

OFFICE OF THE DISTRICT ATTORNEY

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REPORT ON THE JUNE 23, 2012
DEATH OF ROBERT RAMIREZ
WHILE IN THE CUSTODY OF
THE OXNARD POLICE DEPARTMENT

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I. INTRODUCTION

On the evening of June 23, 2012, Robert Ramirez swallowed an eight-ball (1/8 of an ounce) of methamphetamine in a plastic baggie. At some point, his stomach acids ate through the baggie and began releasing large amounts of the drug into his system.

Ramirez was aware that he was overdosing and sought assistance from friends. Ramirez's friends became worried by his agitated state, outbursts, and hallucinations, and called 911 for assistance with Ramirez approximately one hour after he arrived at their residence. One of his friends requested that the police be sent in first because they did not know if Ramirez was capable of cooperating with the emergency medical personnel.

Fire and ambulance personnel arrived nearby and staged to wait for the police to secure Ramirez so he could be treated. Oxnard police officers arrived on scene and tried to calm Ramirez. When they were unable to gain his cooperation, they attempted to restrain him to allow the medical personnel to attend to him. Ramirez became combative and resisted the officers. The officers succeeded in getting Ramirez to the ground, but Ramirez continued struggling and screaming. The officers were able to handcuff Ramirez and restrain his feet but, before medical personnel could respond from the staging area, Ramirez went into cardiac arrest. Fire and ambulance personnel responded quickly from the staging area but were unable to get his heart to resume beating. Ramirez was pronounced dead at 11:41 p.m. that evening.

The District Attorney's Office has a 24-hour on-call team available to all Ventura County law enforcement agencies to assist in the investigation of officer-involved shootings and in-custody deaths. Senior Deputy District Attorney Christopher Harman (who authored this report) and District Attorney Investigator Robert Coughlin responded to the scene, consulted with the investigating officers, and monitored key witness interviews as they occurred.

The Oxnard Police Department conducted a detailed investigation of the incident, which included interviewing witnesses, collecting physical evidence, photographing the area of the incident, and conducting interviews with civilian witnesses, emergency medical personnel who responded to the scene, and four of the involved officers. Several of the officers had activated their personal recording devices during the incident and those recordings were retrieved.

The Oxnard Police Department investigative reports were then submitted to the District Attorney's Office on June 28, 2013, for a determination of whether the force used to subdue Robert Ramirez caused his death, whether the force used to subdue Robert Ramirez was justified, and, if not, whether criminal charges should be filed. The scope of the District Attorney's review was limited to those issues.

The District Attorney's review included more than 1,370 pages of reports and documents; numerous recordings, including interviews of police, civilian, and expert witnesses; diagrams; photographs; records of radio transmissions; and examination of the scene of the struggle.

Based on the information available for review, the District Attorney's investigation and the applicable legal authorities, it is the opinion of the District Attorney that there is insufficient evidence to prove beyond a reasonable doubt that the actions of any Oxnard police officer caused the death of Robert Ramirez. Further, the force used to subdue and restrain Robert Ramirez was justified, was not excessive, and did not constitute a criminal act.

II. STATEMENT OF FACTS

A. PRIOR CRIMINAL HISTORY OF RAMIREZ

At the time of his death, Robert Ramirez was 26 years old. He was on parole for first-degree burglary and theft, and had an extensive adult theft and drug-related criminal history dating back to 2004. Ramirez's parole had been violated several times for drug possession and use, and he had served custody time for those parole violations. In a prior incident, he had swallowed methamphetamine in his possession to avoid being arrested.

B. AN EIGHT-BALL OF METH

On June 23, 2012, Ramirez swallowed an eight-ball of methamphetamine.¹ After seeking help, he told his friends that he had swallowed the methamphetamine because he was afraid he was going to be caught by police while possessing the drug. The methamphetamine was in a plastic baggie, and eventually the stomach acid dissolved part of the baggie and large amounts of methamphetamine began entering Ramirez's bloodstream, which caused him to begin overdosing on the drug.

Ramirez was aware that he was overdosing and reached out for help. He drove to the home of his long-time friend, Erika Pedro. When he arrived at approximately 9:40 p.m., he was sweating profusely and talking irrationally. Ramirez told Ms. Pedro what he had swallowed and she tried to help him by getting him water and milk. Ramirez told Ms. Pedro that she might need to take him to the emergency room, but she knew he was on parole and did not want him to get in trouble. She also had been around him when he

¹ One-eighth of an ounce or roughly 3.5 grams. A typical recreational dose of methamphetamine ranges between .1 to .2 grams, meaning an eight-ball would be typically 17 to 35 recreational doses. In one study, an oral dose of .12 grams led to a peak plasma concentration of .02 mg/L (200 ng/mL) approximately three hours after ingestion and an intravenous dose led to an almost instantaneous peak plasma concentration of .097 mg/L (970 ng/mL). B.K. Logan, *Methamphetamine — Effects on Human Performance and Behavior*; Forensic Sci. Rev. 14:133, 140-141; 2002.

swallowed what she believed to be a smaller amount of methamphetamine and he had sweated a lot but survived.

Ramirez became increasingly agitated and started acting unpredictably. He confronted Ms. Pedro's companions and talked about wanting to hit someone. He told them that his heart was racing, and he was covered with sweat. He started yelling challenges out to passersby. He took off his shirt and used it to wipe down the sweat on his body.

C. 911 CALL

Arturo Pedro, the brother of Erika Pedro, called 911 to seek medical assistance for Ramirez. According to 911 call logs, the call was placed at 10:40:38 p.m.² Mr. Pedro told the 911 operator that Ramirez was overdosing. He described Ramirez's actions and stated that he had "never seen a person act this way." When asked if Ramirez would cooperate with the fire department or whether the police should be sent in first, Mr. Pedro replied, "Yes, just send the police first."

Shortly after the 911 call was placed, Ramirez walked over to 1174 South L Street and lay down on the front lawn. Ms. Pedro heard him make "crazy sounds" and then irrational statements like, "I'm just chillin' here at the sand and at the beach." Ramirez told Ms. Pedro that he could not move half of his body.

D. EMERGENCY RESPONSE

Fire personnel were the first to respond at 10:42:13 p.m., but staged near the intersection of West Hill Street and South L Street. The ambulance staged at the same location at

² The 911 call logs and police dispatch logs are time stamped. Officers Bocanegra, Brantner, Rodriguez, Ross, and Wilfert all activated their recording devices prior to any hands-on contact during the encounter with Ramirez. By using the logs and the recordings, it is possible to create an approximate timeline of the incident. Times are reported in hours:minutes:seconds.

10:48:42 p.m. Officer Michael Bocanegra arrived at 1158 South L Street at 10:47:14 p.m. and Officer Kyle Brantner arrived at 10:48:33 p.m. As the police were arriving, Ramirez stood and walked to the porch area at 1174 South L Street.

Officer Bocanegra spoke with a bystander who told him that Ramirez may have ingested an eight-ball of methamphetamine. Officer Bocanegra approached Ramirez, who was still standing on the porch wearing only shorts. Ramirez appeared very agitated, and was pacing around the porch talking incoherently and continually balling his hands into fists.

Officer Bocanegra activated his personal recording device, and calmly asked Ramirez, “What did you take, are you okay?” Officer Bocanegra told Ramirez, “Alright man, as soon as you calm down a bit we can get the ambulance here for you, okay?” Ramirez then muttered to no one in particular, “You’re stupid. [unintelligible] stupid.”

Sergeant Steven Ramirez³ arrived at the scene at 10:49:06 p.m. Officer Bocanegra was speaking to Ramirez, who had sat down on the porch. Officer Bocanegra was approximately eight feet from Ramirez. His Taser was unholstered but he held it at his side.

Officer Brantner spoke with Ms. Pedro, who told him, “I’ve been trying to like, calm him down. He was cool for a little bit and then he started acting crazy.” Ramirez was still “amped up” and talking incoherently as he sat on the porch. Ramirez continued to fidget with his feet and hands while seated and made several partial attempts to stand back up. Officer Bocanegra asked Ramirez what his name was and Ramirez responded “Robert.”

³ Sergeant Ramirez has no familial relationship to Robert Ramirez.

Sergeant Ramirez also spoke to Ramirez. He calmly told Ramirez that he was not in trouble and the police were only there to get him help. He told Ramirez, “Hey, do me a favor, hey, can you – we’re trying to help you out. Hey, this is the way it’s gonna be, okay? We need to have you checked out by the, by the ambulance. So, the safest way for us to do that is if you do me a favor. I need you to roll over on your stomach, okay? Roll over on your stomach so we can go over there and help you out. It’s for our safety, alright?”

Officers Pedro Rodriguez and Roslynn Wilfert arrived at approximately 10:51:00 p.m.⁴ Officer Rodriguez approached the porch area and asked the other officers whether Ramirez spoke English or Spanish. He asked Ramirez what language he spoke, and then began asking him to lie down on his stomach in Spanish. He also told Ramirez that the police were there to help him. At approximately 10:51:52 p.m., Sergeant Ramirez told Ramirez, “Nobody’s trying to take you to jail, we just want to get you actually taken care of, alright? You got to lay on your stomach, lay on your stomach, alright?” He continued calmly asking Ramirez to lay on his stomach until approximately 10:53:38 p.m.

E. STRUGGLE

Ramirez did not comply with the officers’ requests to lie down and, based on his altered state, may have been unable to comply. He became increasingly agitated. The officers were worried that Ramirez could pose a threat to bystanders if he made it past the officers. At approximately 10:53:54 p.m., Sergeant Ramirez communicated a plan to forcibly restrain Ramirez to allow medical personnel to treat him.

⁴ Officer Aaron Zavala arrived on scene at 10:52:32 p.m. and Sergeant Terry Burr arrived at 10:53:20 p.m.

Officer Rodriguez approached Ramirez and reassured him everything was alright. Officer Rodriguez attempted to place Ramirez's left hand behind his back. Ramirez stood up. Ramirez was slippery from his sweat and he slid out of Officer Rodriguez's grasp. At approximately 10:54:30 p.m., Ramirez can be heard on the recording shouting, "I'm going to fuck you guys up!" Several officers attempted to grab him and Ramirez moved the group of officers five to seven feet as they struggled. The officers got Ramirez to the ground at approximately 10:54:36 p.m.

Once on the ground, Ramirez began grunting loudly and struggling against the officers. He bucked and kicked, and hit his head against the concrete driveway. Sergeant Ramirez lay face down on the driveway and used both of his arms to pin Ramirez's right arm. Officer Ross knelt on Ramirez's right leg and pressed on the leg with both hands. Officer Rodriguez straddled Ramirez's left leg to prevent him from kicking out. Officer Bocanegra crouched near Ramirez's left shoulder and held his Taser against Ramirez's shoulder in drive-stun mode.⁵ Officer Wilfert was positioned on Ramirez's left side and maintained control of Ramirez's right arm once it was cuffed.⁶

During the initial encounter, Ramirez screamed loudly and made numerous statements. At 10:54:50 p.m., Ramirez let out a high pitched yelp. At 10:54:59 p.m., Ramirez screamed, "Owwww, release me!" followed by what sounds like "Awww bug, you're on

⁵ Taser records show that Officer Bocanegra never activated his Taser.

⁶ Officer Wilfert's exact position is unclear. She declined to make a voluntary statement, so her position is based on other person's descriptions. Officer Rodriguez described her as positioned to his left, standing and squatting over Ramirez's body. Sergeant Ramirez recalled her in a position over Ramirez's back, but does not know if she was standing, kneeling or squatting. He was aware that her position did not block their efforts to sweep Ramirez's right arm behind his back. Officer Bocanegra recalled Officer Wilfert was on Ramirez's left side and that no one was on Ramirez's back above the waist. Erika Pedro described her as putting pressure with her knee in the small of his back. Officer Ross recalled Officer Wilfert on his left side immediately after the takedown and that she helped him secure Ramirez's legs. Officer Wilfert can also be heard on several recordings helping slip a restraint device over Ramirez's lower legs.

my eye.”⁷ He grunted loudly and unintelligibly a few seconds later, then shouted, “Babe!” Ramirez had been banging his face onto the driveway and an officer said, “Watch his head from banging” and another officer placed his hand between Ramirez’s head and the driveway. At 10:55:09 p.m., Ramirez shouted, “Ahh, Mom, I can’t breathe.”

Ramirez had pulled his left arm under his body and pinned it there. He resisted the officers’ attempts to remove it. Officer Brantner used his baton to pry Ramirez’s arm out from under him. The officers were able to fully handcuff him at 10:56:11 p.m. Ramirez continued to loudly scream and grunt.

Ramirez continued to kick and buck, so officers applied a hobble-restraint to his legs.⁸ The hobble was first secured at 10:56:47 p.m. Officer Rodriguez’s leg was cinched in between Ramirez’s legs when the hobble was first secured. The hobble was loosened, Officer Rodriguez withdrew his leg, and the hobble was re-secured. The hobble strap was not attached to anything.

Ramirez continued to struggle. Sergeant Ramirez continued to tell Ramirez to relax and “just breathe.” Sergeant Burr went to retrieve a body wrap⁹ system. Ramirez made a weak groan at 10:57:08 p.m. and Sergeant Ramirez told him, “We’re gonna get the ambulance to come and check you out, alright?” The last sound from Ramirez was at 10:57:17 p.m., when he made a grunt and a high pitched noise. His muscles remained tense but he did not move. At 10:57:50 p.m., Officer Rodriguez asked, “Is he breathing?”

⁷ Each of the officers’ recordings capture different perspectives and different conversations. All of the recordings were reviewed and compared to establish an accurate record of what was said at the scene.

⁸ A hobble is a leg restraint used by law enforcement that cinches a suspect’s two legs together. It is typically cinched around the ankles and usually has a strap to help control the cinched legs.

⁹ A body wrap is a restraint device that uses a shoulder harness and a blanket wrap to restrain the legs of a subject in a seated position.

Approximately three and a half minutes had passed from the initial physical contact to the time Officer Rodriguez asked if Ramirez was still breathing.

Sergeant Burr radioed the emergency medical personnel to respond to the scene at 10:58:17 p.m. Officer Wilfert checked for a carotid pulse and at 10:58:30 p.m. stated, "He still has a pulse right now, he still has a pulse." Sergeant Ramirez told Ramirez, "Hey, we're having -- the ambulance is coming right now. Hey, you gotta breathe, okay?" Ramirez located a pulse and again told Ramirez, "Hey, hey, breathe, you gotta breathe for us, you gotta breathe, you gotta breathe, alright."

F. MEDICAL TREATMENT

Emergency medical personnel arrived on scene at 10:59:30 p.m. Ramirez was connected to a heart monitor at 11:01:00 p.m. which determined his heart had pulseless electrical activity. They began CPR. They asked for the handcuffs to be removed from Ramirez and, after a brief discussion as to whether Ramirez would become aggressive again, the handcuffs were removed. The emergency personnel treated Ramirez at the scene and transported him from the scene to St. John's Regional Medical Center in Oxnard at 11:14:23 p.m.

G. ADDITIONAL POLICE RESPONSE AND INVESTIGATION

Numerous police personnel arrived on scene and began securing the area for an investigation of the incident. Ramirez was pronounced dead at the hospital at 11:41 p.m. His body and clothing were secured and transported to the Ventura County Medical Examiner's Office.

At the scene, the Oxnard Police Department's Major Crimes Unit assumed responsibility for investigating the incident. The involved officers were removed from the scene and the

neighborhood was canvassed and witnesses to the incident were located and interviewed. Four of the involved officers gave voluntary statements about their role in the incident on June 26, 2012. All but one of the involved officers had activated their personal recording devices during the incident and those recordings were downloaded.

In October 2012, the Federal Bureau of Investigation (FBI) announced that it would be reviewing the circumstances of Ramirez's death to determine if an investigation was warranted. In October 2013, the FBI announced that its review of the death did not support the opening of an investigation and that its case had been closed.

H. WITNESS STATEMENTS

Numerous individuals were interviewed, including all of the police officers involved in the incident and most of the neighbors. Three of the police officers (Brantner, Wilfert and Zavala) would only provide compelled statements pursuant to *Lybarger v. City of Los Angeles* (1985) 40 Cal.3d 822. Those officers' compelled statements were not provided to this office and were not reviewed for this report. Summaries of the most pertinent witness statements are set forth below.¹⁰

1. ERIKA PEDRO

Erika Pedro was a good friend of Robert Ramirez and was with him on the night of June 23, 2012. She was briefly interviewed at the scene by Officer Brantner. She was fully interviewed by Detectives Currie and Kay beginning at 3:30 a.m. on June 24, 2012.

¹⁰ The Ramirez family was contacted through their attorney in July 2012, and February and March 2013, and asked to submit any information the family felt was relevant to the investigation of how Mr. Ramirez died that evening. This office has received no response from the family.

Ms. Pedro lives at 1158 L Street in Oxnard. At approximately 9:40 p.m. on June 23, 2012, Ms. Pedro was outside her house with her friends, Carlos Jaime and Cody Meza, and Juvenile P. Ramirez drove into her driveway. His arms and legs were shaking and he could not stand still and was very sweaty. Ramirez told her that he had been stopped by the police and swallowed an eight-ball of meth.¹¹

Ms. Pedro recalled an incident four to five years before. She had been with Ramirez when he had swallowed what she believed to be a much smaller amount of meth prior to being contacted by police. She explained that, “for him not to get a charge or a possession he’ll just do it [swallow drugs in his possession] because he’s a parolee and he doesn’t want to go back.”

She recalled the effects of the meth the previous time had not been as extreme as they were on the night of the June 23. Ms. Pedro compared the two events by stating, “Yeah, but this one was like super, super; something, um, he couldn’t, that he couldn’t control, something that was just out of his, like uhhh, like this, like he couldn’t control it. Because the - the last time he was acting like that he was just like a little bit hot, sweaty but he was cool, but he was cool, through the night and everything.”

She said Ramirez was good for about a half an hour until “he started, like seeing stuff” and “acting crazy.” Ramirez was talking irrationally, asking about Lucy (his girlfriend) and sweating profusely. Ramirez told Ms. Pedro that he did not feel good and that she needed to take him to the emergency room. He then began talking to a wall and began

¹¹ Oxnard Police checked the dispatch records of all Ventura County law enforcement agencies and were unable to identify any police contact with Ramirez or his vehicle on June 23, 2012, prior to the 911 call.

shouting, “You fucking monkey! You fucking monkey!” At first she thought he was fooling around.

He became agitated and talked about “socking” someone. He approached Jaime and told him to stop whispering because it was “making me trip!” Ms. Pedro became concerned that Ramirez might become violent and hurt himself or someone else.

Arturo Pedro came outside and saw Ramirez. He told Ms. Pedro that Ramirez should go to the hospital. Ms. Pedro was concerned about calling 911 because she knew he was on parole and did not want him to get in trouble. Ramirez’s body began shaking and he began acting paranoid, telling her that the police were coming. Ramirez removed his shirt and used it to wipe off sweat from his body.

Ramirez began shouting random comments at people who were leaving a nearby house party. Mr. Pedro went back into the house to call 911 and Ms. Pedro stayed with Ramirez. Francisco Maldonado, Ms. Pedro’s brother-in-law, came outside and told her that he felt Ramirez was on something and was “gonna die.”

Ramirez crossed the street toward an empty home at 1174 South L Street. He “threw himself down on the grass” and would intersperse yelling “crazy sounds” with statements like, “I’m just chillin’ here at the sand and at the beach, come lay down with me.” Ms. Pedro tried to get Ramirez to come back to her house, and Ramirez rolled onto his side and told her that he could not feel half of his body.

The police arrived about 30 to 45 minutes after Ramirez had first arrived at her home. When Ramirez saw the police lights, he stood up and walked to the porch area of 1174 South L Street. Two or three officers arrived on scene and Ramirez started acting crazy.

He started shouting, “No, no, you can’t get me!” She backed away “because he [Ramirez] started freaking out” and she stood near her brother and Maldonado in the driveway of 1166 South L Street.

Ms. Pedro was surprised when the police arrived. She asked her brother, Arturo Pedro, why the police were there because she “thought the ambulance was going to come, you know, and my brother’s all ‘they have to calm him down first.’” She was afraid and she was worried that they were going to “have to like hurt him or something to get him, you know, because he wouldn’t listen.”

The officers asked what Ramirez was on and Ms. Pedro told them he had “swallowed an eight-ball” of methamphetamine. The police officers tried to calm Ramirez down. They told Ramirez that they were there to help him and were not there to arrest him. Ramirez was not listening to the police.

Additional officers arrived at the location and they continued to try to calm down Ramirez. The officers kept a distance away from Ramirez and were speaking in a calm manner to him and “being real cool.” Ramirez remained sitting on the porch but was very agitated.

One of the officers approached Ramirez and calmly told him that they had to handcuff him. Ramirez got up and started aggressively swinging at the officer. She was not sure if Ramirez was trying to hit the officer or just push him away. The officers then swarmed Ramirez and took him to the ground. Ms. Pedro estimated that it took about 30 seconds to get Ramirez to the ground because he was struggling.

Once he was on the ground, Ramirez continued to struggle with the police. Police officers continued telling Ramirez to calm down and Ramirez was banging his head. She did not have a good view “but could tell that they were hurting him.” Ms. Pedro recalled two to three officers were holding Ramirez’s arms, two to three officers were on his legs and feet, and a female officer was putting pressure with her knee in the small of his back. She could see Ramirez banging his head and yelling, “You’re hurting me!”

About two to three minutes after they got him to the ground she saw some of the officers back away and she heard someone say that Ramirez stopped breathing. The ambulance pulled up almost as soon as he stopped breathing and began treating Ramirez before transporting him from the scene. Once she saw the paramedics working on him she began “freaking out” because she did not know if he was going to make it.

2. ARTURO PEDRO

Arturo Pedro lives at 1159 South L Street, across the street from his mother who lives at 1158 South L Street. He was interviewed at the scene by Officer Lockner and more fully interviewed by Detectives Eckman and Perez at 3:30 a.m. on the morning of June 24, 2012.

Mr. Pedro was at his mother’s house on the night of the incident. He had arrived there shortly before the incident with Ramirez began and did not remember seeing Ramirez’s car outside his mother’s house when he walked over.

While he was inside, his sister, Erika Pedro, came inside and told him that their friend Robert Ramirez had been pulled over by police and swallowed an “eight-ball” of meth, and was “not doing too good.” Mr. Pedro did not pay too much attention but his brother-in-law, Francisco Maldonado, went outside and came back in and asked Mr. Pedro,

“Who’s the dude in the car like, like flippin’ out?” Ms. Pedro came inside again and told Mr. Pedro that Ramirez was acting crazy. Mr. Pedro then went outside himself.

Mr. Pedro saw Ramirez sitting on a block wall near his house. Ramirez was acting very strange and different than he had ever seen Ramirez act before. He said he was acting agitated and “twacked out”¹² and he “looked like a madman.” Ramirez had removed his shirt and Mr. Pedro thought Ramirez might have been having a seizure based on the way Ramirez’s body was convulsing. Mr. Pedro went inside and called 911. He stated that he called 911 because there was no way that Ramirez would have “made it” as he was acting so crazy. He told the 911 operator that he thought Ramirez had swallowed an eight-ball and needed help.

Mr. Pedro told everyone in his family to stay inside and went back outside and watched from his mother’s driveway. Ramirez had walked to a vacant home at 1174 South L Street and Ms. Pedro was near him, keeping an eye on him. Ramirez lay down on the lawn, then got back up and, at one point, grabbed a bush and started talking to it. Then Ramirez fell onto his back on the lawn. Three police cars arrived approximately three minutes after Mr. Pedro called 911. Ramirez had moved from the lawn to the porch area of 1174 South L Street. Mr. Pedro pointed the police toward Ramirez’s location.

Mr. Pedro told the police that he thought Ramirez had swallowed an eight-ball and the officers went over to Ramirez’s location.

The police officers talked to Ramirez and tried to calm him down. The officers spoke very calmly to Ramirez but Ramirez was acting crazy, bouncing around and babbling incoherently. The officers asked Ramirez to “lay on your stomach so we can get you

¹² “Twacked out” is a slang term for someone who is severely under the influence of a controlled substance, usually methamphetamine.

some help” but Ramirez did not comply with their requests. Ramirez did not appear to be able to control his body and appeared to be delusional. Ramirez kept moving around and started “babbling stuff.”

The officers approached Ramirez, who stood up from the porch. The officers then took Ramirez to the ground. Ramirez was face down on the ground and was struggling with the officers. Ramirez was making unintelligible sounds. Mr. Pedro never saw any officer strike Ramirez or use any nightsticks against Ramirez. He recalls seeing a laser light that he associated with a Taser but did not see a Taser actually deployed. Mr. Pedro believed the officers acted appropriately in attempting to restrain Ramirez.

When Ramirez was on the ground, he heard one of the officers mention Ramirez might have stopped breathing. The officers rolled Ramirez over and started CPR. The ambulance arrived and then the EMTs started treating him. Mr. Pedro passed on the information about Ramirez swallowing methamphetamine. Mr. Pedro then walked away from the location where Ramirez was being treated.

3. 911 CALL

Mr. Pedro called 911 at approximately 10:40 p.m. and asked for an ambulance because “my sister’s friend, I, I think he-he’s O, OD’ing or something.” He related that “the guy [Ramirez] got pulled over by the police and he panicked and he swallowed an eight-ball of meth.” He gave the location and told the 911 operator, “You guys have got to get someone, someone soon because I’ve never seen a person act this way. . . . He needs medical attention.” The 911 operator asked if Ramirez would be cooperative with the fire department and Mr. Pedro responded that he did not know. When the operator asked if the police should be sent in first, Mr. Pedro responded, “Yeah, just, just send the police first.” Mr. Pedro told the operator that Ramirez was wearing shorts and “I think he just

ripped off his shirt.” Mr. Pedro added, “Believe me, when the cops get here they’ll see, they’ll see him.” The operator asked if Ramirez was lying in the front yard and Mr. Pedro responded, “No, he can’t lay down because, uh it must be the meth. The dude’s just like – bouncing off the walls.” He stated that he was having his sister keep an eye on Ramirez “so he doesn’t run.” The operator asked if Ramirez was “super-agitated” and Mr. Pedro responded, “Yeah, he, he looks like he’s having like a, like a fit, almost, almost borderline seizure.”

4. FRANCISCO MALDONADO

Francisco Maldonado is Erika Pedro’s brother-in-law and witnessed the incident. He did not personally know Ramirez but knew that Ramirez was friends with his sister-in-law. Maldonado was interviewed briefly at the scene by Officer Rodriguez. He was more fully interviewed by Detective Currie and Officer Morales on July 12, 2012.¹³

During his initial interview, Maldonado said that he witnessed the incident between officers and a subject who appeared to be under the influence (Ramirez).¹⁴ He stated that he did not know Ramirez but that Ramirez is friends with his sister-in-law, Erika Pedro. Maldonado said Ramirez appeared to be hallucinating and needed some type of medical assistance.

When officers arrived, Maldonado thought the officers were going to provide medical assistance but the officers got ahold of Ramirez and “mounted” him. Maldonado felt that there was no reason for the officers to “mount” him.

¹³ Officers Rodriguez and Morales are both certified as Spanish-language translators by the Oxnard Police Department.

¹⁴ Maldonado did not know Ramirez’s name but described him by actions. Ramirez is identified as “Ramirez” in Maldonado’s statement for clarity.

The second interview occurred in the county jail, where Maldonado was in custody on an unrelated matter.¹⁵ Maldonado described Ramirez's demeanor that evening, but initially denied seeing the interaction between Ramirez and the police officers. After being confronted with his prior statement about officers "mounting" Ramirez, Maldonado provided a full description of what he saw that evening.

Maldonado arrived home sometime after 9:00 pm. Maldonado and his sister-in-law, Erika Pedro, and some others, including Ramirez, were outside his home. Ramirez was shaking, screaming, hitting a wall, and taking off his shirt. Maldonado thought Ramirez must be crazy. Maldonado asked what was wrong with Ramirez and was told that Ramirez had taken something. Maldonado told the other people to call for medical help. Maldonado was unloading tools from his truck and was able to see Ramirez during part of that time. At one point, Ramirez was swaying back and forth while standing and kept hitting himself. Ramirez then suddenly lay down on the lawn at 1174 South L Street and started hitting himself on the legs.

Maldonado was still unloading his tools when the police arrived. He saw them approach Ramirez, who was sitting on the porch of 1174 South L Street. There were five or six police officers and they were standing approximately 10 to 12 feet away from Ramirez. Maldonado thought he was standing 15 to 20 feet from the officers. The police officers spoke calmly to Ramirez and they asked Ramirez whether he spoke Spanish or English.

The officers tried to handcuff Ramirez and Ramirez screamed and struggled. Maldonado did not see any officer hit Ramirez at any time during the struggle to the ground. Maldonado did not see any officer display any weapon. Maldonado felt that there were

¹⁵ No charges were filed for the incident on which Mr. Maldonado was arrested.

five officers on top of Ramirez and four to five around him. He clarified that by “on top of” he meant one officer was holding Ramirez’s legs and the others were grabbing his arms. Ramirez was struggling as if he was trying to get free. Maldonado heard Ramirez yell in English but he did not understand the words. Maldonado went inside his house at that time and did not see any more of the interaction between Ramirez and the police.

5. WINFRED KERFORD

Winfred Kerford was interviewed at the scene by Officer Lockner and at approximately 2:30 a.m. on June 24, 2012, by Detectives Currie and Kay.

Kerford lives on South L Street and witnessed the encounter between Ramirez and the police. He was in his house when he heard a loud voice outside. He could not understand the words, but felt something was happening outside, and went outside to see. He saw a person (Ramirez) sitting on a porch in front of 1174 South L Street who was speaking with two police officers. Ramirez was not wearing a shirt and was continuously rocking, fidgeting and appeared to be arguing with himself. Ramirez would repeatedly become agitated then calm down. Kerford described Ramirez as not making any sense and not speaking in sentences.

The two officers asked Ramirez to calm down five to six times. They also told him that they were there to help Ramirez and that an ambulance would be there shortly. After five to ten minutes, more officers arrived. All of the officers remained five to eight feet from Ramirez and kept calmly talking to him.

At one point, two officers approached Ramirez and grabbed for his arms. Ramirez stood and started wrestling with the officers. The officers took Ramirez to the ground and

began struggling to restrain him. Kerford said the officers were “pretty nice to him” as they took him to the ground.

Ramirez continued struggling on the ground and was “hollering” loudly. The officers were trying to handcuff Ramirez while he struggled. Kerford stated, “I guess he was trying to get up, and they was holding him down. I seen the one had his, they was holding his legs down, and one had his arm. His arm bent up behind his back. Actually both of them ‘cuz they was trying to get the handcuffs on him. And it looked like they wanted to put leg restraints on him.”

Kerford did not see the officers do anything he felt was inappropriate. Kerford said, “[T]hey were just trying to restrain him, sir. They wasn’t, they wasn’t trying to hurt him. They were just trying to restrain the man.”

Ramirez continued loudly yelling during the struggle and then got very quiet. The ambulance arrived shortly after and the ambulance crew began administering first aid to Ramirez.

6. JUVENILE P.

Juvenile P. lives on South L Street. She was interviewed on July 6, 2012, by Detective Currie in the presence of her father.

On June 23, 2012, Juvenile P. was with Erika Pedro and two of her friends, Cody (Cody Meza) and Big Mac (Carlos Jaime). Ramirez drove into the driveway and Juvenile P. could tell he was “tripping already.” Ramirez told them something about a cop stopping

him and that he had swallowed an eight-ball of methamphetamine.¹⁶ Juvenile P. told Ramirez that was a lot of drugs and Ramirez told her that he had done more before, so she thought he would be okay.

Ramirez got out of his car and started acting odd. He focused on Juvenile P.'s glasses and kept telling Juvenile P. to look away from him. His behavior was very inconsistent. One minute Ramirez would lunge toward Ms. Pedro in an aggressive manner, and then the next minute he would be begging Ms. Pedro not to leave him. Juvenile P. recalls Ramirez stating, "Dang, I think I have to go to the hospital."

Cody left, but Ms. Pedro, Big Mac and Juvenile P. stayed with Ramirez, whose condition continued to deteriorate. Ramirez was sweating and speaking fast and loud. Ms. Pedro got some milk for Ramirez but Ramirez's hands were shaking so bad he was unable to hold the glass.

His shirt was soaked with sweat, so he took it off and flung it around. He started walking across the street and started yelling into a neighbor's window. Ramirez began making challenging remarks at people walking down the street.

Ramirez walked to the lawn in front of 1174 South L Street and lay down. She could tell he needed help because "he was already saying like 'I feel like I'm at the beach' and stuff." Juvenile P. saw Winfred Kerford come out of his house to see what was happening. Then three police cars arrived.

¹⁶ Juvenile P. could not tell whether Ramirez meant that he was actually stopped by police or just thought he was going to be pulled over.

Ramirez was sitting in a porch area. The police initially spoke with Ramirez and asked if he was okay. Ramirez then stood and said something to the effect of "I'm not going." Then she saw the police officers get Ramirez to the ground. Ramirez was screaming but she could not understand any words. Ramirez was not cooperating with the police as they tried to restrain him. Then he stopped screaming and she knew something was wrong.

Juvenile P. never saw a police officer strike Ramirez but did see several officers holding his legs. She initially described a female officer (Officer Wilfert) as "sitting on top of" Ramirez, but when Juvenile P. was asked to clarify that statement, Juvenile P. described the female officer as kneeling next to Ramirez and leaning over his back while trying to secure his arms. Juvenile P. never saw any officer actually on Ramirez's back. Juvenile P. stated that the police "should not have, like, got on him the way that they did and not as many cops." Juvenile P. felt that he would have been better off "if the cops didn't come and the ambulance, like took him in" since "his heart was already beating so fast, I don't think his heart could take all that, like, commotion."

7. OFFICER MICHAEL BOCANEGRA

Officer Michael Bocanegra was interviewed by Detectives Currie and Kay on June 26, 2012, in the presence of his attorney.

On June 23, 2012, Officer Bocanegra received a call requesting he and another unit respond to 1158 South L Street for a possible drug overdose. He drove to the call with his patrol car's lights and sirens activated. Officer Bocanegra spotted a fire truck that was already parked nearby as he approached L Street. Officer Bocanegra explained that it is common for medical personnel to wait to respond until situations with combative persons are under control before they attempt to provide medical assistance.

Officer Bocanegra was the first officer to reach the scene. He was waved down by a man as he approached 1158 South L Street. The man identified himself as the reporting party and directed Officer Bocanegra to Ramirez's location. The man also informed him that Ramirez had swallowed an eight-ball of methamphetamine. Officer Bocanegra has had prior experience with individuals high on methamphetamine and, in those experiences, the individuals were non-compliant with police requests and resulted in physical struggles.

Officer Bocanegra saw Ramirez standing on the porch area south of the reporting party's location. Ramirez was wearing shorts and no shirt and appeared to be very agitated, repeatedly clenching and unclenching his fists. Ramirez was talking but not making any sense. Officer Bocanegra approached Ramirez and tried to speak with him. Officer Bocanegra did not recall ever having a prior contact with Ramirez.¹⁷

Officer Bocanegra withdrew his Taser based on Ramirez's demeanor but he did not display the Taser to Ramirez. Ramirez was very amped up and Officer Bocanegra tried to calm him down by asking him what was happening and telling him that he was there to help Ramirez. Ramirez tried to respond to Officer Bocanegra but his words made no sense.

Officer Bocanegra had received crisis intervention training in the past.¹⁸ He continued to calmly speak with Ramirez, telling him that he was not in any trouble and that medical

¹⁷ Officer Bocanegra activated his personal audio recorder as he began speaking with Ramirez and the device recorded the entire incident from that point on.

¹⁸ Crisis intervention training seeks to improve the outcomes of police interactions with people in mental health crises and is based on a program that began in Memphis, Tennessee in 1988. The training for law enforcement focuses on recognizing mental illness and how to de-escalate mental health crisis situations. National Association on Mental Illness CIT Toolkit. See also <http://www.venturacountycit.org/index.html>

personnel were nearby. He was trying to control the situation to allow time for his backup to arrive and to prevent the situation from escalating. At one point, Ramirez sat on the porch but continued his agitated fist clenching as well as kicking his legs and making partial attempts at standing up. Officer Bocanegra planned to use the Taser if Ramirez did stand up.

Officer Brantner was the next officer to arrive. Ramirez was still seated on the porch. Officer Bocanegra gave Officer Brantner a summary of what he knew. He also suggested to Officer Brantner that they should put gloves on in case they had to go “hands on.” Officer Bocanegra did put on medical type latex gloves.

Officer Brantner withdrew and extended his collapsible baton. The two officers agreed that if the contact became physical, the Taser would be the first force option and the baton would be a back-up if the Taser did not work. The next officer to arrive was Sergeant Ramirez.

Officer Brantner and Officer Bocanegra continued to speak to Ramirez to let him know that they were there to help him. They tried to speak in soothing tones. Ramirez continued to speak incoherently while they spoke to him. Sergeant Ramirez began to speak with Ramirez in Spanish.

Officers Wilfert, Rodriguez, Zavala and another officer arrived on scene. Officer Bocanegra was unsure of the order in which they arrived. Ramirez was still seated but continued his fidgety and agitated behavior.

Ramirez was told to lie down on his stomach but Ramirez did not comply. Sergeant Ramirez eventually decided that Ramirez was not going to comply and that the officers

were going to have to restrain Ramirez. Sergeant Ramirez instructed half of the officers to secure one side of Ramirez while the other officers secured Ramirez's other side. He instructed Officer Bocanegra to cover them with his Taser.

When the officers approached Ramirez, he stood up and it became a big "pile of people." Officer Bocanegra did not have a clear view of who did what but eventually Ramirez was taken down to the ground on the driveway in a controlled fashion. Ramirez lay on his stomach and resisted the officers' efforts to restrain him. He had his left arm tucked under his chest and was kicking his legs and banging his head against the driveway. An unknown officer used his palm to prevent Ramirez from banging his head on the driveway.

The officers struggled to get Ramirez's arms handcuffed and control his kicking legs. Officer Bocanegra removed the cartridge from his Taser. He crouched down and placed the Taser against Ramirez's shoulder in a drive-stun mode, but he did not activate the Taser. Officer Bocanegra noticed Officer Brantner was on Ramirez's left side, trying to secure the left arm, and Officer Rodriguez was trying to hold down Ramirez's hips. No officer was actually over Ramirez's back.

Once Ramirez's right hand was cuffed, Officer Brantner used his baton as leverage to pry the left arm out from under Ramirez. The officers eventually managed to extricate Ramirez's left hand and restrain it. Officer Bocanegra never saw any officer strike or kick Ramirez and the only baton he saw used was when Officer Brantner used his baton to pry Ramirez's arm out from under him.

Ramirez's head was lying sideways on the driveway. Officer Bocanegra saw Ramirez strike his head against the pavement while he was struggling with the officers. Someone,

possibly Sergeant Ramirez, said to make sure that Ramirez did not hit his head again. Officer Bocanegra saw another officer put his palm on Ramirez's head to keep him from banging his head.

Ramirez continued to kick during the incident and an unknown officer brought a hobble—a leg restraining device—to help secure Ramirez's legs. Officer Bocanegra did not see the hobble applied but believed that Officer Rodriguez's leg was caught in the hobble based on conversation as it was being applied. Officer Bocanegra only saw the hobble around Ramirez's ankles and did not believe it was attached to the handcuffs.

Shortly after the hobble was applied, Officer Bocanegra heard an unknown officer ask whether Ramirez was breathing. Ramirez was rolled over and someone checked his pulse. Ramirez still had a pulse but it appeared he had stopped breathing. Someone asked for a CPR mask and Officer Bocanegra went to his car to retrieve one. Officer Bocanegra believed that it was approximately 30 seconds between Ramirez being secured and being rolled over.

When he returned, Officer Bocanegra recalls someone saying that Ramirez was intentionally holding his breath. He looked at Ramirez and saw the right side of his chest pounding in a similar manner as a body builder flexing his pectoral muscles. Someone commented that Ramirez was breathing again and the EMTs were on scene shortly after that.

Ramirez was uncuffed and rolled onto his back and the EMTs began to work on him. Sergeant Burr asked Officer Bocanegra to take photographs and he did so. The EMTs eventually placed Ramirez on a gurney, loaded him into their ambulance, and drove away. He continued to take photographs of the scene and spoke briefly with Erika Pedro.

8. OFFICER PEDRO RODRIGUEZ

Officer Rodriguez was interviewed by Detectives Kay and Young on June 26, 2012, in the presence of his attorney.

On the evening of June 23, 2012, Officer Rodriguez was working with Officer Wilfert as a two-person unit. They both attended briefing then began their shift. Just prior to the incident with Ramirez, they responded to a foot pursuit near Liquor Cellar on Channel Islands Boulevard in Oxnard.

Officer Rodriguez heard a call for additional officers to assist with a possible drug overdose. Officer Rodriguez and Officer Wilfert were then dispatched to assist in that call.

They were heading north on L Street when they spotted other police cars stopped in the street. Officer Rodriguez had also noticed an ambulance parked just east of L Street. Officer Wilfert stopped the patrol car behind the other cars and they approached other officers who were already on scene.

As they neared the other officers, Officer Rodriguez recognized Sergeant Ramirez giving commands to a shirtless individual who was sitting on a front porch (Ramirez). Officer Rodriguez noticed that Officer Brantner had a baton drawn and was holding it under his right armpit, and that Officer Bocanegra had a Taser drawn and pointed toward the ground. Ramirez was acting erratically and speaking incoherently, and Officer Rodriguez felt that he had lost touch with reality. He heard Sergeant Ramirez tell Ramirez to lay on

is stomach so that they could get him help but Ramirez stayed seated and continued incoherently talking to himself.¹⁹

Ramirez was seated but moving all over the place. He would sit, then squat, then wildly move his arms. He was continuously making indiscernible sounds and words. Officer Rodriguez did not think that Ramirez could control himself and felt that it was a definite overdose situation. He had seen people unable to control themselves due to a methamphetamine overdose but felt Ramirez's demeanor was "ten times worse." He thought he might be dealing with someone who had taken "bath salts."²⁰

Officer Rodriguez told Ramirez, in Spanish, to get on his stomach and added that they were there to help Ramirez. Ramirez stayed seated and fidgeting. Ramirez was also sweating heavily. Officer Ross arrived on scene and Officer Rodriguez suggested that he and Officer Wilfert wear latex gloves based on how much Ramirez was sweating.

Since Ramirez was not complying with their requests, Sergeant Ramirez organized a plan to make physical contact with Ramirez. Officer Rodriguez was to make actual contact and Officer Brantner would be behind him, ready to deploy his baton if Ramirez physically resisted.

Officer Rodriguez approached Ramirez and told him, "It's okay." He placed his right hand on Ramirez's left shoulder and Ramirez appeared not to notice. Officer Rodriguez started to put Ramirez's left hand behind his back and Ramirez stood up. Officer

¹⁹ Officer Rodriguez activated his personal audio recording device and captured most of the incident on the recording.

²⁰ "Bath salts" refer to synthetic designer drugs, most often featuring synthetic cathinone, and are associated with hallucinations and violent behavior. See generally, <http://www.drugabuse.gov/publications/drugfacts/synthetic-cathinones-bath-salts>.

Rodriguez again told Ramirez that everything was okay but Ramirez started walking toward Sergeant Ramirez. Ramirez was covered in sweat and Officer Rodriguez began losing his grip on Ramirez's arm. Another officer grabbed Ramirez's right side, Officer Rodriguez grabbed Ramirez's left leg, and a number of officers brought Ramirez down to the ground in a controlled fashion.

Officer Rodriguez straddled Ramirez's left leg, sitting on the thigh area with his right leg in between Ramirez's legs. Officer Ross tried to control the right leg. Ramirez struggled against the officer and tried to kick Officer Rodriguez off of him. Officer Rodriguez found himself being lifted up by Ramirez's left leg. Officers were able to get control of Ramirez's right arm and place it behind his back, and Officer Wilfert moved to handcuff that arm. Officer Rodriguez said he would do it since he was in a better position and asked for someone to shine a light on the area so he could see. Officer Rodriguez was then able to get Ramirez's right arm handcuffed.

Officer Wilfert took control of the empty handcuff attached to Ramirez's right arm while the officers attempted to gain control of his left arm, which was under Ramirez's body. Officer Rodriguez believed that Ramirez was intentionally keeping his arm under his body. Officer Brantner used his baton as a lever to pry the left arm out from under Ramirez. Ramirez continued to struggle and kick and was shouting and grunting. Once the left arm was free, Officer Wilfert grabbed it and Officer Rodriguez handcuffed it.

Once Ramirez was handcuffed, Officer Rodriguez stayed on top of Ramirez's left leg. Ramirez was still kicking and he overheard someone discuss using a hobble to keep him from kicking. Officer Rodriguez also overheard a bystander tell the police that Ramirez had earlier swallowed an eight-ball of meth when he had been pulled over.

Shortly after that, Officer Rodriguez felt Ramirez squeezing his leg, trapping it. An unknown officer began applying a hobble to Ramirez's legs while Officer Rodriguez's leg was being squeezed. He asked for help in extricating himself and was eventually able to get free, and then the hobble was applied. At about that time, Ramirez stopped struggling.

Five or ten seconds after Ramirez stopped struggling, an unknown officer asked if Ramirez was still breathing. Officer Rodriguez looked at Ramirez and responded that he did not think Ramirez was breathing. Ramirez was rolled onto his side and someone checked for a pulse. That person stated that Ramirez still had a pulse. Officer Rodriguez then saw Ramirez take a breath. Sergeant Burr had arrived on scene and requested the emergency medical personnel to move in to assist Ramirez.

Emergency medical personnel arrived on scene and began treating Ramirez. One of the EMTs stated that he could not feel a pulse. Officer Rodriguez provided light for the EMT with his flashlight. The EMTs asked for the handcuffs to be removed and someone removed the cuffs. Officer Wilfert took over providing light and Officer Rodriguez went to translate for Officer Brantner, who was interviewing bystanders.

Officer Rodriguez never saw any officer strike Ramirez and only time he saw a baton used was when saw Officer Brantner used his baton as a prying device on Ramirez's left arm. Based on the dark conditions, he could not see Ramirez's head when he was on the ground but was aware that no officer was on Ramirez's back. Based on Ramirez's demeanor, he believed it would have been too dangerous for medical personnel to attempt to render aid to Ramirez before he was restrained.

9. SERGEANT STEVE RAMIREZ

Sergeant Ramirez was interviewed by Detectives Kay and Young on June 26, 2012, in the presence of his attorney.

On June 23, 2012, Sergeant Ramirez was assigned to be a patrol supervisor. He was assisting with a foot pursuit when he heard a call regarding a possible overdose on South L Street. He advised dispatch that he would respond to the scene to assist. Sergeant Ramirez did not activate his emergency lights or siren but he heard responding units advise that they were responding Code 3 (with emergency lights and siren activated). He also heard that fire and ambulance personnel were staging in the area. Before he arrived, he heard a radio request from an officer requesting additional back-up.

Sergeant Ramirez stated that emergency medical personnel stage away from a scene when called to treat potentially agitated or combative persons when there is a chance of injury to the medical personnel. Typically, they will wait to respond until police have secured the scene because they are not trained or equipped to handle a combative person the way police are trained.

When he arrived at the scene, he saw patrol cars parked in the street and parked behind them. He saw Officer Bocanegra speaking to a shirtless man (Ramirez) who was seated on a darkened porch in front of a residence on L Street. Ramirez was sweating profusely and appeared very agitated, seated but bouncing around the porch as though he was going to spring up off of the ground. Officer Bocanegra had unholstered his Taser. Officer Brantner was nearby talking to a group of individuals standing nearby. Sergeant Ramirez activated his personal audio recording device and approached Officer Bocanegra. Sergeant Ramirez did not recall any prior contact with Ramirez.

Sergeant Ramirez had prior encounters with persons under the influence of controlled substances who had become violent. Ramirez's unpredictable demeanor caused Sergeant Ramirez concern that Ramirez might attack Officer Bocanegra, or anyone nearby, so he asked Officer Brantner to help in contacting Ramirez. Sergeant Ramirez directed Officer Bocanegra to deploy his Taser if Ramirez tried to engage any of the officers or tried to escape the area.

Sergeant Ramirez approached Ramirez and calmly told him that they were there to help and that he was not in any trouble. He had been trained in crisis intervention techniques and worked to de-escalate the situation by speaking calmly to Ramirez from about a ten-foot distance. Sergeant Ramirez told him that an ambulance was down the street and they just needed him to relax so they could get him help, and that he needed Ramirez to lie on his stomach for everyone's safety. He then requested that Ramirez lie on his stomach. Ramirez continued sitting down and bouncing around.

Ramirez spoke but his words made no sense. It appeared to Sergeant Ramirez that Ramirez was hallucinating. Ramirez could not listen to or comprehend what was being asked of him and continued bouncing around in his agitated state. Sergeant Ramirez thought that the amount of controlled substances Ramirez had ingested was preventing him from understanding or complying with the commands that the police officers were giving him. Sergeant Ramirez did not know if Ramirez had taken LSD, PCP or a stimulant, or some combination of those substances.

Ramirez grew more agitated and tried to stand up. Sergeant Ramirez was concerned that Ramirez would hurt himself or someone else and decided that the officers were going to have to physically restrain Ramirez so that he could receive medical aid. Sergeant Ramirez instructed Officer Bocanegra to be ready with his Taser and for Officer Brantner

to be ready with his baton, and then directed the other officers to physically restrain Ramirez.

Officer Rodriguez approached Ramirez while he was still seated. Officer Rodriguez took Ramirez's left arm and placed it in a rear wrist lock. Ramirez stood up and Sergeant Ramirez took hold of Ramirez's right arm and tried to place it in a rear wrist lock but Ramirez resisted him. Ramirez struggled with the officers, and the group traveled about five feet when Sergeant Ramirez directed all of the officers to take Ramirez down to the ground. All of the officers and Ramirez then went down to the ground.

Once on the ground, the officers continued to try to gain control of Ramirez, who struggled against them and screamed loudly. Sergeant Ramirez lay face down and used his hands to hold Ramirez's wrist, forearm, and his shoulder to pin Ramirez's upper arm. Sergeant Ramirez's body lay on the driveway and not on Ramirez.

Sergeant Ramirez was able to force Ramirez's right arm into a rear wrist lock, where Officer Wilfert was able to put a handcuff on it. Officer Wilfert was directly over Ramirez when she handcuffed him but Sergeant Ramirez was unsure whether she was standing, squatting or kneeling. Once the right arm was handcuffed, Officer Wilfert held onto the unused portion of the handcuff. Officer Bocanegra was next to Ramirez's left shoulder. He had his Taser pressed against Ramirez's left shoulder area but Officer Bocanegra did not activate the Taser. No officer was actually on Ramirez's back. Sergeant Ramirez laid his forearms across Ramirez's right shoulder to keep him from struggling.

Ramirez had pulled his left arm under his body, where it was pinned between the ground and his body. An officer requested that the other officers ease up their hold to allow them to grab Ramirez's left arm. Sergeant Ramirez relaxed the pressure he was putting on

Ramirez's right shoulder and shortly afterward the officers were able to secure Ramirez's left arm and he was handcuffed. Sergeant Ramirez believed that it took about 10 to 20 seconds to get Ramirez fully handcuffed once they got him on the ground.

Ramirez had been struggling the whole time and did not stop struggling once he was handcuffed. An officer was on Ramirez's legs, so Sergeant Ramirez maintained his control of Ramirez's right shoulder. He directed an officer to get a body restraint to put on Ramirez to prevent him from hurting himself or any of the officers. Sergeant Ramirez repeatedly told Ramirez to relax and calm down.

Sergeant Ramirez called out to the reporting party (Arturo Pedro) who was standing nearby and asked what Ramirez had taken. Someone responded that Ramirez had swallowed an eight-ball of meth. Sergeant Ramirez did not see the hobble applied. Later, when the EMTs were treating Ramirez, Sergeant Ramirez noticed that a hobble had been looped around Ramirez's ankles but that the restraining strap had not been attached to anything. Sergeant Ramirez heard Sergeant Burr request medical personnel to move in to the scene.

A short while later, an officer asked if Ramirez was breathing. Officer Wilfert checked Ramirez's pulse and said that he had a pulse but was not breathing. Officer Zavala recommended rolling Ramirez onto his side and the officers did so. (Sergeant Ramirez was unsure when Officer Zavala had arrived at the scene but believed Officer Zavala was not involved with contacting and restraining Ramirez.) Sergeant Ramirez continued to monitor Ramirez's pulse. Ramirez was breathing and then he began to make moaning noises. The medical personnel arrived approximately 30 seconds later.

Sergeant Ramirez told the EMTs that Ramirez had swallowed methamphetamine and had stopped breathing about 30 seconds before the EMTs arrived at the scene. The EMTs asked for the handcuffs to be removed and Sergeant Ramirez mentioned that Ramirez had been struggling with the officers. The medical personnel insisted that the handcuffs be removed and an officer released Ramirez from the handcuffs.

The medical personnel took over treating Ramirez and eventually transported him from the scene. Sergeant Ramirez directed officers to interview witnesses and secure the scene with crime scene tape.

10. OFFICER MATT ROSS

Officer Ross was interviewed by Detectives Kay and Young on June 26, 2012, in the presence of his attorney.

On June 23, 2012, Officer Ross noted a dispatch call to South L Street regarding a subject under the influence. Then he heard Officer Brantner request two more units for the call, which indicated to him that something was not going right at the call. Officer Ross decided to drive over to the scene to assist.

When he arrived, Officer Ross saw several parked patrol cars in the street. One of the cars had its spotlight activated and pointing toward 1158 South L Street. Officer Ross got out of his patrol car, noticed several police officers in front of 1174 South L Street, and walked to that area. He activated his personal audio recording device as he walked toward the other officers.

He saw a male subject (Ramirez) seated on the porch in front of 1174 South L Street. Officer Ross did not recall having any prior contact with Ramirez. Ramirez was shirtless

and wearing shorts. Ramirez was drenched in sweat and acting extremely odd. Ramirez was weaving around as he sat and was growling and mumbling. He was also slapping his right knee and swinging his shoelace back and forth. Sergeant Ramirez was telling Ramirez to lie down on his stomach. Officer Ross had never seen anyone act the way Ramirez was acting and felt that Ramirez might have been under the influence of bath salts.

Officer Ross heard someone say Ramirez had swallowed an eight-ball of methamphetamine. Officer Ross felt that Ramirez's behavior was consistent with methamphetamine use, but "to a much more extent" than any methamphetamine intoxication he had encountered in the past.

The officers were positioned in a semi-circle approximately 10 to 15 feet from Ramirez. Officer Bocanegra had his Taser unholstered and pointed in Ramirez's direction. Officer Brantner stood to Officer Bocanegra's right. Ramirez still did not respond to any of the officers' commands.

The officers discussed their options. They formulated a plan to have Officer Rodriguez take control of Ramirez's left arm and another to control the right arm to secure him in handcuffs so that medical personnel would be able to provide medical assistance.

The officers approached Ramirez and Officer Ross managed to move behind Ramirez. Officer Rodriguez put his hands on Ramirez's left arm. Ramirez did not react to the contact. An unknown officer reached for Ramirez's right arm and Ramirez stood and began struggling with the officers.

Ramirez walked seven to ten feet forward while struggling with four officers. Officer Ross believed he “heard him say something to the effect of ‘I’m going to kill you,’ or ‘I’m gonna kill you guys’ or something along those lines.” Ramirez was pulling his arms back and forth and tensing his muscles.

An officer grabbed Ramirez by the legs and Officer Ross and the other officers assisted Ramirez onto the ground. Ramirez lay face down on the driveway and continued to struggle. He got an arm free and was kicking his legs. Officer Ross noted Ramirez was very strong for his size and never seemed to tire of struggling.

Officer Ross grabbed Ramirez’s right calf with both hands and his knees, using his body weight to keep Ramirez from struggling. Ramirez continued kicking and it felt as though he lifted Officer Ross off the ground.

Officer Rodriguez was on Ramirez’s left side, in the area of Ramirez’s hip or thigh. Another officer may have also been putting pressure on Ramirez’s left calf. Sergeant Ramirez was on Ramirez’s upper right side and Officer Bocanegra had his Taser near Ramirez’s upper left shoulder. Officer Ross never heard the Taser used.

Ramirez had placed his left hand under his own body and was using his body weight to prevent the officers from gaining control of it. Some officers were working at getting the arm free but could not get it out from under Ramirez. Officer Brantner used his baton as a pry bar, levering Ramirez’s left arm free, and it was handcuffed.

Ramirez continued to struggle. His leg muscles were constantly contracting and Officer Ross never felt Ramirez’s muscles relax. Someone placed a hobble around Ramirez’s ankles. Ramirez continued to kick but it was not as hard as when he independently kicked

each leg. Officer Ross asked Sergeant Burr if they could use a body wrap. Sergeant Burr went to his patrol car and returned with a body wrap. Officer Ross maintained his position on Ramirez's leg and Sergeant Ramirez was in the upper torso area, monitoring Ramirez. Ramirez still continued to struggle and the officers focused on how they were going to apply the body wrap.

Sergeant Ramirez mentioned that they needed to check Ramirez's pulse and Ramirez suddenly stopped struggling. His muscles remained tight but he stopped kicking. Sergeant Ramirez checked for a pulse and was concerned that Ramirez had stopped breathing. An officer went for a CPR mask and another officer told the medical personnel to come to the scene. Officer Ross released Ramirez's legs and kept control of the hobble strap in case Ramirez resumed kicking.

The medical personnel arrived approximately 20 seconds after they were requested. One of the medical personnel asked for the officers to focus their flashlights onto the area they were working on Ramirez. Someone removed the handcuffs from Ramirez and Officer Ross believed that he removed the hobble. Ramirez was eventually taken from the scene by ambulance. Officer Ross then secured the area with barrier tape.

11. SERGEANT TERRY BURR

As Sergeant Burr was not involved in any hands-on contact with Ramirez, he was not interviewed but wrote a report relating his involvement in the incident.

At approximately 10:48 p.m. on June 23, 2012, Sergeant Burr heard dispatch traffic about officers contacting a subject at 1174 South L Street. Sergeant Burr had heard the earlier call regarding a possible overdose in that area. He was also aware that emergency medical personnel were staged at Hill and L Street waiting for the scene to be secured.

He then heard officers request two additional units to respond to the scene. Sergeant Burr drove to the location.

When he arrived, Officers Bocanegra, Brantner, Rodriguez, Wilfert and Zavala were on scene, along with Sergeant Ramirez. The officers were speaking with a shirtless subject seated on the ground (Ramirez). He noticed that Ramirez was extremely sweaty and very agitated. Ramirez was speaking to the officers but was not making any sense. One of the officers approached Ramirez and grabbed his arms. Ramirez stood and began flailing his arms. Ramirez was combative with the officers, pushing them as he walked.

The officers grabbed Ramirez's hands and legs and guided him down to the ground. Ramirez lay on his stomach and appeared to have wedged his left arm under his body to prevent the officers from reaching it. Ramirez struggled against the officers as they tried to control his left arm. Officer Bocanegra had his Taser ready in drive-stun mode but never discharged it.

One of Ramirez's legs was secured with a hobble but Ramirez kept kicking. An officer asked if a body wrap was needed. Sergeant Burr went to his patrol car and got a body wrap, then returned to Ramirez's location. Ramirez was still moving and thrashing at that time. An officer stated that Ramirez had been handcuffed and another officer stated that Ramirez might be unconscious.

Sergeant Burr told the officers to roll Ramirez onto his side, which they did. Officer Wilfert checked Ramirez's pulse and reported he had an extremely weak pulse. Sergeant Burr sent an officer to get a CPR mask and told dispatch to have the fire personnel move to their location.

The fire personnel were on scene within 30 seconds. They checked Ramirez and could not find a pulse. They started CPR on Ramirez and the handcuffs and hobble were removed. Ramirez was transported from the scene by ambulance, where he was pronounced dead at 11:41 p.m. Sergeant Burr realized that the location would likely be considered a crime scene and directed officers to secure the scene, start a crime scene log, and began a canvass for witnesses. He also arranged for the involved officers to be transported to the Oxnard Police Department.

12. OFFICERS' RECORDINGS

All of the involved officers except Officer Zavala activated their personal audio recording devices at some point during the encounter. The multiple recordings give different perspectives to the same event and, when compared with the dispatch log, provide an approximate timeline for the events as they occurred.

Officer Bocanegra and Officer Brantner's recordings began at almost the same moment, when they first contacted Ramirez. [Approximately 10:48:41 p.m.] Officer Ross's recording began four minutes later. [Approximately 10:52:57 p.m.] Officer Rodriguez and Officer Wilfert began at almost the same time, about 30 seconds after Officer Ross. [Approximately 10:53:20 p.m.] Sergeant Burr began recording once it appeared Ramirez had stopped breathing, about 10 minutes after Officer Bocanegra. [Approximately 10:58:30 p.m.] Sergeant Ramirez did not begin his recording until after the paramedics had begun treating Ramirez.

The recorded parts of the encounter began when Officer Bocanegra calmly asked Ramirez, "Wha-what happened, dude? What did you take, man? Are you okay?" [Approximately 10:48:41 p.m.] Ramirez responded with incoherent babbling that

included the statement “get away” and something about “it burns.” At the same time, Officer Brantner asked dispatch to send two additional units.

Officer Bocanegra addressed Ramirez as “Robert” and told him the best thing he could do was relax. Ramirez continued to babble and Officer Bocanegra told him, “As soon as you calm down a little bit, we can get the ambulance over here for you, okay?” Ramirez responded by saying, “You’re stupid!” but it is not clear who he was addressing.

[Approximately 10:49:12 p.m.]

The officers continued to reassure Ramirez that he was not in trouble and that they were trying to get him help. Ramirez was able to respond that his name was Robert. Ramirez’s voice was trembling as he spoke and it appeared he was having trouble talking. He was able to respond “yes” when asked if he took anything. [Approximately 10:50:09 p.m.]

Sergeant Ramirez then calmly explained to Ramirez that they needed him to roll onto his stomach and he was asked to do so several times. Ramirez became agitated and yelled, “Eh! Eh! You’re not going in there!” Several officers then requested Ramirez to stay still and again reassured him that he was not in trouble and they were trying to help him. Sergeant Ramirez continually asked Ramirez to lie on his stomach. Ramirez yelled incoherently in response and then yelled what sounds like “hijo de puta.”²¹

[10:52:18 p.m.]

Officer Rodriguez began addressing Ramirez in Spanish, asking him to lie on his stomach. Officer Wilfert told the other officers that she recognized Ramirez as being on parole. Sergeant Ramirez directed the officers to approach Ramirez from two sides and

²¹ A derogatory phrase in Spanish.

handcuff him. Ramirez was then told by Officer Bocanegra and Sergeant Ramirez to stay seated. Officer Rodriguez began repeating “Calmado” with increasing urgency until Ramirez yelled, “I’m gonna fuck you guys up,” and there was the sound of a struggle. [Approximately 10:54:30 p.m.] Within a few seconds, the sound of the struggle changes and officers began communicating about restraining Ramirez.

Ramirez continued to shout odd sounds. Sergeant Ramirez calmly repeated, “Let go of my hand.” At one point Ramirez screamed, “Ow, bug, you’re on my eye,” and at another point yelled, “Ahh, Mom I can’t breathe!” [Approximately 10:55:09 p.m.]

Ramirez moaned loudly and then began making grunting noises and screams. His sounds became quieter. Officers spoke about getting Ramirez’s arm out from under him. Officer Brantner says, “If you can let some pressure up I can get this under and get it out.” Sergeant Ramirez asked Ramirez if he is going to relax and other officers continued talking about trying to get the arm out. Officer Brantner stated, “let him breathe, let him breathe,” and Ramirez began loudly grunting and howling. He screamed “ooooww baby,” and continued yelling. [10:56:02 p.m.]

Ramirez was handcuffed and the officers began applying a hobble, only to discover Officer Rodriguez’s leg was cinched in the hobble as well. Ramirez sporadically yelled while officers tried to extricate Officer Rodriguez’s leg from the hobble. Ramirez’s last sounds – a grunt and high pitched sound – was heard as several officers began talking to bystanders to determine what Ramirez had taken. [10:57:33 p.m.]²²

²² The sound is only audible on the Wilfert recording.

Officers began talking about applying a body wrap to Ramirez. An officer asked if Ramirez was breathing. [10:57:50 p.m.] Sergeant Burr requested the medical personnel to come to the scene and Officer Wilfert reported, "He still has a pulse right now." [10:58:24 p.m.] Sergeant Ramirez began telling Ramirez that he needed to breathe and several officers confirmed that Ramirez was breathing and that he still had a pulse. The fire trucks were heard arriving and Officer Wilfert directed the other officers to look at Ramirez's heart because it was "jumping out of his chest" which other officers said were spasms. [10:59:36 p.m.] Medical personnel then began treating Ramirez and told the officers he had no pulse.

13. FIRE ENGINEER BRADLEY KERMAN

Fire Engineer Bradley Kerman was interviewed by Detectives Kay and Tougas on April 18, 2013. Kerman stated that on June 23, 2012, he was working Engine 63, along with Captain Michael McCaslin and Engineer Brandon Taylor. Another engine company was initially dispatched to the call but, as Engine 63 was in the area, they told dispatch that they would respond.

Engine 63 drove to Hill Street and staged just west of L Street. The ambulance staged with them as well. Kerman explained that "staging" means that fire personnel arrive close to the scene, but stay far enough away so they are not at risk, and remain there until instructed by the police that it is safe for them to enter. Kerman noted that it is typical to stage in cases of potentially combative individuals. Once they were cleared, they drove to the scene. Kerman felt that they had staged for approximately five minutes before being cleared and it took them approximately 20 seconds to reach the scene.

At the scene, Kerman saw police officers and a subject (Ramirez) lying on his right side on the ground. He grabbed his gear from the truck and approached Ramirez. He checked

Ramirez for signs of life. Ramirez was unresponsive and not breathing. Kerman could not locate a pulse. He was informed that Ramirez may have taken methamphetamine and that police had struggled to restrain him. He noticed a small amount of blood around Ramirez's nose but saw no other signs of injury to Ramirez. Ramirez was very warm to the touch and sweaty. Kerman noted that many times when he performs CPR the patient's skin will become pale, sweaty and cool but that Ramirez remained flush and hot to the touch.

Kerman began performing CPR on Ramirez. He told the police officers that he needed them to remove the handcuffs. The police initially hesitated because they had just been struggling with Ramirez and felt that he might become violent if the handcuffs were removed. A paramedic named Jaime was also unable to find a pulse. The paramedic also asked for the handcuffs to be removed and the police removed them.

Kerman continued chest compressions and Engineer Taylor used a bag mask to provide air. The paramedics started an IV. Ramirez was placed onto a backboard, then onto a gurney, and placed in the ambulance. Once he was in the ambulance, paramedics intubated him to provide oxygen. Kerman and the paramedic continued performing CPR on Ramirez until they reached the hospital. Once they reached the hospital, nurses took over Ramirez's care and Kerman's role ended.

14. PARAMEDIC JAIME VILLA

Paramedic Jaime Villa was interviewed by Detectives Kay and Perez on April 23, 2013. Villa is a paramedic supervisor with Gold Coast Ambulance and has been a paramedic for three years. He was an EMT for 10 years prior to that.

On June 23, 2012, Villa was working as a paramedic along with Paramedic Tyler Cederlind. They received a call regarding a person with behavioral issues that may have involved a methamphetamine overdose. Villa and Cederlind discussed the possibility that the case might involve “excited delirium.”

Villa explained that he received training about excited delirium, which he defined as a stimulant overdose which causes a person to become agitated and aggressive and can lead to sudden cardiac arrest. He stated that he deals with people under the influence of methamphetamine every day, but that excited delirium is different. He noted that there are established paramedic protocols to deal with excited delirium patients which involve sedating the patient.

Villa explained that when they suspect a case of excited delirium, the patient needs medical treatment with benzodiazepine to avoid cardiac arrest but must be restrained to receive that medical attention. He further explained that sometimes the struggle to restrain the patient can trigger the cardiac arrest, but that they cannot safely treat the patient unless they are restrained. He explained that, “I’m not going to run up to them with a needle and jab him in the arm while he’s flailing everywhere. It’s a safety issue.”

Villa noted that he had personally dealt with a patient displaying symptoms of excited delirium about two years before this incident. The patient had to be restrained by four police officers, an entire fire engine company, and Villa and his partner before they could sedate the patient.

Villa and Cederlind drove near the scene and staged with the fire personnel. He believed they staged approximately 300 yards from the scene and staged for five to ten minutes before being cleared to enter.

As they approached the scene, Villa saw seven or eight police cars parked on L Street. They were able to park close to the patient and got the gurney from the ambulance. The fire personnel went straight to the patient (Ramirez).

As Villa approached, he saw Ramirez lying on the ground. He was shirtless and wearing shorts, and his arms were handcuffed behind him. One police officer was standing near Ramirez's head and several others were in a semi-circle behind Ramirez.

Villa could see from a distance that Ramirez was not breathing. The fire personnel confirmed that he was not breathing. Villa added that Ramirez did not look like a typical patient who had stopped breathing because he looked "pink, warm, and dry" whereas a typical cardiac arrest patient looks "pale and mottled" and "looks dead."

Villa was told by a female officer that Ramirez had possibly taken an "eight-ball" of meth. He tried to figure out what that amount was so he could inform the hospital. He was told that the methamphetamine had been taken earlier in the day during a traffic stop. He noticed that the fire personnel had begun CPR on Ramirez.

Villa approached Ramirez and laid him on his back. He performed a quick assessment and noticed minor abrasions on Ramirez's forehead. He noticed that some of the police officers appeared out of breath but did not notice any injuries, and none of the officers complained of being injured.

Villa noted that Ramirez was extremely hot. Villa explained that Ramirez did not look like a typical dead person because he was hot to the touch and dead people were typically

cold and mottled. He did not take Ramirez's temperature but recalled that Ramirez's CO₂ level was elevated, indicating he was in a hypermetabolic state.²³

Cederlind prepared an IV and the firefighters continued performing CPR. Villa asked for the handcuffs to be removed. The police officer he spoke to hesitated and indicated that he was concerned that Ramirez might become agitated if they removed the handcuffs. Villa explained that even if he was able to bring Ramirez back, Ramirez would not be moving much. The officer removed the handcuffs and they were able to start an IV. Ramirez was placed onto a backboard.

Villa attached Ramirez to a heart monitor and discovered that Ramirez had pulseless electrical activity, meaning that his heart was not responding to electrical activity. They administered epinephrine to Ramirez with no response. Villa then intubated Ramirez to help him breathe. The pulseless activity began to slow down, so they administered a second dose of epinephrine. At that point all electrical activity in Ramirez's heart stopped. Villa believed that the entire process lasted 20 minutes.

The paramedics decided to transport Ramirez to the hospital for further treatment. They loaded Ramirez into the ambulance and notified the hospital. Villa, Cederlind and a firefighter continued CPR in the back of the ambulance, and a police officer rode with them. Villa administered sodium bicarbonate at the hospital's direction but there was no change in Ramirez's condition.

²³ A hypermetabolic state refers to an abnormal increase in the body's metabolic rate, usually accompanied by excessive body heat. Mosby's Dictionary of Medicine, Nursing & Health Professions (8th Ed. 2009) at 909.

Once they arrived at the hospital, the doctors and nurses took over Ramirez’s care. They worked on him for approximately 15 minutes and then pronounced him dead. A nurse took Ramirez’s temperature about 10 minutes later. Villa did not recall the exact temperature but remembers that it was close to 110 degrees Fahrenheit. Villa wrote a report regarding the incident within an hour of Ramirez being pronounced dead.

III. PHYSICAL EVIDENCE

A. SOUTH L STREET

The scene was secured immediately after emergency personnel transported Ramirez from the scene. It was broken into two separate crimes scenes: the area around 1174 South L Street and the area around 1158 South L Street, one house up the street.



1158 South L Street



1174 South L Street

The evidence at 1174 South L Street included medical supplies (from Ramirez’s treatment), Ramirez’s white tank top, and a body wrap system that was still in its container.

Ramirez’s car was parked in front of 1158 South L Street. Officers recovered Ramirez’s white T-shirt from the sidewalk and his wallet from the bed of a black pickup truck

parked in the driveway. The pickup truck bed also contained a mug of milk and a partially empty water bottle.

B. INVOLVED OFFICERS

All but one of the involved officers (Officer Zavala) activated their personal recording devices during the encounter with Ramirez. The time stamp on each device is a little different but, by comparing major events, it is possible to create a timeline of the event.

Photographs were taken of the officers at the station and most uniforms showed minor scuffing on shoes and pants. Officer Brantner had a slight tear on his pants over the left knee and a minor scratch on his right jaw. Officer Wilfert showed minor bruising on her arms and left leg a few days after the incident.

C. TOXICOLOGY REPORT

Ramirez's blood was taken at the hospital when he was admitted. Blood and gastric contents were also sampled during his autopsy. Analysis of those items showed the following levels of methamphetamine:

Admission Blood Sample	8,185 ng/mL
Autopsy Blood Sample	10,075 ng/mL (plus 259 ng/mL amphetamine)
Autopsy Gastric Sample	3,145,000 ng/mL

D. CORONERS' REPORTS

1. DR. RONALD O'HALLORAN

On June 24, 2012, Ventura County Medical Examiner Ronald O'Halloran, M.D.,²⁴ conducted an autopsy on Robert Ramirez. On November 2, 2012, he issued his report regarding the death of Robert Ramirez. His report discussed two possible causes of Ramirez's death and concluded that his death was most likely a homicide caused by asphyxia from active prone restraint.

Dr. O'Halloran located two plastic baggies in Ramirez's stomach during the autopsy. One was a small open and empty zip-lock plastic bag with multiple eight-ball designs printed on it, and the other was a larger bag that was also open and contained marijuana.

According to Dr. O'Halloran's report, "[t]oxicology tests indicated an extremely high level of methamphetamine in the subject's postmortem blood and a much higher level of methamphetamine in the stomach contents, confirming leakage from the baggie."

Dr. O'Halloran also noted "multiple facial abrasions" on Ramirez, as well as multiple contusions on his back, and "scattered abrasions of extremities and trunk." He described those injuries but did not note them as causing death. In a later interview with the *Ventura County Star*, he noted that the autopsy provided no evidence that police hit or choked Ramirez.²⁵

²⁴ Dr. O'Halloran was the Chief Medical Examiner-Coroner for the County of Ventura from 1992 through 2012. He has Board Certifications in Anatomic Pathology and Forensic Pathology. While employed as a Medical Examiner in Oregon, he was an Instructor in Anatomic and Forensic Pathology for the University of Oregon Medical School from 1979 through 1985, and was a Clinical Assistant Professor the University of Oregon Dental School in 1984 through 1985. He has published numerous peer-reviewed articles relating to pathology, including three relating to restraint asphyxia.

²⁵ Cheri Carlson, *Autopsy of Oxnard man shows no evidence of police beating, medical examiner says*, *Ventura County Star*, November 27, 2012, at <http://www.vcstar.com/news/2012/nov/27/more-details-on-autopsy-of-oxnard-man-who-died/>.

Dr. O'Halloran's written report relating to Ramirez's death contained a seven-page addendum explaining his rationale for finding restraint asphyxia to be the most likely cause of Ramirez's death. Dr. O'Halloran stated, "There are two major reasonably possible causes of Robert Ramirez's death to consider: methamphetamine intoxication, and asphyxia caused by his restraint." He explained that the "evidence for methamphetamine intoxication being the cause of death would be clear and compelling was it not for the restraint" and that the "evidence for restraint asphyxia being the intervening, or proximate cause of death is more complex." He explained that "the type of force used in this case (chest compression) can potentially cause asphyxia by inhibiting breathing."

Dr. O'Halloran based his finding of chest compression on his description of the actions of Sergeant Ramirez. Dr. O'Halloran described Sergeant Ramirez as keeping "pressure on the subject's right upper back using both his forearms on the back up to the time he rolled the subject onto his side." He then opined about how much force a kneeling person can exert on a subject with their forearms.

During his interview, however, Sergeant Ramirez reenacted how he restrained Ramirez. Sergeant Ramirez lay face down on the concrete pad on Ramirez's right side. He was not kneeling. Initially, he placed both hands on the right forearm and put the weight of his left shoulder in between Ramirez's right elbow and right shoulder. After Ramirez's right hand was handcuffed, Sergeant Ramirez kept hold of Ramirez's right wrist with his left hand and placed his right forearm across the front of Ramirez's right shoulder blade. Then, while still lying face down, Sergeant Ramirez placed both of his forearms across Ramirez's right shoulder blade. Dr. O'Halloran's description of Sergeant Ramirez's actions that may have caused restraint asphyxia appears inconsistent with the factual description of the events.

In a subsequent interview with the *Ventura County Star*, Dr. O'Halloran was quoted as stating that the extremely high level of methamphetamine in Ramirez's blood "makes a case like this hard to evaluate—what actually caused his death. He could have died whether or not there was police involvement at all because his methamphetamine level was so high, it could have caused his death at any time."²⁶

Dr. O'Halloran's report and his various public statements left significant questions about the cause of Ramirez's death. He opined in his report that Ramirez's death was most likely a homicide. However, this appears inconsistent with another custodial death he investigated involving high amounts of methamphetamine in the decedent.²⁷ In that case he declared the cause of death to be undetermined because the death was "consistent with and suggestive" of having been caused by methamphetamine intoxication and there was a possibility of restraint asphyxia because the decedent lost "vital signs while being actively held down prone without the use of his restrained arms and legs to relieve excessive pressure on his chest." The methamphetamine concentrations in that case were much lower than in Ramirez.²⁸

²⁶ John Schiebe, *Oxnard police release names of officers involved in restraint of man who died*, *Ventura County Star*, November 29, 2012, at <http://www.vcstar.com/news/2012/nov/29/oxnard-police-release-names-of-officers-involved/>.

²⁷ See generally, Report on the July 17, 2009, Arrest and Detention of Charles Torrence by Officers of the Simi Valley Police Department.

²⁸ Summary, Comment and Opinion ME case 780-09 at 2-3. Dr. O'Halloran reported the cause of death as undetermined. He noted that the death was consistent with methamphetamine intoxication as the cause of death. He also noted that restraint asphyxia was a possible cause of death but provided no evidence of asphyxia. Torrence's highest methamphetamine level was 6,700 ng/mL and his body temperature was 104.2 degrees Fahrenheit at admission with a peak of 106 degrees Fahrenheit while he was still alive. Ramirez's methamphetamine level was 8,185 ng/mL (with methamphetamine constantly increasing in his system due to the baggie in his stomach), and his body temperature more than an hour after being pronounced dead (and almost two hours after his heart stopped) was 106.1 degrees Fahrenheit.

Dr. O’Halloran once described restraint asphyxia as his “default cause of death” in custodial deaths.²⁹ He has repeatedly stated that he does not believe in Excited Delirium Syndrome as a cause of death, and has published several articles expressing the opinion that restraint asphyxia is the actual mechanism of death in excited delirium cases.³⁰

Excited Delirium Syndrome³¹ is recognized by emergency medical practitioners as a life-threatening condition, and protocols are being developed to deal with the condition in the field and in emergency rooms.³² Those protocols usually include restraint and control by police followed by aggressive chemical sedation.³³ Dr. Deborah Mash has developed a test of brain tissue to determine the presence of evidence that correlates with excited delirium which requires the brain tissue to be preserved within a very short time period.³⁴

²⁹ Report on the May 15, 2007, Pursuit and Arrest of Reymundo Garcia Guerrero by Officers of the Simi Valley Police Department, at 78.

³⁰ See e.g., Ronald O’Halloran, M.D. and Larry V. Lewman, M.D., Restraint Asphyxia in Excited Delirium (1993) *Am. J. Forensic Med. Pathol.* Vol. 14, No. 4, 289-295 (“the mechanism in death in these cases falls into the category of positional asphyxia”); and Ronald L. O’Halloran, M.D., Reenactment of Circumstances in Deaths Related to Restraint (2004) *Am. J. Forensic Med. Pathol.* Vol. 25, No. 3, 190-193 (“Death from excited delirium has been offered as the cause of death in many deaths during restraint. . . . but the mechanism(s) of such deaths is unclear.”)

³¹ Excited Delirium (“ExDS”) is a syndrome “characterized by delirium, agitations and hyperadrenergic autonomic dysfunction, typically in the setting of acute or chronic drug abuse or serious mental illness.” *White Paper Report on Excited Delirium Syndrome* (Am. Coll. Of Emerg. Physicians Excited Delirium Task Force) September 10, 2009. “While not universally fatal, it is clear that a proportion of patients with ExDS progress to cardiac arrest and death.” *Id.*

³² *Id.* See also Asia Takeuchi, M.D., Terence L. Ahern, B.A. and Sean O. Henderson, M.D., *Excited Delirium* (2011) *West. J. Emerg. Med.* Vol. 12, No.1 77-83; Ventura County EMS County Wide Protocols policy 705.04; *Special Panel Review of Excited Delirium Less-Lethal Devices Technology Working Group* NIJ Weapons and Protective Systems Technologies Center.

³³ See Gary M. Vilke, M.D. et al. *Excited Delirium Syndrome (ExDS): Defining Based On A Review Of The Literature* (2011) *J. Emerg. Med.* Vol. 43 No. 5 897-905.

³⁴ See Deborah C. Mash, Ph.D., Linda Duque, M.A., C.A.P., John Pablo, Ph.D., et al., *Brain Biomarkers For Identifying Excited Delirium As A Cause Of Sudden Death*. *Forensic Science International* 190 (2009) e13–e19.

During the autopsy of Robert Ramirez, Dr. O'Halloran refused to retrieve brain tissue samples to be examined by Dr. Mash. Dr. O'Halloran refused a request from a representative of the District Attorney's Office who requested the brain samples be taken, and told an investigator that he would have defied a court order for him to take those samples if one had been obtained.

2. DR. FRANK SHERIDAN

Despite ruling Robert Ramirez's death "to most likely be" a homicide, Dr. O'Halloran's findings were equivocal. His public statements and prior reports appeared inconsistent with his official findings as to the cause of Robert Ramirez's death. In order to ensure an accurate understanding of how Robert Ramirez died, the District Attorney's Office retained the services of Frank Sheridan, M.D.³⁵ to conduct an independent review of the results of Ramirez's autopsy and determine the cause of his death.

Dr. Sheridan concluded that Robert Ramirez's death was accidental and "due to methamphetamine toxicity with all of the features of Excited Delirium Syndrome." He also found that "it is very likely that Mr. Ramirez would have died from a sudden cardiac arrhythmia and/or hyperthermia, even in the absence of any police officer involvement."

Dr. Sheridan noted the extremely high methamphetamine levels which he described as "far higher than typically encountered in deaths from methamphetamine." He also noted that Ramirez "had an enlarged heart, almost certainly due to his chronic

³⁵ Dr. Sheridan has been the Chief Medical Examiner for the County of San Bernardino since 1991. He has conducted more than 8,900 autopsies and has testified in more than 360 court appearances and 330 depositions. Dr. Sheridan is also an Assistant Clinical Professor of Pathology, Loma Linda University; Clinical Assistant Professor of Internal Medicine/Pathology, Western University of Health Sciences; a Lecturer in Forensic Pathology at University of California/Extension, Riverside; and a Visiting Lecturer in Forensic Pathology, Zhejiang University at Hangzhou, China. Dr. Sheridan was retained in a private capacity and his findings were not made in his role as Medical Examiner or any of his University affiliations.

methamphetamine abuse, and this was in and of itself an extra risk factor for a sudden fatal cardiac arrhythmia.” Dr. Sheridan noted that he sees methamphetamine use on an almost daily basis in San Bernardino County and had never seen such a high level before.³⁶

Dr. Sheridan also reviewed the evidence relating to restraint asphyxia and could find none. Specifically, he noted that in-custody deaths being caused by prone “restraint asphyxia” is a controversial theory in forensic pathology. He observed that compressional asphyxia such as restraint asphyxia would typically cause petechial hemorrhages—burst blood vessels—in the eyes, but there were no such hemorrhages present in Ramirez.

IV. LEGAL PRINCIPLES

A. CAUSATION OF DEATH

“An act causes death if the death is the direct, natural, and probable consequence of the act and the death would not have happened without the act. . . . There may be more than one cause of death. An act causes death only if it is a substantial factor in causing the death. A substantial factor is more than a trivial or remote factor. However, it does not need to be the only factor that causes the death.” CALCRIM 520.

B. LAW OF HOMICIDE AND ARREST

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

³⁶ As a comparison, Ventura County averages 8 to 22 deaths in a given year where methamphetamine intoxication is a cause or partial cause.

A homicide is excusable “When committed by accident and misfortune, or in doing any other lawful act by lawful means, with usual and ordinary caution, and without any unlawful intent.” Penal Code section 195(1). “A person acts with usual and ordinary caution if he or she acts in a way that a reasonably careful person would act in the same or similar situation.” CALCRIM 510.

A killing by a peace officer is justifiable when it was “necessarily committed in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty” or “when necessarily committed in arresting persons charged with [a] felony, and who are fleeing from justice or resisting such arrest.” Penal Code section 196(2)&(3).

Peace officers are authorized to subject arrestees “to such restraint as is reasonable for his arrest and detention.” Penal Code section 835. Under the Fourth Amendment, police are “not required to use the least intrusive degree of force possible” but may use only such force as is objectively reasonable under the circumstances. *Forrester v. City of San Diego*, 25 F.3d 804 (9th Cir. 1994) citing *Graham v. Connor*, 490 U.S. 386, 397 [104 L.Ed.2d 443, 109 S.Ct. 1865 (1989)]. “The test of reasonableness in this context is an objective one, viewed from the vantage of a reasonable officer on the scene. It is also highly deferential to the police officer’s need to protect himself and others.” *Martinez v. County of L.A.* (1996), 47 Cal.App.4th 334, 343 (quoting *Graham* 490 U.S. at 396-397).

The reasonableness test requires careful attention to the facts and circumstances of each particular case, including: (1) “the severity of the crime at issue; (2) “whether the suspect poses an immediate threat to the safety of the officers or others; and (3) “whether [the suspect] is actively resisting arrest or attempting to evade arrest by flight.” *Graham*, 490 U.S. at 396.

In *Scott v. Harris* (2007) 550 U.S. 372 [127 S.Ct. 1769], the United States Supreme Court held that “A police officer’s attempt to terminate a dangerous high-speed car chase that threatens the lives of innocent bystanders does not violate the Fourth Amendment, even when it places the fleeing motorist at risk of serious injury or death.” *Id.* at 385. In *Scott*, the Court found that police officers had acted lawfully by ramming a suspect’s car and forcing it from the road to end a high-speed pursuit despite the risk to the suspect. The court found that “in judging whether Scott’s actions were reasonable, we must consider the risk of bodily harm that Scott’s actions posed to [the suspect] in light of the threat to the public that Scott was trying to eliminate.” *Id.* at 383.

C. ROBERT RAMIREZ’S CONDUCT

On the evening of June 23, 2012, Robert Ramirez was overdosing on methamphetamine and posed a danger to himself and others. Responding police officers needed to restrain him to enable medical authorities to begin providing aid. While police were not there to arrest him, but assist in getting him emergency medical treatment, he had also committed offenses which would have been arrestable offenses:

- Assault On A Peace Officer in violation of Penal Code section 245(c)
- Driving Under the Influence in violation of Vehicle Code section 23152(a)
- Under the Influence of a Controlled Substance in violation of Health & Safety Code section 11550(a)
- Disorderly Conduct in violation of Penal Code section 647(f)
- Battery in violation of Penal Code section 242
- Resisting A Peace Officer in violation of Penal Code section 148(a) and Penal Code section 69
- Making a Challenge to Fight in violation of Penal Code section 415(a)

V. ANALYSIS

There are two issues to review in the death of Robert Ramirez: 1) whether there is sufficient evidence to prove beyond a reasonable doubt that any action of the police that evening caused Ramirez's death; and 2) whether any action taken by the police that evening was other than a reasonable use of force.

A. CAUSE OF DEATH

In this case, two forensic pathologists reviewed the cause of Robert Ramirez's death. Dr. O'Halloran found that Ramirez's death had "two major reasonably possible causes": restraint asphyxia and methamphetamine intoxication. He concluded that restraint asphyxia was the most likely cause between the two and that Ramirez's death was a homicide. Dr. Sheridan concluded that Ramirez's death was caused by methamphetamine toxicity and Excited Delirium Syndrome and he found the death to be an accident.

In a criminal prosecution, if the trier of fact can "draw two or more reasonable conclusions from the circumstantial evidence and one of those reasonable conclusions points to innocence and another to guilt," the trier of fact must accept the one that points to innocence. CALCRIM 224.

A review of all witness statements fails to reveal any specific action by any individual or individuals that could have produced "restraint asphyxia." In Francisco Maldonado's initial interview, he described the officers as grabbing and "mounting" Ramirez without specifying what that meant; but his later interview described the officers' actions as trying to grab his arms and legs, which was consistent with every other witness interview.

Dr. O'Halloran based his finding of possible restraint asphyxia on Sergeant Ramirez placing his forearms on Ramirez's shoulder blade as a cause of "chest compression" and

stated that Officer Wilfert “possibly” compressed Ramirez’s chest because “no one said they saw her actually apply compression but they did not deny that she could have.” As has already been mentioned, Dr. O’Halloran’s description of Sergeant Ramirez’s actions differs from the Sergeant’s own description of his actions. Moreover, Dr. Sheridan noted the lack of petechial hemorrhaging in Ramirez tends to disprove asphyxia as a cause of death.

Dr. O’Halloran also incorrectly stated that no one denied that Officer Wilfert could have applied chest compression. According to all accounts, Officer Wilfert was responsible for cuffing Ramirez’s right arm and maintaining control of it until the left arm was extricated. Once Ramirez was handcuffed, she and other officers applied the hobble to Ramirez’s lower legs.

Erika Pedro described Officer Wilfert as having her knee in the small of Ramirez’s back but no other witness did. Juvenile P. described Officer Wilfert as kneeling next to Ramirez and bending over him to gain control of his arms. Officer Rodriguez described her as positioned to his left, standing and squatting over Ramirez’s body. Sergeant Ramirez recalled her over Ramirez’s back, but did not know if she was standing, kneeling or squatting. He observed that her position did not block their efforts to sweep Ramirez’s right arm behind his back. Officer Bocanegra recalled Officer Wilfert was on Ramirez’s left side and that no one was on Ramirez’s back above the waist.

Both doctors agree that methamphetamine toxicity is a reasonably possible cause of Ramirez’s death, and Dr. Sheridan opines it is the only possible cause of death. Dr. O’Halloran’s opinion alone creates a reasonable doubt as to whether the officers’ actions actually caused Ramirez’s death. Thus, a prosecution would not be able to establish beyond a reasonable doubt that any action of any officer attempting to detain

Ramirez was a substantial factor in causing his death as his death was due to the methamphetamine he ingested.

B. USE OF FORCE

The evidence reviewed does not indicate that any of the involved officers used deadly force in restraining Ramirez. But a use of non-deadly force can still be excessive. To be justified, the force used to restrain Ramirez must have been objectively reasonable under the circumstances.

In this case, Ramirez was in an altered state of reality. He was unable to communicate or follow directions, was aggressive and combative, and faced death unless medical aid was administered promptly. When the officers arrived at the scene, Ramirez either chose not to comply with their requests or was so affected by the methamphetamine that he no longer had the ability to comply.

The officers faced a risk to themselves and bystanders if Ramirez got past them and they were aware that Ramirez could possibly die if they could not get him medical help. They made a determination that the only way they could save him was to forcibly restrain him.

Their attempt at restraint began calmly when Officer Rodriguez tried to secure Ramirez's wrists for handcuffing. Ramirez resisted by standing and yelling, "I'm gonna fuck you up," and moving the group of officers several feet from the porch. The officers then took Ramirez to the ground in a controlled fashion and then attempted to handcuff him.

The officers minimized the force they used as much as possible. Ramirez was banging the side of his head against the cement while struggling and an officer placed his hand to

prevent Ramirez from banging his head. Sergeant Ramirez placed himself in an extremely vulnerable position which limited the amount of force he put on Ramirez.

The audio recordings of this incident reveal a very calm group of officers trying to restrain someone who is clearly out of control. Ramirez screams and grunts, and the officers communicate clearly at each step, with no hostility or anger in their voices. The steps they took, getting Ramirez to the ground, pinning his extremities, and working to secure his hands and legs, were not excessive. The fact that Ramirez died was not due to their efforts but despite them, and the limited force they used was justified by the situation.

VI. CONCLUSION

It is the conclusion of the District Attorney that:

1. There is insufficient evidence to prove beyond a reasonable doubt that any action of the involved officers was a substantial factor in the death of Robert Ramirez.
2. There is insufficient evidence to prove beyond a reasonable doubt that any of the involved officers used anything but reasonable force in their attempt to restrain Robert Ramirez in order for him to receive medical assistance on June 23, 2012.
3. The involved officers were fully justified in the amount of force they used in restraining Ramirez.