind the right quarter panel* (page 913, line 18) corresponds  
38 with Mr. Zepeda working his way up to this feet before turning north to walk to the front of the  
39 Honda (Camera 2, 22:05:26).
  - 40 ○ He sees *the dark figure “pop up” at the right front of the car at the bumper* (page 913 line 18)  
41 corresponds with Mr. Zepeda moving to the front passenger side bumper (Camera 1, 22:05:33).

42 The slight discrepancies (the dark figure was firing in proximity to officers rather than distant  
43 and that he traveled east before traveling north) in Officer Orozco’s reporting is attributable to normal  
44 human sense-making of existential stress-induced perceptual distortions. 19% of officers report these  
45 types of memory distortions following a gunfight (Artwohl, 1997, page 50).

- 1 • Officer Orozco reports that the sound of the gunshots was muffled and they did not hurt his ears. This  
2 is another survival stress perception distortion that is reported by 88% of officers who are involved in  
3 shootings (Artwohl, 1997, page 49).

4 While Officer Orozco believed that many of his shots were on target, reporting that one shot was low  
5 and another high, it is apparent that many if not most of his rounds fired were very low and unintentionally  
6 struck Mr. Limón (seven bullets were forensically associated with Officer Orozco's handgun, Autopsy gunshot  
7 wounds 9, 7, 2, 4, 3, 6, and 1).

8 **CONCLUSION:** Officer Orozco responded to his reasonable perception of sudden and immediately life-  
9 threatening gunfire by returning fire at a suspect he believed was suddenly and unexpectedly taking them under  
10 fire. Officer Orozco apparently experienced a high degree of perceptual distortion as his description of the  
11 perceived events show. His decision to fire in defense of life was a trained response. The fact that he hit Mr.  
12 Limón was more of a function of Mr. Limón being between and in-line with Mr. Zepeda than any other factor  
13 and is consistent with most police shootings (that sometimes more than 80% of police bullets miss the intended  
14 suspect).

15 Officer Orozco was reasonably acting within the course and scope of his duties when he attempted to  
16 protect his life and the lives of his fellow officers.

17 **CONTINUING:** Officer Orozco stated (page 917, line 14), "*After my first volley at him, towards the—through*  
18 *the rose bushes, and he was out of sight, I again yelled out red, red, red, stood behind an officers and dropped*  
19 *my clip (sic).*" Officer Orozco then saw Officer Ehrhardt moving southbound on N. Garfield and directly into  
20 Mr. Zepeda's field of fire. He saw Mr. Zepeda take a couple of steps as if fixated with Officer Ehrhardt (page  
21 915, line 8). The suspect suddenly came up with a two-handed handgun grip pointed at the officer. Officer  
22 Orozco thought the suspect was going to shoot Officer Ehrhardt (page 915, line 15). Officer Orozco stated  
23 (page 915, line 28), "*If this guy had shot—had shot, he—he could have killed Ehrhardt. So I had to protect*  
24 *Ehrhardt.*" Officer Ehrhardt and other officers fired upon Mr. Zepeda. Mr. Zepeda fell to the pavement and  
25 did not move.

26 **ANALYSIS:** Officer Orozco perceived Mr. Zepeda to be an imminent threat to the life of Officer Ehrhardt and  
27 responded per his training by responding with gunfire. This was a reasonable deadly force response.

28 **CONCLUDING OPINION:** Officer Orozco was within the conduct of his police duties when he responded  
29 per his training to the perceived imminent threat to himself and other officers when perceiving gunfire  
30 suddenly coming from a second suspect just yards away. He acted with valor as he ran north toward the  
31 gunfire that was being directed at officers and him. He responded with deadly force reasonably even though  
32 the circumstances led him to unintentionally hit Mr. Mr. Limón several times. That Officer Orozco  
33 unfortunately and tragically hit an unintended person when firing in defense of life, his attempt to stop the  
34 murder of officers in a highly threatening and confusing situation where dozens of rounds are being fired  
35 makes his shooting no less reasonable despite the results.

36 ////

### 37 **3B.8 OFFICER ZACK STILES**

38 Officer Stiles minimally knew the following as stated in his interview and served as a basis of his  
39 contextual understanding of the dangers he faced as he pursued the fleeing suspects on foot at the terminus of  
40 the vehicle pursuit:

- 41 • The suspect vehicle had failed to yield.  
42 • He had heard Officer Wilfert radio for expedited backup.  
43 • Officers conducted a known-risk traffic stop because of the threatening circumstances and the behavior  
44 of the suspects.

- 1 • He participated in the known-risk traffic stop on the suspect vehicle containing the three suspects.
- 2 • The front (Mr. Villa) and rear (Mr. Zepeda) passengers kept moving their hands to their waists or as if  
3 manipulating an object.
- 4 • The rear passenger (Mr. Zepeda) reached down to the floorboards and under the seat as if retrieving  
5 something.
- 6 • Suspect(s) did not comply with orders to put their hands up/show hands.
- 7 • The suspects were actively moving around and looking back at the officers during the high-risk stop.
- 8 • Driver (Mr. Hernandez) was ignoring commands to throw out the ignition key.
- 9 • Messrs. Villa and Zepeda were animatedly arguing with (driver) Mr. Hernandez, attempting to get him  
10 to drive away.
- 11 • Rear passenger (Mr. Zepeda) put on a black latex glove(s).
- 12 • Dispatch radioed that the suspect vehicle was possibly involved in a “417 just occurred” or that a  
13 “brandishing had just occurred.”
- 14 • The 417 PC suspect in possession of the handgun was wearing a gray sweatshirt.
- 15 • Rear passenger (Mr. Zepeda) was wearing a baseball cap with a “W.”
- 16 • Front passenger (Mr. Villa) was wearing a baseball cap with a “W.”
- 17 • One or more of the suspects were using cell phones to communicate with a person or persons unknown  
18 to the officers.
- 19 • Front passenger (Mr. Villa) lit a cigarette and smoked it in a leisurely manner, as if enjoying his last  
20 cigarette.
- 21 • Rear passenger (Mr. Zepeda) lit a cigarette and smoked it in a leisurely manner, as if enjoying his last  
22 cigarette.
- 23 • The rear passenger (Mr. Zepeda) began counting each of the officers as if figuring out how many  
24 officers the suspects were going to have to fight.
- 25 • The rear passenger (Mr. Zepeda) dropped his hand and then raised it quickly, simulating a handgun  
26 with his forefinger and abruptly pointed at officers as if practicing or attempting to have officers shoot  
27 him.
- 28 • It was the strangest and/or most threatening known-risk stop the officer had ever experienced. Officer  
29 Stiles stated (page 696, line 13), *“It’s not how—like any stop I’ve ever been on. I mean, people have*  
30 *been non-compliant, but it was—it was almost like they were, like, you know, talking and game*  
31 *planning and then saying okay, you know, we’re good to go—I don’t know what was said on the*  
32 *phone.”*
- 33 • Based on all of the suspects’ behavior and the information he had at the time, the officer believed there  
34 to be at least one firearm in the car. Officer Stiles thought that if these guys are in this neighborhood  
35 and claiming “Westside,” they were probably armed with was firearm (page 693, line 14).

36 With these facts and perceptions in mind, Officer Stiles was turning on to northbound N. Garfield  
37 Avenue when he heard over the radio that shots had been fired. As he was exiting the patrol car, he heard a  
38 volley of shots. As he was sprinting northbound, his flashlight fell out of his pocket and he heard, again, a  
39 volley of shots. When he arrived at 154 N. Garfield Avenue where the officers were located, he saw a subject  
40 down in the bushes. His threat and weapon status was unknown. Officer Stiles stated (page 699, line 1), *“I*  
41 *really got tunneled in on him...”* He heard an officer say, “This guy over here (in the parking lot) still has a

1 gun.” Looking up and seeing Mr. Zepeda at distance across the parking lot, Officer Stiles performed a “select  
2 slug drill,” or exchanged two of his previously loaded buckshot cartridges for two slugs.

3 He could see officers arriving southbound N. Garfield Avenue from the intersection of Cooper Road.  
4 As he moved carefully out into the street, he saw the rear passenger suspect, Mr. Zepeda, stand up from behind  
5 the parked Honda in the parking lot. Mr. Zepeda took a two-handed hold, pointing in the direction of a police  
6 officer to the west. Fearing he was about to shoot a police officer, Officer Stiles fired two slugs at the suspect  
7 as other officers were firing. The suspect went down to the pavement and did not move.

8 *ANALYSIS:* Officer Stiles observed what he believed to be an armed suspect take a two-handed hold and point  
9 his hands directly at a police officer, but it was only later that it was learned he had been simulating a handgun  
10 in his hands. Any reasonable officer would immediately be in reasonable fear that the officer the suspect was  
11 menacing was in imminent danger of death or serious bodily injury. Officer Stiles fired twice and the suspect  
12 fell to the ground.

13 *CONCLUDING OPINION:* Officer Stiles responded to his training in his response to an apparent imminent  
14 threat by Mr. Zepeda. Officer Stiles acted with valor as he ran to the aid of the officers while gunfire was being  
15 exchanged. Officer Stiles acted as any reasonable officer would given the same or similar situation.

16 ////

### 17 **3B.9 OFFICER DON EHRHARDT**

18 Officer Ehrhardt minimally knew the following as stated in his interview and served as a basis of his  
19 contextual understanding of the dangers he faced as he pursued the fleeing suspects on foot at the terminus of  
20 the vehicle pursuit:

- 21 • The suspect vehicle had failed to yield.
- 22 • Officers conducted a known-risk stop because of the threatening circumstances and the behavior of the  
23 suspects.
- 24 • The rear passenger (Mr. Zepeda) dropped his hand and then raised it quickly, simulating a handgun  
25 with his forefinger and abruptly pointed at officers as if practicing or attempting to have officers shoot  
26 him.

27 With these facts and perceptions in mind, Officer Ehrhardt, with a civilian ride-along in his patrol car,  
28 was a couple of blocks away attempting to turn around when he heard the first volley of gunshots. A second  
29 volley rang out. He heard the fourth of four volleys while still northbound on the street to the west of N.  
30 Garfield. He turned east on Cooper Road and parked west of the intersection of Cooper Road and N. Garfield  
31 Avenue. He told his ride-along to stay in the car and quickly walked southbound N. Garfield Avenue. He  
32 could see someone down and breathing at the south alley of Cooper Road. There was a group of officers with  
33 their weapons trained on the suspect, leading him to believe the subject on the ground was an involved party.

34 As he was approaching the group of officers, he announced his presence so the officers would know  
35 who was approaching, yelling, “Hey, I’m coming in from the north.” Just at that moment, Officer Ehrhardt  
36 saw movement to his left (east). The suspect looked at him, deliberately turned and raised a handgun, pointing  
37 directly at him. In a “split-second” Officer Ehrhardt was “absolutely in fear of his life that the suspect was  
38 going to try to kill him (page 864, lines 13, 18, and 26).

39 Officer Ehrhardt drew his weapon, and realizing he needed to make his shot count, tried to pick up the  
40 handgun’s front sight and deliberately press the trigger to accurately fire on the suspect but didn’t think he hit  
41 the suspect. Just as he was pressing the trigger, officers to the south fired another volley of fire and the suspect  
42 dropped to the pavement.

43 *ANALYSIS:* Officer Ehrhardt observed what he believed to be an armed suspect take a two-handed hold and  
44 point his hands directly at him, convincingly simulating a handgun in his hands (Officer Ehrhardt believed the

1 suspect actually had a handgun in his hand (page 862, line 2). Any reasonable officer would immediately be in  
2 reasonable fear that the suspect was an imminent danger of death or serious bodily injury to the officer. Officer  
3 Ehrhardt fired one time as the suspect fell to the ground just as he fired.

4 **CONCLUDING OPINION:** Officer Ehrhardt responded to his training in his response to an apparent imminent  
5 threat by Mr. Zepeda. The fact that this officer may have fired a fraction of a second after the suspect fell is a  
6 human response limitation that is natural and unavoidable in this situation. Officer Ehrhardt acted as any  
7 reasonable officer would given the same or similar situation when he fired in self-defense.

8 ////

9 **3C. The Isaac Garcia video is an incomplete record of the events of this shooting. The first scene in**  
10 **which officers are firing in the Isaac Garcia video captures what is possibly the last shots in the**  
11 **conclusion of the shooting of Mr. Limón and the officers firing at Mr. Zepeda. The record is**  
12 **better served by the surveillance videos and show that the mistaken shooting of Mr. Limón likely**  
13 **took place between the first shot by Mr. Zepeda from the parking lot at 22:04:32 (on the video**  
14 **time stamp) and the kneeling shot he attempted at 22:04:44. It is highly probable that all of the**  
15 **shoots fired, both intentionally and inadvertently, were fired in less than the space of four**  
16 **seconds.**

17 The video record in this case is hampered by darkness and poor quality. The surveillance cameras  
18 record images at varying speeds, resulting in loss of visual information regarding movement of the subjects or  
19 actions taken as a result. Standard video captures 29.97 frames per second (fps), or approximately one frame  
20 every 0.033 seconds. At this speed, the series of frames provides what seems to be a seamless motion. The  
21 slower the fps, the longer between each frame and the more visual information is lost.

22 The videos reviewed for this case have the following image capture rate expressed in frames per  
23 second:

- 24 • Isaac Garcia video: 29.97 fps Approximately one frame every 0.333 seconds.
- 25 • Camera 1: 7 fps Approximately one frame every .143 seconds.
- 26 • Camera 2: 9 fps Approximately one frame every .111 seconds.
- 27 • Camera 3: 13 fps Approximately one frame every .077 seconds.
- 28 • Camera 4: 13 fps Approximately one frame every .077 seconds.
- 29 • Camera 5: 13 fps Approximately one frame every .077 seconds.
- 30 • Camera 6: 8 fps Approximately one frame every .125 seconds.
- 31 • Camera 7: 8 fps Approximately one frame every .125 seconds.

32 This difference in the frame rate results in different time stamp values for each surveillance camera  
33 recording with a different image capture rate. The Isaac Garcia video had no time stamp.

34 The distance from the terminus of the suspect vehicle's flight to the Honda parked in the parking lot  
35 where Mr. Zepeda made his last stand is approximately 198 feet, or 66 yards. This means that each officer  
36 whose patrol car was in pursuit of the suspect vehicle and parked northbound on N. Garfield Avenue ran more  
37 than 75 yards from their patrol car to the south border of the alley toward gunfire. I believe the timeline for this  
38 shooting to be approximately the following:

- 39 • Camera 7: 22:03:59 Officers Rodriguez and Lockner probably arrive at the terminus of the  
40 vehicle pursuit and quickly begin their foot pursuit.
- 41 • Camera 2: 22:04:07 8 seconds later, Mr. Zepeda shoots at officers. Gerardo Limón stops while  
42 his brother, Alfonso, Jr., continues walking (8 seconds after the first lights

1 are visible).

- 2 • Camera 2: 22:04:09 Within 2 seconds (10 total), Officer Lockner fires in response and Alfonso,  
3 Jr., drops to the ground. Gerardo, is soon seen running in a northwest  
4 direction across the street.
- 5 • Camera 2: 22:04:20 11 seconds later (21 total), Officer Marquez arrives at the south edge of the  
6 alley, and is identified when he activates his weapon-mounted light on his  
7 M4.
- 8 • Camera 2: 22:04:24 4 seconds later (25 total), Mr. Zepeda raises from his crouched position next  
9 to the Honda and presents his weapon, taking careful aim at the officer(s) to  
10 the south. Officer(s) begin shooting, hitting the Honda and causing Mr.  
11 Zepeda to duck back a bit.
- 12 • Camera 2: 22:04:27 3 seconds later (28 total) Mr. Zepeda fires his first round from the parking  
13 lot. A second officer appears on the sidewalk and turns on his weapon-  
14 mounted light. Gunfire continues to be directed at Mr. Zepeda by the  
15 officers with bullets hitting the car as well as nearby.
- 16 • Camera 2: 22:04:29 2 seconds later (30 total) Mr. Zepeda reacts to the glass of the rear  
17 windscreen spraying from being hit by a bullet and moves away to the east.
- 18 • Camera 2: 22:04:30 1 second later (31 total) Zepeda reacts to being hit (probably to the rifle  
19 bullet to the torso/liver) and falls backward to the pavement.
- 20 • Camera 2: 22:04:32 2 seconds later (33 total) The first officer appears to the west of the Jeep  
21 parked at the east curb. Mr. Zepeda is already moving forward into a seated  
22 position and unintentionally fires his second round wide to the right and  
23 high. Officer Marquez fires his second volley resulting in a malfunction and  
24 the officer signaling, "Red, red, red!"
- 25 • Camera 2: 22:04:44 12 seconds later (45 total), Mr. Zepeda comes up to his knees and attempts  
26 to fire at officers again. Officers return fire.

27 I believe that Mr. Limón was shot sometime between the 22:04:32 when an  
28 officer apparently first appears at the west side of the Jeep and Mr. Zepeda attempted to fire at officer from his  
29 knees at 22:04:44. This time frame is consistent with officer accounts of their perceptions and actions. For the  
30 officers to the west of the Jeep who were focused on Mr. Limón as an armed suspect and an imminent threat to  
31 the safety of officers, there was a time-compressed and extremely urgent need to shoot to prevent this man  
32 from shooting officers to the east who were without cover and one who was essentially unarmed due to  
33 weapon malfunction. Their response to a perceived deadly threat to those officers would not have been  
34 lackluster. Rather they would be desperately attempting to prevent Officer Marquez and the other officers on  
35 that side from being shot by firing on the suspect and stopping his deadly assault.

36 Based on the average rate of fire and the perceived urgency of the threat that  
37 Officers Aragon, Brisslinger, and Ross felt, plus the perceived immediacy of the threat that Officer Orozco felt,  
38 it is likely that their total rounds took less than four seconds from first to last.

39 The video segments provided by Mr. Isaac Garcia fail to provide a comprehensive record of the  
40 shooting incident. When compiled into a single video, the frame prior to the shooting has a male and several  
41 females commenting and laughing on video. The next frame begins as the fire from officers tapers off. Officer  
42 Orozco can be seen in the street and is firing the last of his rounds. The shooting of Mr. Limón is already over,  
43 perhaps for as much as for a few seconds. There is a space of more than four seconds before several more  
44 shots that appear to be fired downrange at Mr. Zepeda are fired. Within seconds of the last round being fired

1 (hitting the fence), the officers from the west begin moving to the east as if to get a better angle on Mr. Zepeda.  
2 Officer Aragon can be seen moving east to better protect against an unexpected assault from the east through  
3 the alley as he stated in his interview. Later, Mr. Zepeda can be seen raising his arms to the west in a simulated  
4 shooting stance and officers respond with fire.

5 ////

6 **3D. It is my opinion that each of these officers acted reasonably within their training and according**  
7 **to the law as they have been trained as California peace officers. Officers are trained that they**  
8 **may respond with deadly force based on their reasonable perceptions of imminent danger and**  
9 **reasonable necessity, even if that belief is mistaken or results in a bystander being**  
10 **unintentionally killed. The shooting of both suspects, Messrs. Zepeda and Villa, was justified**  
11 **given the circumstances. The shooting of Mr. Alfonso Limón, while tragic and resulting from**  
12 **circumstance and/or misunderstanding, is justified given the circumstances.**

13 Officers in the State of California are provided with training and are equipped to perform their duties  
14 in the name of the people they serve. Because these officers face a threat to their lives and safety from  
15 suspects who are willing to murder to avoid arrest, officers are equipped with firearms and training in their  
16 employment. Officers undergo extensive and continuing training in when they may respond with deadly  
17 force. The standard to which they are trained is:

- 18 • “An officer may use deadly force to protect oneself or others when the officer has the objective and  
19 reasonable belief that his/her life, or the life of another, is in imminent danger of death or serious  
20 physical injury based upon the totality of the facts known to the officer at the time” (Learning Domain  
21 20, page 3-3).

22 Officers are trained that mistakes can be made, such as shooting a subject when reasonably mistaking  
23 a benign object for a deadly weapon. Additionally, these protections are also extended to officers when, in the  
24 course of their duties, an officer fires in self-defense or defense of others but wounds or kills an uninvolved  
25 subject:

- 26 • Homicide by a public officer may be justified when...acting in the course of duty. In self-defense  
27 when an officer shoots at an armed subject and kills a bystander. This would be legally justified, but  
28 only if the accident happened in the course of duty (Learning Domain 20, page 3-12).

29 Officers are provided questions in their training to help them better determine when deadly force is  
30 justified (Learning Domain 20, page 3-14). When applied to this case, a few of the circumstances that should  
31 be considered (although not limited to these alone) are:

- 32 • **Threat to life. Does the subject present a credible threat to the officer or others?** In this case,  
33 each officer relied upon all of the facts known to that officer from the traffic stop, prior contacts with  
34 Mr. Zepeda, and/or their training and experience. Each officer responding with deadly force either  
35 witnessed Mr. Zepeda shooting or about to shoot at police, or believed the man he was shooting at was  
36 armed, not complying with orders to drop his weapon or remain on the ground, and was raising a  
37 handgun to shoot another officer at the time the deadly force decision was made. Each officer  
38 responded with gunfire only after he perceived that a suspect had just shot at him or others or was  
39 about to shoot him or others.
- 40 • **Imminent threat. Does the subject present an imminent threat to life?** Officers who fired at Mr.  
41 Zepeda reacted solely to his actually firing at officers, attempts to fire his handgun, or his intentionally  
42 simulating pointing a handgun at themselves or other officers. Each believed Mr. Zepeda represented  
43 an immediate or imminent threat to life each time he was fired upon, including the last volley of fire  
44 when the man simulated pointing a handgun at Officer Ehrhardt to the west.

1 Those officers who intentionally fired at Mr. Limón reacted to their mistaken though  
2 reasonable belief that Mr. Limón was a suspect who had been involved in the prior brandishing call by  
3 reason of his gray shirt, as well as believing he was the subject of orders to drop the gun, stay down,  
4 and warnings indicating he was armed. When Mr. Limón began to roll or sit up and began lifting or  
5 extending his hidden left hand, officers on his right believed he was failing to obey the orders of other  
6 officers to stay down and to drop the handgun. Each believed, based on what he was hearing and  
7 seeing, that Mr. Limón was a threat and about to shoot other officers.

- 8 • **Imminent threat. Is the subject threatening the officer or others with a weapon?** Mr. Zepeda  
9 actually repeatedly fired at officers and then simulated pointing a handgun at an officer. The officers  
10 who fired at Mr. Limón reasonably believed that he was a suspect and that officers who were shouting  
11 to drop the gun or that he still had a gun were directing those orders to Mr. Limón or providing their  
12 observations about him.
- 13 • **Imminent threat. Subject's access to weapons or potential weapons.** Mr. Zepeda repeatedly fired  
14 an actual handgun at officers. Based on statements and orders that officers reasonably believed were  
15 directed to Mr. Limón, they each had a reasonable belief he was armed with a handgun they could not  
16 see. Though each officer who intentionally fired upon Mr. Limón believed him to be armed, none  
17 fired at him until each independently perceived that he was attempting to target officers on the other  
18 side of the red Jeep. This action by Mr. Limón was reasonably misinterpreted as imminently  
19 threatening by those officers.
- 20 • **Imminent threat. Proximity of subject to the officer.** Mr. Zepeda was well within range at all  
21 times to fire and hit an officer. Mr. Limón was less than ten yards and probably as close as five yards  
22 to the nearest officer he would have menaced if he had actually been a threat to officers.
- 23 • **Type of crime/subjects: Is the nature of the crime violent or non-violent?** Each officer believed  
24 his life, as well as all of the officers on-scene and the lives of the community members in the area  
25 were in danger of death or serious bodily injury as a result of Mr. Zepeda's intentionally firing at  
26 officers.
- 27 • **Type of crime/subjects: Are there a large number of subjects to be confronted?** Each of the  
28 officers on-scene believed there to be at least three suspects at large, each of whom could be possibly  
29 armed. Many did not know that Mr. Hernandez, who had a loaded handgun in the seat next to him  
30 and oriented to his use, had been taken into custody soon after the vehicle pursuit ended. It had been  
31 reported during the traffic stop that an individual involved in the brandishing incident that had  
32 occurred in the area just before the suspects were stopped was wearing a gray sweatshirt. Given the  
33 multiple volleys of gunfire the officers had heard, the orders apparently being addressed to Mr.  
34 Limón, his being wounded and down, and his wearing what appeared to be a gray sweatshirt, he was  
35 mistakenly identified as a suspect. Additionally, the knowledge that one or more of the suspects  
36 during the traffic stop had been communicating to unknown persons would have heightened each  
37 officer's sensitivity to danger from the possibility of other gang members, acting as reinforcements,  
38 becoming involved in the incident. While the officers were attempting to defend themselves against  
39 Mr. Zepeda's deadly assaults, there were a growing number of on-lookers gathering and becoming  
40 more and more vocal.
- 41 • **Type of weapon: Can it cause serious bodily injury or death?** Firearms can cause serious bodily  
42 injury or death. Mr. Zepeda fired repeatedly at officers.

43 In an example of justifiable homicide (Learning Domain 20, page 3-16), officers are provided with  
44 this example:

- 1 • While fleeing the scene, the (drug) dealer pulled a handgun from his waistband and began firing  
2 randomly toward the officer. In this situation, the subject was posing an immediate danger of causing  
3 the death or serious injury to the officer as well as to nearby bystanders. The homicide by the peace  
4 officer would have been justified and lawful.

5 While none of the suspects were suspected of dealing drugs, this example is pertinent to this case. Mr.  
6 Zepeda fleeing from officers and directing his fire at officers placed them in immediate danger of death or  
7 serious bodily injury.

8 Officers are trained that there are three elements needed to establish sufficiency of fear permitting an  
9 officer to respond with deadly force:

- 10 **1. The circumstances must be sufficient to excite the fears of a reasonable person in like**  
11 **circumstances.** Each officer reported in either or both his report and interview that the actions and  
12 the behavior of the suspects during the known-risk traffic stop caused each to have grave concerns for  
13 their own safety and for that of the other officers on-scene. Mr. Zepeda's decision to attempt to  
14 murder one or more officers while fleeing caused each officer to fear for his own and/or others' lives.
- 15 **2. The person must not act under the influence of fear alone. There has to be some circumstance**  
16 **or overt act apart from the officer's fear.** The actions by the suspects and by Mr. Zepeda's actually  
17 attempting to murder the pursuing officers, as stated above, created an actual or reasonably perceived  
18 imminent threat to life.
- 19 **3. The decision to use deadly force must be made to save one's self or another from great bodily**  
20 **injury or death.** Each officer who fired his weapon(s) stated in his report and/or interview he  
21 believed he and/or his fellow officers was in actual or imminent danger of death or serious bodily  
22 injury based on the actions of an individual he believed to be an armed suspect. Each officer fired in  
23 defense of self or others.

24 Officers are trained that Penal Code Section 196 defines when justifiable homicide may be committed  
25 by a peace officer (Learning Domain 20, page 3-19): *Homicide by a public officer may be justified when*  
26 *acting in the course of duty.* Each of the officers who responded with deadly force were uniformed, on-duty  
27 peace officers employed by the City of Oxnard. Each was acting during this incident within the course and  
28 scope of their duties.

29 Based upon my analysis of each officer's deadly force decision-making, it is my opinion that each  
30 acted in a reasonable manner expected of well-trained California peace officers given his reasonable beliefs  
31 and perceptions within the totality of the facts and circumstances known to him at the time.

- 32 • The shooting of Mr. Zepeda by Officers Lockner, Marquez, Orozco, Ross, Stiles, and Ehrhardt was  
33 justified as an act of self-defense and defense of others while acting within the course and scope of  
34 their duties as police officers. Their actions in the shooting death of Jose Zepeda, Jr., were those  
35 expected of trained California peace officers given the totality of the beliefs, perceptions, and facts  
36 known to them at the time of the shooting.
- 37 • The unintentional shooting of Mr. Villa by Officer Lockner occurred during the officer's response to  
38 Mr. Zepeda's attempt to murder pursuing officers. Mr. Villa was fleeing from the police and the path  
39 of his flight carried him into the trajectory of one bullet. Mr. Villa's decision-making throughout this  
40 event created the circumstances leading to his being wounded. This is a justified shooting by Officer  
41 Lockner.

42 The shooting of Mr. Limón requires three separate analyses because there were multiple contexts  
43 leading to his wounding and death:

- 1 • Mr. Limón was initially wounded when Officer Lockner fired in response to Mr. Zepeda firing at  
2 officers and then fleeing in the direction of the Limón brothers as they walked toward him. Mr.  
3 Limón was wounded as a result of being in the line of fire while directly in the path of Mr. Zepeda’s  
4 flight. Officer Lockner’s decision to fire and the subsequent unintentional wounding of Mr. Limón  
5 was justified. A very high percentage of gunshots expended by officers in defense of life shootings  
6 miss the intended target—in some studies, as many as eight in ten bullets miss the intended suspect  
7 and go downrange. Officer Lockner believed he had a clear background when he fired. The darkness  
8 combined with the natural human limitation of being unable to focus one’s vision on two points  
9 simultaneously and including the natural instinct to focus one’s attention solely on the individual who  
10 is threatening his life prevented his seeing that his shots would endanger anyone but the suspect  
11 attempting to murder him. Officer Lockner’s action in shooting at Mr. Zepeda were those expected of  
12 trained California peace officers given the totality of the beliefs, perceptions, and facts known to them  
13 at the time of the shooting. Tragically, Mr. Limón was struck by one or more of his bullets that  
14 missed Mr. Zepeda. Officer Lockner was acting within the course and scope of his position as a peace  
15 officer and was justified in this shooting.
- 16 • Officers Aragon, Brisslinger, and Ross intentionally shot Mr. Limón based upon their reasonable  
17 belief that he was an imminent danger to themselves or other officers. His being wounded, wearing  
18 what they perceived as a gray sweatshirt (as reported by dispatch of suspects involved in a brandishing  
19 incident that occurred just before the initiating traffic stop), their hearing officers shouting that he  
20 “still” had a gun, hearing orders by other officers to drop his weapon and to stay down while seeing no  
21 other suspect caused each to believe Mr. Limón was an armed suspect and the focus of those officers’  
22 warnings and orders. Each officer believed Mr. Limón to be armed with a handgun in his left hand  
23 and that one or more officers were in proximity to him, exposed, and without cover. Each believed  
24 that at least one of those exposed officers was experiencing either a weapon malfunction or was out of  
25 ammunition and was defenseless. Each perceived Mr. Limón rolling or sitting up while lifting or  
26 moving his left hand. This led each to believe he was attempting to shoot the exposed and/or  
27 defenseless officer(s). Each officer fired in defense of self or others. While tragic in their  
28 misperception, each officer’s action in shooting at Mr. Limón were those expected of trained  
29 California peace officers given the totality of the beliefs, perceptions, and facts known to them at the  
30 time of the shooting. Each officer, acting within his course and scope of employment as a peace  
31 officer, was justified in this shooting.
- 32 • Officer Orozco fired at what he believed to be a suspect shooting from behind the bushes, thinking  
33 that he was seeing muzzle flashes from that position. He fired and unintentionally repeatedly hit Mr.  
34 Limón while firing in defense of self and other officers. The degrading effects of acute existential  
35 stress on human perception and performance are well-documented. While it is possible that Officer  
36 Orozco perceived the sparks from other officer’s gunfire hitting the wrought iron fencing or quick  
37 sweeps of police flashlights or weapon mounted lights as muzzle flashes, Officer Orozco believed he  
38 and other officers were in imminent threat of death or serious bodily injury when he fired. He  
39 distinctly did not intentionally target Mr. Limón with his gunfire. He was instead firing at what he  
40 believed to be an armed suspect firing at officers. Mr. Limon lay directly in-line with Mr. Zepeda’s  
41 position and the corner of the wall and fence where Officer Orozco perceived the muzzle flashes.  
42 While tragic, his errant gunfire striking Mr. Limón is justifiable. His firing is an example of the  
43 normal effects on police firing competency influenced by the urgency created by the reasonable belief  
44 in the life-saving need to return fire to prevent himself and other officers from being murdered.  
45 Precisely aimed shots routinely become impossible when reacting to sudden threats to life. Once  
46 redirected from his perception of a proxemic threat of just a few yards to Mr. Zepeda’s actual position,  
47 his accuracy of fire changed and his fire no longer endangered Mr. Limón.

1           In both instances, Officer Orozco fired in self-defense or defense of others. While tragic in his  
2 misperception of the positioning of the suspect, this officer's action resulting in the inadvertent and  
3 unintentional shooting at Mr. Limón were those expected of a trained California peace officer given  
4 the totality of his beliefs, perceptions, and facts known to him at the time of the shooting. Officer  
5 Orozco, acting within the course and scope of his position as a peace officer, was justified in this  
6 shooting.

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10 Respectfully Submitted,

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14 **GEORGE T. WILLIAMS**

15 \_\_\_\_\_  
16           Date

17 Bellingham, Washington

18 //

19 //

20 //

# GEORGE T. WILLIAMS

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## Summary of Qualifications:

1996-present. **Director of Training for Cutting Edge Training, and Cutting Edge Training, L.L.C.**, specializing in police and SWAT training, military training, Executive and Third Party Protection, Expert Witness testimony, authoring of articles and books, as well as private industry training. Responsible for conducting studies on the use of force, training, officer murders, and public safety policy development. **Certifying Staff Member**, responsible for **certifying instructors in firearms training** (police weapons and military small arms instructor), **impact weapons, defensive tactics**, as well as **rape and personal defense & security** (crime prevention). Mentoring of training teams in Integrated Force concepts.

2012-present. **Contract Author for Lexipol Risk Management**. Scenario development, analysis of policy, and writing of Daily Training Bulletins.

2012-present. Cadre member for **International Association of Law Enforcement Firearms Instructors “Master Instructor Development”** program offered nationally.

2013-present. **Director, Product Development for ArmorerLink, Inc.** Software tracking system for armory operations and training.

1995. **California P.O.S.T. Law Enforcement Master Instructor**. A certificated year-long training designed to dramatically increase the quality of peace officer training through an intensive certification process of a very limited number of candidates.

1999-2003. **Certified instructor** of Liability Prevention for Supervisors, Officers, & Command Staff, Defensive Tactics, Firearms Employment, Impact Weapons, and Tactical Training (SWAT/Officer Safety) by **Oregon State Department of Public Safety Standards and Training**. Oregon DPSST certification program ended by the state in 2004.

1999-present. **“Corporate Trainer” for the Benchmade Knife Company, Inc.** Conducting training for law enforcement in the objectively reasonable and effective employment of tactical knives and weapon retention. Collaborated with premier knife designer Warren Osborne to create the Benchmade Model 810 folding knife.

1995-present. Development and continuing presentations throughout the United States of the first ever **Force Response Civil Liability Prevention/Constitutional Limitations to Police Force Response** course. Presented to Chief Executive, Command, Supervisory, and line personnel. Developed and presented **Supervisory Civil Liability Prevention, Evaluating Police Force Response** (for command personnel) and **Police Pursuit Decision-Making** courses throughout the United States.

1993-present. **Technical Editor for The Police Marksman**. Author of 175+ police-related articles published in various national and international trade journals on **force employment, police and SWAT tactics, instructional techniques, policy issues, and training** since. 1994-2007: **National Advisory Board Member** of "The Police Marksman Association." Two books, "Force Reporting for Every Cop," 2006, and "Preparing for Your First Deposition," 2013.

1988-Present. Trainer for **SWAT/Special Enforcement teams** in California, Washington, Nebraska, Utah, and Wyoming. Presented courses in **Combative Firearms, Tactics, CQB, Warrant Service, Vehicle Takedown & Hostage Rescue. Force Response Instructor/Consultant** to the **California Department of Corrections Special Enforcement Response Team Basic and Advanced Academy**, San Luis Obispo, CA, 1990-1994. **San Diego Border Crime Prevention Unit trainer**—1985-1987

2000-2003. **Certifying Instructor Trainer for Tasertron and Taser Technologies, Inc.**, certifying TASER Instructors for the Pacific Northwest, and substitute trainer of instructors nationwide.

1994-1996. **Police Training Specialist** for **Tracy, California, Police Department**, responsible for all areas of departmental training, including **patrol, K9, SWAT, and Supervisor** training, and management of the maintenance of training records. A member of the Management Team. Liaison between attorneys representing Tracy P.D. and officers in civil liability litigation.

1995-1996. **Adjunct Faculty Member** of **Monterey Peninsula College** teaching for the **Sacramento County, California, Sheriff's Department Academy** in **Supervisory Training—Use of Force Evaluation** and their **Basic Academy** in **Legal Issues in Use of Force** (mandatory recruit training in the laws of force). 1991-1994. **Arrest & Control/Baton/Shooting Instructor/Force Scenario Evaluator** for **Allan Hancock Community College Police Academy, Santa Maria, California**.

1987-1994. **Emergency Management Coordinator/Instructor I**, at the **California Governor's Office of Emergency Services, California Specialized Training Institute (CSTI)**. Coordinator/Primary Instructor the **Officer Safety & Field Tactics (OSFT)** 40-hr. course. Developed and implemented the first ever **OSFT for Canine Handlers and Supervisors, OSFT for Arson Investigators, Tactical Disturbance Control for Supervisors**. Instructor in Terrorism and Earthquake courses. 1985-1987-served as **Adjunct Faculty Member** in **OSFT**.

1989-1993. **Core committee member** of the **California Commission on Peace Officer Standards and Training's Center for the Study of Peace Officer Murders and Assaults**. Studied and published yearly on California Peace Officer murders from 1980-1998. This study of the circumstances of officer murders continues through the present day on an informal basis.

3/27/14

## Formal Education:

- ▶ Grossmont Community College, San Diego, CA, 7 semester units
- ▶ San Diego State University, San Diego, CA 119 semester units
- ▶ University for Humanistic Studies, San Diego, CA: 55 Quarter Units (Course work for MA/BA completed).

## Martial Arts Training, Education, and Experience:

Over two decades of accumulated intensive and successful training in combative martial arts. This training includes:

- ▶ 21 years of Tang Soo Do (5th dan, Master Instructor); 3 years of Tai Chi Chuan; 2 years of Kuk Sool Hapki; 1 year of Aikido; familiarity with jujitsu and Western wrestling.
- ▶ Instructor for 18 years in Tang Soo Do. 1980-1985, as owner/instructor of a martial arts school in San Diego County.
- ▶ Martial weaponry. Archery. Bladed weapons. Chain. Sticks/staff.
- ▶ Firearms Instructor: Handgun. Shotgun. Rifle/Carbine. Submachinegun. Select-fire shoulder fired weapons.

## Publications: The following magazines have published or accepted articles authored by George T. Williams:

- ▶ **THE POLICE MARKSMAN** (Magazine of PoliceOne.com) 106 articles since 1991
- ▶ **LAW & ORDER MAGAZINE** (International magazine for law enforcement) 22 articles since 1998
- ▶ **THE TACTICAL EDGE** (International quarterly magazine of the National Tactical Officers Association) 6 articles since 1991
- ▶ **THE FBI LAW ENFORCEMENT BULLETIN** (U.S. Federal Bureau of Investigation) 2 articles since 1999
- ▶ **THE POLICE CHIEF** (Monthly magazine of the International Chiefs of Police) 1 article since 1996
- ▶ **POLICE: THE LAW ENFORCEMENT MAGAZINE** (International magazine for law enforcement) 1 article since 2000
- ▶ **THE DEFENSIVE TACTICS NEWSLETTER** 8 articles since 1996
- ▶ **CALIFORNIA JOURNAL OF LAW ENFORCEMENT** (California Peace Officer's Assoc.) 9 articles since 1987
- ▶ **THE A.S.L.E.T. JOURNAL** (American Society of Law Enforcement Trainers) 2 articles since 1996
- ▶ **MANAGING YOUR RISK** (Quarterly Newsletter of the Association of Washington Cities) 2 articles since 1997
- ▶ **LAW ENFORCEMENT LIABILITY BEAT** (Quarterly Newsletter of the Local Risk Mgt. Service-Georgia) 1 article since 1998
- ▶ **THE UTAH PEACE OFFICER** (Quarterly Newsletter of the Utah Police Officer Association) 2 articles since 2002
- ▶ **POLICE & SECURITY NEWS** 4 articles since 2004
- ▶ **THE FIREARMS INSTRUCTOR** (Quarterly Int'l Assoc. of Law Enforcement Firearms Instructors magazine) 1 article since 2004
- ▶ **TACTICAL RESPONSE** 7 articles since 2005

## Books:

- ▶ Textbook: "Force Reporting for Every Cop," Jones & Bartlett Publishers, Massachusetts, 2006.
- ▶ Preparing for Your Civil Deposition," Cutting Edge Training Publishing, 2013.

## Law Enforcement Training:

Body Language Interviewing Techniques-SEFACT-1985  
Officer Safety & Field Tactics-CSTI-1985  
Gang Seminar-24 hours, NLEI-1987  
Survival Shooting Instructor-40 hours-1987  
Police Impact Weapons Instructor-80 hours-1987  
High Risk Warrant Service-16 hours-1988  
FBI Shooting Instructor Recertification-1989  
Automatic Weapons-8 hours, Riverside Academy-1989  
Orcutt Police Nanchaku Instructor-32 hours-1989  
Black Gang Narcotics Trafficking-CNOA-1989  
832PC—Powers of Arrest and Use of Force, SLOSO-1989  
Legislative Update-8 hours, CPOA-1990  
ICE: Crystal Meth Seminar, CNOA-1990  
Tactical Diagramming, CSTI/NTOA-1990  
Defensive Tactics Instructor, FBI-1991  
Undercover/Off-duty Officer Safety, CNOA-1992  
Homicide Investigation-10 hours, NLEI-1992  
Tactical Autoloader-10 hours, ALET-1992  
Tactical Submachinegun-10 hours, ALET-1992  
Safety and Handling of Marine Explosives, Broco Env.-  
1993  
Officer Involved Fatal Incidents-1994  
Gaps in Policy and the Use of Force-1994  
Enlightened Police Discipline—1994  
Master Instructor Development Program-1995  
Glock Armorer's School-8 hours-1995  
CPOA Use of Force Legal Update--1995  
Tasertron TASER Instructor Course-8 hours--1995  
Verbal Judo-1995  
CNT Debrief/Role of the Various Disciplines-1995  
CPOA Legislative Update-1995  
Police Risk Management Seminar-WCIA-1997  
Legal Update—Washington State Atty. General-1997  
Police Canine Seminar-24 hours—WSPCA-1997  
Street Survival Seminar-24 hours—Calibre Press-1998  
ASLET International Training Conference—New Mexico-  
1999  
ASLET Regional Training Conference—Ontario, CA-1999  
Officer-Involved Shooting Investigation-8 hrs.-Seaside, OR-  
1999  
Firearms Employment-8 hours-U.S. I.N.S, Blaine, WA-2000  
ASLET International Training Conference-Virginia-2000  
Defensive Tactics Network Workshop-Ft. Lauderdale-2001  
R.I.P.P. Restraints-Ft. Lauderdale-2 hrs.-2001  
Defensive Tactics Network Workshop—Ft. Lauderdale—  
2002  
Crimson Trace Master Trainer—24 hrs, Centralia, WA 2004  
ASLET International Training Conference-Jacksonville, FL  
2005  
Canadian Officer Safety Conference-Victoria, BC, 2005  
1” to 100 yards Interactive Training Symposium-Laughlin,  
NV 2007  
Pursuit Policy—3 hours, San Jose, CA 2007  
X26 TASER certification-Hillsboro, OR 2008  
1” to 100 yards Interactive Training Symposium-Laughlin,  
NV 2008  
Sudden In-Custody Death and Excited Delirium Instructor,  
16-hrs., Scottsdale, AZ, 2009  
1” to 100 yards Interactive Training Symposium-Laughlin,  
NV 2009  
Regional Firearms Training Conference-IALEFI, Bend, OR,  
2009  
Bright-Strike Flashlight Instructor-2010  
1” to 100 yards Interactive Training Symposium-Laughlin,  
NV 2010  
Regional Firearms Training Conference-IALEFI, Bend, OR,  
2010  
SIRTification Instructor, Ferndale, WA, 2011  
Active Shooter Response, ILEESE, 2011  
Responding to the Active Shooter, Hillsboro, OR, 2012  
X2 TASER certification/X26 TASER recertification-  
Hillsboro, OR, 2013  
Fighting With The Handgun, 16 hours, Ferndale, 2013  
AMBUSH! The Justin Conley Incident, 2013

## Association Memberships

- ▶ Association (ILEETA)—Membership ID#192-C.
- ▶ International Law Enforcement Educators and Trainers
- ▶ International Association of Law Enforcement Firearms Instructors (IALEFI).
- ▶ The American Gunsmithing Association (AGA)—Membership #010654000014944260
- ▶ Former member of the International Wound Ballistics Association (I.W.B.A.) (now defunct).
- ▶ Former member of the American Society of Law Enforcement Trainers (now defunct).
- ▶ Former member National Tactical Officers Association (N.T.O.A.).

**Certifying Trainer of Police Instructors in the Following Police Skill Areas:**

- ▶ Police Defensive Tactics/Combatives
- ▶ Police Firearms
- ▶ Police Impact weapons (Straight, side-handle, collapsible, and OPN)
- ▶ Police Tactical Duty Knife
- ▶ ISC Control Points Master Instructor
- ▶ Force-on-Force Simulations
- ▶ SIRT Training Weapons

Former trainer of trainers in TASER.

**I have trained peace officers in the minimum following areas:**

- |  |   |   |
|--|---|---|
| <ul style="list-style-type: none"> <li>▶ Adverse Light: Tactics and Response</li> <li>▶ Bloodborne Pathogens/ Communicable Disease</li> <li>▶ Building Entry &amp; Search for Patrol</li> <li>▶ Constitutional Limits of Police Force Response and Deadly Force</li> <li>▶ Defensive Tactics &amp; Suspect Control:             <ul style="list-style-type: none"> <li>▶ Arrest &amp; Control</li> <li>▶ Weapon Retention</li> <li>▶ Knife Defense</li> <li>▶ Club Defense</li> <li>▶ Ground Defense and Fighting</li> </ul> </li> <li>▶ Defensive Tactics TRAIN-THE-TRAINER</li> <li>▶ Driving Skills for Patrol</li> <li>▶ Evaluation of the Police Use of Force</li> <li>▶ Expected Human Injury/Injury Potential in the Use of Force</li> <li>▶ Firearms:             <ul style="list-style-type: none"> <li>▶ Handgun</li> <li>▶ Shotgun</li> <li>▶ Submachinegun</li> <li>▶ Rifle</li> </ul> </li> <li>▶ Firearms TRAIN-THE-TRAINER</li> </ul> | <ul style="list-style-type: none"> <li>▶ Impact Weapons</li> <li>▶ Impact Weapons TRAIN-THE-TRAINER</li> <li>▶ ISC Control Points</li> <li>▶ Less-Lethal Weapons &amp; Tactics</li> <li>▶ Officer Safety &amp; Field Tactics</li> <li>▶ Officer Safety &amp; Field Tactics for Canine Handlers and Supervisors</li> <li>▶ Officer Safety for Arson Investigators</li> <li>▶ Officer-Involved Shooting Investigations</li> <li>▶ Parole and Probation Searches</li> <li>▶ Psychological &amp; Physiological Effects of Deadly Force Response</li> <li>▶ Response to Domestic Violence/ Disturbance Calls</li> <li>▶ Responding to the Active Shooter</li> <li>▶ Response to Civil Disturbance/Riot Search &amp; Seizure</li> <li>▶ Search and Seizure</li> <li>▶ Supervisory Management of Vehicle Pursuits</li> <li>▶ SWAT Firearms</li> <li>▶ SWAT Tactics and Response to Critical Incidents</li> <li>▶ SWAT Entry and Crisis Resolution</li> </ul> | <ul style="list-style-type: none"> <li>▶ Sudden In-Custody Death/Excited Delirium</li> <li>▶ Response to the Mentally Ill Subject</li> <li>▶ Supervisor Civil Liability Prevention Police/Public Policy Development</li> <li>▶ SWAT tactical firearms</li> <li>▶ Tactical Duty Knife</li> <li>▶ Tactical Duty Knife TRAIN-THE-TRAINER</li> <li>▶ Tactical Disturbance Control for Supervisors</li> <li>▶ TASER employment</li> <li>▶ TASER TRAIN-THE-TRAINER</li> <li>▶ Terrorist Tactics &amp; Weapons</li> <li>▶ Threat Recognition And Avoidance</li> <li>▶ Use of Force Civil Liability Prevention</li> <li>▶ Vehicle Pursuit Decision-Making &amp; Conduct</li> <li>▶ Vehicle Stops</li> <li>▶ Weapon mounted laser and flashlight</li> <li>▶ Wound Ballistics</li> <li>▶ Tactical Firearms Combatives</li> <li>▶ Tactical Firearms Combatives for the Undercover Narcotics Agent</li> <li>▶ Response to the Active Shooter</li> </ul> |
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I have trained over 25,927 Police Officers, Deputy Sheriffs, State Troopers, Federal Agents, Corrections Officers, Detention Deputies, Parole and Probation Agents, Reserve Officers, Airport and Port Authority Officers, Federal and State Park Rangers, as well as police recruits. This includes officers from a *minimum* of 408 different agencies in the State of California, as well as 182 police agencies in Washington State. Peace Officers trained from total jurisdictions: US Federal Government, all 50 U.S. states, the District of Columbia, 2 US Territories, & 14 foreign countries. This training focused mainly on veteran officers in all aspects of force response in advanced officer training. Also included is recruit training at two police academies over three years.

**Testimony: Number of courts and venues in which I have testified as an Expert Witness:**

Federal Court:	18 instances	Municipal Court:	4 instances
Superior Court:	25 instances	Civil Service Hearing:	7 instances
Grand Jury	2 instances		

**Areas in Which I Have Testified or Been Consulted as an Expert:**

- ▶ Deadly Force Response
- ▶ Force Response (Patrol, SWAT, Narcotics, Jail)
- ▶ Police Tactics
- ▶ Police Force Employment
- ▶ S.W.A.T. tactics/ops
- ▶ Firearms
- ▶ Police Training
- ▶ Martial Arts
- ▶ Edged & Bladed Weapons
- ▶ Defensive Tactics
- ▶ Arrest and Control
- ▶ Police Vehicle Pursuits
- ▶ Domestic Violence Response
- ▶ Police Procedures
- ▶ Police Policies
- ▶ Detention and Arrest.
- ▶ Impact Weapons
- ▶ Chemical Agents/OC
- ▶ Parole Searches
- ▶ Patrol Response to the Mentally Ill
- ▶ Narcotics Warrant Service
- ▶ Barricaded Subject
- ▶ Effects of wounding agents
- ▶ Employment & effects of Physical Force
- ▶ Police Service Dogs as a Force Option
- ▶ Sudden In-Custody Death
- ▶ Taser Employment
- ▶ Jail procedures
- ▶ Jail suicide
- ▶ Suicide-by-Cop



Court Testimony and File Review by  
**GEORGE T. WILLIAMS**

Mr. Williams has been testifying as an expert witness since 1991. Below are the cases in which he has consulted, provided expert opinions, and/or testified in deposition or in court since 2009, as required by the Federal Rule of Evidence, 26(a)(2)(B).

- 1/10 Hall v. County of Whatcom, et. al.  
File review for the Defense in off-duty force response in federal court in Seattle, Washington.
  
- 4/10 Snauer v. City of Springfield, et. al.  
File review and testimony for the Defense in a Taser employment in federal court in Eugene, Oregon.
  
- 5/10 Johnson v. City of Buena Park, et. al.  
File review for the Defense in a force response in federal court in California.
  
- 6/10 Tillett v. City of Bremerton, et. al.  
File review for the Defense in a narcotics warrant service related force response in federal court in Tacoma, Washington.
  
- 9/10 Han v. City of Folsom  
File review and deposition for the Defense in deadly force response in federal court in California.
  
- 11/10 Levy v. County of Spokane, et. al.  
File review for the Defense on police tactics and suicide in federal Court in Spokane, Washington.
  
- 11/10 Creach v. County of Spokane, et. al.  
File review for the Defense on deadly force in federal Court in Spokane, Washington.
  
- 02/11 Hall v. City of Ferndale, et. al.  
File review and testimony for the Defense in force, and contact and search procedures in federal court in Seattle, Washington.
  
- 04/11 Josfan v. Indochine, et.al.  
File review for the Defense in force, and contact and search procedures in federal court in Santa Barbara, California.
  
- 07/11 Bowles v. City of Porterville, et. al.  
File review for the Defense on the reasonableness of deadly force in federal court in California.
  
- 10/11 Johnson v. Fishback, et.al.  
File review for the Plaintiff on the reasonableness of force in federal court in San Francisco, California.

- 01/12 Radchuk v. City of Citrus Heights, et. al.  
File review for the Defense on the reasonableness of force, deadly force, contact and police procedures in federal court in Sacramento, California.
- 01/12 Riggi (Clark) v. City of Placerville, et. al.  
File review for the Defense on the reasonableness of deadly force, tactics, training, and policies in federal court in California.
- 03/12 Seeley v. County of Linn,  
File review and testimony for the Defense on the reasonableness of deadly force in Linn County, Oregon, Circuit Court.
- 07/12 Vasquez v. The Boiler Room, et.al.  
File review for the Defense on the reasonableness of deadly force in federal court in San Antonio, Texas.
- 10/12 Petersen v. County of Lewis, et.al.  
File review for the Defense on the reasonableness of deadly force in federal court in Tacoma, Washington.
- 12/12 Price v. City of Sutherlin, et.al.  
File review for the Defense on the reasonableness of the use of the TASER in federal court, Oregon.
- 12/12 Garcia-Herrera v. City of Salem, et.al.  
File review for the Defense on the reasonableness of the use of the TASER in federal court, Portland, Oregon.
- 2/13 Moreno v. City of Fresno, et. al.  
File review for the Defense on the reasonableness of a footsweep against a prisoner and subsequent conduct of the officers in federal court in Fresno, California.
- 4/13 Farias OIS  
Evaluation of deadly force and reporting for the Ventura County District Attorney's Office. .
- 4/13 Hesselbein v. City of Elk Grove, et. al.  
File review for the Defense on the reasonableness of deadly force in federal court in Sacramento, California.
- 4/13 Velasquez v. County of Tulare, et. al.  
File review for the Defense on the reasonableness of deadly force in federal court in Fresno, California.
- 7/13 Bryant v. City of Bremerton, et. al.  
File review for the Defense on the reasonableness of responding with the TASER in federal court in Tacoma, Washington.
- 10/13 Hesselbein v. City of Elk Grove –Deposition Testimony  
U.S.D.C Eastern District of California, Case #2:11-CV-02157-MCE-DAD

- 11/13 Watson/Osback v City of Vancouver, et. al.  
File review for the Defense in federal court in Tacoma, Washington.
- 1/14 IR v. City of Fresno  
File review for the Defense on the reasonableness of officers' actions in federal court in Fresno, California.
- 2/14 Cotledge v. City of Santa Barbara  
File review for the Defense on the reasonableness of officers' restraint in federal court in Los Angeles, California.
- 3/14 Zepeda-Limon OIS  
Evaluation of deadly force for the Ventura County District Attorney's Office.

**Testimony during the last four years:**

- 08/11 Han v. City of Folsom - Deposition Testimony  
U.S.D.C. Eastern District of California, Case#2:10-CV-00633-FCD-GGH
- 09/11 Snauer v. City of Springfield - Trial Testimony  
U.S. District Court of Oregon, Case# 09.6277-TC
- 08/12 Radchuk v. City of Citrus Heights - Deposition Testimony  
U.S.D.C. Eastern District of California, Case# 2:11-CV-00486-JAM-CMK
- 03/13 Seeley v. County of Linn - Trial Testimony  
Circuit Court of the State of Oregon for the County of Linn, Case# 111650
- 10/13 Petersen v. County of Lewis – Deposition  
U.S.D.C. Western District of Washington, Case No. C12-5908-RBL
- 10/13 Hesselbein v. City of Elk Grove, et.al. – Deposition  
Case No. 2:11-CV-02157-MCE-DAD