

OFFICE OF THE DISTRICT ATTORNEY

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REPORT ON THE NOVEMBER 7, 2018,
USE OF DEADLY FORCE BY CALIFORNIA HIGHWAY
PATROL OFFICER TODD BARRETT AND
VENTURA COUNTY SHERIFF'S SERGEANT RONALD HELUS
AT THE BORDERLINE BAR & GRILL
MASS SHOOTING INCIDENT

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I.

INTRODUCTION

On the evening of November 7, 2018, Ian David Long (DOB 03/27/1990) entered the Borderline Bar & Grill in the city of Thousand Oaks armed with a handgun, approximately 190 rounds of ammunition, a knife, and 10 smoke generating devices. Within minutes, he had killed or wounded numerous individuals as the rest of the approximately 260 patrons and employees scrambled to hide or escape. As law enforcement responded, Long was methodically moving through the building, searching for, and killing victims that he found. Approximately six minutes after the shooting started, three law enforcement officers—Ventura County Sheriff's Sergeant Ron Helus and California Highway Patrol Officers Todd Barrett and Lidia Espinoza—made an approach to confront Long.

Long was concealed in the Borderline's front office which was located to the right of the front entrance. Long was able to watch the officers as they approached on a monitor in the office which displayed live feed views from the Borderline's nine video cameras. Sergeant Helus and Officer Barrett entered through the front entrance with no knowledge of Long's location. Long watched the officers' progress on the monitor and prepared to confront the officers. Approximately 23 seconds after the officers made entry, Long went to the office doorway and from a distance of approximately 7 to 14 feet from Sergeant Helus, began firing at them.

Officer Barrett retreated out the door to the bottom of the front stairway and returned fire. Sergeant Helus began retreating but fell as he was moving toward the door. He low crawled out the door and, as he began to stand, was struck by one of Officer Barrett's shots fired at Long. Sergeant Helus managed to reach an alcove outside the front

entrance, rolled onto his back and returned fire directly at Long, who continued to fire at both officers. Officer Barrett also continued to return fire at Long until he retreated to a safer position. Sergeant Helus was struck by five penetrating gunshots by Long and one penetrating gunshot by Officer Barrett.

Sergeant Helus was rescued from the front entry but was later pronounced dead at the hospital. When law enforcement made a second entry, it was discovered that Long had committed suicide. Long fired 61 rounds during the incident and had 129 rounds remaining when he died. During the second entry, law enforcement rescued 19 individuals from inside the Borderline. Ten homicide victims were located inside the building and another homicide victim was located outside.¹ No civilian victims were shot by Long after the officers engaged him. No civilian victims were struck by the shots fired by the officers.

The District Attorney's Office has an officer-involved shooting team available to all Ventura County law enforcement agencies to assist in the investigation of officer-involved shootings. Once the District Attorney's Office was notified of the shooting, District Attorney Gregory Totten, Chief Deputy District Attorney Miles Weiss, Chief Investigator Michael Baray, and numerous District Attorney Investigators responded to the shooting scene and consulted with the investigating officers.

The Ventura County Sheriff's Office conducted an investigation of the Borderline incident, including Officer Barrett's and Sergeant Helus's use of deadly force, which included interviewing witnesses, collecting physical evidence, and photographing the

¹ At the request of the victims' families, the names of the Borderline murder victims except for Sergeant Helus have been omitted from this report.

area of the shooting. Both surviving officers individually provided a voluntary interview with criminal investigators where they described the incident.

The Ventura County Sheriff's Office's investigative reports and follow-up investigation were submitted to the District Attorney's Office for a determination of whether the use of deadly force by Officer Barrett and Sergeant Helus 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 encompassed approximately 1.3 terabytes of data, which included interviews of law enforcement and civilian witnesses, surveillance video, body-worn camera recordings, dashcam (MVARs)² recordings, diagrams, photographs, recordings of radio transmissions, 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 the use of deadly force by California Highway Patrol Officer Barrett during the Borderline incident, including the inadvertent shooting of Sergeant Helus, was justified and was not a criminal act. It is further the opinion of the District Attorney that the use of deadly force by Ventura County Sheriff's Sergeant Helus during the Borderline incident was justified and was not a criminal act and, if Long had survived, he could have been prosecuted for the provocative act murder of Sergeant Helus.

² California Highway Patrol officers are not issued body-worn cameras, but many of their patrol vehicles are equipped with a Mobile Video and Audio Recording System (MVARs) consisting of a dashcam and a wireless microphone worn by the officer. Both Officer Barrett and Officer Espinoza carried wireless microphones connected to the MVARs. The MVARs was activated during a traffic stop just prior to the Borderline incident and continued to record throughout the incident. The MVARs view of the gun battle at the Borderline was obscured by distance, lighting conditions, and vegetation but the MVARs did capture audio from Officer Barrett and Officer Espinoza's wireless microphones during the gun battle.

II.

STATEMENT OF FACTS

A. Shots Fired at the Borderline

November 7, 2018, was College Country Night at the Borderline Bar & Grill, a popular country music venue. College Country Night was regularly attended by students from nearby colleges. Approximately 260 patrons and employees were in the establishment at the time the shooting began.

At approximately 11:18 p.m., Ian David Long entered the Borderline and opened fire. Within a few seconds, he shot several employees and patrons. Most of the remaining patrons fled for their lives but several hid in various places inside the Borderline. Long ignited and threw smoke grenades which filled the Borderline with thick smoke.



Aerial view of the Borderline.

For the next few minutes, Long walked through the Borderline looking for victims and shooting them as he found them. He made the front office his base of operations. The front office was on the southern side of the building, behind the front cashier area to the right of the front entrance. A monitor was mounted on the east wall of the front office which displayed live feeds of nine surveillance cameras covering the interior and exterior of the Borderline. While he was in the front office, Long posted to social media and frequently checked his phone.³

B. Police Response

Prior to the shooting, California Highway Patrol Officers Todd Barrett and Lidia Espinoza were conducting a traffic stop on Moorpark Road southwest of the 101 freeway, less than a quarter mile from the Borderline. Patrons of the Borderline ran to them shouting about the shooting. Officer Espinoza sent the stopped car away and Officer Barrett notified CHP Dispatch, “Reports of shots fired at Borderline, shots fired at Borderline.” Officer Espinoza got into the patrol vehicle and Officer Barrett drove them to the Borderline parking lot.

When Officers Barrett and Espinoza arrived at the Borderline parking lot, they saw numerous people. Some were fleeing, some were taking cover, and some appeared to be injured. Some of the individuals provided information that the shooter was dressed in black and had moved toward the rear of the Borderline. Officer Barrett and Officer Espinoza used cars in the parking lot as cover and moved to a position where they could observe the east side of the building.

³ Long posted two posts to social media during the Borderline incident. During a later search warrant of Long’s home, detectives recovered a handwritten note Long had left which read, “NO Funeral.”

A short time later, Ventura County Sheriff's Sergeant Ron Helus arrived on the scene. Officer Espinoza approached him and briefed him about the situation and Sergeant Helus said, "Okay, let's go, let's go." Officer Barrett approached and asked Sergeant Helus to ask for deputies to cover the rear of the building. Sergeant Helus relayed that request over his radio.



The view from CHP Officer Barrett's MVARs in Borderline parking lot.

C. The Officer-Involved Shooting

Officer Barrett asked Sergeant Helus, "Are you ready?" and Sergeant Helus responded, "Yeah, let's go." The three officers then began approaching the front entrance to the Borderline to confront Long.⁴ It took them a little over one minute to reach the stairway

⁴ As will be described more fully in this report, the Borderline surveillance video system included cameras covering the front entryway, the front desk area, and the front office. These cameras captured the exchange of gunfire between Long, Sergeant Helus and Officer Barrett. A neighboring business also had an exterior surveillance camera which captured portions of the gun battle.

leading to the front entrance. Outside the building they located Garrett Gratland, who told them that the shooter had not come out the front entrance.

As they made their way up the stairs, Sergeant Helus led, Officer Barrett was second in line, and Officer Espinoza was third. Sergeant Helus saw a person lying on the floor when he reached the top of the stairs. He called out to the other officers, “I have a body down—at the door.” Sergeant Helus called out to the person, “Sir, are you okay?” but there was no response.



Borderline front stairway and front entrance during daylight hours (the right side door was open during the incident).

Sergeant Helus crossed the threshold of the Borderline front entryway. He again asked the person, “Are you okay?” He then yelled, “Sheriff’s Department!” and activated the light on his rifle. Sergeant Helus used the light to carefully look further into the bar. Long was in the front office and had been checking his phone but when Sergeant Helus

entered, Long turned off the screen, assumed a two-handed grip on his handgun, and braced his back against the wall farthest from the door.

Officer Barrett was at the top of the stairs and Officer Espinoza was two stairs behind him. Officer Barrett directed Officer Espinoza to, "Watch the left," and gestured toward the left bottom of the stairs. Officer Espinoza backed down the stairway and took a position halfway down the stairway on the right (east) side, then moved to the bottom left (west) side of the stairs with her shotgun in a low ready position. She did not fire any weapons during the encounter.

From the doorway, Sergeant Helus observed multiple victims. He notified Sheriff's Dispatch, "We got multiple people down. We need a lot of ambulances, fire."

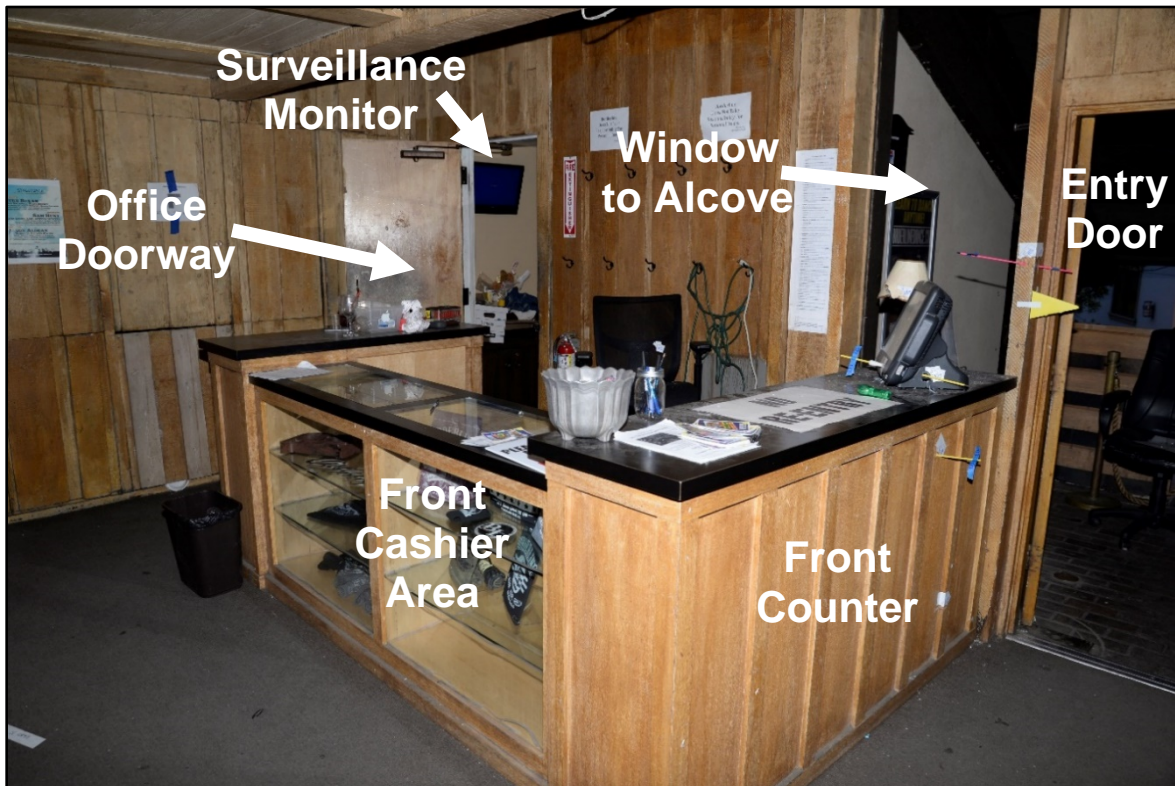
Officer Barrett also notified CHP Dispatch that there were multiple victims. Long had been watching the officers' progress on the surveillance monitor. He stood against the wall farthest from the office door, holding his gun at a ready position.

Sergeant Helus proceeded further into the Borderline, staying close to a cashier counter on the right side of the doorway and using his rifle light to illuminate the area and look around.

Long had begun moving forward with his gun at ready but reacted as light from Sergeant Helus's gun light illuminated the front office, causing Long to retreat into the darkness of the office.

Sergeant Helus moved further into the entry way. He told Officer Barrett, "We have multiple down to the right." Officer Barrett entered behind Sergeant Helus with his rifle shouldered and ready. Sergeant Helus told Officer Barrett, "Cover left," and

Officer Barrett replied, “I am,” as he moved in. Officer Barrett crouched down and checked on the person lying on the left side of the entryway. Sergeant Helus notified Sheriff’s Dispatch that there were, “At least five down inside.” Long had been approaching the office doorway and, at that moment, moved into the doorway and opened fire on the officers.



Borderline front entry area.

Officer Barrett was crouched down by the person lying near the left side door. As Long began shooting, Officer Barrett sprung to his feet and retreated out the door.

Sergeant Helus was further inside the Borderline, within 7 to 14 feet of Long as the gunfire erupted. Sergeant Helus also moved toward the door, but his feet became entangled with a rope strung between two stanchions and he fell to the ground.⁵ He low

⁵ The rope and stanchions appear to have been used to separate an area for entering customers to pay the cashier.

crawled out the door and as he reached the stairwell attempted to stand. Long began firing from the office doorway then ran to the front counter, leaned over it, and fired at the officers through the front doorway.



Long firing out the front doorway at the officers from the front counter.

Officer Espinoza ran across the walkway and took cover behind a brick ledge.

Officer Barrett headed down the front stairway. When he reached the bottom, Officer Barrett turned to face Long and shouldered his rifle. He was standing on the front walkway just behind a short planter which bordered the left side of the stairway.

Sergeant Helus crawled out the front door onto the landing directly in between Long and Officer Barrett's positions.

Sergeant Helus began to stand at the same time that Officer Barrett began to return fire. One of Officer Barrett's shots hit Sergeant Helus, causing him to fall forward into an alcove on the right side of the landing. Officer Barrett and Long continued firing for a few seconds, then Long retreated into the front office.



Image from external security camera RO 3 depicting approximate locations of participants as Officer Barrett returns fire at Long.

Sergeant Helus rolled onto his left side and reacquired his rifle, turning it toward Long's last location at the front counter. The alcove where Sergeant Helus lay was directly south of the front counter and was separated from the counter by a window. Officer Barrett notified CHP Dispatch, "Officer down—officer down—11-99."

Long reappeared at the front counter, leaned over it again and began firing out the doorway. Officer Barrett returned fire from his position at the bottom of the stairway. Sergeant Helus rolled onto his back and returned fire at Long through the window. Long

fired back at the officers, then returned to the office. Officer Barrett backed away from the area, telling civilian Garrett Gratland, “Get out of here!” Officer Barrett made his way back to Officer Espinoza, and they both retreated to the street and took cover behind a patrol vehicle.

D. Ian David Long Commits Suicide

Long retrieved another smoke grenade, ignited it, and threw it out the office door. He posted to social media and frequently checked his phone and appeared to prepare for another confrontation with police. Approximately 15 minutes after the gun battle, Long sat down, placed his handgun under his chin, and fired a shot into his head, killing himself.

E. Additional Police Response and Investigation

Approximately 20 minutes after the gun battle, law enforcement rescued Sergeant Helus from his position on the front landing. Approximately 27 minutes later, law enforcement made a second entry into the Borderline. Long was located dead in the front office. Ten homicide victims were located inside, and another homicide victim was located outside underneath the windows on the south side of the dance floor. Nineteen surviving victims were located hiding inside the Borderline and were rescued.

Numerous law enforcement agencies responded as the incident unfolded, including California Highway Patrol (CHP), Ventura County Sheriff’s Office (VCSO), Simi Valley Police Department (SVPD), Oxnard Police Department (OPD), Federal Bureau of Investigation (FBI) and Ventura County District Attorney’s Bureau of Investigation (VCDA). Evidence collection and forensic analysis was conducted by the FBI and involved more than 180 on-scene personnel. VCSO, VCDA and FBI investigators interviewed hundreds of individuals associated with the Borderline incident.

F. Timeline

The following timeline was established from the CHP MVARs and surveillance cameras in and around the Borderline.⁶

- 11:14 p.m. Officer Barrett and Officer Espinoza conduct a traffic stop on southbound Moorpark Road, north of Rolling Oaks Drive.
- 11:18 p.m. Long enters the Borderline and begins shooting.
- 11:19 p.m. Victims begin approaching Officer Barrett and Officer Espinoza and notify them about the shooting.
- 11:20 p.m. Officer Barrett and Officer Espinoza arrive at the Borderline parking lot.
- 11:22 p.m. Sergeant Helus arrives at the Borderline parking lot.
- 11:24 p.m. Sergeant Helus meets up with Officer Barrett and Officer Espinoza.
- 11:25:03 p.m. Sergeant Helus, Officer Barrett, and Officer Espinoza begin walking up the walkway to the Borderline front entrance.
- 11:25:11 p.m. Sergeant Helus contacts Garrett Gratland.
- 11:25:26 p.m. Sergeant Helus reaches the landing for the Borderline front entrance.
- 11:25:32 p.m. Long, hidden in the Borderline front office with the lights turned off, grips his handgun with both hands and looks out the office doorway, then retreats into the office.
- 11:25:37 p.m. Sergeant Helus crosses the threshold into the Borderline.
- 11:25:42 p.m. Officer Barrett tells Officer Espinoza to, "Watch the left."
- 11:25:43 p.m. Sergeant Helus activates the light on his rifle and uses it to illuminate the Borderline interior and look around.

⁶ This is a partial timeline focused on the officer-involved shooting. The Ventura County Sheriff's Office meticulously combined the various surveillance videos, MVARs recording, Sheriff's Dispatch recordings and body-worn camera footage into a comprehensive presentation of the Borderline incident as it occurred which was invaluable in constructing an accurate timeline.

- 11:25:50 p.m. Sergeant Helus broadcasts, “Station One, Four Sam Three—we got multiple people down. We need a lot of ambulances, fire.”
- 11:26:08 p.m. Long is moving toward the doorway when light from Sergeant Helus’s rifle illuminates the doorway and Long retreats into the office.
- 11:26:10 p.m. Sergeant Helus announces there are multiple people down and Officer Barrett states, “We need to go in.”
- 11:26:15 p.m. Long begins moving toward the doorway while holding his handgun with both hands in a ready position and retreats again when Sergeant Helus’s light illuminates the office.
- 11:26:25 p.m. Sergeant Helus moves further into the Borderline; Officer Barrett enters, crouches to check on a victim, and Long moves to the office doorway with his gun in a ready position.
- 11:26:26 p.m. Sergeant Helus broadcasts, “Station One, Four Sam Three—at least five down inside.”
- 11:26:28 p.m. Long begins shooting at the officers from the office doorway within 7 to 14 feet of Sergeant Helus.
- 11:26:29 p.m. Officer Barrett and Sergeant Helus begin retreating toward the door.
- 11:26:30 p.m. Sergeant Helus trips on a rope barrier and falls near the front doorway, then crawls out the door. His rifle light is still on.
- 11:26:33 p.m. Officer Barrett reaches the bottom of the stairwell, turns toward the Borderline, and aims his rifle at the front entrance. Sergeant Helus has crawled out of the Borderline onto the landing.
- 11:26:34 p.m. Long runs to the counter and leans over the counter pointing his handgun out the door as Sergeant Helus, who is directly between Long and Officer Barrett, begins to stand.
- 11:26:35 p.m. Long fires out the door and Officer Barrett fires back. Sergeant Helus falls forward into an alcove on the landing as the shooting continues.

- 11:26:39 p.m. Long returns to the office. Officer Barrett stops firing and moves further left (west) from the stairway.
- 11:26:44 p.m. Officer Barrett alerts CHP Dispatch, “Officer down, officer down–11-99.”⁷
- 11:26:45 p.m. Sergeant Helus rolls onto his left side and reacquires control of his rifle.
- 11:26:46 p.m. Long reappears at the counter and resumes firing out the door.
- 11:26:48 p.m. Officer Barrett fires at Long. Sergeant Helus rolls onto his back and begins firing at Long through the window.
- 11:26:50 p.m. Officer Barrett retreats further down the walkway to the left (westward).
- 11:26:51 p.m. Officer Barrett fires two additional shots toward Long, then continues retreating. Long re-enters the Borderline front office and crouches on his knees by the desk.
- 11:26:56 p.m. As Officer Barrett continues retreating, he encounters Gratland and tells him, “Get out of here, go!”
- 11:27 p.m. Long ignites a smoke grenade and throws it out the office door.
- 11:38 p.m. Long commits suicide.
- 11:46 p.m. Sergeant Helus is rescued from the front entryway.
- 12:13 a.m. Law enforcement makes the second entry into the Borderline.

G. Witness Statements

Numerous individuals were interviewed including the involved officers, other responding officers, and civilian witnesses. Summaries of the most pertinent witness statements are set forth below.

⁷ The term “11-99” is a term the CHP uses to communicate an officer has an immediate critical emergency. CHP Dispatch is on a separate frequency than VCSO and Officer Barrett’s “officer down” call was not heard by VCSO Dispatch or any of the responding deputies.

1. CHP Officer Lidia Espinoza

Lidia Espinoza is an officer with the California Highway Patrol. She had been a sworn peace officer for approximately 13 months prior to the Borderline incident and was assigned to the Moorpark CHP station.

Officer Espinoza agreed to provide a voluntary statement to Ventura County Sheriff's Office Major Crimes detectives following the shooting and was interviewed by Detectives Cyrus Zadeh and Beau Rodriguez on November 8, 2018, beginning at approximately 7:37 a.m. Prior to the interview, Officer Espinoza was able to review the audio/video from the MVARs system in her and Officer Barrett's patrol unit, but neither Officer Espinoza nor the interviewing detectives reviewed any of the other surveillance video from the scene.

Officer Espinoza related that she began her shift on November 7, 2018, at 5:00 p.m. Her shift was scheduled as a nine-hour shift. She worked alone until 9:00 p.m., and then returned to the station for a briefing. She joined Officer Barrett and continued working patrol as part of a two-officer unit in Officer Barrett's patrol vehicle, which Officer Barrett drove. Officer Espinoza did not remember any calls they responded to that night prior to the traffic stop they conducted near the Borderline.

Just prior to the incident, they stopped a car for speeding on Moorpark Road close to the Borderline. They first observed the car on the 101 freeway but conducted the stop on Moorpark Road.

While they were contacting the driver, they saw pedestrians running towards them yelling, "They're shooting in there" and, "Someone's shooting in there!"

Officer Espinoza then heard the sound of gunshots. "I heard a couple people yelling and

then just, it was almost right away, you just heard, just pop, pop, pop, pop, pop, pop, pop and it just kept going.” She told the driver of the stopped car to leave and then she and Officer Barrett began driving toward the Borderline. She recalled hearing shots continuing to be fired as they drove but did not remember if she continued to hear shots once they reached the parking lot.

They stopped the patrol vehicle once they reached the parking lot. Officer Barrett grabbed the rifle and Officer Espinoza grabbed the shotgun. The shotgun was loaded with four rounds in the magazine and she chambered a round. She recalled that she was concerned about, “how many people had been injured because of the amount of gunshots that I had heard.” She and Officer Barrett then started moving toward the Borderline.

Along the way, they encountered people in the parking lot who seemed very scared, and some of them were on cell phones. Someone told the officers that the shooter was dressed in all black. She repeatedly told those they encountered to leave the area. She and Officer Barrett made their way to a position behind a car with a view of the back entrance to the Borderline.⁸

A Sheriff’s deputy who she had never met before (Sergeant Helus) arrived on the scene. She recalled that the three of them were the first law enforcement personnel on scene. Officer Barrett told Officer Espinoza to contact Sergeant Helus while Officer Barrett maintained observation of the Borderline. She did not want to leave Officer Barrett but made her way to Sergeant Helus, who was armed with an assault rifle. She did not remember what the three of them discussed but shortly after she made contact, the three of them (Officer Espinoza, Officer Barrett, and Sergeant Helus) began approaching the

⁸ Officer Espinoza referred to it as the “back” entrance but the location was a side entrance on the east side of the building.

Borderline front entrance. Sergeant Helus led, Officer Barrett was second, and Officer Espinoza was third.

They reached a stairway at the entrance and she could see a body inside the Borderline. Sergeant Helus called out and asked if the person was okay but there was no response. Sergeant Helus also announced, "Sheriff's Office." Sergeant Helus was up the stairs in the doorway, Officer Barrett was up the stairs but behind and to the left of Sergeant Helus. Officer Espinoza was at the bottom of the stairs to the right of Sergeant Helus and watched for signs of movement from the windows. Then shots began firing from the inside of the Borderline.

"And that's when I heard just heard shots, just a lot of shots. I don't know how many." She explained that there was a small window of time that she did not remember because she recalled Sergeant Helus at the door, the shots being fired and then "it was like the Sheriff was gone." She recalled Officer Barrett making his way to the bottom of the stairway and returning fire at a window to the right of the front entryway. The area where Officer Barrett was firing was to the right of the location where she last saw Sergeant Helus.

The shooting from inside the Borderline continued as Officer Barrett fired back. Officer Espinoza could distinguish the sounds of Officer Barrett's rifle from the sounds of the weapon being fired by the suspect. The suspect continuously fired from the point "where the Sergeant was gone, to where Officer Barrett returned fire and stopped and it was—he was still—there was still gunshots coming from inside that entire time." Officer Espinoza never saw the suspect with a gun nor any muzzle flashes from inside the Borderline and did not hear any bullets travel in her direction.

After Officer Barrett stopped firing, Officer Espinoza jumped down a ledge and met up with Officer Barrett. They both followed a wall out to the street and met up with a group of people taking cover behind a Sheriff's patrol vehicle. One of the males had been shot but was alive and one of the females had cut her hand badly while escaping through a window. Officer Espinoza returned to the Borderline front entrance as officers were staging to enter. After the entry had been made, she entered the Borderline and assisted in evacuating victims who had been hiding in the attic. She then secured her shotgun in her patrol unit and met with other CHP personnel at the command post. Officer Espinoza stated that she did not fire any weapons during the encounter.

2. CHP Officer Todd Barrett

Todd Barrett is an officer with the California Highway Patrol. He had been a sworn peace officer for approximately nine years prior to the Borderline incident. He has military experience with the United States Army, the National Guard, and at the time of the incident, he was serving as a training officer for the Army Reserve. He served two tours in Iraq, serving as an Infantry Officer, Battle Captain for Night Operations, and a Scout Sniper Platoon Leader.

Officer Barrett had been an Active Shooter and Tactical Casualty Care Instructor for the CHP for approximately 18 months prior to the incident.⁹ He had received approximately 40 hours of active shooter instructor training and he had attended active shooter training as a student. He had also attended multiple scenario-based training courses which included active shooter scenarios involving multiple law enforcement agencies.

⁹ "An Active Shooter is an individual actively engaged in killing or attempting to kill people in a confined and populated area; in most cases, active shooters use firearms(s) and there is no pattern or method to their selection of victims. Active Shooter situations are unpredictable and evolve quickly. Typically, the immediate deployment of law enforcement is required to stop the shooting and mitigate harm to victims." *Active Shooter: How to Respond* U.S. Department of Homeland Security. <http://www.dhs.gov/active-shooter-preparedness>.

Officer Barrett agreed to provide a voluntary statement to Ventura County Sheriff's Office Major Crimes detectives following the shooting and was interviewed by Detectives Cyrus Zadeh and Beau Rodriguez on November 8, 2018, beginning at approximately 9:36 a.m. Prior to the interview, Officer Barrett was able to review the audio/video from the MVARs system in his patrol unit. He stated that he reviewed the MVARs footage from the moment they reached the Borderline parking lot through the rest of the incident. Prior to the interview, neither Officer Barrett nor the interviewing detectives had reviewed any of the other surveillance video from the scene.

The interview began with Officer Barrett providing background information such as details of his prior shift, his history with the CHP, his military experience, and how he prepared for his shift on November 7. He carried a .40 caliber handgun loaded with 12 rounds, two additional 11-round .40 caliber magazines, an extendable baton, a taser, two sets of handcuffs, pepper spray, a flashlight, a hand-held radio, and a wireless microphone connected to the MVARs.

His shift began at 5:00 p.m., where he drove a single-person unit. Prior to the shift, he checked the rifle and shotgun in the patrol vehicle and the MVARs system. He explained during the interview that the MVARs system automatically begins recording whenever the emergency lights are activated on the patrol vehicle.

He patrolled his beat until 9:00 p.m., when he returned to the Moorpark CHP station for a briefing. At that time, Officer Espinoza became his partner and they consolidated into his patrol vehicle. Officer Barrett drove and Officer Espinoza rode as front passenger.¹⁰

¹⁰ The MVARs unit had two wireless microphones. Officer Espinoza put on the second wireless microphone when they consolidated into Officer Barrett's patrol vehicle.

Shortly before the incident, they were conducting radar enforcement on the southbound 101 freeway at Borchard Road. Their radar alerted to a speeding motorist and they sped up to catch the vehicle and conduct a traffic stop. Once they activated their emergency lights, Officer Barrett directed the motorist to pull off the freeway onto Moorpark Road. The motorist complied and stopped his vehicle on Moorpark Road just north of Rolling Oaks Drive.

They contacted the motorist to obtain his information, then returned to the patrol vehicle to run the information through their mobile computer system. At that point, Officer Barrett became aware of people yelling to get their attention. “I noticed a bunch of people started yelling at us, coming from a parking lot that was south of our location. It was a business type parking lot. Running towards us, running across the street, almost got hit by cars, yelling that ‘There’s a shooting going on . . .’”

Officer Barrett did not recall if he heard shooting at that point. Officer Espinoza told the stopped motorist to leave the area and they drove towards the Borderline, heading southbound on Moorpark Road toward Rolling Oaks Drive. While driving, they reported shots fired to CHP Dispatch.¹¹

They turned onto Rolling Oaks Drive. Officer Barrett recounted: “And we made the left onto Rolling–Rolling Oaks and that’s when I started hearing pop sounds, which is similar to the sound of gunfire.” He recalled that the “pop” sounds had an echo to them, as if they were being fired indoors. Officer Barrett believed the sounds were coming from a semi-automatic weapon.

¹¹ In the MVARs recording, Officer Barrett notified CHP Dispatch about the shots fired prior to driving. While they were driving toward the Borderline, the dispatch operator asked, “70, who told you about the shots fired, a citizen’s report to you?” Officer Espinoza responded, “Ventura 54-70 that’s affirm we also heard two shots fired” and Officer Barrett added, “I also heard the shots.”

They pulled into the Borderline parking lot and parked approximately 100 feet from the front entrance. They were the first law enforcement unit on scene. Officer Barrett unlocked the weapons stored in the patrol vehicle. He armed himself with the rifle and Officer Espinoza took the shotgun. Both officers chambered rounds in their weapons. Officer Barrett no longer heard gunshots but saw, “Just tons of people everywhere. Some people injured already.”

Officer Barrett was concerned that the shooter could be one of the people nearby, so he scanned the crowd for potential threats. Based on his active shooter training and seeing injured people, he realized that he needed to move to engage the shooter. He described what he was feeling. “There’s obviously people hurt, need to stop it. Need to stop whoever it is from doing it, but also worried about our safety because if we’re the only ones there for a while and we’re—something happens, then—then we can’t help anyone.”

They began making their way toward the Borderline, using cars in the parking lot as cover. They trained their weapons at the Borderline windows as they moved. The lighting was bright enough that he could see all the way up to the building. Officer Barrett could see lights inside the Borderline through the numerous windows. People running from the rear entrance of the Borderline were yelling that the shooter was in the rear of the Borderline, so they moved in that direction. People leaving the Borderline were asking for help, but he remained focused on the active shooter threat. He explained: “That’s when I started seeing other people—that were there like tending, I’m assuming, wounded people that might have got hurt, behind cars, hiding and—and they’re—you want to help them but you can’t. And they’re asking for help and we—we have to focus on the—the threat. But just seeing them come out and . . . I just wanted to run straight for the front door, but I know like can’t do that. I had—at the time I didn’t hear rounds being fired so I didn’t know where [the shooter] was. If, from where my patrol vehicle was to Borderline,

80 percent of that side is all window. And I can see inside, but it's dark inside, parking lot's well-lit that most likely whoever's inside can see the parking lot. So not knowing what weapon system he or she might have had, what they were doing, I mean, obviously they were hurting people, but what—they—their intent, can't run straight for the front door with no cover. So, I went where I saw and was told he's at, which is towards the rear.”

He explained that in an active shooter situation, “Hearing the rounds, you move towards the—what you—where you hear the gunfire . . . And you're now moving towards the threat. And it's quick, dynamic searches of rooms—moving towards the threat. Once you don't hear the rounds anymore, you kind of slow down and now you have to focus on search and clear—until you hear those rounds again.”

Officer Barrett stated that when they reached the rear, he saw a fence blocking his view of the actual rear entrance. He did not recall if he had heard any more gunshots as they moved to their position at the rear of the Borderline. Around that time, he noticed Ventura County Sheriff's Office personnel had arrived. They contacted a Ventura County Sheriff's Sergeant (Helus), but Officer Barrett did not know his name or if he had ever met the sergeant before. Officer Barrett provided as much information as he could to Sergeant Helus, then the three of them decided to approach the front door.¹²

Sergeant Helus led, armed with a rifle. Officer Barrett was second in line and Officer Espinoza was behind Officer Barrett. They made their way to the staircase leading to the Borderline's front entrance. He could see into the establishment but was not sure if it were through an open door or a shattered glass door. He saw a body on the

¹² Surveillance video captured the encounter from the moment the three reached the bottom of the stairs. Understandably, based on the stressful nature and short duration of the encounter, Officer Barrett's recollection of the encounter does not match the video record in some places. Those areas will be indicated in footnotes so as not to interrupt the flow of his recollection of the events of that night. In January 2019, VCSO detectives contacted CHP management and requested a follow-up interview with Officer Barrett which was declined.

ground just inside the front entrance. He was not sure if the body was a victim or may have been the shooter. He kept telling Sergeant Helus, “We got to—we got to go in.” They climbed the stairs and reached the landing. Sergeant Helus was in front and Officer Espinoza was behind him. He described Sergeant Helus as being to his right and close enough that Officer Barrett could reach out with his right hand and touch Sergeant Helus’s left shoulder.

Officer Barrett believed he may have had one foot inside the Borderline. The bar was smoky, as if they had used a smoke machine. He saw flashing lights inside the bar. He heard music and television from inside and could still hear people yelling, but he was not sure if the yelling came from outside or inside. He was uncomfortable that they were exposed and had no cover. He was urging Sergeant Helus for them to move inside the Borderline where they could find cover. Then the shooter, dressed in a light shirt, dark jacket and black hat appeared from behind a counter to their right, no more than five feet from Sergeant Helus, and opened fire.¹³

Officer Barrett described the scene: “And I see the body on the ground. As we’re at the entrance, you can see a good portion inside. So, we were doing a quick scan. It was very hazy in there or smoky, almost like the club has a smoke machine. So, some parts were hard to see. I didn’t hear any noise coming from inside. I—I think we were at the door and I looked over at the—the body on the ground. He had a shirt that said security. I don’t remember if I went and checked his pulse or anything like that. But as we saw him,

¹³ The video shows that shortly after Officer Barrett reached the landing, he told Officer Espinoza to, “Watch the left,” and gestured back toward the bottom left-hand side of the stairwell. Officer Espinoza took a position in the middle of the stairs on the right side, then eventually moved to the bottom left side of the stairs. Officer Barrett and Sergeant Helus proceeded into the Borderline. Officer Barrett moved to the left to check on the body and Sergeant Helus moved further into the Borderline, staying near the front entry counter on the right side of the entrance. At the time Long began shooting, Officer Barrett was approximately 10 feet from Sergeant Helus. Long appeared from the Borderline front office and began shooting at the officers from a distance of 7 to 14 feet from Sergeant Helus.

someone popped up from the right. There's a counter there. I'm assuming that's where you pay. Popped up, a light-colored shirt, hat on, and next thing I know, it's like he ambushed us and just started shooting."¹⁴

Officer Barrett believed he and Sergeant Helus had been at the location for a couple of minutes before the shooter appeared. He recalled he and Sergeant Helus immediately returning the shooter's fire. "So, from what I remember, we—the sergeant and I started shooting back as we're trying to move away from the door 'cause there's nowhere else to go. It's like a—a funnel. It's a kill zone. And started moving away and—and I get to the corner of the building outside the stair and as I'm firing and looking at him, thinking the sarge is with me, then just a lot of shooting." He further explained: "Him pointing and suddenly hearing—all the pop, pop, pop, pop, pop towards us. And so, we—I start shooting back and like I said, trying to get to some point of cover behind the corner that's right there. It's better than nothing. Continue to fire as I backed up."¹⁵ In a colloquy with Detective Zadeh, Officer Barrett expanded on why he fired his weapon.

Zadeh: Okay. So the moment this—this person pops up and you see a gun in their hands and it's pointing toward you and he's pulling the trigger, at that very moment, what went on through your head? What did you think?

Barrett: I need to start shooting.

Zadeh: Why?

Barrett: It's either he's going to shoot me or I'm going to shoot him.

Zadeh: Okay. How did you feel?

Barrett: Like I couldn't move fast enough.

¹⁴ Officer Barrett described Long's light colored shirt under his jacket, but the surveillance video showed that Long kept his jacket zipped up until shortly before he committed suicide, so it is not clear how Officer Barrett would have had the opportunity to notice the light shirt.

¹⁵ The surveillance video shows that Officer Barrett did not fire his first shot until he had reached the bottom of the stairway and after Long had left the office and was firing from the front counter.

Zadeh: Okay. Why did you feel that you needed to move fast?

Barrett: Because he's already pulling the trigger and I haven't pulled mine yet.

Zedah: Okay. And what did you think would have happened if you didn't move or react?

Barrett: I didn't—I wasn't thinking that.

Zedah: Okay.

Barrett: I didn't have time.

Zedah: What were you thinking?

Barrett: I need to shoot him.

Zedah: Okay.

RC: When—why did you feel you needed to shoot him?

Barrett: Because he's already—someone's pointing a gun and pulling a trigger at—
at the sergeant and myself and . . .

Zedah: And?

Barrett: . . . I feared that we weren't going to make it out of there.

Zedah: Okay.

Barrett: He's obviously there for a reason. He's already killed some people based off me seeing a body here. So, he's already done harm to other people and he still has a weapon and we're standing in the open and he's pointing a gun . . .

Zedah: Uh huh.

Barrett: . . . pulling the trigger.

Detective Rodriguez asked if Officer Barrett thought his shots had hit the shooter and Officer Barrett replied, "I don't know. I'd hope they did because that's the direction I was firing and—he obviously planned on killing us. And—I mean I was scared, I mean, when you—you want to go home at night—safe. And he didn't want to let anyone."

Officer Barrett believed Sergeant Helus was behind him as he returned fire and retreated to cover. He moved down the stairs and took cover behind a brick wall. He specifically recalled rounds from the shooter hitting the walls near him. “The dark holes hitting the wall as he’s shooting at me as I’m getting to that wall as I’m firing back at him.”

Officer Barrett took cover and reloaded his rifle. He did not hear any more rounds being fired, so began looking for Sergeant Helus and Officer Espinoza. He heard Officer Espinoza call his name and saw her, then noticed Sergeant Helus was not with him. “I’m trying to catch my breath, breathe, reload. I hear my partner say my name and I look around and there’s no sergeant there. There are other brick walls in that area, but once I pointed my weapon back towards the door, I saw someone lying there. Once I changed magazines and pointed my weapon back towards the door, I saw someone laying out there on that landing—that wasn’t there before.”¹⁶

He believed the person lying on the ground was Sergeant Helus and described the person’s location as “[c]lose to the same spot” where he had last seen Sergeant Helus before the shooting started. Detective Zedah attempted to clarify the order of events.

Zedah: Okay. Do you remember where you were when you started shooting?

Barrett: Somewhere on the landing. I—I don’t know—I’m not sure where on the landing.

Zedah: Okay. Do you remember seeing the sergeant in your—in your view when you started shooting?

Barrett: I don’t remember. I think he was to my right like he is there (referring to a sketch he had drawn for the detectives).

¹⁶ The surveillance video and MVARs audio show that Officer Barrett engaged Long and fired several shots. Long retreated to the office and Officer Barrett radioed, “Officer down—officer down—11-99,” then fired more shots at Long after Long resumed firing at the officers. Officer Barrett then retreated out of the area and changed magazines off camera at some point after he stopped firing.

Zedah: And—and I guess, let me reword it. What I want to find out, if you do know or if you can recall or if you do know this, is the order of events. Did Sergeant go down, then you start shooting or did you start shooting and suspect's shooting back, and then the sergeant goes down? If you don't remember, that's okay too.

Barrett: No. As soon as he popped up, the suspect was shooting, so he fired first.

Zedah: Uh huh.

Barrett: I started firing. I don't know if the sergeant did and I didn't—the whole time I thought Sergeant was with me until I got back here.

Zedah: Gotcha.

Barrett: So, the last event was me looking up there, re—re observing it, and that's when I saw Sarge down.

Zedah: Okay. Okay. So, you get to the block wall. What happens next?

Barrett: Uh, reload real quick, point my weapon up there.

Zedah: Uh huh.

Barrett: I didn't hear any shots fired anymore and . . .

Zedah: Uh huh.

Barrett: . . . that's when I was looking for Sarge, I heard Es—Espinoza, who's now somewhere over here, behind another brick wall.

Zedah: Okay.

Barrett: I think she said Todd and then I—I mean, I saw the body up there.

Officer Barrett believed he put out radio traffic and linked up with other Sheriff's deputies. He provided a description of the shooter and a plan was made to rescue

Sergeant Helus. Officer Barrett recalled going to the door with the rescue team. He collected and secured Sergeant Helus's rifle, cell phone and body-worn camera unit.¹⁷

Officer Barrett then participated in the second law enforcement entry into Borderline. He and two Simi Valley SWAT officers entered the office and found the shooter sitting on the floor with an obvious gunshot wound under his chin which Officer Barrett believed was self-inflicted. They also located smoke canisters, 3 to 5 high-capacity handgun magazines, and some loose ammunition. Under the shooter's body, they located a handgun which Officer Barrett recognized as the weapon the shooter had fired at him and Sergeant Helus. The handgun was secured by the Simi Valley officers. After the Borderline was cleared, he responded to the command post and met with CHP leadership.

1. Garrett Gratland

Garrett Gratland was a Borderline patron on the night of the shooting. Two of his friends were killed by Long that night. He observed the officers and the firefight with Long and provided information to Sergeant Helus about the shooter prior to the officers climbing the stairway to the front entrance. He also assisted with the rescue of Sergeant Helus after he had been pulled away from the front entrance.

Gratland was interviewed briefly at approximately 12:10 a.m. the night of the incident by Sheriff's Detective Aaron Grass.¹⁸ He was interviewed again by FBI Special Agent Jennifer Bannon on November 12, 2018.¹⁹ Gratland was also captured on various body-worn cameras as he provided information to law enforcement during the incident.

¹⁷ Surveillance video shows that Officer Barrett did not go to the door with the rescue team, although he was present during the rescue providing cover. Officer Barrett obtained Sergeant Helus's rifle from the alcove where Sergeant Helus had fallen just prior to the second entry.

¹⁸ Detective Grass's interview with Gratland was not recorded.

¹⁹ Per FBI policy, Special Agent Bannon did not record her interview.

According to Detective Grass, Gratland told him that on November 7, 2018, he was in the bar at the Borderline when he heard 12 to 15 gunshots. Gratland escaped the bar and helped others flee as well. He was in the front parking lot south of the front entrance and saw three law enforcement officers enter the Borderline. He described them as two Ventura County Sheriff's deputies and a CHP officer. Shortly thereafter, Gratland saw one Sheriff's deputy exit the bar and was unsure what had happened to the other officers.

According to Special Agent Bannon, Gratland stated that on November 7, 2018, he was standing in front of the wall near the entrance to the bar at the Borderline when he heard a "pop" sound followed by "a second and third round." He saw a muzzle flash and told his friends to run. He saw a person shooting at bodies but could only describe the shooter as a "shadow."

He witnessed CHP officers and Sheriff's deputies approached the front entrance and entered the Borderline. The shooter fired at the officers and one of them fell to the ground. According to Special Agent Bannon, Gratland recollected that while shots were still being fired, three officers retrieved the downed officer and Gratland assisted in bringing the downed officer to the parking lot. Eventually he was instructed to go to a gas station where other victims were sheltering.

III.
PHYSICAL EVIDENCE

A. Crime Scene²⁰

1. Borderline Interior

The interior crime scene relevant to the officer-involved shooting incident encompassed the front entryway, the cashier counter, and the front office. Other than the surveillance video, there was no direct physical evidence indicating the exact location of any of the participants during the gun battle. Within the area, 24 expended .45 caliber casings were located but it is impossible to determine how many of those were fired when Long shot at Sergeant Helus and Officer Barrett.



Lasers being used to illustrate bullet trajectories at the front stairway.

²⁰ This discussion is limited to evidence related to the officer-involved shooting incident.

Numerous .223 bullet strikes were located in the ceiling and walls of the Borderline near the front counter.²¹ The FBI attempted to establish trajectories for these bullet strikes, but in many instances, they were unable to do so conclusively, as the shots had been fired through the window, the glass in the doors, and the open doorway.

The office contained a video monitor mounted on the east wall that displayed live feeds for the Borderline's nine video cameras which are described more fully below.



Video monitor and surveillance camera on east wall of the front office.

Inside the front office, a .45 caliber Glock 21 handgun was located underneath Long's body with a 26-round high-capacity magazine inserted into the handgun. The magazine

²¹ During the gun battle, Sergeant Helus was armed with and fired a Colt AR-15A3 rifle and Officer Barrett was armed with and fired a Sig Sauer M400 rifle, both of which used .223 rounds ammunition. No other weapons were fired by law enforcement during the incident.

contained seven unexpended .45 rounds and another round was chambered in the handgun. Long also had a folding knife in his jacket pocket.

Investigators located seven additional high-capacity magazines. Four were loaded with 24 .45 rounds, one was loaded with 23 .45 rounds and two were empty. Six of the magazines were located in the office and an empty one was located on the floor in the cashier area.

2. Borderline Exterior

The exterior crime scene relevant to the officer-involved shooting incident encompasses the parking lot from Officer Barrett's patrol vehicle to the walkway leading to the Borderline, the walkway which parallels the south side of the Borderline, the front stairs, and the landing at the top of the stairs.

Seven expended .223 casings from Sergeant Helus's rifle were located on the landing, and another was located on the second stair from the top of the landing. An unexpended .223 round of the type of ammunition in Sergeant Helus's rifle was found in the parking lot north of Officer Barrett's patrol vehicle, indicating that a round was already chambered and was ejected when Sergeant Helus charged his rifle.

Sergeant Helus's rifle was collected by detectives at the scene. His rifle was loaded with a magazine containing nine rounds with an additional chambered round in the rifle. VCSO policy limits .223 magazines to being loaded with 18 rounds, indicating Sergeant Helus fired eight rounds.

Sixteen expended .223 casings from Officer Barrett's rifle were also located. One was located on the walkway south of the stairway, six were located in the planter south of the

walkway and nine were located on the walkway southwest of the front stairway which led to a lower stairway.

Officer Barrett's rifle and spare magazines were collected by detectives at the scene. His rifle was loaded with a magazine containing 20 rounds with an additional chambered round in the rifle. One of his spare magazines contained three rounds and the other magazine contained 20 rounds, indicating Officer Barrett had conducted a tactical reload (replacing a partially loaded magazine with a fully loaded magazine) after firing 16 rounds and did not fire any further rounds from the rifle.

3. CHP Mobile Video Audio Recording System (MVARs)

The MVARs began recording when Officer Barrett activated his emergency lights to conduct a traffic stop prior to the Borderline incident. The footage begins as the patrol vehicle is driving southbound on the 101 freeway north of Ventu Park Road. The patrol vehicle pulls in behind a car just south of Lynn Road. The car makes its way to the right lane and Officer Barrett orders the car to exit off the freeway. The car exits at the Moorpark Road offramp and Officer Barrett directs the car to turn right onto Moorpark Road. Officer Barrett then directs the car to pull to the curb and stop and the car stops north of Rolling Oaks Drive. The patrol vehicle stops behind it.

Officer Barrett and Officer Espinoza approach the stopped car on either side and Officer Barrett contacts the driver. After conversation, Officer Barrett obtains the driver's license and performs a quick nystagmus test.²² The officers return to the patrol vehicle and discuss the stop.

²² Nystagmus is an involuntary eye movement which can sometimes indicate the presence of alcohol or other intoxicants. CHP officers are trained in detecting nystagmus as one indication that a driver may be impaired.

Suddenly people can be heard shouting at the officers that someone is shooting in the Borderline. Officer Espinoza tells the driver of the stopped vehicle to leave and suddenly numerous people are visible running around the patrol vehicle and shouting.

Officer Barrett contacts CHP Dispatch and reports “Ventura, uh, Ventura-54-70, reports of shots fired at Borderline, shots fired at Borderline.” Officer Espinoza shouts, “Watch the traffic, don’t run in the street!” Officer Barrett tells Officer Espinoza, “Jump in.” and they drive toward the Borderline.

The patrol vehicle turns left on Rolling Oaks Drive. People are visible running and walking away from the Borderline and shouting to the officers about the shooting.

Dispatch asks, “70, who told you about the shots fired, a citizen’s report to you?”

Officer Espinoza responds, “Ventura 54-70 that’s affirm we also heard two shots fired.”

Officer Barrett adds, “I also heard the shots.” CHP Dispatch responds, “Copy, heard and reported to you, SO’s in route.”

The patrol vehicle pulls into the Borderline parking lot and stops at the southern edge of the parking lot facing the Borderline’s front entrance. A male subject runs up to the car and shouts that the shooter is inside to the far right. Another person identifies themselves as an off-duty Oxnard police officer and describes the shooter as a male wearing black on black. Officer Barrett runs across from the driver’s side toward the right, holding a rifle and the rifle can be heard being charged. The dashcam maintains a view of the front of the Borderline, but the front entrance is obscured by trees. Officer Barrett and Officer Espinoza are not visible onscreen, but their microphones are still being picked up by the MVARs. The officers instruct people in the parking lot to, “Get back” and ask for information about where the suspect was located. One person identifies the shooter as at the back door. They acknowledge “SO” units have arrived, and Officer Barrett sends Officer Espinoza to contact “the SO” (Sergeant Helus).

Approximately two and one-half minutes after the patrol vehicle parked, Sergeant Helus appears on the MVARs camera and approaches past the right side of Officer Barrett's patrol vehicle, holding a rifle. Officer Barrett can be heard asking Sergeant Helus to request VCSO units to cover the back side of the Borderline. Sergeant Helus stops and appears to talk over his radio. Officer Barrett asks Sergeant Helus, "Are you ready?" and Sergeant Helus responds, "Yeah, let's go." Officer Espinoza and Officer Barrett run to Sergeant Helus's position and the three of them begin fast walking toward the Borderline.

The officers are visible over hedges as they walk up the walkway to the front entrance. There is inaudible conversation between them. Officer Barrett notifies CHP Dispatch "Ventura, 54-70, making entrance, front door, with, uh, one SO." As they approach the Borderline entrance, Sergeant Helus yells, "Step away!" followed by, "Do you know where the shooter is?" A voice responds that he has not seen the shooter from his location.²³

Blurred images of the officers are visible as they climb the staircase. Approximately 13 seconds later, Sergeant Helus reports, "I have a body down, at the front door." Sergeant Helus asks, "Sir, are you okay?" but there is no response. Approximately 10 seconds later, Sergeant Helus repeats, "Are you okay?" then announces, "Sheriff's Department!" Officer Barrett says, "Watch the left,"²⁴ and Sergeant Helus states, "We got multiple people down." Officer Espinoza walks down the staircase. Sergeant Helus then notifies his dispatch there are "multiple people down, we need a lot of ambulances, fire." There is inaudible conversation between Sergeant Helus and Officer Barrett, who advises CHP Dispatch, "70, advise multiple victims down." Sergeant Helus tells Officer Barrett

²³ Surveillance video reveals that this conversation was with Garrett Gratland, who was standing at a stairwell on the western end of the walkway.

²⁴ The surveillance video shows this comment was directed at Officer Espinoza.

there are multiple people down to the right and Officer Barrett replies, “We need to go in.” Sergeant Helus states, “Cover left,” and Officer Barrett replies, “I am.” A few seconds later, gunshots erupt.

Officer Barrett is visible retreating down the staircase and turning to engage Long as Officer Espinoza finds cover. Gunshots are heard for approximately 13 seconds and then Officer Barrett notifies CHP Dispatch, “Officer down, officer down–11-99.” More gunshots are audible while Officer Barrett is speaking and continue for another six seconds. Officer Barrett yells, “Get out of here!” He again yells, “Get out of here, go!”²⁵ There is a sound of movement, then Officer Espinoza yells, “Barrett!” There is more sound of movement and Officer Espinoza becomes visible making her way to the parking lot. CHP Dispatch asks whether the officer down was CHP. Officer Espinoza responds but her response is inaudible on the MVARs.²⁶

4. Body-Worn Cameras

Ventura County Sheriff’s patrol deputies are issued body-worn cameras that are activated by the deputies who wear them. Sergeant Helus was wearing a body-worn camera but analysis determined he never activated it. Other VCSO deputies at the scene did activate their body-worn cameras but none of the body-worn camera footage captured the gunfight between Officer Barrett, Sergeant Helus and Long. Some of footage was pertinent to the officer-involved shooting investigation as conversations with Officer Barrett and with Garrett Gratland about the incident were captured.

²⁵ Surveillance video shows these statements were directed at Garrett Gratland.

²⁶ Officer Espinoza’s response is also inaudible on the CHP dispatch recording, but after she replies the dispatch operator responds “54-70, copy negative, SO Unit.”

a. Deputy Kahn's Body-Worn Camera

When the body-worn camera footage begins, Deputy Kahn is approaching a patrol vehicle parked in the street north of Officer Barrett's patrol vehicle. Deputy Heiser is already at the location along with some civilians, at least one of whom is injured. They discuss hearing shots from the gun battle. At approximately 11:30 p.m., Officer Barrett arrives at the location holding an assault rifle. Officer Barrett is breathing heavily and tells Deputy Kahn that the shooter is "inside—to the right—I was just engaged with him." Deputy Kahn asks, "You shot at him?" and Officer Barrett replies, "We have an officer down up there." Deputy Kahn asks Officer Barrett who was shot, and Officer Barrett clarifies that the officer down is a VCSO sergeant. Deputy Kahn broadcasts that there is a "Sam Unit down"²⁷ but is never acknowledged by VCSO Dispatch.

At approximately 11:33 p.m., Officer Barrett states, "We need to get up there" and asks, "Do you guys have rifles?" Both deputies reply that they do not have rifles. Deputy Kahn adds, "We're gonna call our SWAT team, they're responding." At approximately 11:34 p.m., Officer Barrett tells Deputy Kahn, "We have other victims up there, too." Deputy Kahn asks about the suspect's description. Deputy Heiser and Officer Barrett respond at the same time. Deputy Heiser replies, "Black on black—white, I think they said." Officer Barrett replies, "White shirt with a hat on." Officer Barrett adds that he saw at least three victims inside of the Borderline.

At approximately 11:58 p.m., VCSO Captain Schierman speaks with Officer Barrett. After the conversation, Captain Schierman broadcasts over his handheld radio, "I'm with the CHP Officer that engaged the possible suspect. He described the suspect as a white male, hat, white shirt."

²⁷ The Ventura County Sheriff's Office uses the term "Sam" in a call sign to refer to a sergeant. Sergeant Helus's call sign on November 7, 2018, was Four Sam Three.

b. Deputy Manley's Body-Worn Camera

The body-worn camera footage shows Deputy Manley make his way to a position with a view of the front entrance to the Borderline. He and other deputies are discussing the location of Sergeant Helus. CHP Officer Barrett approaches and speaks with Deputy Manley at approximately 11:41 p.m.

Manley: Did you go in with our Sarge?

Barrett: Yes.

Manley: Is he out? K.

Barrett: He got hit right at the door.

Manley: What do you mean, he got shot at?

Barrett: Yeah, we engaged him at the door.

Manley: Okay.

Barrett: He was right, ambushed us, at the bar right there.

Manley: Anybody hit?

Barrett: Sarge.

Manley: Is he okay?

Barrett: I don't know.

Manley: K. Where'd, did you see where he went?

Barrett: Right at the entrance.

Manley: Were you right here or on the other side when you went in.

Barrett: This door right here in front of you.

Manley: This door right here? Is this him that's lying right here? Is this where you guys took fire?

Barrett: Yes.

Manley: Fuck. Did you hear that? Well, fuck if that's him let's go get him.

c. Sergeant Natoli's Body-Worn Camera

At approximately 11:31 p.m., Gratland approaches Sergeant Natoli and Deputy Gallagher near the Borderline sign on northwest side of the building. After some initial conversation, Gratland mentions the gun battle with Sergeant Helus and Officer Barrett:

Gratland: There are two officers down, right?

Gallagher: I don't know.

Natoli: I haven't heard anything about officers down.

Gratland: There's one, I watched him. By the front door. And possibly the female with the shotgun also.

Gallagher: There's a female with a shotgun?

Gratland: Yes sir.

Gallagher: Female deputy or . . .

Natoli: It might be the CHP, there's a CHP Officer, she's working tonight.

Gallagher: Do you know if anyone else went in to help them.

Gratland: There should be one other officer in this uniform over there. He told me to get back.

After approximately 40 seconds, Deputy Gallagher asks if there is only one confirmed shooter and Gratland agrees but adds he "didn't get a visual on him." Sergeant Natoli and Gratland then discuss the downed officer.

Gratland: Well . . . with all due respect, there's two people down and they could be really wounded right now, so I recommend like . . .

Natoli: What I'm saying is that nobody has said that over the air and that's what I don't care for.

Gratland: If we get bright lights in there, there's a lot of smoke, we could disorient him, and he wouldn't be able to see outside if we make a move toward the windows.

Deputy Gallagher asked if units had made entry in the front and Gratland replied, “Yes, but that was unsuccessful.” He added, “Two went down and one came back out. By himself.”²⁸

4. Surveillance Video

a. Camera Locations

Much of the Borderline incident was captured by surveillance cameras inside and outside the bar. The Borderline had nine active cameras at the time of the incident. None of the cameras recorded audio.

Camera 1 was labeled “Front Entry” and was located on an exterior beam on the southern side of the building, to the left and above the entrance doors. Camera 1 faced southwest, capturing the stairway approaching the front entrance, the landing, and the exterior of the front doors. Camera 2 was labeled “Front Desk” and was located on the ceiling above the cashier desk facing southwest, capturing the front doors and portion of the front entry.

Camera 3 was labeled “Bar 2” and was located on the ceiling near the northern end of the bar and faced southwest. Camera 4 was labeled “Bar 1” and was located on the ceiling at the south end of the bar and faced south. Camera 5 was labeled “Bar 3” and was located on the ceiling next to Camera 3 and covered the northern end of the bar where it wrapped around toward the dance floor, facing northeast.

²⁸ These conversations were also captured on Deputy Gallagher’s body-worn camera. Gratland also appeared in body-worn camera footage while helping transport Sergeant Helus into the vehicle which evacuated him from the scene.



Video feeds displayed on the monitor in the front office (this image was captured the morning of November 8 and persons depicted in the displays are FBI personnel).

Camera 6 was labeled “Back Door” and was located on a wall in a hallway in the southeast corner of the building and faced northwest. Camera 7 was labeled “Back Office” and was located in a back-office area on the southwest corner of the ceiling, facing northeast. Camera 8 was labeled “Front Office” and was located on the east wall of the front office, facing southwest. Camera 9 was labeled “Loading Dock” and was located in a hallway leading to the rear entrance and faced east.

There were two additional surveillance cameras mounted on a nearby building that captured video of the incident. One camera (RO Camera 3) was located west of the

Borderline and faced northeast and covered the front walkway and front entrance. The other camera (RO Camera 5) was also located west of the Borderline and faced southwest at the staircase at the western end of the front walkway.

b. Events Captured on Surveillance Video

The bulk of the officer involved shooting was captured on Borderline Camera 1, Camera 2, and Camera 8, as well as RO Camera 3.²⁹

Sergeant Helus, Officer Barrett, and Officer Espinoza move into frame on RO Camera 1 walking west on the walkway leading to the Borderline front entrance. Sergeant Helus's rifle is shouldered, Officer Barrett's rifle moves between shouldered and low ready, and Officer Espinoza's muzzle is pointing upward. They walk into frame on Camera 1. Just before reaching the stairway, Sergeant Helus speaks to Garrett Gratland, who is visible on RO Camera 5. The three officers then continue up the stairway with Sergeant Helus in the lead and walk into frame on Camera 2.

Sergeant Helus reaches the top landing first and looks into the Borderline. Officer Barrett follows to the top. Officer Espinoza almost reaches the top when Officer Barrett gestures toward the bottom of the stairs. Officer Espinoza moves to the right (east) side of the stairs, then takes a position at the bottom left (west) of the stairs.

Sergeant Helus activates the light on his rifle. Officer Barrett kneels outside and aims his rifle inside. Sergeant Helus crosses the threshold and looks around using his rifle light. After approximately 30 seconds, Sergeant Helus walks further into the Borderline, staying close to the cashier counter. Officer Barrett enters with his rifle shouldered and

²⁹ Light from Sergeant Helus's weapon light is visible briefly on Camera 4, but, due to the smoke and the camera's angle, the camera did not capture the gun battle.

Sergeant Helus gestures to his left. Officer Barrett moves left, bumping the left side of the entrance door as he moves. Officer Barrett crouches down next to a victim in the doorway. Sergeant Helus moves further into the Borderline and off camera.

Long is visible on Camera 8, depicting the interior of the front office. While the officers are approaching, Long is in the front office with the lights off. He is manipulating his phone and watching the surveillance monitor. As Sergeant Helus reaches the threshold, Long puts his phone down on the desk and grips his handgun with both hands in a low ready position. He moves to the doorway twice, retreating as Sergeant Helus's rifle light illuminates the office. The third time he moves to the doorway with his handgun extended and moves off camera.

Suddenly, Officer Barrett and Sergeant Helus are rushing back out of the door.

Officer Barrett makes it through the door and moves down the stairs. Sergeant Helus gets tangled with a rope barrier and falls to the ground. Officer Espinoza moves to the right of the stairway, crosses the walkway, and jumps down a ledge, taking cover behind a brick wall.

Long reappears in the office then again moves through the doorway off camera. Long runs into frame on Camera 2 at the eastern edge of the front counter and leans over it.

Officer Barrett reaches the bottom of the stairs and turns to engage Long. Sergeant Helus has crawled out the door and starts to stand. Long fires at Officer Barrett and Officer Barrett ducks low behind a large plant and fires back at Long. Sergeant Helus falls face down into an alcove on the right side of the landing. Officer Barrett moves left (west) as he continues firing.

Long reappears in the front office on Camera 8 for a few seconds. Sergeant Helus rolls onto his left, regains control of his rifle, and begins pointing it toward the window next to the cashier counter. Long reappears on Camera 2 at the front counter and resumes firing out the door.

Sergeant Helus rolls onto his back and begins firing at Long. Officer Barrett moves back toward the stairway and appears to be firing. Long reappears on Camera 8 as he retreats back to the office. Officer Barrett moves left (west) off camera. A few moments after Officer Barrett disappears, a bullet strikes the wall Officer Barrett was using as cover.³⁰ Officer Barrett comes into frame on RO Camera 5 as he retreats down the stairwell at the western end of the walkway and speaks to Gratland. Long primarily remains in the front office, where he commits suicide and is located by law enforcement during the second entry.

B. Autopsies

On November 8, 2018, Othon J. Mena, M.D., Assistant Chief Medical Examiner for the County of Ventura conducted an autopsy on Sergeant Helus. Dr. Mena's examination revealed that Sergeant Helus had suffered six penetrating gunshot wounds and some minor injuries from bullet fragments on his left heel and right shin. All of the bullets from the penetrating wounds were recovered and examined. Five of the wounds were caused by Long's .45 handgun and the sixth was from Officer Barrett's .223 rifle which resulted in a fatal perforation of the heart. The path of the .223 wound was consistent with having been fired from below left of Sergeant Helus while he was attempting to regain his feet.³¹

³⁰ As Long had retreated to the front office at the time the shot was fired, it appears Officer Barrett fired that round.

³¹ Autopsies were also conducted on the 11 civilian murder victims and none had been struck by a .223 round. In fact, no .223 round fired by the officers struck any civilian.

On November 9, 2018, Dr. Mena conducted an autopsy on Ian David Long. Dr. Mena's examination revealed that Long had suffered a single gunshot to the head that entered just under the chin and resulted in penetration of the brain. The bullet was recovered and analyzed and was found to have come from Long's .45 handgun. Toxicological testing on Long detected marijuana, caffeine, and tobacco, but no other drugs, medications, or psychoactive substances.

IV.

SUSPECT IAN DAVID LONG'S BACKGROUND

Ian David Long was born on March 27, 1990. His parents separated when he was 2 to 3 years old and eventually divorced. He lived with his mother and they moved frequently due to her work. His father died when he was in fifth grade. Long and his mother moved to Newbury Park, California, into the home he was living in when the Borderline incident happened. He attended Newbury Park High School for his junior and senior years and graduated in June 2008.

He enlisted in the United States Marine Corps in August 2008 and served until he was honorably discharged in 2013, reaching the rank of corporal. His service included a deployment to Afghanistan from November 2010 through June 2011. According to the FBI, the U.S. Department of Veterans Affairs has no record of Long ever receiving any medical or mental health related treatment.

After he was discharged, Long lived with roommates in various locations and attended California State University at Northridge. Long was in a motorcycle accident which

resulted in a collapsed lung. According to his mother, his helmet had been cracked but there was no evidence of brain injury or head trauma. She shared that Long's life began to "unravel" after the accident. She also believed he had injured his shoulder while in the Marine Corps. During 2015 and 2016, Long received physical and mental health treatment from Kaiser Permanente and was diagnosed with adjustment disorder with mixed anxiety and depressed mood, post-traumatic stress disorder (PTSD), combat and military operational stress reaction, and chronic pain.

Long's prior contacts with the Ventura County Sheriff's Office were limited to a 2006 traffic collision for which no charges were filed; a 2015 bar fight where no charges were made against Long (criminal charges were referred but not filed on the other participant); and a 2018 welfare check where deputies responded to the residence to check on Long's wellbeing based on a neighbor's concerns. Long was contacted and told responding deputies that he had injured his left shoulder in a motorcycle accident which was preventing him from getting a job, working out, and re-enlisting in the military. A mental health crisis team responded to the scene and conducted a mental health evaluation on Long and determined that he did not meet the criteria for involuntary hospitalization pursuant to Welfare and Institutions Code section 5150.

At the time of the Borderline incident, Long was living with his mother and there was ongoing conflict between them regarding him moving out of the residence. On November 1, 2018, Long sent the following text to his mother: "My plan fell through yesterday. I need another week. By next Saturday morning I will be out of here forever."

Long left behind a handwritten note at his home which read, "NO Funeral." Long made two social media posts during the Borderline incident, one of which had been pre-written and one he apparently composed on scene.

V.

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

CALCRIM 505 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.” (*Judicial Council of California Criminal Jury Instructions (November 2019 Update)*, CALCRIM 505, “*Justifiable Homicide: Self-Defense or Defense of Another.*”)

CALCRIM 505 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.” (*Ibid.*)

A killing by a peace officer is justifiable when it was “necessarily committed in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty” or “when necessarily committed in arresting persons charged with [a] felony, and who are fleeing from justice or resisting such arrest.” (Pen. Code § 196.)

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.” (*Ibid.*)

Under the Fourth Amendment, police are “not required to use the least intrusive degree of force possible” but may use only such force as is objectively reasonable under the circumstances. (*Forrester v. City of San Diego* (9th Cir. 1994), 25 F.3d 804, 807.) An officer’s use of deadly force is reasonable only if “the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.” (*Tennessee v. Garner* (1985) 471 U.S. 1, 3.) Furthermore, “if police officers are justified in firing at a suspect in order to end a severe threat to public safety, the officers need not stop shooting until the threat has ended.” (*Plumhoff v. Rickard* (2014) 572 U.S. 76, 777.)

“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.)

“If [a person] intended to kill one person, but by mistake or accident killed someone else instead, then the crime, if any, is the same as if the intended person had been killed.” (*Judicial Council of California Criminal Jury Instructions (November 2019 Update)*, *CALCRIM 562*, “*Transferred Intent*.”) “[T]he doctrine of self-defense is available to insulate one from criminal responsibility where his act, justifiably in self-defense, inadvertently results in the injury of an innocent bystander.” (*People v. Mathews* (1979) 91 Cal. App. 3d 1018, 1024.)

“Under the provocative act doctrine, when the perpetrator of a crime maliciously commits an act that is likely to result in death, and the victim kills in reasonable response to that act, the perpetrator is guilty of murder.” (*People v. Gonzalez* (2012) 54 Cal. 4th 643, 655.)

“A murder conviction under the provocative act doctrine thus requires proof that the defendant personally harbored the mental state of malice, and either the defendant or an accomplice intentionally committed a provocative act that proximately caused an unlawful killing. A provocative act is one that goes beyond what is necessary to accomplish an underlying crime and is dangerous to human life because it is highly probable to provoke a deadly response. Although the doctrine has often been invoked in

cases where the defendant initiates or participates in a gun battle, it is not limited to this factual scenario. Malice will be implied if the defendant commits a provocative act knowing that this conduct endangers human life and acts with conscious disregard of the danger.” (*Ibid.* (citations omitted); *see also Judicial Council of California Criminal Jury Instructions (November 2019 Update), CALCRIM 560, “Homicide: Provocative Act by Defendant.”*)

B. Ian David Long’s Criminal Conduct

Long engaged in felony and misdemeanor criminal conduct immediately prior to the shooting, and at the time of the shooting posed an imminent danger to the lives of victims still in the Borderline and to all law enforcement responding to the scene. Had he survived he could have been charged with the commission of one or more counts of the following crimes:

- First-degree murder in violation of Penal Code sections 187(a) and 189(a), with a special circumstance of multiple murder within the meaning of Penal Code section 190.2(a)(3);
- Willful, deliberate, and premeditated attempted murder in violation of Penal Code sections 664(a) and 187(a);
- Willful, deliberate, and premeditated attempted murder of a peace officer in violation of Penal Code section 664(e) and (f);
- Assault with a firearm in violation of Penal Code section 245(a)(2);
- Assault on a peace officer with a firearm in violation of Penal Code section 245(d)(1);
- Assault on a peace officer in violation of Penal Code section 245(c);
- Threatening an executive officer in violation of Penal Code section 69;
- Armed criminal action in violation of Penal Code section 25800;

- Brandishing a firearm in violation of Penal Code section 417;
- Carrying a loaded firearm in a public place in violation of Penal Code section 417(a)(1);
- Resisting an executive officer in violation of Penal Code section 69; and/or
- Resisting, obstructing, or delaying a peace officer in violation of Penal Code section 148(a)(1).

VI. ANALYSIS³²

On November 7, 2018, Long entered the Borderline and opened fire on unsuspecting patrons. Within minutes, he had killed or mortally wounded 11 individuals and 19 were still inside the business. Long had numerous rounds of ammunition remaining, as well as a knife. He took the time to post messages on social media, had left behind a note about his burial preferences, and intended to die during the incident. The issues that may have triggered his rampage are outside the scope of this report, but, whatever the cause, Long presented an imminent risk of death and great bodily injury to everyone remaining inside the Borderline and to all emergency personnel responding to the scene.

When Sergeant Helus, Officer Barrett, and Officer Espinoza began their approach to the front entrance of the Borderline, they had witnessed the terrified patrons who had escaped running past them, including some who were injured. They had heard repeated statements by those patrons about the shootings. Officer Barrett and Officer Espinoza had heard numerous gunshots. As they approached the door, they were all able to see the body of

³² This legal analysis applies the laws in place as of November 7, 2018, the date of this incident. Assembly Bill 392, Peace Officers: Deadly Force, which enacted Penal Code section 835a and modified Penal Code sections 196, was enacted on August 19, 2019, and became effective on January 1, 2020.

one of the victims, and Officer Barrett and Sergeant Helus saw more bodies as they entered the Borderline.

At that moment, both Officer Barrett and Sergeant Helus each honestly and reasonably believed that Long was an active shooter and that Long's intention was to shoot at and kill any human target he encountered. In their eyes, Long was an active threat of death to any who might encounter him, including themselves, and their mission was to contact and neutralize that threat. Those beliefs were reasonable based upon the information they had and their knowledge of the situation as it was unfolding. Long's actions to that point posed an active threat that would have justified the officers using reasonable force against Long the moment they confirmed that he was the suspect they were looking for. To their credit, no further victims were shot after their gun battle with Long.

In an extraordinary act of heroism due to the active threat Long posed, Sergeant Helus and Officer Barrett entered the Borderline without knowledge of where Long was located, which afforded Long a substantial tactical advantage. They were unaware that Long was hiding in a nearby office and watching their progress into the Borderline on a surveillance monitor. Long ambushed them from a position of advantage, opening fire within 7 to 14 feet of Sergeant Helus. Both Sergeant Helus and Officer Barrett attempted to retreat to cover, but Sergeant Helus fell before he made it out the front entry door. As shots were firing around him, Sergeant Helus low crawled out the door trying to present as small a target as possible.

Officer Barrett retreated down the stairs, shouldered his rifle, and turned to face the person who was shooting at him. He had no cover and very little concealment. By this time, Long had moved to the edge of the front counter, leaned over it, and began firing

out the door. Officer Barrett explained in his interview that he felt he had to shoot at Long or he would not survive the encounter.

Officer Barrett was facing an actual threat to his life as well as the lives of Sergeant Helus and Officer Espinoza. Officer Barrett fired at Long to protect himself and his fellow officers. Long continued to fire at the officers as Officer Barrett shot at Long. There was a short break and then Long resumed firing at the officers and Officer Barrett again returned fire at Long. At all times that Officer Barrett fired his rifle, he was under an honest and reasonable belief that he and his fellow officers faced an active risk of great bodily injury or death and he was justified in defending himself and his fellow officers by shooting at Long.

The law provides that if a police officer is justified in firing at a suspect in order to end a severe threat to public safety, the officer need not stop shooting until the threat has ended. Here, Long continued to fire at the officers during the encounter and continued to pose an actual threat to the officers during the time all shots were fired. Officer Barrett used no more force than was reasonable under the circumstances and all his shots during the gun battle were justifiable as lawful acts of self-defense and defense of others.

At the time Officer Barrett began firing at Long, Sergeant Helus had made it out of the door onto the front landing and was attempting to regain his feet. Sergeant Helus's position was directly in the field of fire between Officer Barrett and Long. Tragically, one of Officer Barrett's shots struck Sergeant Helus as he was attempting to stand, fatally wounding him.

The evidence suggests either that Officer Barrett's shot inadvertently struck Sergeant Helus as he stood in Officer Barrett's field of fire at Long, that Officer Barrett

mistook Sergeant Helus's suddenly rising figure as Long, or some combination of those two scenarios. As tragic as the outcome was, the shooting is justifiable under any of these scenarios because Officer Barrett's intent was to shoot the suspected killer who was actively shooting at him.

In his interview, Officer Barrett explained that, at the time he was firing, he was aiming at Long who was actively shooting at him. He further explained that he was unaware that Sergeant Helus had not followed him down the stairs. The surveillance video also shows that Officer Barrett was firing at Long's location every time he fired. Thus, the evidence establishes that Officer Barrett inadvertently struck Sergeant Helus while he was returning fire at Long and he was unaware that Sergeant Helus was in his field of fire until after Sergeant Helus had been hit.

As was mentioned above, Officer Barrett was justified in shooting at Long because Officer Barrett fired in lawful self-defense and defense of others. Under the doctrine of transferred intent, that justification also applies to the inadvertent shooting of Sergeant Helus. Thus, the shot that struck Sergeant Helus is legally justifiable because it was fired in lawful self-defense and defense of others.

After he was struck, Sergeant Helus fell face down into an alcove on the landing which was directly south of the front cashier counter and was separated from the counter by a window. Sergeant Helus remained in that position until the first round of shooting stopped. Long returned to the Borderline front office and Officer Barrett radioed, "Officer down!" and reloaded his rifle.

Despite being mortally wounded, Sergeant Helus grabbed his rifle, rolled onto his back, and prepared to confront Long if he reappeared. A few seconds later, Long returned to

counter and resumed shooting out the doorway. Sergeant Helus fired eight shots through the window at Long, who continued firing at Sergeant Helus and Officer Barrett.

At the time that Sergeant Helus shot at Long, Sergeant Helus had been shot at by Long from close range and had been struck by one bullet fired by Officer Barrett.³³ It is a testament to his training, character, and valor that even though he had been shot in the heart, he found the strength and determination to continue to protect others and fight to the end. Sergeant Helus was returning fire at a known active shooter who had opened fire at him at point blank range and posed an “an immediate threat to the safety of the officers.” Sergeant Helus used no more force than was reasonable under the circumstances. Thus, Sergeant Helus’s shots at Long were justifiable as lawful acts of self-defense and defense of others.

Long committed 11 atrocious murders, as well as other violent felonies, for which he could have been prosecuted had he survived. Long also ambushed the responding officers causing them to fear for their lives and respond with deadly force which led to the death of Sergeant Helus. In ambushing the officers, Long maliciously committed an act likely to result in death, and Officer Barrett’s response in returning fire was a reasonable response which resulted in the death of Sergeant Helus. Thus, under the provocative act doctrine, if Long had survived, he could have also been prosecuted for the provocative act murder of Sergeant Helus.

³³ Sergeant Helus was also hit by at least five rounds fired by Long during the gun battle, but it is unknown whether any of those injuries occurred before Sergeant Helus began firing at Long.

VII.
CONCLUSION

It is the conclusion of the District Attorney that:

1. When Officer Barrett fired his weapon at Long, Officer Barrett honestly and reasonably believed that he, Officer Espinoza, Sergeant Helus, and all individuals in the area were in imminent threat of death or great bodily injury from Long.
2. Officer Barrett used no more force than was reasonably necessary to defend against the actual threat posed by Long and his use of deadly force against Long was justified as a lawful act of self-defense and defense of others.
3. Officer Barrett's shot that inadvertently hit Sergeant Helus was aimed at Long in lawful self-defense and the fatal shooting of Sergeant Helus by Officer Barrett was a justifiable homicide.
4. When Sergeant Helus fired his weapon at Long, Sergeant Helus honestly and reasonably believed that he, Officer Barrett, Officer Espinoza, and all individuals in the area were in imminent threat of death or great bodily injury from Long.
5. Sergeant Helus used no more force than was reasonably necessary to defend against the actual threat posed by Long and his use of deadly force against Long was justified as a lawful act of self-defense and defense of others.
6. If he had survived, Long could have been prosecuted for Sergeant Helus's death as a provocative act murder.