

**OFFICE OF THE DISTRICT ATTORNEY  
COUNTY OF VENTURA**

**December 14, 2012**

**REPORT ON THE JANUARY 27, 2012  
FATAL SHOOTING OF  
ERIC STROSSER  
BY SENIOR DEPUTY KEVIN LYNCH OF THE  
VENTURA COUNTY SHERIFF'S OFFICE**



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## I. INTRODUCTION

Eric Strosser had a history of substance abuse and threatening suicide. On January 27, 2012, Eric Strosser told his father, Edward Strosser, to move his car so it would not be burned when Eric Strosser lit himself and the trailer he lived in on fire. Eric Strosser continued to discuss killing himself and Edward Strosser called 911 for assistance with his son. Numerous deputies were dispatched to the location. Ventura County Sheriff's Senior Deputies Kevin Lynch and Gerardo Gomez were the first deputies to reach the Strosser residence.

Senior Deputy Gomez got out of the car and Eric Strosser armed himself with a two-foot long machete. Eric Strosser approached Senior Deputy Gomez, who retreated around the rear of the patrol car while demanding that Eric Strosser put down the machete. Senior Deputy Lynch got out of the car about four feet away from Strosser and began backing away. Eric Strosser turned and, while still brandishing the machete, began approaching Senior Deputy Lynch. Senior Deputy Lynch retreated around the front of the car, repeatedly requesting Eric Strosser to put down the machete. Eric Strosser continued approaching Senior Deputy Lynch with the machete raised in a threatening manner. When Eric Strosser was within four to six feet away from Senior Deputy Lynch, Deputy Lynch fired three shots, killing Eric Strosser.

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. Senior Deputy District Attorney Christopher Harman (who authored this report) and District Attorney Investigators Danny Miller and Jim Seitz responded to the shooting scene and consulted with the investigating officers.

The Ventura County Sheriff's Office conducted a detailed investigation of the shooting, which included interviewing witnesses, collecting physical evidence, photographing the area of the shooting, and conducting interviews with the involved deputies, Kevin Lynch and Gerardo Gomez, as well as other personnel who responded to the scene. The Ventura County Sheriff's Office investigation reports were then submitted to the District Attorney's Office for a determination of whether the shooting of Eric Strosser was justified and, if not, whether criminal charges should be filed. The scope of the District Attorney's review was limited to those issues.

The District Attorney's review included reviewing more than 893 pages of reports and documents, including interviews of police and civilian witnesses, diagrams, photographs, recorded interviews, records of radio transmissions, interviews of civilian and expert witnesses, and examining the scene of 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 Senior Deputy Kevin Lynch acted lawfully when he shot at Eric Strosser and that Eric Strosser's resulting death was a justifiable homicide.

## **II. STATEMENT OF FACTS**

Eric Strosser, 47, lived in a trailer located on the residence owned by his father, Edward Strosser, 77. The trailer and home were located at 10746 Citrus Drive in the city of Moorpark. Edward Strosser, his daughter Marie Toth, 52, and a caretaker for Edward named Lori Jones, 53, all lived in the residence.

Eric Strosser drank habitually, was in constant pain from prior injuries, and at times used controlled substances. He had a history of drinking excessively and expressing a

desire to kill himself, including an incident approximately three years before where his father found him in the garage with a noose around his neck. Eric Strosser had been prescribed anti-depressants but did not use them because he did not like the way the medicine made him feel.

The night before he was shot, Eric Strosser had been drinking heavily and arguing with his father. It appears that he did not sleep at all that night.



10746 Citrus Drive

**A. INITIAL DISTURBANCE**

Edward Strosser and Eric Strosser had an argument around noon on January 27, 2012. Around 2:00 p.m., Eric Strosser re-entered the home and told Edward Strosser that he had better move his car so it would not get burned when Eric killed himself by burning

his trailer while he was in it. Edward Strosser tried to downplay the threat but Eric Strosser began verbally harassing Edward Strosser. Edward Strosser called 911 for assistance with his son at approximately 2:04 p.m.

**B. 911 CALL**

Edward Strosser called 911 and spoke to the operator. He had trouble hearing, so there was a problem communicating. Edward Strosser told the operator that Eric Strosser was acting very irrationally, had been drinking and talking about suicide. Eric Strosser yelled loud enough to be heard over the call that Edward should tell the dispatcher that he had a gun and that the gun was loaded.

Edward Strosser told the operator that he did not believe Eric Strosser had weapons, but he was not positive. He then handed the phone to his daughter, Marie Toth, to better communicate with the 911 operator. Toth then related the events as she noticed them occurring.

**C. SHOOTING**

Ventura County Sheriff's Dispatch broadcast a request for Moorpark units to respond with lights and sirens to 10746 Citrus Drive in Moorpark. Dispatch further advised that the call involved a suicidal subject who had been drinking and threatening suicide by cop, and that the subject claimed to have a loaded weapon, but that the reporting party was unable to confirm whether there was a weapon. Several deputies responded to the call.

The first deputies on scene, including a deputy armed with a beanbag shotgun, staged at 10788 Citrus Drive, a few hundred yards downhill from the Strosser home. The deputies began walking up toward the residence. As they were walking, Senior Deputies Lynch



and Gomez arrived in their unmarked car. Senior Deputy Gomez told the other deputies that they would drive past the home and set up a road block for traffic coming in the other direction.

Eric Strosser kept moving between the house and his trailer. He changed his clothes and grabbed a machete from the garage. While holding the machete, he told Edward Strosser that he would “solve everybody’s trouble.” When they heard approaching police sirens, Eric Strosser told his father “Ed, they’re coming for me, can you hear them? I’m ready for them.” Edward Strosser begged his son not to approach the deputies with the machete.



Citrus Drive with 10746 and 10788 labeled

Senior Deputies Lynch and Gomez drove up Citrus Drive and spotted Eric Strosser at the bottom of the stairwell leading up to the front yard of 10746 Citrus Drive. Eric

Strosser did not appear armed at that moment, so they made a tactical decision to confront him while he had no weapon. Senior Deputy Gomez got out of the car, drew his handgun and pointed it at Eric Strosser, and moved toward the rear of the car, closing the distance between them. Senior Deputy Lynch had trouble getting out of the car. Senior Deputy Gomez instructed Eric Strosser to keep his hands where the deputy could see them.

Eric Strosser greeted Senior Deputy Gomez, then turned and pulled a two-foot long machete from the ground. He raised the machete over his head and began moving in Senior Deputy Gomez's direction. Senior Deputy Gomez began yelling for Eric Strosser to put the machete down. Senior Deputy Gomez retreated around the passenger side of the car to put distance and a barrier between them. Eric Strosser, with the machete raised over his head, continued approaching Senior Deputy Gomez.



The Machete



Senior Deputy Lynch was able to get out of the car and stood up about four feet away from Eric Strosser. He drew his handgun and began backing away from Eric Strosser toward the front of the car. Eric Strosser stopped and divided his attention between the two deputies. He then began approaching Senior Deputy Lynch while brandishing the machete over his head.

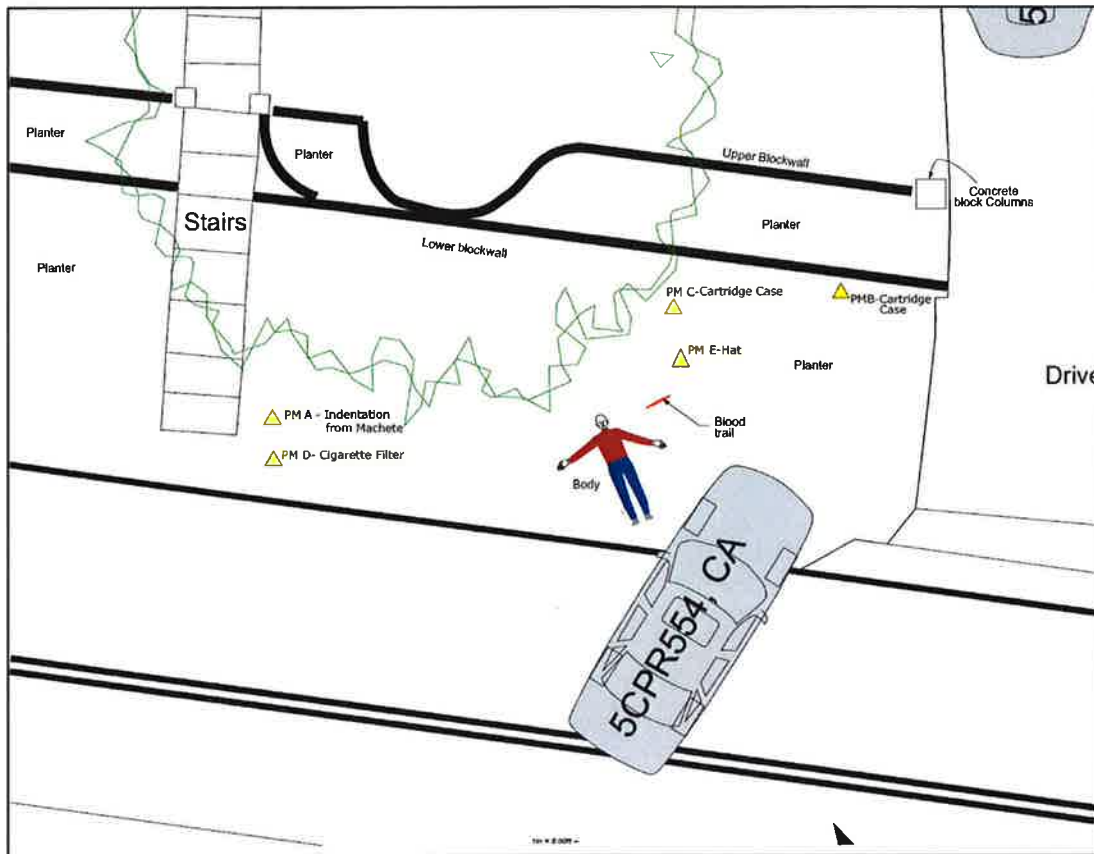
Senior Deputy Lynch continued backing away from Eric Strosser and Eric Strosser continued approaching him while holding the machete raised in his hand. Senior Deputy Lynch demanded that Eric Strosser drop the machete, and Edward Strosser was also yelling at Eric Strosser to drop the knife. Eric Strosser kept stating words like “Go ahead, do it, do it.”

Senior Deputy Lynch continued backing away from Eric Strosser until he encountered loose terrain under his feet. He was afraid he would slip and fall and be at a disadvantage from the threat posed by the still approaching Eric Strosser. He was afraid that Eric Strosser would chop him with the machete. Senior Deputy Lynch fired three shots at Eric Strosser, killing him. According to the dispatch record, the time between the initial dispatch and the report of shots fired was ten minutes and thirty four seconds.

#### **D. ADDITIONAL POLICE RESPONSE AND INVESTIGATION**

The other deputies were walking up Citrus Drive when they saw the encounter between Eric Strosser and Senior Deputies Lynch and Gomez. They began running but reached the scene after the shooting. They secured Eric Strosser’s machete and began securing the crime scene. Fire and ambulance personnel arrived on scene and pronounced Eric Strosser dead at the scene. Fire personnel also tended to Edward Strosser, who had witnessed his son’s shooting.

Detectives from the Ventura County Sheriff's Office Major Crimes Unit responded to the scene to investigate the shooting. They interviewed witnesses and searched the area around the shooting. They also obtained a search warrant and searched Eric Strosser's trailer. Eric Strosser's body and effects were secured at the scene and transported to the Medical Examiner's Office. The crime scene was memorialized with numerous photographs and measurements were taken with a laser-based system.



Scene Diagram

### E. WITNESS STATEMENTS

Numerous individuals were interviewed, including all police officers involved in the incident and most of the neighbors. Summaries of the most pertinent witness statements are set forth below.

## **1. EDWARD STROSSER**

Edward Strosser was interviewed twice on January 27, 2012. He was initially interviewed by Deputy Roe, and then a more in-depth interview was conducted by Senior Deputy Sharp. This summary includes information from both interviews.

Edward Strosser related that his son, Eric Strosser, had been drinking since the prior night, had been very agitated and had wanted the police to kill him. He explained that Eric lived in a trailer parked on Edward's property. Eric had been in a motorcycle accident in 2009 and was always in pain. He also described Eric as an alcoholic who is a "mean and destructive drunk."

Edward admitted that Eric had threatened suicide many times in the past, but stated that Edward always reacted calmly when talking to Eric about it. Edward described two specific incidents. On the first, Eric grabbed a gun and walked out of the house and his sister called the police. The police were called and Eric was committed to a psychiatric facility for three days. All of the firearms in the home were confiscated. Eric was prescribed anti-depressants but Edward Strosser believed he had not been taking them prior to January 27.<sup>1</sup>

The second incident occurred about three years before the shooting. Edward told Eric to move out and later found Eric in the garage with a noose around his neck. Edward untied the noose from Eric's neck and calmly talked to him about how suicide would not solve any problems.

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<sup>1</sup> / The incident Edward Strosser described occurred on August 30, 2007.

The night before the shooting Eric drank a lot of alcohol. Eric woke Edward Strosser up a couple of times during the night by coming into the home and talking to himself. Edward described Eric as drunk. A little while after noon on January 27, Eric came into the home and began yelling at his sister (Marie Toth) and another woman staying there (Lori Jones). Edward confronted Eric about his drinking and Eric left.<sup>2</sup>

Around 2:00 p.m. that afternoon, Eric approached Edward and told Edward to move his car so it would not burn up when Eric lit himself on fire. He told Edward “Well, it’s 2 o’clock, I have poured gasoline all over the trailer. I’ve poured gasoline all over myself. When it goes off your car is going with it.” Edward did not smell any gasoline, so he tried to downplay the situation. Instead of deescalating the situation, Eric became more abusive. Edward was worried that Eric might actually hurt himself, so he called 911.

When Eric discovered that Edward called 911, he yelled “Tell them I have a gun and I’ll shoot them.” Edward was having trouble hearing the operator and asked Marie to describe the situation to the operator.

Edward followed Eric outside. Edward stood on the walkway, at the top of the stairs by the pillars, and Eric was by the driveway. Eric walked over to the garage and came out holding a machete. Eric said something like “I’ll solve everybody’s trouble.” They heard sirens in the distance and Eric said “Ed, they’re coming for me, can you hear them?” He then added “I’m ready for them.”

Edward pleaded with Eric not to threaten the deputies with the machete because they would have no choice but to defend themselves. Eric did not care and reiterated that

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<sup>2</sup> / Toxicology reports place Eric Strosser’s blood alcohol content at the time of his death between .27 and .45.

“They’ll (the deputies) solve everybody’s problems.” Edward stated that Eric’s mind was set. “He did, it was a deliberate act on his..., he was forcing you people to do what he couldn’t do, do for himself.” Edward said that he was not angry with the deputies as they did what they needed to do, but felt sorry that they would have to remember the shooting for the rest of their lives.

Edward saw a light colored sedan park in front of his house and Eric replied, “There they are.” Two deputies in plain clothes got out of the car. Eric held up the machete and the deputies drew their handguns. The deputies got behind their car for protection. The deputies told Eric to put the knife down at least three times. The first request was polite but each time it became more firm. Edward begged the officers not to shoot.

Edward’s focus had been on the deputies, so he did not know if Eric moved toward the deputies before they fired. The deputies fired three rapid shots and Eric went down. He stated that there was not a lot of distance between Eric and the deputies at the time of the shooting. Eric fell to the ground after he was shot. Edward believed that both deputies fired their weapons simultaneously.

Edward stated that the deputies did what they had to do and their actions were justifiable. He added that he was not going to defend Eric and that he was sorry that Eric put the officers in that position.

## **2. 911 CALL**

The 911 call recorded many of the events as they occurred. Edward Strosser initially called and reported that his son Eric was drinking and suicidal. Eric was heard in the background stating “tell them I have a gun.” Edward related that he did not think that Eric had a gun, but told the operator that the responding officers should “be very



cautious, he is very irrational at the moment.” Eric then shouted “Tell them my gun is loaded.”

Edward was having trouble hearing the operator, so he gave the phone to Marie Toth. She related that Eric had been up all night drinking and that he was drunk and out of control, and talking about suicide by cop. She added that Eric had been prescribed Zoloft but was not taking it since he did not like the way it made him feel.

Toth related events to the operator as she observed them, but she was inside the house. She told the operator that Eric moved from the house to his trailer and changed his clothes. At one point, Eric was outside arguing with Edward. Toth went outside to tell Eric to stay away from their father and brought the phone with her. Toth told the operator that Eric was possibly armed with a knife and was being approached by a deputy.

Toth described Eric approaching the deputies with a knife. She stated that Eric “has a machete and they (the deputies) got a gun on him.” People can be heard shouting for Eric to drop the weapon. Toth states “Oh God, he sees one with a gun on him” which is shortly followed by the sound of gunfire. Toth states “he just got shot, right in front of my father, my dad’s gonna have a heart attack.” The dispatch operator then told Toth that she would be dispatching the fire department for her dad.

### **3. SENIOR DEPUTY KEVIN LYNCH**

On January 27, 2012, Senior Deputy Lynch was interviewed by Ventura County Sheriff’s Sergeant Hester and Senior Deputy Richmond. Lynch agreed to walk the interviewers through the crime scene as he spoke about the shooting.

At the time of the shooting, Lynch had been employed as a Deputy Sheriff for 18 years and was assigned as a detective out of the Moorpark Police station. He had been a detective for approximately 18 months. Lynch was unaware if he ever had any contact with Eric Strosser prior to January 27.

On the day of the shooting, Lynch was in plain clothes and was preparing to head to the courthouse to get a judge's signature on an unrelated warrant. Lynch heard a radio call related to a "suicidal subject with a possible gun or firearm."

Lynch's partner, Senior Deputy Gomez, reached the car and they spoke about responding as each of them had SWAT (Special Weapons and Tactics) training. They proceeded to the location identified by the radio call, monitoring Sheriff's Dispatch as they updated the situation.

As they arrived near the location of the call, Senior Deputy Lynch noticed several marked Sheriff's patrol cars and several uniformed deputies walking south on Citrus Drive towards Ternez Drive. Some of the deputies had rifles and some of the deputies had less lethal weapons. One of the deputies was Sergeant Cory Rubright. Senior Deputy Gomez told Sergeant Rubright that he and Lynch would continue south past the call location and block the street to oncoming traffic. Senior Deputy Lynch drove south on Citrus Drive.

Sheriff Dispatch reported that Strosser was outside and arguing with his father. As they drove near the intersection of Citrus and Ternez Drives, Lynch saw a man matching the description of the suicidal subject (later identified as Eric Strosser) standing near the stairs at 10746 Citrus Drive talking with another man. Lynch described Strosser as standing on the stairs and being "amped" up.

As Lynch and Gomez drove by Strosser, Gomez said, "That's him." Strosser looked in their direction and raised his hands above his head. Lynch could see that Strosser was saying something as they drove by but could not hear it because his window was rolled up. Lynch felt that the body language of Strosser changed as they drove by and felt that Strosser knew they were the police.

Lynch said he did not see anything in Strosser's hands. Gomez made a comment about contacting Strosser because they did not see any type of weapon in his hands. Lynch explained that he and Gomez felt it would be safer for all concerned to contact Strosser while he was unarmed. Lynch turned his car toward the direction of the house and stopped. Gomez quickly got out of the car and Lynch noticed that Strosser was now holding a machete.

Gomez was at the rear of the car and Strosser walked off the steps and toward Gomez, still holding the machete. Gomez said something to Strosser but Lynch did not know the exact words. Lynch could not remember if Strosser said anything as he walked towards Gomez.

Lynch had trouble getting out of the car. As he struggled to open the door, he saw Strosser brandishing the machete and moving toward Gomez at the back of the car. Lynch was eventually able to open the car door, stood and drew his weapon. At that time, Strosser was near the left rear quarter panel of the car, approximately four feet away.

Lynch retreated toward the front of the car. When Lynch had moved about ten feet from Strosser, Strosser looked at Lynch. Strosser raised the machete in a "chopping" type grip

and started walking toward him. Lynch took a few steps backwards toward the front of the car because he did not want to get “chopped” by Strosser. Lynch could not remember if he said anything to Strosser. Lynch described Strosser as being “jacked up” and saying something like, “Go ahead, do it, do it”. Lynch felt Strosser was close enough to attack him and feared that this could happen.

Lynch recalls telling Strosser to drop his weapon and to stop. Lynch did not remember whether he identified himself as a deputy prior to the shooting. Lynch thought he told Strosser to drop the machete several times and remembered hearing Gomez say something to Strosser but could not remember what Gomez said.

Lynch continued moving backwards in front of his car. He could feel loose dirt under his feet and was concerned about losing traction and falling. When Strosser was approximately five feet away from him, Strosser raised the machete over his head and continued to move toward him. Lynch was afraid for his life. Strosser kept saying something to the effect of, “Go on, do it, do it.” As Lynch continued to back up, he felt loose footing and felt he could not back up anymore without risking falling. At that point, Lynch fired three shots at Strosser.

Lynch stated that he pulled the trigger because he did not want to get “chopped” by the machete and felt it was “now or never.” Lynch was not looking specifically at his front sight as he fired, but was looking at the end of his weapon and Strosser. The bullets affected Strosser immediately. Strosser stopped advancing on him and fell to the ground.

After the shooting, Lynch saw Strosser’s father in his peripheral vision to the right and on the grass. Lynch heard the father say something to the effect of, “He wanted you to

do that.” Lynch saw Sergeant Rubright coming up the street and saw Gomez near the right rear passenger door of their car. Gomez had his weapon drawn and the two of them met at the rear of their vehicle. Lynch saw one of the deputies move the machete away from Strosser and additional deputies arrived in the area.

#### **4. SENIOR DEPUTY GERARDO GOMEZ**

Senior Deputy Gomez was interviewed by Detective Brantley about the shooting on January 27, 2012. He stated that prior to the incident he and Lynch had been planning to get a search warrant signed by a judge at the Simi Valley court building. Gomez was getting something from his desk when he first heard the radio call of a suicidal subject. When he joined Lynch at their car, they asked each other if they had heard the dispatch call. Gomez stated that dispatch gave contradictory information as to whether the subject had a gun.

Gomez and Lynch talked about the call and whether to respond and assist. They agreed to respond since both had SWAT training. Gomez grabbed his assault rifle and SWAT equipment bag before they left.

Lynch and Gomez responded to the area with lights and sirens in their unmarked patrol car. Lynch and Gomez drove past parked patrol cars on Citrus Drive. Gomez saw Sergeant Rubright, Deputies Tedder, Roe and Martinez heading south on Citrus Drive. Gomez spoke with the deputies, telling them that he and Lynch would find the address and block off the street above from oncoming traffic.

As Lynch and Gomez proceeded up Citrus Drive, Gomez noticed a male subject at the bottom of a set of brick steps in front of a residence (later identified as Eric Strosser). Strosser was smoking a cigarette and wearing a thick jacket and hat. Gomez did not see



a gun in Strosser's hands but was concerned that a gun could be hidden by the jacket. Gomez could see Strosser was watching the deputies running up Citrus Drive towards the address. Gomez also saw an older male subject (Edward Strosser) in the front yard area of the same residence, as well as a female subject (Marie Toth). Gomez told Lynch something to the effect of, "This is going to be the house, this is it, this is it."

Lynch and Gomez drove past the residence and Strosser waved at them in a manner similar to a reporting party waving down a patrol car. Lynch drove past Strosser then turned the car towards the driveway of the residence. Gomez got out of the passenger seat, drew his handgun and moved toward the rear of the passenger side of the car. Gomez immediately told Strosser, "Keep your hands where I can see them, keep your hands where I can see them!"

Strosser was initially cooperative and stated something to the effect of, "How's it going?" He was about 15 to 20 yards away from Gomez at that time. Strosser then turned away and pulled a machete out from the ground. Gomez never saw the machete until Strosser pulled it from the ground. Gomez thought that the machete must have been stuck into the ground near Strosser. Strosser raised the machete in the air and faced Gomez. Gomez began yelling at Strosser to put the machete down.

Gomez heard the older male subject and the female in the front yard yelling, "No, no, don't! Stop! Don't shoot him! That's what he wants! That's what he wants!" Strosser began walking towards Gomez, then began running toward him. Lynch was still inside the car. Gomez heard Strosser saying, "Come on, come on already" as he approached Gomez. Strosser held the machete in the air as he ran towards Gomez. Gomez yelled at Strosser to stop and not to come any closer.

Gomez was standing near the truck and had no cover. He quickly moved back to the rear passenger side of the car, continuously yelling at Strosser to stop. Strosser stopped approximately three to four yards from the car. Gomez felt that the car would make it difficult for Strosser to attack him, but felt Strosser too close with a machete and decided that if Strosser continued around the rear of the car, Gomez would have no choice but to fire his handgun.

Lynch was still in the driver's seat. Gomez heard the older male subject in the front yard still yelling, "No, don't, that's what he wants! Please don't, that's what he wants! He won't hurt you, that's what he wants you to do!" Gomez could hear the female yelling but he could not make out what she was saying. Strosser began moving toward him but lowered the machete. Gomez then heard Lynch's door open.

Gomez saw Lynch get out of the car. Lynch drew his handgun and immediately began yelling commands at Strosser. Gomez heard Lynch yelling for Strosser to stop and put down the machete. Gomez stopped yelling commands at Strosser so there would be no confusion with both of them yelling commands at the same time.

Gomez saw Lynch backing up to create distance between Strosser and him. Lynch was facing Strosser as he backed around the front of the car. Gomez thought Lynch backed up as far as the front passenger quarter panel. Strosser's attention left Gomez and focused on Lynch.

Strosser raised the machete and began to walk towards Lynch. Strosser picked up speed and Gomez did not think he was going to stop. Strosser traveled around the front of the car and Lynch was at the front passenger side near the tire. Gomez began yelling at the deputies moving up Citrus Avenue to quickly get less than lethal options up to their

location and began moving towards Lynch. Gomez heard three or four rounds go off and saw pink mist coming from Strosser's chest. Strosser began falling, and rounds were still being fired, and Gomez saw "cuts" appear on Strosser's neck as he was falling down. Strosser dropped the machete as he fell.

Gomez was slightly behind Lynch at the time of the shooting. He did not fire his handgun because the older male subject was in his line of sight and felt he could not safely fire his weapon without risking hitting a bystander.

After Strosser went down, Gomez asked Lynch if he was alright. Gomez broadcast that shots had been fired and the suspect was down, and requested an ambulance to respond to the scene.

Gomez approached Strosser and saw he was not breathing. Gomez could see two holes in Strosser's chest, one hole in his neck, and what appeared to be a slice on his neck. Gomez did the best medical assessment he could and waited for the ambulance to respond. Gomez saw the machete lying next to Strosser which was moved when paramedics responded to render medical aid.

## **5. MARIE TOTH**

Marie Toth was interviewed by Deputy Roe right after the shooting and by Detectives Sharp and Delahuerta a few hours later. This summary includes information from both interviews.

Toth is Eric Strosser's sister. Toth stated that in 2006, a friend of Eric's got Eric into using methamphetamine and, from that point, his life began going downhill. Eric also drank alcohol on a daily basis. She described him as being a mean drunk. Toth stated

that Eric suffered from depression and was taking medication for it. She believed he also used alcohol to self-medicate.

In 2007, Eric had been in a motorcycle accident and broke his back. He did not have any insurance. The doctors had put titanium rods in his back and he was always in pain. Eric used alcohol and pain medication to relieve his pain. Eric's doctor had recently prescribed Zoloft, but Eric told her that he did not like Zoloft and had stopped taking it.

Toth said Eric never specifically talked about suicide, but Eric had told her that sometimes he did not feel like living anymore. Eric told her that he felt like a waste because he could not work and he owed a lot of money in medical bills. Toth said that Eric had told her in the past that, "I will make that bastard (Edward) suffer, he will see me, and it's his fault. He will suffer."

On the evening of the 26<sup>th</sup>, Eric began drinking heavily and became progressively drunk and confrontational with Edward. At approximately 11:00 p.m., Eric said that he was going to go to bed. He went into the trailer and blasted music from his radio, which was standard behavior when he had been drinking. The music played until 9 or 10 in the morning. She heard Eric screaming and yelling to himself all night long.

At about 1 p.m., Eric and Edward had an argument about Eric's drinking. Eric went outside and began yelling at those still in the house. Eric then came back inside the house and stated that he had doused his trailer in gasoline. Eric told Edward he needed to move his (Edward's) car so it would not blow up. Toth did not smell gasoline so thought this was just another attention-seeking ploy by Eric.

Edward told Eric he was going to call 911. Eric told her, "Well I'll have guns a blazin'" and added, "Watch this Marie, suicide by cop." Eric also sarcastically spoke about wanting to go back to jail and about how much he enjoyed jail, and thanked Edward for sending him back to jail. Eric then went out of the house.

Edward called 911 but could not hear the operator. Edward gave the phone to Toth, who described the situation to the operator as it occurred. Toth walked outside. She saw Edward standing by two pillars at the top of the staircase and Eric yelling at him. She did not see anything in Eric's hands.

A police car pulled up and a plain clothes officer got out. Eric pulled a machete from somewhere near the side of his leg. She stated that Edward had later told her that he saw Eric stick the machete in the ground before the police arrived. Eric raised the machete over his head and Toth heard the officer politely request him to put the machete down. Eric began walking toward the officer with the machete raised over his head.

A second officer got out of the car and drew his gun. She thought that Eric was near the side of the car at that time. The second officer told Eric to put the machete down. She heard officers tell Eric to put down the machete at least three times. She heard three shots then moved to the walkway and saw Eric on the ground. She felt that Eric had been about four feet from the officers before he was shot. She stated that she knew that Eric had caused the situation.

## **6. LORI JONES**

Lori Jones was interviewed by Deputy Roe immediately after the shooting. She stated that she was not related to the Strossers but takes care of Edward Strosser in exchange for room and board.



She related the events of the previous night including Eric Strosser's drinking and arguing with his father. She said Eric continued harassing Edward until Edward stated he was going to call the police. Jones was in her room as she tried to stay away from Eric when he was acting in that manner. At some point she heard Eric yell, "Suicide by cop Ed, watch what they are going to do to me." She then heard Eric yelling at Edward in the front yard, on the west side of the house. Eric yelled, "Ed come out here, you watch this. I can't find a gun but now I'm going to get a knife."

Jones heard Marie Toth yell, "Eric, stop!" Jones' bedroom faces the street, so she looked outside. She saw Eric Strosser in the street with a "a huge knife" held above his head and two officers with drawn handguns. Eric moved toward the officers with the knife raised above his head and she heard them nicely ask him to put down the knife. The officers then demanded that he put the knife down two more times. Marie Toth was also yelling at Eric Strosser to stop.

Eric moved toward the front of the car. When Eric was between four to six feet away from the officers, she heard three shots and saw Eric Strosser's body jerk as the bullets hit him, then fall to the ground. She stated, "The officers gave Eric every chance in the world and he wouldn't listen. They had no choice. He could have taken that big knife and thrown it and chopped one of their heads off." She added, "Just know they tried so hard to not have to do it but he wouldn't back off, I don't blame them."

## **7. DEPUTY JAMES TEDDER**

On August 30, 2007, Deputy Tedder had responded to a report that Eric Strosser had loaded a handgun in front of his sister Linda, racked the slide and stated, "I am going outside so I don't make a mess!" Deputy Tedder and other deputies responded and

located Strosser. Strosser was transported to mental health facility based on his behavior and comments.

On January 27, 2012, Deputy Tedder was part of the Moorpark Special Enforcement Detail. At approximately 2:06 p.m., he heard a dispatch broadcast about Eric Strosser at 10746 Citrus Drive, described as an out of control subject threatening suicide by cop.

Deputy Tedder drove to the area with Deputy Roe, where they joined Deputies Mineau and Martinez and Sergeant Rubright. Deputy Tedder armed himself with a shotgun, Deputies Mineau and Martinez had Ar-15s, and Deputy Roe had a less lethal shotgun. They staged at 10788 Citrus Drive and began walking up the street toward the Strosser home, a few hundred yards away.

Detectives Lynch and Gomez drove past them as the deputies walked up Citrus Drive. As Detective Lynch drove past Strosser's residence, Eric Strosser ran down the steps directly in front of his home and towards Detective Lynch's car. Strosser held a two to three foot unknown object in his right hand as he ran. Detectives Lynch and Gomez exited their car and drew their handguns. They both began yelling at Strosser to "drop the knife." Detective Gomez then yelled, "We need the less lethal."

The deputies began running toward the detectives and Strosser. Strosser held the object over his head and began walking toward Gomez, then charged towards Detective Gomez. Detective Gomez pointed his handgun at Strosser and yelled, "Drop the knife, drop the knife!" At the same time, Detective Gomez went around to the passenger side of the car.

Strosser then changed direction and began walking towards Detective Lynch, who was standing at the front of the car with his handgun pointed at Strosser. Detective Lynch yelled, "Drop the knife!" Strosser did not stop and began raising and lowering the object in his right arm while advancing towards Detective Lynch. Detective Lynch fired his firearm three times and Strosser fell to the ground.

Deputy Tedder continued running until he reached Detective Lynch. He was directed to clear the house and check for any potential victims inside the residence. He walked up the steps in front of the house where he contacted Marie Toth, Eric Strosser's sister. He checked the house and did not locate any victims of a crime. He went outside where he maintained security of the crime scene until he was relieved.

#### **8. SERGEANT CORY RUBRIGHT**

On January 27, 2012, Sergeant Rubright was assigned as the Administrative Sergeant for the Moorpark Patrol Station. He was dispatched to assist with a call relating to a suicidal subject at 10746 Citrus Drive in Moorpark. He responded to the call and encountered Deputies Martinez, Mineau, Roe and Tedder on Citrus Drive. Deputies Martinez and Mineau were armed with tactical rifles, Deputy Tedder was armed with a shotgun, Deputy Roe was armed with a bean bag shotgun, and Sergeant Rubright was armed with a handgun.

They began walking up Citrus toward the residence and realized they had parked quite a distance downhill from 10746 Citrus. Sergeant Rubright advised any additional responding deputies to continue past their patrol cars and to their location as they walked up Citrus Drive.

Senior Deputy Gomez and Senior Deputy Lynch arrived in their car, with Lynch driving. Gomez said that he and Lynch would continue to the top of the street to block off oncoming traffic. As Lynch's car neared 10746 Citrus Drive, dispatch broadcast that Strosser was outside arguing with his father. Rubright and the other deputies were between 100 and 150 yards from the residence at that time.

Lynch turned his car in toward the Strosser home. Eric Strosser appeared almost instantaneously holding a two-foot long object in his right hand. Sergeant Rubright could not identify the object, but noted that Strosser was holding it in a similar manner as a police officer might wield a baton when preparing to strike with it.

Strosser was moving back and forth along the side of Lynch's car. Gomez and Lynch were out of the vehicle and Sergeant Rubright could hear them yelling at Strosser. The only word he could make out was "down." Strosser moved toward Lynch's location at the front of the car with the object still raised in his hand. Lynch fired his handgun and Strosser fell to the ground. Sergeant Rubright believed that Lynch fired three times.

Sergeant Rubright ran to the scene and saw Strosser on the ground at the front of Lynch's car. A two-foot long machete lay near Strosser's body. An older male who identified himself as Strosser's father (Edward Strosser) approached Senior Deputy Lynch and told him that "He wanted you to do that."

#### **9. VENTURA COUNTY FIRE PARAMEDIC GREG THAXTON**

Thaxton is a Paramedic for the Ventura County Fire Department at Station 40 in Moorpark. He was at the station when they were dispatched to a call of a behavioral emergency and told to respond with lights and siren.

When they arrived in the area of Citrus Drive, a deputy informed the fire personnel that the subject had been shot. The fire truck continued to the scene and located Eric Strosser at the front of a car. Thaxton saw no signs of life in Strosser. They placed a monitor on Strosser's body and spoke with the hospital. Thaxton pronounced Strosser dead at the scene.

### **III. PHYSICAL EVIDENCE**

#### **A. CRIME SCENE**

Crime scene measurements were made with the use of a laser measuring instrument. Several pieces of evidence were located at the crime scene. An indentation was located in the dirt near the foot of the staircase that was consistent with the machete having been stuck into the ground. The machete was initially located near Strosser's body and was moved to the rear of Lynch's car. Two expended bullet casings were located near a planter wall north of the driveway. The third casing was not located. All evidence was taken and booked into the Sheriff's Evidence.

#### **B. SENIOR DEPUTY LYNCH**

Senior Deputy Lynch's handgun was recovered at the scene. It had one round chambered and five rounds in the magazine. The handgun had a nine-round capacity if one round was chambered.

James Roberts, a forensic scientist specializing in firearms who is employed by the Ventura County Sheriff's Office Forensic Sciences Lab, examined Senior Deputy Lynch's weapon, the two casings recovered from the scene, three bullets recovered from Eric Strosser's body, and the t-shirt Strosser was wearing when he was shot. Roberts confirmed that the bullets had been fired from Senior Deputy Lynch's handgun. Roberts



also determined that Strosser had to have been at least five feet away from the muzzle of Senior Deputy Lynch's handgun at the time Senior Deputy Lynch it was fired.

## **C. CAUSE OF DEATH**

### **1. CORONER'S REPORT**

An autopsy was conducted on Eric Strosser's body on January 28, 2012, by Dr. Ronald O'Halloran, the Ventura County Medical Examiner. He found that Eric Strosser died of two gunshot wounds to the chest and that the killing was a homicide, meaning a death at the hands of another. He also suffered a third gunshot wound that passed across the front of his neck.

Strosser's blood and urine were collected at the autopsy and were examined for drugs and alcohol by forensic scientists with the Ventura County Sheriff's Office Forensic Sciences Lab. His urine showed a .27 percent blood alcohol content and his blood showed his blood alcohol content at .45 percent.<sup>3</sup> Both results were well over the legal driving limit of .08 percent. Dea Boehme, the Assistant Laboratory Manager at the Ventura County Sheriff's Office Forensic Sciences Lab, was unable to determine Strosser's actual blood alcohol level at the time of death based on the large discrepancy between the two samples. The samples did indicate to her that Strosser had been drinking continuously for many hours before his death. Boehme would expect Strosser's behavior to exhibit a lack of judgment and a lack of caring as to the consequences of his actions at either blood alcohol level. Boehme also stated that at that level of alcohol

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<sup>3</sup> / Eric Strosser's blood also tested positive for sertraline ("Zoloft") at a therapeutic level, which indicated he had taken his antidepressant medication. Strosser's urine also tested positive for THC (the active ingredient in marijuana) as well as trace amounts of methamphetamine, cocaine metabolites, and hydrocodone, which indicates past usage but not a recent use that would have affected his behavior on January 27, 2012.

consumption, she would expect the person to be aggressive if they were the type of person who tended to fight when drunk.<sup>4</sup>

#### **IV. LEGAL PRINCIPLES**

##### **A. LAW OF HOMICIDE AND SELF DEFENSE**

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 is 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 section 197(1). CALCRIM 550 provides the specific jury instructions on the defense of self-defense, which provide that a person is not guilty of murder or manslaughter if 1) That person “reasonably believed that [the person] [or] someone else . . . was in imminent danger of being killed or suffering great bodily injury”; 2) that person “reasonably believed that the immediate use of deadly force was necessary to defend against that danger”; and 3) that person “used no more force than was reasonably necessary to defend against that danger.”

CALCRIM 550 further provides that in deciding whether that person’s “beliefs were reasonable, consider all the circumstances as they were known to and appeared to [that person] and consider what a reasonable person in a similar situation with similar knowledge would have believed. If [that person]’s beliefs were reasonable, the danger does not need to have actually existed.” It also provides that “[a person] is not required to retreat. He or she is entitled to stand his or her ground and defend himself or herself

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<sup>4</sup> / Eric Strosser’s father described Strosser as a “mean and destructive drunk.”

and, if reasonably necessary, to pursue an assailant until the danger has passed. This is so even if safety could have been achieved by retreating.”

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.” Penal Code section 196.

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, *Scott v. Hendrick* (9th Cir. 1994) 39 F.3d 912, 915.<sup>5</sup> An officer’s use of deadly force is reasonable only if “the officer has probable cause to believe that the suspect poses a significant

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<sup>5</sup> / “Requiring officers to find and choose the least intrusive alternative would require them to exercise superhuman judgment. In the heat of battle with lives potentially in the balance, an officer would not be able to rely on training and common sense to decide what would best accomplish his mission. Instead, he would need to ascertain the least intrusive alternative (an inherently subjective determination) and choose that option and that option only. Imposing such a requirement would inevitably induce tentativeness by officers, and thus deter police from protecting the public and themselves. It would also entangle the courts in endless second-guessing of police decisions made under stress and subject to the exigencies of the moment.” *Scott*, 39 F.3d at 915.

threat of death or serious physical injury to the officer or others.” *Tennessee v. Garner*, (1985) 471 U.S. 1, 3, [85 L.Ed.2d 1, 105 S.Ct. 1694].

“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.

## **B. ERIC STROSSER’S CRIMINAL CONDUCT**

Eric Strosser 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:

- 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)
- Exhibiting A Deadly Weapon in violation of Penal Code section 417(a)(1)
- Battery in violation of Penal Code section 242
- Resisting A Peace Officer in violation of Penal Code section 148(a)

## **V. ANALYSIS**

When Senior Deputies Gomez and Lynch arrived at Citrus Drive, they were confronted with a serious situation – Eric Strosser under the influence of alcohol and intent on committing “suicide by cop.” Both deputies had heard the dispatch call and were aware they were facing a suicidal subject who might be armed. When they drove the past

Strosser and saw he was unarmed, they made a tactical decision to act while he appeared to have no weapon. Based on the nature of the situation, Senior Deputy Gomez drew his handgun as he exited the car and asked Eric Strosser to show his hands.

At that point, Strosser was in control. He could have easily complied but instead chose to pick up a two-foot long machete he had concealed nearby and approach Senior Deputy Gomez. While Strosser's decision-making was impaired by alcohol, he still posed a serious threat of harm to the deputies. Armed with the machete, Strosser had an approximately five-foot striking distance. Senior Deputy Gomez retreated around the rear of the car to put distance and a physical barrier between himself and Strosser. Senior Deputy Gomez had also decided that he would shoot Strosser if he came too close.

During this initial encounter, Senior Deputy Lynch was inside the car and was having trouble getting out to assist his partner. Senior Deputy Lynch got out of his car, pulled his handgun and was approximately four feet away from the machete-wielding Strosser, whose attention was on Senior Deputy Gomez.

Senior Deputy Lynch began backing away from Strosser around the front of the car. When Senior Deputy Lynch was about ten feet away, Strosser changed his focus from Senior Deputy Gomez to Senior Deputy Lynch. Strosser began moving toward Senior Deputy Lynch while holding the two-foot long machete overhead as though prepared to strike. Senior Deputy Lynch continued to back away from Strosser while telling him to drop the machete. It was only when Senior Deputy Lynch encountered terrain that might cause him to slip and fall that he ceased backing and fired his weapon.

Senior Deputy Lynch fired at Eric Strosser. He fired for the reason that he honestly and reasonably believed that Eric Strosser was going to attack him with the machete and felt he could not safely retreat any farther. Forensic scientist Roberts has concluded that Strosser was at least five feet away from the muzzle of Senior Deputy Lynch's handgun at the time he was shot, but five feet was within the striking distance of Strosser while he was armed with the machete. Senior Deputy Lynch fired three rounds in succession and ceased firing when he perceived that Strosser no longer posed a threat.

## **VI. CONCLUSION**

It is the conclusion of the District Attorney that:

1. At the time Senior Deputy Lynch fired his weapon at Eric Strosser, Senior Deputy Lynch honestly and reasonably believed that he was in imminent threat of death or great bodily injury;
2. At the time Senior Deputy Lynch fired his weapon at Eric Strosser, Senior Deputy Lynch honestly and reasonably believed that the immediate use of deadly force was necessary to defend himself against the danger posed to him by Eric Strosser;
3. Senior Deputy Lynch used no more force than was reasonably necessary to defend against the danger posed to him by Eric Strosser; and
4. Senior Deputy Lynch's fatal shooting of Eric Strosser was justifiable homicide.