

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF VENTURA

March 1, 2013

REPORT ON THE NOVEMBER 19, 2011
FATAL SHOOTING OF
JOSE LUIS RAMIREZ
BY OFFICER GARY JONES OF THE
PORT HUENEME POLICE DEPARTMENT



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I. INTRODUCTION

While on patrol on the evening of November 19, 2011, Port Hueneme Police Officer Gary Jones encountered a green Chevrolet Blazer driven by Jose Luis Ramirez. Officer Jones noticed that the front license plate number matched the license plate number on a Blazer that had been reported stolen. He made a U-turn and pulled in behind the Blazer without activating his emergency lights. Ramirez immediately pulled over to the side of the road. Officer Jones activated his lights, exited his patrol car and attempted to contact Ramirez. Ramirez responded by attempting to flee from the Blazer and rapidly moving from side to side inside of the SUV. Officer Jones moved from side to side behind the Blazer in coordination with Ramirez's movements inside. Ramirez continually hid from sight then would reappear while looking for Officer Jones' location.

Officer Jones repeatedly ordered Ramirez to stop moving and to show his hands. Ramirez refused to comply with those orders and attempted several times to get out of the Blazer. Ramirez jumped back into the driver's seat, turned the engine on, placed the Blazer in reverse and accelerated while Officer Jones was standing behind the Blazer and between the Blazer and his police car. Officer Jones jumped out of the Blazer's way as it crashed into his patrol car and defended himself by shooting Ramirez. Ramirez died from his gunshot wounds four days later.

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 Investigator Robert Coughlin responded to the shooting scene and consulted with the investigating officers.

The Oxnard Police Department 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 officer, Gary Jones, civilian witnesses and other personnel who had responded to the scene.¹ The Oxnard Police Department investigation reports were then submitted to the District Attorney's Office for a determination of whether the shooting of Jose Luis Ramirez 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 830 pages of reports and documents and numerous recordings, 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 Officer Gary Jones acted lawfully when he shot at Jose Luis Ramirez and that Ramirez's resulting death was a justifiable homicide.

II. STATEMENT OF FACTS

A. PRIOR CRIMINAL HISTORY OF RAMIREZ

At the time of his death, Jose Luis Ramirez ("Ramirez") was 18 years old. Any juvenile record of Ramirez, if one existed, would be confidential and sealed. However, since his eighteenth birthday, Ramirez had a history of involvement with stolen vehicles that also involved fleeing from and resisting police.

Ramirez's eighteenth birthday was January 6, 2011. On January 8, 2011, he was arrested for driving a stolen vehicle and evading the police. He pled guilty to unlawfully taking a vehicle in

¹ The shooting occurred within the city of Oxnard. As such, the Oxnard Police conducted the investigation into this incident.

violation of Vehicle Code section 10851 and obstructing the police in violation of Penal Code section 148. He was placed on a three-year grant of probation, which included a term that he have no association with the Southside Chiques gang, and was sentenced to 108 days in jail.

Ramirez was released from jail on March 18, 2011. Twelve days later, on March 30, 2011, Ramirez was arrested for possession of a deadly weapon, unlawfully taking a vehicle, evading the police and obstructing the police. He pled guilty to the deadly weapon and obstruction charges. He was placed on an additional three-year grant of probation with full Southside Chiques gang terms, and sentenced to 150 days in jail. He was released on July 27, 2011.

On August 28, 2011, Ramirez was arrested for methamphetamine related charges. He pled guilty on October 14, 2011, and was placed on Proposition 36 probation. He was released from custody that same day.

B. A STOLEN BLAZER²

On October 23, 2011, a green Blazer with license plate number 6FIW494 was reported stolen to the Oxnard Police Department. The Blazer was stolen after its owner had left it running in the street while he dropped off his child at a daycare facility. The Blazer had two keys in it at the time it was stolen. There is no direct evidence as to who actually stole the Blazer.

On November 3, 2011, Ramirez sold the stolen Blazer to Jennifer King. Ramirez gave Ms. King a single key to the Blazer. The front license plate on the Blazer at the time Ramirez sold it was 4FWB368 and the rear license plate was 3SNY645.³ Ramirez filled out paperwork for the sale

² This summary is an overview of the convoluted background of the Blazer Jose Ramirez was driving on the night of the incident, based on interviews of the involved parties. As they were not percipient witnesses to the incident itself, more detailed summaries of their interviews are not included in this report.

³ The license plate 6FIW494 was actually switched with the front license plate of a different Green Blazer with the issued license plate 4FWB368. The owner of that vehicle had been unaware of the license plate switch until contacted by police.

using the name of Luis Rodriguez and used the 4FWB368 license plate number and the correct VIN in the sales paperwork.

On November 17, 2011, the stolen Blazer that had been sold to Ms. King was stolen from her driveway. Ms. King filed a stolen vehicle report using the DMV documents filled out by Ramirez, which included the 4FWB368 license plate. The switched 4FWB368 plate was placed onto a list of stolen vehicles compiled by the Oxnard Police Department, known as a "hot list."

C. INITIAL CONTACT WITH OFFICER JONES

On November 19, 2011, Port Hueneme Officer Jones was assigned to patrol. As part of his patrol assignment, he regularly reviewed the Oxnard Police Department "hot list."

At approximately 10:48 p.m. on November 19, 2011, Officer Jones was stopped at a stop sign at the intersection of Redwood Street and M Street, in the city of Oxnard. Officer Jones saw an individual later identified as Jose Luis Ramirez driving a green Blazer with the license plate 4FWB368. Officer Jones recognized the 4FWB368 plate as one listed on the hot list he had reviewed earlier. The Blazer made a legal turn onto Redwood Street and drove past Officer Jones. Officer Jones then noticed that the Blazer's rear license plate, 3SNY645, was different from its front license plate, 4FWB368. Officer Jones made a U-turn and began following the Blazer.

As Officer Jones pulled behind the Blazer, it suddenly pulled to the south side of the street. The Blazer stopped between two parked cars in front of the home at 942 Redwood Street. Officer Jones pulled his patrol car in behind the Blazer, activated his overhead lights and called dispatch to inform them of the traffic stop.

Officer Jones left his car and began approaching the driver's side of the Blazer. Dispatch reported that the Blazer's rear license plate had been reported as lost or stolen. At the same time, Ramirez opened the driver's door and attempted to flee from the Blazer. Officer Jones drew his handgun and ordered Ramirez to remain in the Blazer.



The Green Blazer with Front License Plate 4FWB368

D. SHOOTING

Officer Jones approached the Blazer and noticed Ramirez watching him. Officer Jones could not see Ramirez's hands, so he ordered Ramirez to place his hands on the steering wheel. Instead, Ramirez moved from the driver's seat to the front passenger seat and again attempted to flee from the Blazer. Officer Jones requested dispatch to expedite back-up to his location based on the nature of the contact (stolen vehicle) and Ramirez's actions.

Officer Jones moved to the passenger side of the Blazer, using the rear of the Blazer as cover. He drew his Taser, and still had his handgun in the other hand. Officer Jones again demanded

Ramirez to show his hands and to remain inside the vehicle. Ramirez kept his hands out of view and kept looking around to see where Officer Jones was standing.

Ramirez rapidly moved from the front passenger seat to the left rear passenger seat. Officer Jones moved behind the Blazer to the rear of the driver's side of the Blazer in response to Ramirez's movement. Officer Jones kept the car between him and Ramirez as cover in case Ramirez got out of the Blazer.

Officer Jones again demanded that Ramirez place his hands where they could be seen. Ramirez did not comply and continued darting glances at Officer Jones to determine where he was positioned. Ramirez then ducked down and out of sight. Ramirez's head appeared quickly looking for Officer Jones. Ramirez then quickly moved into the right rear passenger seat. Ramirez attempted to open the right rear passenger door while hitting the automatic lock mechanism inside the SUV.

Officer Jones moved between the Blazer and his patrol car to the passenger side of the vehicle. He again told Ramirez to show his hands and ordered him to shut the car door. He told Ramirez, "don't make me shoot you, don't make me shoot you, show me your hands." Ramirez shut the Blazer's door and ducked back out of view.

Ramirez popped up again looking for Officer Jones and then rapidly moved into the driver's seat. Officer Jones was still between the Blazer and his police car, and started moving toward the driver's side of the Blazer. Ramirez started the Blazer's engine and immediately put the Blazer into reverse. The backup lights lit up and the Blazer's tires spun and broke traction with the pavement as Ramirez stepped on the accelerator and the Blazer lurched back.

Officer Jones jumped out of the way as the Blazer came at him. He began firing his handgun in Ramirez's direction once he was clear of the Blazer. The Blazer accelerated into Officer Jones' patrol car, colliding with enough force to bend the push bar. Officer Jones continued firing his handgun as he moved toward the driver's window. He stopped firing when he saw Ramirez slump over.



Blazer in Reverse



Keys in Ignition

The Blazer's engine was still running.⁴ Officer Jones cautiously moved to where he could see inside the Blazer and saw Ramirez slumped over to the right with blood coming from the left side of his body. Oxnard Police Officer Anthony McGowan arrived on scene and continued covering Ramirez, who was still slumped over. Officer Jones stepped away from the scene. Ramirez had sustained bullet wounds to his head, back and right hand.

E. ADDITIONAL POLICE RESPONSE AND INVESTIGATION

Numerous police and emergency medical personnel arrived on scene. Ramirez was handcuffed and treated for his injuries, which appeared life-threatening. He was transported from the scene to Ventura County Medical Center, where he underwent surgery. Ramirez never regained

⁴ The police did not turn off the Blazer, and its engine continued to run at the scene until the it ran out of gas. When the Blazer's engine ceased running, the Blazer actually rolled forward off of Officer Jones' police car.

consciousness and was pronounced dead on November 23, 2011. His body and clothing were secured and transported to the Ventura County Medical Examiner's Office.

At the scene, the Oxnard Police Department's Major Crimes Unit assumed responsibility for investigating the incident. The neighborhood was canvassed and independent witnesses to the shooting were located and interviewed. Officer Jones also gave a voluntary interview regarding the events.

F. 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. OFFICER GARY JONES

Officer Gary Jones was interviewed on November 20, 2011, at approximately 1:15 a.m. by Oxnard Police Detective Mike Young and Detective Sergeant David Villanueva. Officer Jones' interview was voluntary and his attorney was present during the interview. Officer Jones had been a police officer for almost 20 years prior to this incident. He has a department-issued recording device that he normally keeps in his duty bag in his patrol car, but he did not activate it during this incident.

Officer Jones has a knack for locating stolen vehicles and regularly memorizes the plate numbers of stolen vehicles from a "hot list"—a list of stolen vehicles—compiled by the Oxnard Police Department. He calls the Oxnard Police Department on a daily basis when he is on duty to obtain the list. Officer Jones considers the recovery of stolen cars to be one of his specialties.

On November 19, 2011, Officer Jones was driving westbound on Redwood Street and stopped at the stop sign for Redwood and M Street. He noticed a green Chevrolet Blazer lawfully turn

eastbound on Redwood in front of him. Officer Jones noticed that the front license plate matched a license plate number that had been on the hot list.

Officer Jones made a U-turn and pulled behind the Blazer. He noticed that the rear license plate on the vehicle was different than the license plate displayed on the front of the car. Before Officer Jones could contact dispatch about the Blazer, it suddenly pulled to the right and stopped between two other vehicles parked on the south side of the street in front of a residence at 942 Redwood Street. Officer Jones felt something was wrong as, in his experience, drivers do not usually pull over when a police car was behind them before any emergency lights or sirens had been activated.

Officer Jones stopped his patrol car six to seven feet from the rear of the Blazer. He activated his car's overhead emergency lights and broadcast over the radio that he was conducting a traffic stop on the Blazer. Officer Jones felt that the Blazer's rear license plate had been switched to avoid detection by law enforcement.

Officer Jones got out of his vehicle and the dispatcher reported that the rear license plate had been reported as a lost or stolen plate. The driver of the Blazer attempted to get out of the driver's door. Officer Jones removed his handgun from its holster and ordered the driver to remain in the Blazer. Officer Jones explained that he unholstered his handgun based on the nature of the stop as a possible lost or stolen car, the mismatched plates, and the driver trying to get out of the car. All of those circumstances indicated to him that he may have to address a threat.

Officer Jones began approaching the Blazer and saw the driver looking back at him. Officer Jones could not see the driver's hands, so he ordered the driver to put his hands on the steering wheel. The driver did not obey his command. Officer Jones never saw a weapon, but he never

saw the driver's hands. He explained that, "we're trained and we're taught that when somebody doesn't want to show you their hands, there is a reason for it. And the way he kept reaching, and doesn't comply with my orders, tells me there's obviously a serious threat there."

Officer Jones reached the rear driver's side door of the SUV. The driver continued looking at Officer Jones and then "jumped" from the driver's seat to the front passenger seat, attempting to open the door and get out of the Blazer. Officer Jones had thought he heard dispatch request back-up units to his location, but Officer Jones requested an expedited back-up based on the driver's actions.

Officer Jones moved behind the Blazer and to the passenger side of the SUV, staying toward the rear of the vehicle to give him protective cover. Officer Jones drew his Taser in case the driver fled from the Blazer and was unarmed. Officer Jones held his handgun in one hand and the Taser in the other. Officer Jones again commanded the driver to show his hands and to remain inside the vehicle. The driver kept his hands out of view and continued looking back to see where Officer Jones was standing.

The driver once again changed positions by moving into the left rear passenger seat. Officer Jones moved to the rear portion of the driver's side of the Blazer in response to the driver's movement. He tried to keep the car between him and the driver for protection in case the driver came out of the Blazer.

Officer Jones again commanded the driver to show his hands and the driver did not comply. The driver again looked to see where Officer Jones was standing. The driver then ducked down out of Officer Jones' view. The driver popped back up and again tried to find Officer Jones' location. The driver "jumped" into the right rear passenger seat and tried to open the right rear passenger door while hitting the automatic lock mechanism inside the Blazer.

Officer Jones again moved between the Blazer and his patrol car to the passenger side of the Blazer. He ordered the driver to close the door and told him, “show me your hands, show me your hands, don’t make me shoot you, don’t make me shoot you, show me your hands.” The driver closed the door and again ducked back out of view. The driver popped up again and tried to locate Officer Jones.

Officer Jones was standing between the Blazer and his police car, slightly closer to the Blazer’s passenger side. The driver jumped into the driver’s seat. Officer Jones began moving between the vehicles toward the driver’s side of the Blazer. The driver started the engine and immediately put the Blazer into reverse while Officer Jones was still between the vehicles. Officer Jones saw the Blazer’s backup lights illuminate and the Blazer began to move backwards. The tires actually began to spin as the driver “punched it.”

Officer Jones felt that “this was it, meaning that he was going to take me out. He was going to hit me.” Officer Jones leapt out of the way because “he was going to hit me, he was trying to kill me.” Once clear, Officer Jones began firing his handgun at the driver as the Blazer accelerated “because I knew he was using deadly force on me.” Officer Jones believed that he fired four to five shots at the Blazer. He continued to fire in succession as he moved toward the driver’s door of the Blazer. He fired because he felt “I’m dead. He’s trying to kill me; he’s trying to take me out with his car.”

The Blazer rammed Officer Jones’ patrol car. Officer Jones stopped firing when the driver slumped over in the Blazer. Officer Jones continued to point his handgun at the driver as he was unsure if the driver would again pop up and be armed with a weapon. Officer Jones still had his Taser in his left hand as he fired and approached the driver’s door. He moved to a position where he could see inside the Blazer. He was unable to see the driver’s head but noticed blood coming

from the left side of the driver's body. He believed that the entire incident from stop to shooting lasted no longer than 40 seconds.

A short time later, an unknown Oxnard Police officer who was armed with an AR-15 rifle arrived on scene. The officer told Officer Jones that he would cover the driver and that Officer Jones could step back. Officer Jones stepped away and the emotions of the encounter set in. He took a moment to regain his composure and was joined by Oxnard Police Sergeant Kujawa, who took him aside and made sure that Officer Jones was not injured. A short time later he was transported to the Oxnard Police Department.

2. OFFICER ANTHONY MCCOWAN

Officer Anthony McCowan is a police officer for the City of Oxnard. He was on routine patrol on November 19, 2011. Officer McCowan recorded portions of the incident as it occurred.

At approximately 9:49 p.m., Officer McCowan was listening to the radio in his patrol car and heard Port Hueneme Police Officer Jones notify Port Hueneme Police dispatch that he was making a traffic stop on Redwood Street.⁵ Officer Jones then asked dispatch to send additional support and the dispatcher reported that the license plate on the vehicle returned as a stolen license plate.

Officer McCowan drove toward Redwood Street and continued to listen to the police radio traffic. He heard Officer Jones report that he was attempting to make contact with the subject, and that the subject was uncooperative. Officer McCowan turned onto Redwood Street. He saw a police vehicle with its red and blue emergency lights activated approximately one quarter mile

⁵ Port Hueneme Police dispatch shares the same radio frequency as the Oxnard Police Department.

from his location when he turned. He also saw a car with its headlights on in front of the police car.

As he drove toward the vehicles, Officer McCowan saw what he believed to be a muzzle flash coming from a handgun. He believed the muzzle flash came from the outside of a vehicle. He heard Officer Jones notify dispatch that shots had been fired. He saw what he believed to be two distinct muzzle flashes but did not hear any gunshots. He quickly turned onto Jackson Street to remove himself from the line of fire.

Officer McCowan drove parallel to Redwood Street and parked in the parking lot of a church that was a short distance east of the 942 Redwood Street. He alerted dispatch of the location of the two vehicles, then grabbed his rifle and ran to assist Officer Jones.

Officer McCowan was the first officer to arrive to assist Officer Jones. He was unsure of the situation, so he maintained cover as he approached. He saw Officer Jones holding his handgun and facing it towards a car. He contacted Officer Jones, who informed him that the subject inside the vehicle was not responsive.

Officer McCowan approached the vehicle and looked inside. He saw a Hispanic male driver who appeared to be leaning to the right toward the passenger's seat. He noticed several apparent gunshot wounds to the driver, and several bullet strikes on the vehicle. The driver appeared to still be breathing.

Other officers began arriving at the scene. The driver was handcuffed and Officer Jones was led away. Officers refrained from attempting CPR when they discovered the driver had suffered head injuries out of concern they could worsen the driver's condition. EMTs arrived on scene and took over the care of the driver. Officer McCowan examined nearby houses and checked for

bullet strikes, and contacted residents to make sure there were no injuries. He then returned to the Oxnard Police Department.

3. OFFICER WILLIAM STEVENSON

Officer William Stevenson is a Port Hueneme Police Officer assigned as a K-9 handler with his partner "Gunner." Officer Stevenson and Gunner were on patrol on November 19, 2011, when Officer Stevenson heard Officer Jones report a traffic stop on Redwood Street in Oxnard. He heard Officer Jones request expedited back-up a short time later.

Officer Stevenson began driving toward Redwood Street with his emergency lights and sirens activated. He heard Officer Jones advise over the police radio that shots had been fired. He arrived at the location at 9:50 p.m. He saw Officer Jones' marked black and white police unit stopped behind a green Chevy Blazer that had its reverse lights on, and was pressed up against the front of Jones' patrol car.

Officer Jones and Oxnard Police Officer McCowan stood at the driver's side door of the Blazer with their guns drawn.

Officer Stevenson parked behind Officer Jones' patrol car and ran to them. Port Hueneme Police Sergeant Graham had also arrived on scene. Officer Stevenson saw a male subject in the Blazer's driver's seat slumped over to the right with visible gunshot wounds. He could not see the subject's right hand or face but could see his chest rise and fall, indicating he was breathing.

Officer Stevenson told Officers Jones and McCowan to keep their weapons pointed toward the subject while he and Sergeant Graham made contact. They tried to open the driver's side door but it was locked, as were the other doors. Officer Stevenson reached into the vehicle and hit the

unlock button, but the doors did not unlock until after he had hit the unlock button several times. He opened the driver's door and they made a protective sweep for weapons.

Ramirez's chest continued to rise and fall but his breathing sounded labored. Officer Stevenson handcuffed Ramirez's hands in front of his body and remained with him until paramedics arrived. The paramedics treated Ramirez and removed him from the Blazer. Officer Stevenson remained at the scene providing security until he was relieved.

4. JUVENILE M.

Juvenile M. lived on Redwood Street and was 15 at the time of the incident. She was interviewed just after midnight on November 20, 2011, in the presence of her father. Ms. M. stated that shortly before the incident, she was lying in her bed watching television with the lights turned off. Her bedroom window faced Redwood Street. The window was shut but her blinds were partially open.

Ms. M. noticed blue lights flashing in her bedroom. She looked out her window and noticed a police officer standing in the street. She watched for several seconds and then ran to tell her grandmother, then returned to her room.

Ms. M. looked out her window again and saw the police officer approach a male subject seated in the driver's seat of a vehicle, which she described as dark blue and with four doors. She could not describe the subject in the vehicle because it was too dark for her to see the subject. She noticed a flashlight in the police officer's left hand and an unidentified object in his right hand.

The police officer pointed the flashlight at the car for approximately 30 seconds, while talking calmly. She could not hear what he was saying. Then she noticed the police officer back away from the car and turn off his flashlight. The officer said something else that she could not hear.

She turned off the sound on her television and then noticed that the officer now had a gun in his hand.

The officer was holding his gun with both hands and was pointing it at the car. She heard the officer loudly state, "I'm going to shoot you." She thought the person in the car was still seated in the driver's seat. She and her brother ran from her room and told her grandmother what she heard. Then she heard three gunshots fired simultaneously, followed by two more shots a few seconds later. She and her family fell to the floor at the sound of the gunfire and did not get up until all the shots had stopped.

Ms. M., her brother and grandmother then went to the grandmother's room. Her aunt and baby cousin were already in the room. They heard sirens approaching and went outside where they were eventually contacted by the police.

5. RICARDO MENDEZ

Ricardo Mendez lived on Redwood Street. He was interviewed at the scene shortly after the incident and more fully at the Oxnard Police Department at approximately 1:30 a.m. on November 20, 2011. Mendez stated that at the time of the incident, he was watching a movie in his living room, and the other residents of his home were in their rooms. He suddenly heard an older man screaming outside his house. Mendez stood up and the screaming stopped.

Mendez walked toward his bedroom, which faces the street, and saw police lights reflecting off the living room walls. He approached his bedroom window and looked out through the curtains. Mendez saw a police car with its emergency lights activated parked adjacent to his car, which was parked on the street. He saw a second police car parked behind the first but Mendez's car blocked his view of the police cars. Mendez also saw a four door green SUV that he believed the police officer had stopped. The SUV was parked diagonally with its front end touching the curb

in front of his home. He had an unobstructed view of the cab of the SUV. Mendez could not hear the SUV's engine but saw that its headlights were still on.

Mendez saw a male subject (Ramirez) in the SUV. The male subject was moving around in the SUV, and leaning back as though he was going to jump in the backseat or try and grab something from the back seat. As the subject was moving around, Mendez saw a police officer (Jones) approach the SUV. Mendez heard the police officer make several demands for the subject to stop moving inside the SUV. The subject continued to erratically move inside the SUV and Mendez heard the police officer yell, "Don't move or we will shoot you."

The police officer had his gun pointed at the SUV and was holding the gun with both hands. The subject in the car did not stop moving, so Mendez walked into another room to avoid being hit if the officer fired his gun. He believed that entire observation took about 10 seconds.

Mendez walked to his sister's room where he joined his mother and his sister. He heard screeching tires as though someone in a car was "burning out" after having stepped all the way on the gas pedal. He then heard a metal bump that sounded like two vehicles colliding. He heard four to six rapid gunshots simultaneous with the collision. He told his mother and sister to get down and he got on the ground as well.

Mendez, his mother and his sister all lay on the ground for approximately two minutes after the shooting stopped. Mendez looked out the window approximately five minutes after the gunshots stopped. He was surprised to see the SUV still in front of his house. Mendez noticed that the SUV had accelerated back into the police officer's car and had crashed into its front bumper. He saw four to five police officers in the street, with three of them around the driver's door of the SUV. The subject was still in the front of the car and some officers appeared to be searching the car.

Mendez and his family went outside and watched. They saw the ambulance arrive and watched paramedics remove the subject from the SUV, place him on a gurney and drive him away. Mendez did not see the subject moving during that period. Mendez also noticed that a bullet had struck his home next to the bedroom window of two people who rented a room. He stated that those individuals had slept through the encounter. Mendez remained in the front yard until he was contacted by the police.

6. SERGEANT JACK KUJAWA

On November 19, 2011, Sergeant Kujawa heard radio traffic relating to a traffic stop by Port Hueneme Officer Gary Jones. The stop was on Redwood Street near M Street. Officer Jones reported that the subject was uncooperative. The dispatcher informed Officer Jones that the subject's vehicle may be stolen and Officer Jones requested rapid backup due to the vehicle's potential stolen nature. A few moments later, Officer Jones reported that shots had been fired.

Sergeant Kujawa drove to the scene with emergency lights and sirens activated. When he arrived on scene, he saw three Port Hueneme Police Department patrol cars and parked close to them. He noticed a green Blazer that had backed into Officer Jones' police unit. The Blazer had multiple bullet strikes along the driver's side. Sergeant Kujawa also saw Port Hueneme Police Officer Gary Jones, who appeared visibly shaken.

Port Hueneme Police Sergeant Graham was on scene. Sergeant Graham asked Sergeant Kujawa to stay with Officer Jones. Sergeant Kujawa took Officer Jones away from where the shooting occurred and asked him if he was okay. Officer Jones was very emotional but told Sergeant Kujawa that he was okay. He briefly described the shooting to Sergeant Kujawa.

Officer Jones stated that the driver in the vehicle was uncooperative, that the driver had put the vehicle in reverse and collided with Officer Jones' patrol car, and that Officer Jones believed he

had fired four rounds at the driver. He indicated to Sergeant Kujawa that he was standing midway between the driver's front driver side door and rear of the driver's vehicle, but in front of his police car when he fired the rounds.

As the shooting occurred within the Oxnard city limits, Oxnard Police took over the investigation. Sergeant Kujawa took control of the crime scene and began assigning duties to responding officers and remained at the scene until he was relieved at 2:00 a.m.

III. PHYSICAL EVIDENCE

A. CRIME SCENE

The scene was secured immediately after emergency personnel transported Ramirez from the scene. Photographs and measurements were taken at the location of all expended casings and bullet strikes. It was impossible to take accurate trajectories as many of the bullets passed through glass windows, shattering them. Seven expended casings were recovered from the scene, and three bullets and one bullet fragment were recovered from nearby structures and vehicles.

B. OFFICER JONES

Officer Jones' handgun was secured at the Oxnard Police Department at approximately 1:00 a.m. on November 20, 2011, as well as his uniform and duty belt. His handgun had four rounds remaining in the magazine, with an additional chambered in the handgun. His handgun had a total capacity of 13 rounds—one chambered and 12 in a magazine. Each of two additional magazines held 12 rounds.

Geoffrey Bruton, a forensic scientist specializing in firearms who is employed by the Ventura County Sheriff's Forensic Sciences Lab, compared the bullet fragments recovered from Ramirez and the scene as well as the expended casings recovered at the scene. The tests confirmed that all seven of the expended casings had been fired from Officer Jones' weapon and concluded that at

least two of the recovered bullet fragments had been fired from Officer Jones' weapon. Bruton was unable to confirm that the other fragments had come from Officer Jones' weapon due to distortion and fragmentation of the bullets.

C. VEHICLE IMPACT

Officer Jones' patrol car was fitted with a push bar made of steel. No damage had been noted to the push bar prior to November 19, 2011. However, the impact of Ramirez's stolen Blazer was powerful enough to warp the push bar.



Closer View of the Impact Between the Blazer and Patrol Car

Senior Deputy John Popp, a traffic investigator for the Ventura County Sheriff's Office reviewed photographs of the damage to the patrol car. Senior Deputy Popp has almost 20 years of experience investigating and reconstructing traffic collisions. He estimated that the Blazer was traveling at 20 mph or less at the time it collided with Officer Jones' car, and believed that the Blazer was accelerating at three to five times its normal rate of acceleration. Senior Deputy Popp described the acceleration as the driver "gassed it with extreme prejudice."



Undamaged Push Bar



Push Bar from Officer Jones' Patrol Car

D. CORONER'S REPORT

On November 25, 2011, Ventura County Medical Examiner Ronald O'Halloran performed an autopsy on Jose Ramirez. He ruled that Ramirez died of a gunshot wound to the head and that the killing was a homicide, meaning a death at the hands of another.

Dr. O'Halloran located two tattoos on Ramirez: "SSCH" in capital letters just below his navel⁶ and capital letter "C" above his right knee. Dr. O'Halloran identified at least four distinct gunshot wounds. Dr. O'Halloran could not identify the order in which the wounds occurred.

One gunshot wound entered the left side of the head. The bullet proceeded in a left-to-right path with an exit wound on the right side of the head approximately one and a half inches above the right eyebrow. Dr. O'Halloran did not locate that bullet during the autopsy.

A second gunshot wound entered the left upper back. The bullet proceeded back-to-front, left-to-right, and slightly upward and struck the spine. The bullet was recovered from the right side of the neck.

⁶ "SSCH" is an identifier for the Oxnard criminal street gang known as "Southside Chiques."

A third gunshot wound entered the left upper back, approximately two inches below and four inches to the left of the second gunshot wound. There were abrasions below this wound that were consistent with flying glass striking the body. The bullet proceeded left-to-right. It struck two upper vertebrae, as well as the upper lobe of the right lung. The bullet was recovered in an area just inside the right armpit.

A fourth gunshot wound struck Ramirez's right middle and fourth finger. The fourth finger had been amputated by medical personnel after the injury and the middle finger had been surgically repaired prior to the autopsy. Dr. O'Halloran was unable to determine a direction for the bullet strike and no bullet was recovered.

Ramirez's blood and urine were examined for drugs and alcohol. No alcohol appeared to be in his system at the time of his death, but Ramirez's blood tested positive for methamphetamine and amphetamine.

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 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, 915.⁷ 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, [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. JOSE RAMIREZ'S CRIMINAL CONDUCT

Jose Ramirez engaged in felony and misdemeanor criminal conduct in the hour prior to his arrest. Had he survived, he could have been charged with the commission of the following crimes:

- Attempted Homicide of Police Officer in Violation of Penal Code section 664-187
- Attempted Murder in Violation of Penal Code section 664-187
- 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)
- Battery in violation of Penal Code section 242
- Resisting A Peace Officer in violation of Penal Code section 148(a)

⁷ "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.

- Unlawful Taking of an Automobile in violation of Vehicle Code section 10851
- Possession of Stolen Property in violation of Penal Code section 496

V. ANALYSIS

When Officer Jones pulled behind the Blazer, it should have been a routine traffic stop. But Ramirez was driving a stolen Blazer. Ramirez refused to comply with Officer Jones' lawful commands to show his hands and kept moving around inside the Blazer and attempted to flee from the Blazer several times. Officer Jones had his Taser out as well as his gun in order to use less than lethal force if Ramirez left the vehicle and was unarmed. Instead, Ramirez attempted to injure Officer Jones by accelerating toward him with the stolen Blazer. Faced with a non-compliant subject who appeared to be trying to run him down with the Blazer, Officer Jones had no choice but to immediately defend himself.

Ramirez controlled the encounter from the moment he pulled the Blazer to the side of Redwood Street. Every action he took set in motion the events that led to his death. When he accelerated the Blazer at Officer Jones, the only reasonable explanation was that he was trying to kill or seriously injure the officer.

Officer Jones was confronted with Ramirez's attempt to use deadly force against him, and appropriately responded with deadly force by firing his weapon at Ramirez. He continued firing until the threat against him ceased. The threat ceased when Ramirez slumped over and was no longer directing the Blazer. Officer Jones was unsure if Ramirez still meant him harm as the Blazer was still in motion and the engine was still running, but stopped firing and approached Ramirez.

Officer Jones fired his handgun at Ramirez because he honestly and reasonably believed that Ramirez was trying to kill him. He continued to fire until he felt Ramirez no longer posed a threat, and was justified in doing so.

VI. CONCLUSION

It is the conclusion of the District Attorney that:

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