

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF VENTURA
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REPORT OF THE SHOOTING OF EDWARD MEDINA
BY OFFICER MICHAEL PURDY
OXNARD POLICE DEPARTMENT
ON JULY 1, 2006

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I.

INTRODUCTION

On July 1, 2006, at 12:49 a.m, Oxnard Police Officer Michael Purdy and Oxnard Police Sergeant Jack Kujawa conducted a routine traffic stop on a four door, 2002, Nissan Sentra. The Sentra yielded to the police officer's overhead emergency lights on West Kamala Street, just east of the intersection with "E" Street, in the city of Oxnard. The Nissan Sentra was driven by Rosemarie Valdivia Medina and contained two passengers. Josephine Ortiz Valdivia sat in the right front seat. Decedent Edward Medina sat in the driver's side rear seat. Before the Nissan Sentra came to a complete stop, both Officers Purdy and Kujawa observed rear passenger Edward Medina moving about in the rear seat in an erratic and furtive fashion.

As the officers approached the Nissan Sentra, Officer Purdy asked passenger Edward Medina to place his hands on the headrest on the seat in front of him. Medina did not comply. Officer Purdy repeated the request several times. Medina would not keep his hands in clear sight for the officers to see. Instead, Medina kept his right hand along the side of his right leg near the seat. Officer Purdy opened the driver's side rear door and grabbed Medina's left wrist. Medina continued to defy Officer Purdy's order to exit the vehicle. Medina physically resisted Officer Purdy's attempt to pull him from the vehicle. Sgt. Kujawa joined Officer Purdy near the driver's side rear passenger door. Medina physically resisted both officers' efforts to extricate him from the vehicle. The struggle lasted less than a minute. As Sgt. Kujawa prepared to use pepper spray, Medina abruptly exited the vehicle through the driver's side rear passenger door. Medina held a 9mm semiautomatic pistol in his right hand. He discharged the gun at near point blank range into Sgt. Kujawa's face. Officer Purdy attempted to gain control of Medina. Sgt. Kujawa stepped back and collapsed in the street, bleeding profusely. Medina continued to fire his gun, and Officer Purdy took a few steps back in order to draw his own firearm. Officer Purdy then felt a burning sensation in his legs and fell to the ground. From a seated position on the ground,

Officer Purdy continued to fire his handgun multiple times towards Medina, who retreated to the interior back seat of the Nissan Sentra. Officer Purdy fired all the bullets in his gun. While Officer Purdy reloaded, Medina ran from the Nissan Sentra and out of view.

Officer Purdy used his radio to request assistance. He broadcasted a description of suspect Medina. Other Oxnard Police officers arrived very quickly. Several Oxnard Police officers observed Medina moving north on South E Street, less than a block from the location. Multiple officers approached Medina and attempted to handcuff him. Medina fought and resisted the officers. More than one police officer had to sit on Edward Medina in order to control his arms and lock the handcuffs. Once handcuffed, it became apparent to the police officers that Medina was bleeding and dying.

Two police officers administered CPR until an ambulance arrived. Medina was declared dead at the scene. The Medical Examiner determined the cause of death to Medina was a single gunshot to his chest. Officer Purdy was shot in both legs. Sgt. Kujawa was shot in the chin and throat.

The District Attorney's Office has a 24-hour on-call officer-involved shooting team available to all Ventura County law enforcement agencies to assist in the investigation of officer-involved shootings. The Oxnard Police Department immediately notified the District Attorney's Office. Senior Deputy District Attorney John C. West and Senior District Attorney Investigator Dan Thompson responded to the shooting scene and consulted the investigating officers.

In conjunction with the Oxnard Police Department, Senior District Attorney Investigator Dan Thompson investigated the fatal shooting of Edward Medina. Senior Deputy District Attorney John C. West wrote this report after personally viewing the shooting scene on July 1, 2006, reviewing the applicable legal authority, and the following materials:

- All law enforcement reports
- Oxnard police dispatch records
- All statements of percipient and related witnesses
- All statements of the suspect's family
- Officer Michael Purdy and Sgt. Jack Kujawa's public safety interview
- All crime scene photographs and diagrams
- Records of physical evidence noted and diagramed at the crime scene
- Photographs of officers and their weapons
- Photographs of the suspect's weapon
- Medical Examiner's Death Investigation Report
- Autopsy report and accompanying photographs
- Toxicology report
- Ballistics reports
- State firearms records
- Report by Senior District Attorney Investigator Dan Thompson

The sole purpose of this report is to determine whether Officer Michael Purdy was legally justified in using deadly force against Edward Medina. The evidence establishes that Officer Michael Purdy acted in lawful self-defense when he discharged his weapon. Officer Michael Purdy's use of deadly force was a direct response to Edward Medina's assault with a firearm on Sgt. Kujawa.

II.

STATEMENT OF FACTS

Sequence of events from initiation of the traffic stop to the cessation of gun fire between Edward Medina and Officer Purdy.

This report is divided into two parts. The first section will focus solely on the events which lead to the exchange of gunfire. The second section will focus on the actions of Oxnard Police Officers, other than Sgt. Kujawa and Officer Purdy, in regards to the physical apprehension of Edward Medina. The report is organized in this fashion because the actions of other police officers after the cessation of gunfire is not germane to a determination of whether Officer Purdy was justified in using lethal force.

Oxnard Police Department Dispatch; records and audio recording

The following sequence of events from July 1, 2006, was derived from the real time audio recording of Officer Purdy's radio calls and the Oxnard Police Department dispatch records.

On July 1, 2006, Oxnard Police Officer Michael Purdy was assigned to patrol duties. At 12:49 a.m., Officer Purdy notified police dispatch that he was initiating a traffic stop on vehicle 4YPR530 in the 400 block of Kamala Street. Ten seconds later, Officer Purdy updated dispatch that his location was now E Street and Kamala Street. Sixteen seconds after the initial call, Sgt. Jack Kujawa requested the assistance of additional police officers to conduct the traffic stop. There was no further radio communication between Officer Purdy, Sgt. Kujawa, and dispatch until after both officers had been shot.

Approximately two and a half minutes after the initial traffic stop notification, Officer Purdy radioed dispatch that gun shots had been fired and an officer had been shot. Over the next 50 seconds, Officer Purdy attempted to broadcast a description of the suspect. His voice is

noticeably distressed on the dispatch audio recording. However, he clearly described the suspect as a Hispanic male, shaved head, and a tattoo on the back of the head. Additionally, he announced the suspect wore a blue sweatshirt and gray pants, was with two females, and possessed a silver handgun.

At 12:54 a.m., Officer Mark Amon was on the scene and broadcasted that two ambulances would be needed for Officers Purdy and Kujawa. At 12:54 a.m., Officer William Alva broadcasted that the suspect had last been seen moving northbound on E Street from Kamala Street. Fifteen seconds later, Officer Alva broadcasted the suspect was down.

Shooting Scene Description

This officer involved shooting occurred at the intersection of West Kamala Street and South E Street, in the city of Oxnard. The area is a residential neighborhood in the center of Oxnard, two blocks west of the Center Point Mall. West Kamala Street runs east and west and is intersected by South E Street. South E Street runs north and south and terminates at West Kamala Street, forming a “T” shaped intersection. Located to the south of this intersection is Beck Park. Kamala Grade School is just west of the park. The intersection is controlled by a stop sign for southbound South E Street traffic. An illuminated street light at the northeast corner of the intersection provided lighting to the intersection.

On July 1, 2006, at 1:00 a.m., the weather in Oxnard was clear and cool, 58 degrees Fahrenheit, and a light five mile-per-hour wind.

The shooting events took place near two automobiles near the intersection of West Kamala and South E Street: a brown Nissan Sentra and a distinctive Oxnard Police Department patrol car. The following is a summation of the two vehicles’ positioning and condition as reported by both

the Oxnard Police Department and the Ventura County District Attorney's Bureau of Investigation. [Exhibit 1] A light brown 2002 Nissan Sentra, four-door, license No. 4YPR530, was facing west along the north curb of west bound Kamala Street, just east of E Street. The vehicle's engine was not running. The headlights were on and the right and left front doors were wide open. The driver's side rear door was open. The windows of the vehicle were not tinted. The driver's side rear door window was down, as was the driver's door window. A child car seat was secured in the right rear passenger seat. A nickel semi-automatic handgun was on the driver's side rear seat. The handgun contained an empty magazine and the slide was locked back. Several empty 9mm brass bullet casings were in the area of the open driver's side rear door. Four bullet holes were in the left rear quarter panel of the Nissan Sentra. Two additional bullet holes could be seen in the remnants of the shattered rear window. The left rear tire of the vehicle was completely flat.

A First Defense MK-3 canister of pepper spray was located on the street behind the Nissan.

Ten feet to the rear and east of the Nissan Sentra was Oxnard Police Department patrol car unit 3601, a 2003 Crown Victoria Police Interceptor, four-door, black and white, license 1152346. This was the patrol car assigned to Officer Purdy. Unit 3601 was directly in front of 535 West Kamala Street. Unit 3601 was found with the engine running. The headlights and overhead emergency lights were activated. Both driver and passenger spot lights were illuminated and directed toward the rear window of the Nissan Sentra. The front passenger door of the patrol car vehicle was open. A bullet entry hole was in the front windshield in line with a defect on the steering wheel. Numerous empty 9mm bullet casings were in the well area by the driver's windshield wiper with several more on the street by the left front fender.

Blood drops were found between the Nissan Sentra and the police unit. These blood drops continued to the north sidewalk of West Kamala Street and continued north along the east sidewalk of South E Street. The blood drops led to the front door of 2134 South E street. A sparse blood drop trail continued north on the east sidewalk. Edward Medina lay in the front driveway of 2100 South E Street, approximately 50 yards north of the shooting scene.

Statement of Officer Michael Purdy

On August 29, 2006, Officer Michael Purdy consented to a formal interview by detectives of the Oxnard Police Department. Detective Mike Young conducted the interview. Officer Purdy was represented by an attorney, which is common practice with investigations of officer involved shootings. The interview was audio recorded. The interview paused several times so that Officer Purdy could regain his composure. Officer Purdy gave the following account of events to questions propounded by the police detectives.

On July 1, 2006, Officer Purdy was assigned to Sgt. Kujawa's squad in the street gang enforcement unit. He began his twelve hour shift partnered with Officer Lucy Buttell. Near the end of their shift, Officer Purdy decided to continue patrol as a single man unit because his partner had paperwork to complete at the station house. While at the police station, Officer Purdy saw some other officers and asked them if one could be his partner. Sgt. Kujawa agreed to accompany Officer Purdy for the remaining hours of their shift.

Intending to return to the police station to complete end of shift paperwork, Officer Purdy and Sgt. Kujawa drove northbound on C Street. At the intersection of C Street and Laurel Street, they observed a Nissan traveling westbound on Laurel Street. He observed the Nissan slow and make a right turn to northbound C Street, failing to stop for a posted stop sign. Officer Purdy decided to make a traffic stop. Both vehicles continued north-bound on C Street. The Nissan

turned westbound at Kamala Street from C Street. After the turn, Officer Purdy notified police dispatch of the traffic stop and activated his overhead emergency lights.

The Nissan continued westbound on Kamala Street and began to slow as it approached the intersection of E Street and Kamala Street. At this point, Officer Purdy noticed a passenger moving around in the rear seat. As the Nissan slowed, Officer Purdy noticed the Nissan rock as the rear passenger appeared to be pushing at the rear door. Sgt. Kujawa then commented the rear passenger may attempt to exit the car and flee. The Nissan stopped along the curb on Kamala Street, just east of the intersection with E Street. Officer Purdy parked his patrol car (unit 3601) behind the Nissan and slightly offset to the Nissan's driver's side.

Sgt. Kujawa exited the patrol car and approached the Nissan ahead of Officer Purdy. Sgt. Kujawa approached the passenger side. Officer Purdy approached the driver's side. The driver's side rear window was approximately half open. As Officer Purdy neared the Nissan, he could see that the single rear passenger was male and the driver was female. Officer Purdy could not determine the sex of the third occupant seated in the right front passenger seat. Officer Purdy did not recognize the rear male passenger as someone known to him.

Officer Purdy asked the male passenger in the rear driver's side seat to place his hands on the headrest of the seat in front of him. The rear male passenger did not respond. Officer Purdy repeated the request. The male passenger then complied. Able to see both hands, Officer Purdy began to move towards the driver's car door. The male passenger then moved his hands back down and out of Officer Purdy's view. The request to see his hands was repeated and again the male passenger complied. As Officer Purdy continued to move towards the driver's door, the male passenger dropped his right hand out of view. Officer Purdy told the male passenger something similar to "Let's not make this hard, just leave your hands up there."

Next, the rear male passenger moved his body forward so that his chest was up against the back of the driver's seat. The male passenger leaned forward and brought his head up to the right side of the driver's head. Words were exchanged; however, Officer Purdy was unable to understand what was said. Office Purdy saw the driver's head nod in an affirmative fashion as they spoke.

Once again, Officer Purdy instructed the rear male passenger to place his hands on the headrest. The male passenger sat back in his seat and did not comply. Officer Purdy became increasingly concerned that the male passenger had a weapon.

Officer Purdy opened the driver's side rear door and grabbed the rear male passenger's left hand. Officer Purdy utilized a "Lazy C" control hold.¹ The Lazy C control hold is a pain compliance technique Officer Purdy had learned through training at the Oxnard Police Department. Officer Purdy utilized the Lazy C control hold because the maneuver would have permitted the male passenger to exit the vehicle on his own. Officer Purdy wanted to determine whether the passenger possessed a weapon. Officer Purdy asked the male passenger to step out of the car, but the male passenger remained in his car seat. Officer Purdy was unable to see the male passenger's right hand as it was concealed against his right leg. Officer Purdy could not recall exactly, however he believed he asked the male passenger to put his hands on the seat more than two or three times.

The Lazy C control hold was ineffective in gaining the male passenger's compliance. Officer Purdy then utilized an "Arm Bar" control hold.² This is another control hold Officer Purdy had

¹ The Lazy C hold is a control hold technique which places pressure onto the back elbow and creates uncomfortable pain should the subject not comply with the officer's directives.

² The Arm Bar hold is a control technique which produces leverage on the back of the subject's arm and permits the officer to force the subject's head and shoulders towards the ground.

learned through training at the Oxnard Police Department. Officer Purdy chose to use the Arm Bar control because the maneuver would more effectively extricate the rear male passenger and then maintain control of him in the event of more resistance.

As Officer Purdy proceeded to remove the rear male passenger, the driver screamed, "Leave him alone, let him get out on his own." And, "His feet are stuck." Officer Purdy looked at the rear male passenger's feet. He could see the passenger's feet were on the floorboard and were not stuck. Officer Purdy was also aware the male passenger was not wearing a seatbelt.

Sgt. Kujawa came around the Nissan to assist as Officer Purdy continued to pull on the rear male passenger using the arm bar technique. Sgt. Kujawa reached into the Nissan and grabbed the male passenger's right arm. Both officers attempted to pull him from the car. The male passenger continued to resist. During the struggle, Sgt. Kujawa lost his grip on the passenger's right arm. Officer Purdy maintained control of the passenger's left arm.

Officer Purdy told Sgt. Kujawa to use pepper spray on the rear male passenger. Sgt. Kujawa stood right next to Officer Purdy and shook the pepper spray container. Sgt. Kujawa stuck his arm out to spray the rear passenger. At that same moment, the rear passenger jumped out of the Nissan with a silver or chrome gun in his right hand. Officer Purdy saw the gun and heard gun fire. Officer Purdy pushed the rear passenger's arm and tried to force him back into the car. Officer Purdy attempted to position the male passenger such that he could not shoot directly at either police officer. Officer Purdy heard more gun fire as he attempted to physically pin the male passenger's front body up against the Nissan. Officer Purdy saw a muzzle flash over the passenger's shoulder. Fearing he was losing control, Office Purdy pushed away and retrieved his own firearm.

Officer Purdy began to return gun fire. He walked backwards in an attempt to place some distance between himself and the rear passenger. He momentarily saw Sgt. Kujawa holding his face and bleeding. Officer Purdy then felt a burning sensation in his legs. He could not move and fell to the ground on his back. He saw Sgt. Kujawa bleeding and gasping for air. Officer Purdy observed the rear male passenger stand and face him. From the ground, Officer Purdy continued to fire. The male passenger retreated to the Nissan's back seat through the open rear door. Not knowing whether he was reloading or had a second weapon, Officer Purdy continued to fire until his own weapon magazine was empty. As Officer Purdy began to reload his handgun, the male passenger exited the car a second time. Officer Purdy mistakenly grabbed a pepper spray container from his utility belt, instead of a loaded magazine. He dropped the pepper spray and completed the reloading sequence. Officer Purdy resumed shooting. The male passenger turned and ran towards the front of the Nissan. At that point, Officer Purdy lost sight of him and stopped shooting.

Officer Purdy found himself on the ground by his patrol car's left front tire. He could not move his legs. He did not know where the male passenger had gone. He saw Sgt. Kujawa bleeding badly. He could hear a women screaming at him from behind the patrol car. She screamed repeatedly, "I am gonna sue you, you shot me." Officer Purdy did not know whether the women also had a gun. As Officer Purdy radioed for assistance, he continued to keep his guard up watching the women, Sgt. Kujawa, and looking for the male passenger to return. When police officers did arrive, he re-holstered his gun and laid back.

Statement of Sergeant Jack Kujawa

Officer Jeff McGreevy arrived at the scene and was directed to travel with Sgt. Kujawa in the ambulance to the hospital. Officer McGreevy asked Sgt. Kujawa what happened. Officer McGreevy recorded Sgt. Kujawa's brief statement. Sgt. Kujawa answered that he and Officer

Purdy were contacting a person in the backseat of a vehicle. There were two females in the front seats and a male in the backseat. The male in the backseat was trying to hide something from the officers. Sgt. Kujawa sprayed the male with oleoresin pepper spray and then suddenly heard gun shots. Sgt. Kujawa said he did not initially see the gun. He fell to the ground injured and heard Officer Purdy return fire.

On July 2, 2006, Oxnard Police Department Detective Mike Young went to St. John's Regional Medical Center to see Jack Kujawa. Although Sgt. Kujawa was alert, he was unable to talk due to a tracheotomy tube. It was decided to postpone a formal interview with Sgt Kujawa until he could effectively communicate.

On July 14, 2006, Sgt. Jack Kujawa consented to a formal interview by detectives of the Oxnard Police Department. The interview was monitored by Senior District Attorney Investigator Dan Thompson. Sgt. Kujawa waived his right to have an attorney present and advise him during the interview. Sgt. Kujawa was able to speak, however, the tracheotomy hole in his neck was not fully healed. Many times during the interview, he had to cover the injury in order to enunciate. The interview was tape recorded. Sgt. Kujawa gave the following account of events to questions propounded by the police detectives.

On July 1, 2006, Sgt. Kujawa was working in a special enforcement unit which focused on street gang activity and crimes. His 12-hour shift began at 2:00 p.m., June 30, 2006. Around midnight, Sgt. Kujawa found himself at the Oxnard Police station. He had been working in a three-man patrol car with Officer McGreevy and Officer Wilkie. Sgt. Kujawa noticed that Officer Michael Purdy was preparing to leave the station and return to patrol duties alone. Officer Purdy's patrol partner was unable to finish the shift. Sgt. Kujawa decided to ride with Officer Purdy for the remaining two hours of their shift.

Approaching 1:00 a.m., Sgt. Kujawa and Officer Purdy began to drive back to the police station in order to complete end of shift paperwork. On their way back, Sgt. Kujawa observed a small four-door Nissan vehicle fail to stop for a stop sign at the intersection of C Street and Laurel Street. Sgt. Kujawa estimated the vehicle rolled through the stop sign at 15 to 20 mph. Officer Purdy turned the police car north from Laurel Street on to C Street and followed the Nissan. Officer Purdy illuminated the Nissan with the patrol car's driver's side spotlight. Immediately as the spotlight illuminated the vehicle, a male passenger in the back seat turned around and stared wide eyed at the officers through the rear window. The rear passenger was completely turned around in his seat. Sgt. Kujawa could see both of his hands positioned on the top of the rear seat. The rear male passenger then turned and sat down properly in his seat. The passenger's odd movement caused Sgt. Kujawa to suspect the passenger was attempting to hide something.

The police car continued to follow the Nissan northbound on C Street, approaching Kamala Street. They were now east of Beck Park. The officers followed the Nissan for approximately half a block further before they activated the overhead emergency lights and initiated the traffic stop. The Nissan turned west bound on Kamala Street from C Street. The Nissan began to slow down and came to a stop at the northeast corner of the intersection at South E Street and West Kamala Street. Officer Purdy adjusted the driver's side spotlight to illuminate the Nissan.

Both officers approached the Nissan. Officer Purdy approached the driver's side and stood just behind the rear passenger door. Sgt. Kujawa approached likewise on the passenger side. There was a single male passenger seated in the driver's side rear seat. The only other occupants of the Nissan were two females seated in the front seats. Officer Purdy ordered the male passenger to place his hands on the headrest on the seat in front him. The male passenger did not comply and

Officer Purdy repeated the command several more times. Sgt. Kujawa recalled Officer Purdy telling the male passenger, “Stop screwing around.”

The male passenger continued to ignore Officer Purdy’s commands. Sgt. Kujawa drew his handgun and held it to his side. Sgt. Kujawa used his flashlight to illuminate the interior of the Nissan and peered through both the back window and the right rear window. Sgt. Kujawa could see the male passenger moving his hand from the back of the driver’s seat to his side. The male passenger’s behavior caused Sgt. Kujawa to suspect the passenger possessed drugs, not a gun.

Sgt. Kujawa did not recognize the male passenger as Edward Medina at this time. However, Sgt. Kujawa knew Medina and had contact with him prior to July 1, 2006.

Sgt. Kujawa saw that Officer Purdy had begun to gain some physical control of the male passenger. Officer Purdy held the passenger’s left wrist. Sgt. Kujawa broadcasted to dispatch and other police officers a request for additional units as he walked around the rear of the Nissan towards Officer Purdy. Sgt. Kujawa carried his gun in his hand in a “lower than a low ready” position. His flashlight was put away. As Sgt. Kujawa came to the driver’s side, he observed the driver’s side rear door was open and Officer Purdy had the male passenger in a left hand wrist-lock control hold. Sgt. Kujawa saw the male passenger’s right hand on the door frame which separates the front and back driver’s side doors. After observing the male passenger’s two hands, Sgt. Kujawa holstered his handgun believing that he and Officer Purdy would be able to safely remove the passenger from the back seat.

Sgt. Kujawa heard the females in the front seat speaking. One female made statements to the effect of, “Why are you guys doing this?” and, “Leave him alone.” The other female was telling the male passenger, “Just do what they say, mijo, just do what they say.”

The male passenger continued to resist the officers' efforts to remove him from the car. The male passenger used his right hand to brace himself against the door frame. Officer Purdy stood in the area between the open rear door and the vehicle. Sgt. Kujawa positioned himself between Officer Purdy and the hinged side of the open rear door. Sgt. Kujawa gained control of the right wrist, while Officer Purdy continued control of the left hand. As the male passenger continued to fight the officers' attempts to extricate him, Sgt. Kujawa heard one of the female occupants say something to the effect that his feet were stuck. Sgt. Kujawa knew that not to be true because earlier in the traffic stop, he had clearly seen the male passenger's feet illuminated on the floor of the car.

Satisfied that the male passenger's conduct was in violation of California Penal Code section 148, resisting, obstructing, and delaying an officer in his duties, Sgt. Kujawa decided to use pepper spray to gain compliance. Sgt. Kujawa released the male passenger's right hand. Immediately, the male passenger came out of the car and stood up between the two officers. The male passenger ducked as Sgt. Kujawa attempted to spray him. The spray went towards Officer Purdy. Sgt. Kujawa continued to watch the male passenger and attempted again to gain control of his hand. Next, Sgt. Kujawa heard a gunshot. He felt an impact on his chin. He never saw the gun and did not even see a muzzle flash.

Sgt. Kujawa told the interviewing detectives that the next thing he remembered was being on the ground and holding his throat with both of his hands. He collapsed about ten feet from where he had been shot. He recalled seeing the tire of the police car in the corner of his eye. He fell to the ground face forward and does not believe he lost consciousness. He saw blood pouring out from between his fingers. He could see a pool of blood form beneath him. His thought turned to the

realization he was going to die right there in the street. In the background, he heard gunfire and females screaming.

As Sgt. Kujawa knelt bleeding in the street, he recalled observing Officer Purdy fall back into a seated position on the ground. Officer Purdy sat between Sgt. Kujawa and their patrol car. Officer Purdy was firing his weapon from this seated position.

At this point, the July 14, 2006, interview was stopped because Sgt. Kujawa became emotional. When the interview resumed, Sgt. Kujawa continued to describe the gun battle. He described that he was not able to move, yet could hear the activity around him. He heard gun fire for five to ten seconds. He heard at least 20 rounds fired, with the majority of gun shots from Officer Purdy. Sgt. Kujawa recalled his eyes were open and he could see Officer Purdy firing multiple rounds toward the male passenger. He heard Officer Purdy yelling. He was aware that Officer Purdy fell to the ground and was injured. Sgt. Kujawa made these observations as he grasped his throat tightly, believing that if he released his grip he would bleed to death. When the shooting stopped, Sgt. Kujawa heard Officer Purdy broadcast “shots fired,” “officer down,” and the suspect’s description. The next thing he could recall was the arrival of other police officers, giving them a message to relay to his family, and going to the hospital. The interview ended with Sgt. Kujawa’s acknowledged appreciation, “Mike did a hell of a job.”

Injuries Sustained by Officer Michael Purdy

Officer Michael Purdy described his injuries during the August 29, 2006, interview. On July 1, 2006, a bullet struck his right leg. The bullet fractured his femur and exited his leg leaving a through and through wound. Another bullet struck his left leg. The bullet went under his knee cap, broke his femur, struck his sciatic nerve, and lodged in his buttocks. At the time of the

interview, the bullet wound had caused paralysis to his left leg along the left side and top of his left foot and toes.

On July 2, 2006, Officer Payn received a bullet slug from Dr. Began. The bullet had been removed from Officer Purdy's upper posterior thigh. Officer Payn gave the bullet to Detective Young, who in turn preserved the bullet as evidence item 58.

On July 5, 2006, Detective Curtis Smith observed and photographed Officer Purdy at the hospital. In addition to the injuries described above, the detective also observed what appeared to him to be a bullet graze wound on Officer Purdy's right forearm.

Bullet Strikes and Injuries Sustained by Sergeant Jack Kujawa

On July 1, 2006, Officer Jeff McGreevy was present at the crime scene when medical personnel began treating Sgt. Kujawa. Officer McGreevy collected Sgt. Kujawa's clothing and equipment as medical personnel cut and removed them. Of most significance, Officer McGreevy collected Sgt. Kujawa's ballistic vest front panel and back panels, t-shirt, Sam Brown gun belt, and dress shirt. Officer McGreevy noticed that the gun belt contained two loaded magazines. Officer McGreevy placed the items into an evidence locker at 5:35 a.m. Later that morning while processing the white T-shirt, evidence item 26, he noticed a hollow jacketed bullet embedded in the rear portion of the shirt collar. The bullet was completely expanded and had blood stains. He preserved the bullet slug as evidence item 27. On July 9, 2006, Officer McGreevy returned to the locker storage room to package the dried clothing. He then noticed a bullet slug in the lower left portion of the ballistic vest's rear panel. Officer McGreevy did not attempt to remove the slug.

On July 21, 2006, Detective Palmieri examined Sgt. Kujawa's clothing and equipment. Sgt. Kujawa's black police uniform shirt had been cut off with scissors. The shirt, name plate, and badge were soaked in blood. Detective Palmieri found a tape recorder in the left breast shirt pocket. The audio tape contained recordings of unrelated matters and had not been activated during the traffic stop. Sgt. Kujawa's Sam Browne gun belt and under belt contained a double ammo pouch, a pepper spray pouch, and a handcuff case. The ammunition pouch was snapped closed and contained two magazines. Each magazine contained 15 rounds of live ammunition. The pepper spray pouch was open and empty. The handcuff case was closed and contained handcuffs. Detective Palmieri placed the two magazines and live rounds into evidence. Detective Palmieri noticed Sgt. Kujawa's ballistic vest had a defect in the back panel. The location of the defect would correspond with the wearer's left back. The defect appeared to be a bullet strike which entered the interior of the vest. Upon further inspection, Detective Palmieri found a bullet imbedded in the Kevlar layers of the vest. He removed the bullet and preserved it as evidence item 165.

On July 1, 2006, detectives observed and photographed Sgt. Kujawa's injuries. Sgt. Kujawa also described his injuries during the July 14, 2006 interview. A bullet struck Sgt. Kujawa's chin, entered his neck, and exited below his right ear where his neck meets his shoulder. Dr. G. Scott Vorrman stated the bullet missed Sgt. Kujawa's carotid artery by .5 cm. Another bullet struck Sgt. Kujawa's left side creating a tear shaped contusion near his left hip.

On July 2, 2006, Detective Mike Young went to St. John's Regional Medical Center to see Jack Kujawa. Detective Young observed numerous small spots on the skin of Sgt. Kujawa's left hand fingers. The spots appeared to Detective Young to be gun powder stippling which resulted from being in close proximity to the muzzle of a discharged handgun.

Statement of Josephine Ortiz Valdivia.

On July 1, 2006, Josephine Ortiz Valdivia, age 44, was the right front passenger in the Nissan Sentra. Oxnard police officers had handcuffed and arrested her at the crime scene for attempted murder. She was transported to the police station where her clothing was searched. No guns or weapons were found on Josephine Valdivia. As detectives worked throughout the night of July 1, 2006, they gained a clearer picture of what transpired and no longer considered her an accomplice in this matter. She was released from custody at the Oxnard police station. She was interviewed by detectives at 6:25 a.m. Prior to the interview, Detectives Burr and Smith told Ms. Valdivia that she was considered a witness and that she was no longer in police custody. Ms. Valdivia gave the following account of events to questions propounded by the police detectives.

On July 1, 2006, Ms. Valdivia had planned to go to the Chumash Casino with Rosemarie Valdivia Medina, also known as Rosemary. Rosemarie would drive. Edward Medina was in the car when Rosemarie arrived to pick up Ms. Valdivia. Rosemarie told Medina to sit in the back seat. Ms. Valdivia sat in the front passenger seat.

Rosemarie's Nissan turned on to Laurel Street. Ms. Valdivia believed that Rosemarie did not come to a complete full stop for a stop sign. Ms. Valdivia was not aware when the police began to follow the Nissan. On Kamala Street, the patrol car's lights were activated. The officers approached the car on opposite sides. She heard the police officers giving instructions. The officer on the driver's side was saying, "Passenger" and "put your hand up." She thought these instructions were meant for her.

Edward Medina sat in the driver's side rear seat. Ms. Valdivia sat in the front passenger seat. She assumes the officers opened the rear car door. She looked over her left shoulder and saw the police officers pulling on Medina. Ms. Valdivia told the detectives that it appeared that

Medina did not want to get out of the car for some reason. She saw Medina resisting the officers' effort to remove him from the car. As this was happening, Josephine Valdivia and Rosemarie shouted to Medina, "Get out, get out." Josephine Valdivia heard Medina tell the officers that he could not get out of the back seat because he was too tall. He told the officers to wait a minute. Ms. Valdivia turned her head back, no longer watching the officers grabbing Medina. Next, Ms. Valdivia heard gunshots. During the gun fire, Ms. Valdivia ducked down in the front seat. She told the detectives, "I don't know who pulled what." At first, Ms. Valdivia thought that Medina was shot and still remained in the back seat. She was unaware the officers had been shot until she was handcuffed and walked to a police car. She told detectives she was not injured.

Detectives showed Ms. Valdivia a photograph of Edward Medina. She identified the person in the photograph as "Edward." She knew his street name as Listo. She stated she has known Medina for a "long time"; however, she had not seen him in recent years. Ms. Valdivia explained her extended family relation to Edward Medina. Josephine Valdivia is married to Rosemarie's brother, Arnold. Rosemarie is married to Edward Medina's brother, Augustine Medina. Hence, Edward Medina is Rosemarie's brother in law.

Ms. Valdivia described Edward Medina as a trouble maker. People she knew did not want him around, "Like he's kinda, not all there."

Statements of Rosemarie Valdivia Medina

On July 1, 2006, Rosemarie Valdivia Medina, age 39, was the driver of the Nissan Sentra. She was not licensed to drive a car. During the shooting, she suffered a laceration to her head. The very first arriving police officers placed her inside a locked patrol car while they gained control of the crime scene. Next, she was transported to the hospital. Detectives spoke to her at the

hospital. Later that same morning, she voluntarily came to the Oxnard Police Station and was interviewed in more depth.

Ms. Medina described what happened to her as Officer Kevin Adair placed her in custody at the crime scene. Ms. Medina told Officer Adair she had been kidnapped by the male person that was in the vehicle with her. She also stated she had been shot in the back of the head. Officer Adair secured Ms. Medina in the back seat of Officer Alva's patrol vehicle.

Inside the patrol car, Ms. Medina made more statements to Thomas Hannah. On July 1, 2006, Thomas Hannah, age 37, was a ride-along civilian observer with Officer William Alva. Officer Alva was the first officer to arrive and assist Officer Purdy and Sgt. Kujawa. Mr. Hannah was seated in Officer Alva's patrol vehicle when Ms. Medina was placed in the back seat. Mr. Hannah told detectives that he heard Ms. Medina curse and complain. She did not mention anything about the gun fire other than she was shot and intended to sue everyone involved.

Officer Brian Woolley attended to Ms. Medina. He went to Officer Alva's patrol car and saw Ms. Medina handcuffed in the left rear back seat. The left side of her head was saturated in blood. Officer Woolley removed Ms. Medina from the patrol car and transported her to another patrol car further away from the primary crime scene. During that time, Ms. Medina was yelling and making statements. Officer Woolley activated his audio recorder.

At 1:04 a.m., less than 15 minutes after Officer Purdy's distress call, Ms. Medina told Officers Woolley and Lucy Buttel that a person named Edward jumped into her car when she was in the area of Oxnard Blvd. She stated Edward ran up to her car and jumped into the back seat. She was very scared of him. She didn't see any weapons at that time. She described that Edward acted "really weird." At another time, she yelled, "This guy jumped in my car." Followed by,

“He had me at gun point.” The two officers stood by Ms. Medina until the ambulance crew arrived. Ms. Medina also said she takes prescription medication, Zoloft and Xanax.

Officer Buttell heard Ms. Medina scream that she was going to sue the Oxnard Police Department for shooting her in the head. Officer Buttell noted in her report that Ms. Medina spoke coherently as she swore at the officers. As Ms. Medina was being wheeled to the ambulance, she said, “They shot my son.” The ambulance left for the hospital at 1:22 a.m. Officer Woolley rode in the ambulance with Rosemarie Medina.

On July 1, 2006, at about 3:00 a.m., Detective Bob Coughlin interviewed Ms. Medina in the emergency room of Community Memorial Hospital. Officer Woolley was present. The interview was tape recorded. Detective Coughlin introduced himself. Ms. Medina informed Detective Coughlin that she was the mother of Augustine Medina. Her son, Augustine, had been murdered three years prior. Detective Coughlin informed her that he was familiar with the case because he was the lead detective on that homicide investigation. To date, no person has been criminally charged for that crime. Between moments of crying, Ms. Medina gave the following account of events.

She and her sister-in-law, Josephine Valdivia, were traveling south on Oxnard Boulevard. She was stopped at a traffic light near Buddy Burgers. While waiting for the light to turn green, an “unknown male” entered her car. The male sat in the driver’s side rear seat. The male had a gun and threatened to kill her. He said to her that he would kill her if she did not drive him where he wanted to go. Ms. Medina told Detective Coughlin that she never saw the male who jumped into the back seat of her car. She also said she did not see the gun. While driving in the area of the Santa Clara church and school, a police car illuminated her car with a spotlight. She traveled westbound on Laurel Street and continued westbound on Kamala Street along the north side of

Beck Park. Ms. Medina explained that she was driving to her sister-in-law's house on Lassen Street.

She pulled her car to the curb and stopped. She heard police officers yelling, "Passenger! Put your hands up on your head!" The officers told her not to turn around and continue to look forward. The officers repeated their command, "Passenger! Put your hands up on your head!" Rosemarie saw Josephine Valdivia, her right front passenger, put her hands on her head. The officer then yelled, "Not you, the one in the back."

Rosemarie Medina noticed the left rear passenger door had been opened. She recalled telling the male in the backseat to cooperate with the police. She also saw in her peripheral vision a second officer approach the driver's side of the car. The second officer had a gun in his hand. Rosemarie said she could not see what was occurring in the back seat, but she could feel the officers yanking on the male. She did not look back to see how the officers were attempting to remove him from the car. She recalled the male telling the officer his foot was stuck. Other than that, she could not remember what either the male or officers specifically said.

After the gun fire, Rosemarie Medina got out of her car and looked for help. She did not see anyone in the area. She ran to the house on the northwest corner of West Kamala Street and South E Street. She saw blood and screamed, "Somebody help us!" Ms. Medina became more upset as she remembered being handcuffed, bleeding, and placed in the back of the police car. Detective Coughlin stopped the interview to give Ms. Medina a chance to calm down.

Detective Coughlin resumed the interview with Rosemarie Medina at 3:24 a.m.

Ms. Medina speculated that the intent of the "unknown male" was to "probably jack my car."

Ms. Medina then turned the topic of the interview to her dislike for Oxnard police officers and

how she has been mistreated by the department in the past. The interview ended, and Detective Coughlin returned to the Oxnard police station. Rosemarie Medina was treated by emergency room doctors about 20 minutes later.

Subsequent to the emergency room interview, Detective Coughlin learned the decedent was Edward Medina. Detective Coughlin knew that Rosemarie Medina and Edward Medina were related. Suspicious that Rosemarie in fact knew the identity of the “unknown male” that jumped in her car, Coughlin returned to Community Memorial Hospital. At 5:00 a.m., Detective Coughlin found Rosemarie in the emergency room awaiting her paperwork and discharge. She agreed to voluntarily accompany him to the police station after her release. Her consent was audio recorded.

Detective Coughlin transported Ms. Medina to the Oxnard Police station and the interview resumed at 5:37 a.m. The interview was audio recorded. Senior District Attorney Investigator Dan Thompson monitored the interview. Ms. Medina was not in custody or under arrest. The interview resumed with Ms. Medina reconfirming that the passenger in the car was her sister-in-law, Josephine Valdivia. Ms. Medina also reconfirmed that she was driving from Josephine’s house on Will Avenue to a house on Lassen Street. Detective Coughlin asked her to explain again what happened on Oxnard Boulevard. Ms. Medina responded, “I don’t want to say anything.” She continued, “I’d rather speak with a lawyer or an attorney, you guys have done nothing for my child. Why should I help you guys out?”³

³ On September 7, 2003, Augustine Medina, age 19, son of Rosemarie Medina, was killed by gunfire while attending a party in the 2100 block of Walden Ave, in Oxnard. Gilbert Hernandez, age 19, was also killed. The double murders occurred when uninvited guests entered the rear yard of a residence and proceeded to fire upon the party guests. The crime was reportedly street gang motivated. To date, no person has been charged for the murders.

Detective Coughlin continued to ask Ms. Medina questions. As he did so, he placed a Ventura County Sheriff booking photograph of Edward Medina in her view. Detective Coughlin asked whether the man in the back seat of her car was a family relative. She responded, "I don't know. I ain't going to say anything. I've seen the picture. I know." Detective Coughlin continued to query about whether she knew the identity of the back seat passenger. She answered, "I wish I did." Rosemarie said she did not see anything because she did not turn around to look.

As the interview progressed, Ms. Medina's story began to change. She confirmed that Edward Medina was a passenger in her car when she picked up Josephine Valdivia on July 1, 2006. She came across Edward Medina as he was walking on the side of the road near her home. He asked her for a ride and entered her car. After picking up Josephine, all three persons stopped at the Valero gas station at Simon Way and Vineyard Avenue to purchase gas.⁴ While at the station, Edward Medina tried to exit the car through the back seat doors. The child restraint door locks were activated such that Edward could not open the doors. After completing the purchase, Rosemarie continued to drive with Edward Medina as a passenger. When the police patrol car put the spotlight on her car, Edward said, "Let me out," and, "I'm going to run."

Once again, Ms. Medina described to Detective Coughlin what she saw and heard when the officers approached her car. The officers yelled, "Passenger, put your hands on top of your head." Ms. Medina continued to look straight ahead, as ordered by the officers. She recalled that Edward Medina did not open the passenger door to get out. She attributed this to the child-lock feature on the rear doors. She believed the rear driver's side window was down. She did not know what Medina had done to cause the police officers to want him out of the car. She did

⁴ On July 12, 2006, Sgt. Terry Burr went the Valero Gas Station at 3202 East Vineyard Avenue, Oxnard. He spoke to store manager Laura Williamson and requested to view the store surveillance video footage for the period June 30, 2006, 9:00 p.m. to July 1, 2006, 12:50 midnight. Sgt. Burr watched the video and did not see Edward Medina, Rosemarie Medina, or Josephine Valdivia in or about the store.

not know how the rear door ultimately opened. The physical struggle lasted for less than a minute. Then she heard approximately 20 gun shots. She was struck in the head and got out of the car.

Ms. Medina stated she did not know if Edward Medina possessed a gun that night or not. She admitted to having seen him with a gun on prior occasions. She recalled seeing Edward possess a small, six-inch length gun, on Monday, June 27, 2006. She made this observation while at his mother's house on Lassen Street.

Detective Coughlin confronted Ms. Medina, asking her why she lied during the interview at the hospital. She replied that she intended to delay telling the truth until she was at the police station.

During the interview, Ms. Medina indicated she had taken a Valium pill at approximately 6:00 p.m., which would have been about six hours before the traffic stop. Also, she commented that Edward Medina was not welcome at the homes of family members. Family members were afraid of him because he would act out violently.

At the conclusion of the station house interview, Detective Coughlin notified Rosemarie Medina that Edward Medina had been shot and died from his wounds. It was apparent from her demeanor and manner of speaking about Edward Medina, throughout both the hospital and station house interviews, that she had been unaware of this fact.

At 6:20 a.m., Detective Coughlin transported Rosemarie Medina to her Oxnard residence.

Injury and Medical Treatment for Rosemarie Medina

On July 1, 2006, about 3:40 a.m., Community Memorial Hospital medical staff removed two metal fragments from the left side of Rosemarie Medina's head. One metal fragment was embedded in her hair. The other metal fragment was removed from soft tissue on the outside of her skull. The metal fragments were placed in separate jars and given to Officer Woolley. Officer Woolley preserved the metal fragments as evidence items 19 and 20, respectively. The injury was photographed.

July 1, 2006, Shooting Scene Investigation Evidence Collection

On July 1, 2006, at the intersection of West Kamala Street and South E Street, detectives examined Oxnard patrol vehicle unit 3601, the Nissan Sentra, and the area in the street around both cars for ejected bullet casings and other evidence. Sixteen Win Luger brand 9mm bullet casings were found scattered on and around unit 3601. Seven Win Luger brand 9mm bullet casings were found on the street south of unit 3601 and in the general area of the patrol car's door. One Win Luger brand 9mm bullet casing was found on the street next to the left front tire of the Nissan Sentra. One Win Luger brand 9mm bullet casing was found in a storm drain north of unit 3601. Seven Win Luger brand 9mm bullet casings were found near the windshield wipers of unit 3601.

One Winchester 9mm brass casing was found on the street between unit 3601 and the Nissan. Five S&B Luger brand 9mm bullet casings were found on the street scattered in the area south of the Nissan Sentra. One S&B Luger brand 9mm bullet casing was found on the rear seat of the Nissan Sentra.

Officer Purdy's empty 9mm semi-automatic handgun magazine was found on the street south of unit 3601. Several officers noted its position when they arrived and first approached Officer Purdy. In particular, Officer Kevin Adair recalled seeing the empty magazine beneath Officer

Purdy's left leg on the ground. He also observed Officer Purdy's handgun snapped closed in its holster with the hammer locked to the rear.

Detectives examined Oxnard Patrol vehicle unit 3601 for evidence of bullet strikes and gun fire. After an examination in the street, unit 3601 was impounded so that a more thorough search could resume at a later time. Detectives located two bullet strikes on unit 3601. A bullet struck the front engine hood where the hood meets the front grill. This bullet passed through the outer metal and hit another metal piece inside the engine compartment. The bullet then fell to the ground underneath the engine compartment. The bullet fragment was collected as evidence. Another bullet struck the front windshield directly in front of the driver's seat. The bullet entered the front windshield, passed through the driver's seat head rest, passed through the Plexiglas partition, and struck the rear window. The rear window was unbroken. The bullet was found on the rear window deck and collected as evidence.

Detectives searched the Nissan Sentra on July 1, 2006, at 7:50 a.m., pursuant to a judicial search warrant. The car was subsequently impounded and towed to a secure police facility. A Kahr 9mm semiautomatic handgun, serial number AR2264, model K9, nickel finish, black grips was found in the back seat. The handgun was collected by Leonard Romero, a ballistics expert with the Oxnard Police Department. He observed the handgun's slide was locked back, the magazine clip was engaged, and the magazine and chamber were empty. One brass bullet casing was found in the back seat. A bullet fragment was found in the right front seat. A piece of bullet jacket was found at the right front windshield. A simulated small Derringer handgun (not a real firearm) was located under the driver's seat.

July 1, 2006, Retrieval and Examination of Weapons.

Sgt. Steve Kawaguchi was one of the first officers to respond to Officer Purdy's broadcast, "officer down." He arrived after several other officers and before the paramedics. He rendered aid to Sgt. Kujawa and retrieved Sgt. Kujawa's handgun. He gave the handgun to Officer Funk, and then took command to set up a perimeter and secure the crime scenes. Officer Funk delivered Sgt. Kujawa's handgun to Sgt. Jim Seitz at the Oxnard police station. At the station, weapons expert Leonard Romero and Sgt. Seitz examined the Sig Saur Model P226, serial number U435372. The handgun had one round in the chamber and 15 rounds in the magazine. The magazine was engaged.

On July 1, 2006, Officer Rocky Marquez heard the radio call and responded. He stood by as paramedics treated Officer Purdy. Officer Marquez took possession of Officer Purdy's gun and gun belt. He secured the gun and gun belt in Officer Purdy's patrol car, unit 3601.

On July 1, 2006, Detective Palmieri and Leonard Romero removed Officer Purdy's gun and gun belt from patrol unit 3601. Officer Purdy's handgun was in the holster. The holster was snapped closed. The secondary strap which went around the gun's trigger guard was closed as well. The gun is a Beretta Model 92FS, 9mm, serial number BER353889. The gun's hammer was fully cocked back and the safety was off. There was one round in the chamber. The magazine clip was engaged and contained fourteen live rounds. The magazine was marked "4910," which is Officer Purdy's employee number. Officer Purdy's gun belt had a double magazine ammunition pouch. The first pouch was snapped closed and contained a full magazine of 15 live rounds. The second pouch was unsnapped and empty.⁵ The handgun was preserved as evidence item 100.

⁵ Officer Purdy's micro-cassette recorder was also on the gun belt. The recorder was in a pouch. On July 7, 2006, Detective Palmieri listened to the audio tape. The audio tape begins with a conversation between Officer Purdy and a graffiti suspect in an unrelated matter. Next, the recording resumed at a point subsequent to the shooting. Officer

July 5, 2006, Search of the Nissan Sentra

On July 5, 2006, the Nissan Sentra was extensively examined by Detective Palmieri and Evidence Technician Debra Schambra. The vehicle had been in police custody since the shooting event. The search found blood evidence, latent fingerprints, paperwork, more bullet fragments, and a compact disc. Blood transfers were observed on the interior portion of the door posts between the driver's door and left rear door. Blood drops were seen on the exterior portion of the left rear door. Blood spots and spatter were on the left front engine hood. Blood spots and spatter were on the front hood and bumper area. Samples of the blood drops were collected and preserved. A black zippered wallet containing registration and insurance papers in the name of Rosemary Medina was found on driver's seat floor board. Five bullet fragments and three spent bullets were seen in the trunk and interior of the vehicle. Lastly, a compact disc case with gang stylized writing on the surface, "El Rio," was found in trunk.

Sequence of Events from the Cessation of Gun Fire to the Time of Edward Medina's Death

On July 1, 2006, the secondary crime scene was the location of Edward Medina's apprehension and death. Officers physically subdued Edward Medina in the driveway of 2100 South E Street. This is also the location where Edward Medina died. The 2100 block of South E Street is a north-south, asphalt, roadway in a residential area and runs perpendicular to Kamala Street to the south and Juniper Street to the north. There is an alley entrance perpendicular to South E Street mid way between Kamala Street and Juniper Street. 2100 South E Street is a two-story residence. The front door faces west. The driveway and garage are attached to the south end of the residence. The garage doors face west.

Purdy can be heard leaving a message for his wife telling her that he loves her and to take care of the children. Next, officers can be heard taking charge of the crime scene and bringing in medical help. After a few seconds, the tape stops.

Detective Joe Chase and Evidence Technician Debra Schambra documented a blood trail from the Nissan Sentra on West Kamala Street to decedent Edward Medina in the driveway at 2100 South E Street. The blood trail was photographed and blood samples collected along its path. The blood trail began at the north-east corner of West Kamala Street and South E Street to the side gate leading into 2130 South E Street. Blood was observed on the walkway leading up to the entrance door to 2130 South E Street and on the door and doorknob, too. There was blood on the sidewalk southwest of Medina's body, as well as under his body.

Detective Chase documented the condition and location of Medina's body as found after his arrest and treatment by paramedics. Medina was positioned on the driveway of 2100 South E Street with his head towards the north and feet to the south. He was face up on the ground with his hands handcuffed behind his back. The suspect's three t-shirts had been cut through the front. His chest was exposed and there was a visible gunshot wound at approximately the middle of his chest. There was medical debris on the ground about his head.

Many Oxnard police officers responded to Officer's Purdy's radio distress call. The following account is not inclusive of every police officer who responded and participated in Medina's arrest. The attempt to handcuff Medina was chaotic. Several different officers shouted commands to Medina to stop resisting. About four police officers physically subdued him. He resisted and the officers had difficulty placing his arms behind his back.

Statement of Officer William Alva

Officer William Alva was the first officer to arrive and assist Officer Purdy and Sgt. Kujawa. Office Alva approached westbound on Kamala Street from C Street. He observed police unit 3601. Unit 3601 had its overhead lights activated and driver's side spot light aimed at the Nissan

Sentra. He parked his patrol car about 20 feet behind unit 3601, facing northwest along the north curb line of Kamala Street. Officer Alva saw both officers lying just south of unit 3601. He saw Sgt. Kujawa laying face down and Officer Purdy lying on his back next to Sgt. Kujawa. He noticed Rosemarie Medina walking toward him with her hands on her head. Officer Alva directed her to the ground at gun point. Next, Officer Alva went to the Nissan Sentra and observed Josephine Valdivia sitting in the right front passenger seat. He did not see any other persons in the area. Officer Alva radioed a request for paramedics. Officer Purdy informed Officer Alva that the suspect fled northbound on E Street from Kamala Street. Officer Alva broadcasted this information too.

Next, Officer Alva proceeded on foot northbound on the east sidewalk of South E Street. At this point, Sgt. David Villanueva accompanied him. Officer Alva observed Medina lying on the ground just north of the entrance to an alley on the east side of South E Street. Medina was looking at Officer Alva. Both officers had their guns drawn. Officer Alva could not see both of Medina's hands. He ordered Medina to show his hands. Medina did not comply.

While attempting to control Medina's hands, a struggle ensued during which Officer Alva dropped his gun. Medina pulled his hands away as Officer Alva attempted to grab them. Officer Alva explained to detectives later that he was concerned because he did not know if Medina still possessed a weapon and he could not see both of his hands. During the struggle, Officer Alva kicked Medina two to four times in the upper torso and shoulder. Within a couple of seconds, several additional officers were present and they succeeded to handcuff both arms. Office Alva did not use any further compliance or distraction kicks on Edward Medina.

Statement of Officer Manuel Perez

On July 1, 2006, Officer Manuel Perez heard the radio distress call and responded in his patrol car westbound on Kamala Street. The radio broadcast informed him that the suspect had fled north on E. Street. He retrieved his AR-15 tactical rifle. He passed by the injured officers and met Officer Alva and Sgt. Villanueva. The three officers moved north on South E Street. Not sure if the suspect was still armed, Officer Perez used parked cars for cover as he worked his way north.

He first observed Medina kneeling down in front of a driveway. The driveway was on the east side of South E Street, north of the east-west alley in the 2100 block of South E Street. Medina had his back to Officer Perez. Officer Perez could see a tattoo on the back of his head and blood on his arm. Officer Perez heard other officers yell at Medina to show his hands. Medina did not comply and fell to the ground. Approaching officers could not see Medina's hands. Not knowing if Medina might still be armed, Officer Perez aimed his rifle such that he could obtain a clear and safe shot if necessary. At one point, Officer Perez pressed the muzzle of his AR-15 tactical rifle against Edward Medina's right temple. Despite continued commands to show his hands, Edward Medina did not comply. As other officers struggled to grab and control both hands, Officer Perez noticed a blue steel handgun on the ground next to the suspect. Officer Perez later explained to detectives he assumed the gun belonged to Medina. During the struggle, Officer Perez observed Officers Alva and Myers apply distraction strikes to Medina's body. Medina continued to resist during the strikes and did not give the officers his hands. Officer Perez estimated the struggle to handcuff Medina lasted 20 to 30 seconds and approximately four or five police officers assisted.

Statement of Sergeant David Villanueva

On July 1, 2006, Sgt. David Villanueva responded to the radio distress call. He approached westbound on Kamala Street. His first observations of the crime scene are consistent with that of previously arriving officers. After checking on the injured officers, he joined with Officer Alva to search for the suspect. As the officers moved north on South E Street, Sgt. Villanueva observed Medina on the ground in the driveway on the eastside of South E Street. Sgt. Villanueva could not see Medina's hands. The officers approached with their guns drawn. Sgt. Villanueva saw a gun on the ground, which he later learned was Officer Alva's weapon. Sgt. Villanueva stood back and aimed his firearm at Medina's back as Officer Alva held Medina's arm and tried to roll him on his back. Medina's hands remained concealed.

Edward Medina did not comply with the officers' commands. Sgt. Villanueva next observed several police officers attempt to gain control of Medina's hands. He saw Officer Alva and Officer Meyers kick Medina a couple times.

After Medina was handcuffed, Sgt. Villanueva noticed he was unresponsive. Officers Casse and Amon began CPR. Another officer began to photograph the location. The paramedics arrived and Chris Cameron (606) pronounced Medina dead at 01:05 a.m.

Statement of Officer Martin Cook

On July 1, 2006, Officer Martin Cook responded to the radio distress call. He arrived and saw Officer Purdy and Sgt. Kujawa on the ground being assisted by other officers. He turned his patrol car north on to South E Street from West Kamala Street and then observed three officers struggling with Medina on the sidewalk. He exited his patrol car and approached. Before he entered the fray, he saw a police officer attempting to control one of Medina's arms, while another police officer attempted to control the other arm. Another officer held Medina's

shoulders. Medina's legs were kicking and flailing. It appeared to Officer Cook that Medina was resisting. Officer Cook placed his shin on Medina's upper thighs and buttocks in an effort to stop Medina's legs from kicking. Medina continued to jerk and struggle beneath Officer Cook. Officer Cook got up and off Medina once it appeared the other officers had control.

Statement of Officer Joe Marks

On July 1, 2006, Officer Joe Marks responded to the radio distress call. He approached southbound on South E Street. He saw Medina lying on his chest in the driveway at 2100 South E Street. Medina was moving. Officer Marks ran toward Medina, while other officers were approaching, too. Officer Marks did not assist the other officers in the arrest.

Officer Marks assisted the paramedics. He was instructed to cut Medina's shirt open. He did so and observed a gunshot wound to Medina's left side sternum. He did not see any other gunshot wounds.

Statement of Officer Mark Amon

On July 1, 2006, Officer Mark Amon responded to the radio distress call. He arrived at the location after officers had apprehended Medina. Officer Amon found Medina handcuffed and on his stomach. The other officers left the driveway at 2100 South E Street to search the area for other possible outstanding suspects. Officer Amon remained with Medina.

Officer Amon put his right knee on the center of Medina's back in order to keep him on his stomach. After 10 seconds, Officer Amon asked Medina for his name. Medina did not make any type of verbal response and appeared limp. Officer Amon then noticed blood coming from the center of Medina's shirt. Amon lifted the shirt and observed a gunshot wound to his center torso. Unable to detect breath, breathing, or pulse, Officer Amon initiated CPR. Officer Casse

assisted with chest compressions. The paramedics arrived and pronounced Edward Medina dead.

Statement of Officer Dan Casse

On July 1, 2006, Officer Dan Casse responded to the radio distress call. He approached eastbound Kamala Street and then turned left to northbound South E Street. He immediately saw Medina on the ground in front of a residence located on the east side of the street. Medina was lying on his stomach with his left arm out, his right cheek on the ground, and looking in Officer Casse's direction. Officer Casse ran towards Medina at the same time as Officer Alva and others. Medina was looking at Officer Casse, moving his mouth slightly, and moving his left hand a little.

Many officers approached Medina all at once. Officer Casse heard other officers yelling, "Don't move, don't move, show me your hands, show me your hands." Officer Casse could only see Medina's left hand. Officer Casse grabbed the left hand and placed a handcuff on the left wrist. He could not get the right wrist handcuffed because other police officers' bodies were in the way. Officer Casse was pushed aside because there were so many officers trying to get Medina into custody. Officer Casse heard officers say, "Give me your hand, give me your hand, don't resist, or quit resisting." Officer Casse heard, "Don't fight."

Neighborhood Canvas and Civilian Witnesses

Immediately after the apprehension of Medina, Oxnard police officers began a neighborhood canvas to search for witnesses and evidence. Officers noted the license plates and vehicle descriptions for all vehicles found parked in the primary scene and secondary crime scenes. Some officers were assigned to search the area for weapons possibly discarded by Medina; however, none were found. Officers went door to door in the 400, 500, 600, and 700 blocks of

West Kalama Street. They also canvassed the 2000 block of South E Street. The canvas contacted 84 people. Some people along West Kamala Street heard the gun fire, heard police sirens, heard fire trucks, but did not see the shooting events. Many people did not wake up at all, or simply heard a few noises and went back to sleep. The neighborhood canvas did not find any witnesses to the shooting episode.⁶ The canvas in the area of South E Street was more successful in locating four eye witnesses to the apprehension of Medina.

Statement of Civilian Elizabeth Salvonia Hernandez

On July 1, 2006, detectives interviewed Elizabeth Hernandez, age 18. That night, she was with Officer Marks as a citizen observer, commonly referred to as a “ride-along.” She told detectives that she saw Medina on the ground as the officers approached. The officers struggled to get Medina to sit down. It appeared to her that the suspect was trying to get away from the officers. She did not hear any gun shots during the time Medina was taken into custody.

Statement of Civilian Mario Campa

On July 1, 2006, at 2:50 a.m. and 4:45 a.m. detectives interviewed Mario Campa. He resided at the northwest corner of South E Street and West Juniper Street. His residence is situated on the diagonal street corner from 2100 South E Street. He informed detectives that he was in his bathroom and heard what sounded to him like gun shots and a lady screaming. He went outside and joined his brother in the rear yard area. He heard four more shots. He looked over a four to five foot high fence and saw a male person running north on South E Street and away from Kamala Street. The male person looked like he was going to collapse in the area by the alley between Kamala and Juniper Street. Moments later, several police officers approached the male person. The officers were yelling orders. The male person was combative and flailed from side to side as the officers were attempting to handcuff him. The male person yelled for the officers

⁶ Although the door-to-door canvas did not find any witnesses to the shooting episode, one civilian voluntarily approached the crime scene boundary to report he had seen the gun fire. See Statement of civilian Saul Lopez.

to leave him alone. The officers used their knees against the male person's back in an attempt to control him. Next, a police car arrived and parked such that it blocked Mario Campa's view.

Statement of Civilian Carlos Barba Campa

On July 1, 2006, at 2:50 a.m. and 5:05 a.m., detectives interviewed Carlos Campa. Carlos Campa resided with his brother Mario Campa. He informed detectives that he had been in his back yard to smoke a cigarette and heard two shots and a female screaming. He then heard more shots in succession, moments after the first two shots. The sound of the shots came from the direction of the West Kamala Street and South E Street intersection. He looked over his backyard fence toward the direction of the sound. He saw a person running north on the east sidewalk of South E Street. The person slowed down, began to walk, and then fell to his knees. As the male stopped, four officers immediately detained him. The officers approached the person from behind and began to give him orders. He heard the officers say, "Stop resisting," and, "Don't bite me." There was a struggle on the ground as the four officers attempted to handcuff him. He observed the officers use their knees in the person's back while trying to control him. The person continued to kick and squirm from side to side, and yell, even after the officers had him in handcuffs. Another police car arrived, parked, and obstructed Mr. Campa's view.

Statement of Civilian Saul Lopez

On July 1, 2006, at 4:05 a.m., detectives interviewed Saul Lopez. Mr. Lopez had come to the perimeter of the crime scene and informed an officer that he witnessed the shooting. Later, he told detectives he witnessed the traffic stop while he was walking home through Beck Park. He had just purchased beer at a store on the corner of Channel Island Boulevard and Saviers Road. As he passed the slide in a childrens' playground inside Beck Park, he saw a police car behind another car. The cars were traveling westbound on Kamala Street. The police car activated the

overhead lights and siren. The leading vehicle stopped on Kamala Street just before South E Street. The officers approached the stopped vehicle. One officer had his hand on his gun in his holster. There was another person holding a flashlight and walking near the officer. It appeared to Mr. Lopez that the police officer was struggling with a male occupant in the vehicle. Next, he heard several shots coming from the vehicle. Mr. Lopez was unable to determine who was doing the shooting. Mr. Lopez saw a male person wearing a tan shirt run from the vehicle and north on South E Street. He heard a female screaming after the shooting. Mr. Lopez told detectives that he had a clear view of the shooting incident.

Mr. Lopez explained he did not come forward and report what he witnessed sooner because he was unaware the officers had been shot. He believes a hedge of bushes blocked his view of the officer on the ground. He walked around and drank his beer before approaching the crime scene perimeter to report what he had seen. At 4:44 a.m., Mr. Lopez voluntarily gave a breath sample. Testing determined his blood alcohol content to be .06 percent. He also admitted using cocaine during the late hours of June 30, 2006.

Autopsy

Medical Examiner Dr. Janice Frank performed an autopsy of Edward Medina on July 1, 2006, at 9:00 a.m.⁷ She determined the cause of death to be a single gunshot wound to the chest. The manner of death was categorized as a homicide.

Edward Medina arrived at the Ventura County Medical Examiner's Office in a sealed medical examiner's blue bag. He weighed 216 pounds. He measured 74 inches. He was clothed in a

⁷ Ventura County Medical Examiner's Office case 06-17898

white tank top style shirt, white pullover under shirt, blue pullover long sleeve T-shirt, black Levis jeans, a pair of Nike low cut tennis shoes, white socks, and boxer shorts.

A clear plastic baggie containing a white crystalline substance was found in his front pants pocket. Oxnard Police Detective Joe Chase tested the substance on July 5, 2006. The white crystalline substance tested presumptively positive to be amphetamines.

Dr. Janice Frank's autopsy report noted many tattoos on Edward Medina's body. "Trouble Street" was tattooed across his collar bone below his neck. "El Rio" was tattooed on the back of his head. The gothic letters "E" and "R" were tattooed on his upper right and left arms, respectively. "ER" was tattooed on the fingers of his left hand. "El Rio" was tattooed on his lower right leg. "Sur 13" was tattooed on his lower left leg.⁸

Examination of the body found two gun shot wounds. The lethal gunshot wound was to the chest. The bullet entered at the center of the lower chest about two inches below the nipple line. The entrance wound was .7 cm in diameter. No gunpowder residue was observed on the skin around the wound. The bullet perforated the stomach, the upper abdominal aorta, the left diaphragm, the lower lobe of left lung and the posterior eleventh rib. The path of the bullet was front to back, right to left, and slightly upward. There was soft tissue hemorrhage along the path of the wound. The bullet did not exit the body. Dr. Frank recovered what she described as a medium caliber partially copper jacketed mushroom projectile. (evidence item 125) The projectile was located under the skin on the decedent's back, 21 ½ inches from the top of the head and 3 ¾ inches left of posterior midline.

The second gunshot wound was a through-and-through wound to the right arm. The bullet entered the right radial anterior forearm. The entrance wound was .9 cm in diameter. The bullet

⁸ All of these tattoos are signs and symbols of Ventura County criminal street gang El Rio.

exited the ulnar anterior forearm. The path was subcutaneous. Dr. Frank concluded the bullet exited the right arm and caused a horizontal cutaneous laceration on the right flank back.

Dr. Frank observed other injuries on the body. There was a contusion and abrasion on the left side of the facial area in front of the left ear. There was a 1.5 cm x .6 cm abrasion above the left eye. There was a 6.5 cm x 3.5 cm irregular abrasion over the left cheek, extending to the ear. There was an abrasion and contusion of the left pinna, both on the anterior and posterior surface of the ear. A superficial abrasion was seen on the left lower cheek. There were small 1 cm to 2.5 cm abrasions on the left arm from the elbow to the mid forearm. There was a small 1.2 cm abrasion on the right elbow.

Dr. Frank's autopsy report described a patterned contusion on the right side of the face. The patterned contusions were over the zygomatic arch and extended up onto the temple. The contusion had a circular configuration with a cleared interior perimeter and a blue center. Above the circle was an upwardly curved area of contusion that passed into the temporal hairline. Reflection of the scalp in this area revealed soft tissue hemorrhage.⁹

Importantly, Dr. Frank's report noted the absence of certain types of injuries. She did not observe defensive wounds. She did not observe physical evidence of the body having been dragged or dumped. She did not observe evidence of gun powder tattooing at the gunshot entrance wounds. And lastly, she did not observe hemorrhages or fractures on or to the head.

Toxicology

A sample of Edward Medina's blood and urine was collected during the autopsy. The Ventura County Sheriff's Department Crime Lab tested the blood and urine samples for alcohol and drug

⁹ The circular contusions appear to be the same size as the barrel of an AR15 assault rifle.

content. The tests determined his blood and urine did not contain ethyl alcohol. Amphetamine and methamphetamine was detected in both the blood and urine sample. The amphetamine and methamphetamine was present at levels consistent with a person who is under the influence.

Firearm History

The Kahr Arms Auto Ordinance Model K-9, serial number AR2264, semi-automatic 9mm pistol, found in the Nissan, had been originally purchased by Judith Ann Wilson, age 59, of Levee, Arizona. She had purchased the gun in Arizona on November 10, 1998. Oxnard detectives contacted her on July 19, 2006. She recalled that she remodeled her house and had boxed up many of her personal belongings in 2004. She had suspected the gun might have been stolen, but was uncertain. Due to serious health concerns, she never unpacked all the boxes. She never reported the gun stolen.

Firearms, Ballistics and Forensic Tool Mark Analysis

Tool mark and ballistics expert, Leonard Romero, of the Oxnard Police Department, examined Officer Purdy's handgun, Officer Kujawa's handgun, Edward Medina's handgun, and evidence collected at the crime scene. First, he determined whether the weapons operate and function normally. He test fired each gun and saved the ejected casings and bullets for comparison to evidence taken from Edward Medina, Officer Purdy, Sgt. Kujawa, unit 3601, the Nissan Sentra, and the many ejected bullet casings found at the crime scene. He determined each of the handguns operated and functioned normally.

Officer Purdy's 9mm caliber Beretta Model 92FS semiautomatic pistol, when fully loaded with a 15- round magazine, will contain a total of 16 rounds. On July 1, 2006, Officer Purdy used 15- round magazines. The additional round is kept in the chamber such that the gun is ready to fire. The reloading sequence of Officer Purdy's Beretta handgun with a full 15-round magazine will

result in the one round in the chamber and 14 rounds in the magazine. This occurs because one round will enter the chamber from the magazine when the gun slide is released forward. After this reloading sequence, the hammer will be cocked back in single action mode and the gun is ready to fire. Notably, this is the same reloaded condition that Officer Purdy's handgun was found in his holster.

Next, Mr. Romero compared all the bullet casings and bullet fragments to the three weapons and reported the following conclusions. All six of the S&B luger 9mm casings and the single Winchester brass 9mm luger casing were discharged from Edward Medina's Kahr 9mm. All sixteen of the nickel-plated Winchester 9mm luger casing were discharged from Officer Purdy's Berretta 9mm. The nickel-plated Winchester 9mm luger cartridges are consistent with duty ammunition carried by the Oxnard Police Department. A combination of bullets and bullet fragments were discharged from Officer Purdy's Berretta 9mm: the bullet fragment found on the street southeast of Unit 3601 (evidence item 64), the discharged bullet found on the street west of Unit 3601 (evidence item 80), the fired bullet found underneath the rear of the Nissan Sentra (evidence item 84), the bullet fragment found on the street south of the Nissan Sentra (evidence item 90), and the discharged bullet found on the sidewalk in front of 2130 South E Street (evidence item 95). The bullet recovered from Edward Medina's back was discharged from Officer Purdy's Berretta 9mm (evidence item 125)

The barrel of the Edward Medina's Kahr 9mm pistol has polygonal rifling. This type of rifling does not ordinarily leave unique distinctive marks on a discharged bullet for purposes of comparison. Mr. Romero could not conclude with certainty that any bullet or bullet fragment evidence was discharged from the Kahr 9mm. He did conclude, however, that some bullet evidence had signs of polygonal rifling consistent with the Medina's Kahr 9mm. Also, both Officer Purdy's Beretta 9mm and Sgt. Kujawa's SigSauer 9mm do not have polygonal rifling.

Mr. Romero concluded the following two bullets and two bullet fragments could not be eliminated as having been fired from the Kahr 9mm. The bullet found in Sgt. Kujawa's t-shirt by Officer McGreevy (evidence item 27) had markings consistent with polygonal rifling. The bullet removed from Officer Purdy's upper posterior thigh (evidence item 58) had markings consistent with polygonal rifling. The bullet fragment found on the street between 525 and 519 Kamala Street east of unit 3601 (evidence item 103) had markings consistent with a polygonal rifling. And lastly, the bullet fragment found on the driver's floorboard of unit 3601 (evidence item 105) had markings consistent with polygonal rifling.

The remainder of bullet or bullet fragments examined by Mr. Romero did not contain markings suitable for comparison purposes. (Evidence items 101, 102, 138, 141, and 167) However, these items were consistent in composition to lead bullet core material.

Latent Fingerprints

On July 7, 2006, evidence technician Debra Schambra swabbed and inspected the Kahr 9mm for the presence of latent fingerprints. The latent finger prints detected had insufficient detail for comparison purposes.

Edward Medina's Criminal History

Edward Lorenzo Medina, age 25, had accumulated a lengthy criminal record.

At the time of his death, he was on parole to the California Department of Corrections and Rehabilitation.

Medina had been convicted of seven crimes and has served time in California State prison. On March 7, 2000, he was convicted of possession of drug paraphernalia, a misdemeanor violation

of Health and Safety Code section 11364. On February 14, 2002, he was convicted of being under the influence of a controlled substance, a misdemeanor violation of Health and Safety Code section 11550. On February 14, 2002, he was convicted of possession of a controlled substance, a felony violation of Health and Safety Code section 11377. On April 30, 2002, he was convicted of being a convicted felon in possession of a firearm, a felony violation of Penal Code section 12021. On April 30, 2002, he was convicted of driving with a willful and wanton disregard for safety of persons while fleeing from a pursuing police officer, a felony conviction of Vehicle Code section 2800.2. On January 28, 2003, he was convicted of driving under the influence, a misdemeanor violation of Vehicle Code section 23152. And lastly, on January 21, 2004, he was convicted of being a convicted felon in possession of a firearm, a felony violation of Penal Code section 12021. His felony convictions resulted in several commitments to state prison.

Medina had also engaged in disobedient and defiant behavior when confined in county jail and state prison. Ventura County jail reports indicate he was belligerent, refused to follow instructions, and was involved in sporadic fights. While in state prison, he was involved in fighting and other disruptive behavior. He was confined to the S.H.U. (Security Housing Unit) at Corcoran State Prison due to his involvement in a prison riot. He was considered a high control parolee.

Medina's record on parole leading up to July 1, 2006, is informative. He was paroled from prison on May 30, 2006. He appeared at the parole office in Oxnard the next day as instructed. He informed his parole officer that his urine would test positive of methamphetamine and admitted using "meth" within 24 hours of his release from prison. Instead of returning Medina to custody, he was referred to an out-of-custody drug program and ordered to remain at his mother's house. Later that same day, May 31, 2006, his parole agent was unable to contact

Medina at his mother's home. On June 1, 2006, and June 2, 2006, a parole agent made visits to Medina's mother's home, and both times the parolee was not there. On June 13, 2006, his parole agent obtained a warrant for his arrest. On June 28, June 29, June 30, 2006, Medina's mother and other family members contacted the parole office and stated they were afraid of Edward and wanted him arrested.

Medina also admitted membership in a local criminal street gang. The gang "El Rio", or "Troublestreet", is based in the county of Ventura and has a pattern of criminal behavior which qualifies the organization as a criminal street gang pursuant to Penal Code section 186.22. The Oxnard Police Department had made contact with Medina as far back as 1999, when he began to admit membership in El Rio and displayed El Rio tattoos. At the time of his death, Medina had "Trouble Street" tattooed on his chest. He had a letter "E" on his upper right arm and a letter "R" on his upper left arm. He had "El Rio" tattooed on the back of his head.

A parole violation report dated December 14, 2003, by the State of California Department of Corrections, described Edward Medina. "Medina has no regard for his conditions of parole or the laws that govern the rest of society as exhibited by his current behavior. Medina is a threat to society and the community, Medina should be returned to custody for the maximum time allowable."

III.

LEGAL PRINCIPLES

1. Applicable Penal Code Violations – CONDUCT OF EDWARD MEDINA

Edward Medina engaged in felony and misdemeanor criminal conduct in the minutes preceding his death. Had he survived, he could have been charged with the commission of the following crimes:

Attempted murder pursuant to California Penal Code section 664/187, a felony.

Assault with a semi-automatic firearm on a police officer pursuant to Penal Code section 245(d)(2), a felony.

Gross negligent discharge of a firearm pursuant to California Penal Code section 246.3, a felony.

Possession of a firearm by a convicted felon pursuant to California Penal Code section 12021, a felony.

Brandishing a firearm at a peace officer in a rude, threatening, or angry manner pursuant to California Penal Code section 417(c), a felony.

2. Law of Homicide and Self Defense.

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

The shooting of another person in self-defense or in the defense of others is justifiable and not unlawful.

The law of self-defense and the defense of others was codified in 1872 and has remained substantially unchanged since then. See Penal Code sections 196 through 199. It requires that

the user of deadly force honestly believe that he or someone else is in imminent and deadly peril, and that a reasonable person in the same circumstances would believe the same and would deem it necessary to use deadly force in order to protect against such peril. CALJIC 5.12¹⁰; CALCRIM 505¹¹; People v. Humphrey (1996) 13 Cal.4th 1073, 1082-3 (whether a person acted in a manner in which a reasonable man would act in protecting his own life or bodily safety is

¹⁰ The standard criminal jury instruction on self defense states:

The killing of another person in self-defense is justifiable and not unlawful when the person who does the killing actually and reasonably believes:

1. That there is imminent danger that the other person will either kill [him] [or] [her] or cause [him] [or] [her] great bodily injury; and

2. That it is necessary under the circumstances for [him/her] to use in self-defense force or means that might cause the death of the other person for the purpose of avoiding death or great bodily injury to [himself] [or] [herself].

A bare fear of death or great bodily injury is not sufficient to justify a homicide. To justify taking the life of another in self-defense, the circumstances must be such as would excite the fears of a reasonable person placed in a similar position, and the party killing must act under the influence of those fears alone. The danger must be apparent, present, and immediate and instantly dealt with, or must so appear at the time to the slayer as a reasonable person, and the killing must be done under a well-founded belief that it is necessary to save one's self from death or great bodily harm. (CALJIC 5.12)

¹¹ Modernly, the law of self defense and defense of others is stated in California Criminal Jury Instructions number 505.

The defendant is not guilty of murder or manslaughter if he was justified in killing someone in self-defense or defense of another. The defendant acted in lawful self-defense or defense of another if:

1. The defendant reasonably believed that he or someone else was in imminent danger of being killed or suffering great bodily injury;

2. The defendant reasonably believed that the immediate use of deadly force was necessary to defend against that danger;

AND

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

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

When deciding whether the defendant's beliefs were reasonable, consider all the circumstances as they were known to and appeared to the defendant and consider what a reasonable person in a similar situation with similar knowledge would have believed. If the defendant's beliefs were reasonable, the danger does not need to have actually existed.

A defendant 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 of death or great bodily injury has passed. This is so even if safety could have been achieved by retreating.

Great bodily injury means significant or substantial physical injury. It is an injury that is greater than minor or moderate harm.

judged from the point of view of a reasonable person in a similar situation and with similar knowledge). The means of force used, whether lethal or non-lethal, must be reasonable under the circumstances. If a firearm is pointed at a person in a threatening manner and under such circumstances as to induce a reasonable belief that it is loaded, and will be discharged, the person threatened may use all necessary force to avert the apparent danger. People v. Anderson (1872) 44 Cal. 65, 68. The use of force under such circumstances is not unlawful even if it is later learned that the firearm was unloaded. Id; People v. Herbert (1882) 61 Cal. 544 [where one without fault is attacked in a manner which furnishes reasonable ground for apprehending a design to take his life or do him great bodily harm and for believing the danger imminent, he may act upon appearances and kill the assailant if necessary]; People v. Collins (1961) 189 Cal.App.2d 575, 588 (justification does not depend on the existence of actual danger but on appearances.)

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 where 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. Martinez v. County of Los Angeles (1996) 47 Cal.App.4th 334, 343, citing Graham, stated:

The “reasonableness” of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. [Citation]... The calculus of reasonableness must embody 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...[T]he “reasonableness” inquiry...is an objective one: the question is whether the officers’ actions are “objectively reasonable” in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. [Citations]” Graham 490 U.S. at 396-397.

As indicated by the above-language of the United States Supreme Court, when determining whether a person acting in self-defense, or in the defense of others, acted properly upon the appearance of danger, the law recognizes that a person experiencing a stressful event is not able to reflect upon his actions and the perceived threat against him or others, to the same degree as a person who is not being confronted by an emergency situation. When police officers encounter potential threats of deadly attack, the warning is often instantaneous and the danger immediate.

As stated by the court in Martinez, supra, at 345:

An officer may reasonably use deadly force when he or she confronts an armed suspect in close proximity whose actions indicate an intent to attack. In these circumstances, the Courts cannot ask an officer to hold fire in order to ascertain whether the suspect will, in fact, injure or murder the officer. The high numbers of officer mortalities in recent years illustrate the unreasonableness of such a notion. [Citations]

Courts have also dealt with and rejected arguments that officers should have to use selected alternative measures before resorting to particular actions involving potentially deadly force. *In Scott v. Hendrick* (9th Cir. 1994) 39 F.3d 912, the court found that:

Requiring officers to find and choose the least intrusive alternative would require them to use superhuman judgment. In the heat of battle with lives potentially in the balance, an officer would not be able to rely on training and common sense to decide what would best accomplish his mission. Instead, he would need to ascertain the least intrusive alternative (an inherently subjective determination) and choose that option and that option only. Imposing such a requirement would inevitably induce tentativeness by officers, and thus deter police from protecting the public and themselves. It would also entangle the courts in endless second-guessing of police decisions made under stress and subject to the exigencies of the moment. Officers thus need not avail themselves of the least intrusive means of responding to an exigent situation; they need only act within that range of conduct we identify as reasonable.

IV.
ANALYSIS

The law provides that actual danger is not necessary to justify the exercise of self-defense. Thus, the right to self-defense is the same whether the danger is real or merely apparent. The honest and reasonable perceptions of the person utilizing the force are paramount - not the facts as later determined by others. Therefore, the question of whether the homicide of Edward Medina was justified must be examined from the perspective of Officer Purdy. First, did he have an honest belief that his and Sgt. Kujawa's lives were in imminent serious danger? And second, would a reasonable person in the same circumstance deem it necessary to use deadly force to protect against such danger?

The physical evidence at the crime scene corroborates Officer Purdy's memory and explanation of events. The number of ejected bullet casings at the crime scene, 16, is consistent with his recollection of firing his Beretta handgun until empty and then reloading. The number of ejected casings from Medina's Kahr handgun match the number of rounds that handgun can hold when fully loaded, six. This is significant because it shows that Medina did not shoot once and run away unarmed, but rather he repeatedly fired upon Officer Purdy and Sgt. Kujawa in an ongoing attempt to kill them. The ballistic examination of the bullet found in Sgt. Kujawa's shirt supports the conclusion that Medina shot Sgt. Kujawa.

Eye-witness Josephine Valdivia's account to detectives does not contradict Officer Purdy's explanation.

On the other hand, Rosemarie Medina has no credibility. She began to lie to police officers that she had been carjacked within minutes of the shooting. As the officers still lay on the ground bleeding, she was preoccupied by her possible financial gain by way of lawsuit. Even at the

hospital, she continued the lie that she did not know the backseat passenger. Her bias against law enforcement is readily apparent. Nonetheless, her final account to detectives does not contradict Officer Purdy in any meaningful way.

It would be helpful to list all the facts and circumstances known to Officer Purdy at the moment he shot Medina. Officer Purdy noticed Medina act furtively as the traffic stop began. Medina spun around in his seat and stared at the police officers through the back window even before the cars came to a stop on West Kamala Street. Due to Medina's odd behavior, Officer Purdy requested that he place his hands in open view. Medina did not comply. Officer Purdy made the request multiple times. Medina continued to keep one or both hands out of view. Further, Medina leaned forward and quietly communicated with the driver. Medina's refusal to keep his hands in plain view presented good cause to remove him from the interior of the Nissan Sentra. During the course of a traffic stop, a police officer can order an occupant to exit the automobile. This is especially true when it appears reasonably necessary to protect their safety, as we have here.

Officer Purdy reached in the car and took hold of Medina's left arm. Medina physically resisted and continued to keep his right hand out of view. Officer Purdy made more requests for cooperation. Medina continued to physically resist both officers' attempts to pull him from the car. At this point, Medina had committed the crime of resisting, delaying, or obstructing a police officer in his duties pursuant to Penal Code section 148. As such, Officer Purdy had the right to arrest Medina, handcuff him, and take him to jail. Also, Sgt. Kujawa had the authority to use non-lethal force, such as pepper spray, to effectuate that arrest. In response to the police officers' use of non-lethal force, Medina used lethal force to continue resisting and attempt to escape.

Officer Purdy had every right to use deadly force to defend himself and his partner. Certainly, the situation placed him in imminent serious danger of being killed. Officer Purdy was face to face with a man that had just attempted to kill his partner by shooting him in the face. Officer Purdy was not obligated to retreat, but instead had the right to stand his ground and defend himself until the danger of death had passed. CALCRIM 505.

Officer Purdy's actions were objectively reasonable under the circumstances. Officer Purdy was confronted with a deadly weapon and under these circumstances it was reasonable to defend with deadly force.

CONCLUSION

It is the District Attorney's conclusion that Oxnard Police Officer Michael Purdy acted reasonably and in self-defense under the circumstances he confronted on July 1, 2006. His use of deadly force to protect himself and Sgt. Kujawa was within the limits of the law. For that reason, the District Attorney concludes the shooting of Edward Medina Nava was a justifiable homicide.

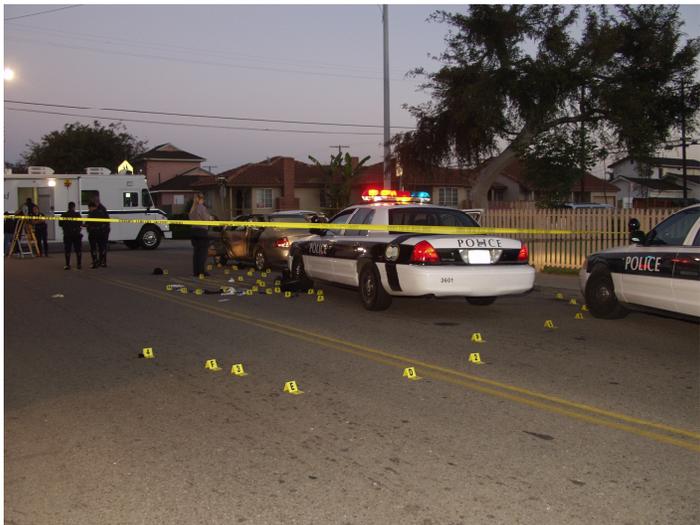


EXHIBIT 1