

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF VENTURA

JANUARY 5, 2009

REPORT ON THE MAY 15, 2007
PURSUIT AND ARREST
OF REYMUNDO GUERRERO
BY OFFICERS OF THE
SIMI VALLEY POLICE DEPARTMENT

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I. INTRODUCTION

On May 15, 2007, Reymundo Guerrero¹ set into motion a series of events that directly led to his confrontation with Officers from the Simi Valley Police Department and to his death. At some point that evening, he ingested a significant amount of cocaine. At approximately 9:30 p.m., he was noticed driving erratically through the neighborhoods bordering Fitzgerald Road and Sequoia Avenue in Simi Valley. His bizarre driving scared numerous people, some of whom called the police. Shortly after the police responded, he led officers on an odd pursuit that included his making tight circles in the streets and, eventually, driving into a backyard where he was forcibly pulled from his truck while trying to drive through a fence into another backyard.

The District Attorney's Office received reports concerning this incident from the Simi Valley Police Department in December 2007. The District Attorney's investigation and review was conducted by Senior Attorney Christopher S. Harman and Senior Investigator Matt Harvill. The District Attorney's review included examination of the following: approximately 850 pages of reports and supporting documents, including reports from the Simi Valley Police Department, the Ventura County Sheriff's Crime Laboratory, and the Ventura County Medical Examiner's Office, an audio recording of the incident as it occurred, over 150 recordings of interviews with witnesses, 911 and dispatch traffic recordings, interviews with specific witnesses and more than 270 photographs.

The purpose of the District Attorney's investigation was to determine whether the force used to subdue and arrest Reymundo Guerrero caused his death, whether the force used to subdue and arrest Reymundo Guerrero was justified, and, if not, whether criminal charges should be filed.

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 Simi Valley Police Officer caused the death of Reymundo Guerrero. Further, the force used to subdue and arrest Reymundo Guerrero was justified, was not excessive and did not constitute a criminal act.

¹/ Reymundo Guerrero's Social Security Card identifies him as Reymundo Guerrero Garcia. According to his family, his father's last name is Guerrero and his mother's maiden name was Garcia, and he was always referred to as Reymundo Guerrero.

The vehicle pursuit that Guerrero initiated in this case posed a substantial and immediate risk of serious physical injury to others.” *Scott v. Harris* (2007) 550 U.S. 372 [127 S.Ct. 1769]. The actions of Guerrero in recklessly driving through neighborhoods, through a backyard fence and into a backyard, then continuing to attempt to flee by driving through another fence into other backyards, posed a substantial risk of harm to civilians as well as the lives of the officers responding to the call, and would most likely have justified a use of deadly force to subdue Guerrero. The responding officers did not use deadly force, but instead used the minimal force necessary to subdue Guerrero, who continued to resist even after he had been forcibly pulled from his truck and handcuffed. The less than lethal force used by the officers in subduing Guerrero was justified.

II. STATEMENT OF FACTS

A. GUERRERO’S ERRATIC DRIVING

At approximately 9:38 p.m. on May 15, 2007,² Simi Valley Police Department received their first call regarding a pickup truck that was driving erratically in the area of Fitzgerald Road and Sequoia Avenue in Simi Valley.³ The call came from Brian Kane and concerned a truck driven by Reymundo Guerrero. However, Guerrero’s aggressive driving was observed well before that first call.

Between 9:00 p.m. and 10:00 p.m. on May 15, Steve Brown was driving home on Fitzgerald Road. Guerrero’s Ford F-150 truck turned into Brown’s lane without stopping. Brown swerved to avoid colliding with Guerrero. Guerrero pulled into the lane next to Brown and revved his engine as though he wanted to race with Brown. Brown looked at Guerrero and thought he looked “out of it.”

Guerrero continued to drive aggressively, forcing another car to back up in order to avoid a collision with him. Guerrero also pulled into Brown’s lane and began repeatedly braking while driving in front of Brown. Guerrero turned onto Watson Avenue without stopping for the stop

²/ Except where otherwise noted, times are based on Simi Valley Police Department dispatch logs.

³/ An aerial photograph depicting the general area where the erratic driving, pursuit and arrest occurred is included in the Appendix as Exhibit A.

sign, and Brown drove home. Brown did not call the police to report Guerrero's aggressive driving but later heard screeching tires and sirens from the police pursuit of Guerrero.⁴

Guerrero's next reported encounter was with Melanie Thomas. She was driving home on Pine View Drive when she heard tires squealing. She saw Guerrero's truck at the intersection of Sequoia Avenue and Pine View Drive. He was rapidly driving in reverse up Pine View Drive on the wrong side of the street. As she neared her home, Guerrero drove past her and stopped suddenly. He backed his truck towards her very rapidly, missing her car by about five feet.

Thomas continued driving home and parked on the street outside her house. As she was about to get out of her car, Guerrero drove toward her again. She had opened her car door but closed it to avoid Guerrero hitting her car door with his truck. Thomas felt that Guerrero's truck came close enough that it would have hit her if she had stepped out of her car. Guerrero then shifted his truck into reverse and backed down the street at a high rate of speed. Thomas ran into her house and told her father, Troy Thomas, what had happened.

At 9:38 p.m., Brian Kane, a neighbor of Thomas, called 911 to report Guerrero erratically driving on Pine View Drive. He saw Guerrero's truck accelerating hard and immediately braking hard six or eight times. Guerrero's truck would move less than ten feet each time, but the tires broke traction each time.

Guerrero continued driving down Pine View Drive, accelerating and stopping hard and continuously shifting between forward and reverse. Kane felt Guerrero was an "extreme hazard," so he called 911. As Kane spoke to the police dispatcher, Guerrero turned left on Sequoia and drove away.

Troy Thomas had been hearing the sounds of a vehicle racing around his neighborhood when his daughter Melanie walked into their home and told him that Guerrero had tried to force her car off the road and tried to run her down as she was leaving her car. Thomas went outside, where he saw Guerrero's truck revving its engine and racing down Pine View Drive toward Sequoia

⁴/ Except for a few police officers who had responded to Guerrero's residence on prior occasions, no witnesses knew Guerrero or were aware of any connection with Guerrero prior to the events of May 15, 2007.

Avenue. He retrieved his keys, got in his car and drove after Guerrero, eventually spotting the truck driving at approximately 40 to 50 mph on Cinnabar Place, a double cul-de-sac.

Grayson Gilliland was standing in the street on Cinnabar Place, waiting as his friend Ryan Rubin drove up. Guerrero's truck sped past Gilliland and came to a sudden stop in front of Rubin's car, blocking him. Guerrero and Rubin's vehicles were "head to head" approximately ten feet apart. Rubin tried to move past Guerrero's truck, and Guerrero would block him with his truck.

Gilliland's neighbor, Derek Freeman, had heard Guerrero's truck loudly revving its engine and squealing its tires. He came out of his house to see the encounter between Guerrero and Rubin's vehicles. He described Guerrero's truck as doing "donuts" – driving in tight circles – as well as blocking Rubin's car. Freeman yelled at Guerrero, who suddenly pulled into Freeman's driveway. Rubin pulled his car into Gilliland's driveway and the two of them ran inside Gilliland's home.

Guerrero got out of his truck, leaving the door open and engine running. He approached Freeman, holding several CD cases and loudly cursing at Freeman, saying things such as "Don't mess with me again." Guerrero's speech was slow and incoherent, his eyes were glassy, his movements were exaggerated and he staggered as he walked. Freeman called 911 as Guerrero came within a couple of feet of him. Guerrero removed a CD from one of the cases and threw it at Freeman, stating "Don't come in my house again." Then Guerrero walked back to his truck, "peeled out" and sped away. Freeman had never seen Guerrero before that incident.

Off-duty LAPD Officer Robert Trulik was on his way home from work when his wife called him and told him about Guerrero's truck driving recklessly through the area. Officer Trulik decided to look for the truck but could not find him. He stopped his car at the curb of northbound Sequoia Avenue, just north of Fitzgerald Road. While stopped, a Simi Valley police car driven by Officer Hale pulled up next to him, stopping in the closest northbound lane. PSA Slavin had also responded to the area and stopped his car behind Officer Hale.

As Officer Hale spoke with Officer Trulik, Guerrero appeared south of their position and sped toward them, driving north in the southbound lanes. Guerrero did a "power slide" past Hale,

stopping parallel with PSA Slavin. Guerrero did a couple of donuts – 360 degree turns – then floored the accelerator and peeled out as he drove away north on Sequoia. Hale and Murray activated their overhead lights and began driving after Guerrero.

B. PURSUIT

Guerrero headed south on Sequoia Avenue, with Officers Murray and Hale following. Guerrero turned and headed north, then made a wide, hard left turn onto Manorgate Place, with his truck's engine revving loudly. Guerrero's truck slammed against the curb, but Guerrero's truck kept moving back and forth with its engine revving. Officer Hale noticed that although the engine was revving loudly, Guerrero was "looking straight ahead with a death grip on the steering wheel" and was not driving away. Hale drove his police car into the driver's door of Guerrero's truck in order to pin the truck. Guerrero responded by backing up, turning right and heading southbound on Sequoia Avenue back toward High Point Drive.

Guerrero continued past Fitzgerald Road, made a left-turn and then a couple of "donuts" before once again heading north on Sequoia Avenue. Guerrero then made a second hard left, turning west onto Manorgate Place. Murray continued to pursue Guerrero and Hale backed up to watch the intersection of Beachnut Avenue and Fitzgerald Road – the only other exit from Manorgate.

Guerrero drove from Manorgate Place onto southbound Chelsea Court. Chelsea Court is a two sided cul-de sac and the only exit is back down Manorgate. When Guerrero reached the southern end of Chelsea Court, he turned around and stopped with his truck's front end pressed against the curb. Guerrero's truck's engine was revving very loudly. Officer Murray turned off his siren, stepped out of his car, drew his handgun and yelled at Guerrero "Hold up! Stop your car! Stop the car, man!"⁵

Guerrero's truck moved forward and backward before backing up away from the curb and driving over the sidewalk. Guerrero did not look at Officer Murray, but stared straight ahead

⁵ / Officer Murray inadvertently recorded the entire incident on a portable audio recorder. An excerpted version was made available early in the investigation. By comparison with the police logs, the excerpted recording appears to start at 9:42:16 p.m. Officer Murray is heard yelling "Stop the Car!" at approximately 11:36 on the recording, which was approximately 9:53 p.m. No one was aware of the existence of the recording until May 20, 2007, when Officer Murray reported for work and found his recorder's memory was full. The recorder clearly captured the entire pursuit and arrest of Guerrero.

with his hands clenched around the steering wheel. Officer Hale arrived at the location and rammed Guerrero's truck to try and pin it. He drove the front bumper of his police vehicle into the left front tire of the truck. Guerrero's truck moved forward, grinding against Officer Hale's car and drove northbound on Chelsea Court toward the other cul-de-sac.

Officers Murray and Hale followed Guerrero. At the northern end of Chelsea Court, Guerrero made a left turn onto the front lawn of 897 Chelsea Court without braking. Guerrero drove through the side yard and through a wooden gate, then turned left into the backyard of the residence. He continued through the backyard, smashing into the southern fence where the truck's forward progress was stopped by a tree on the other side of the fence.⁶

C. BACKYARD AT 897 CHELSEA COURT

Guerrero's truck had become jammed between the southern fence and a cinderblock wall lining the western side of the property. Guerrero was loudly revving his truck's engine and was rocking the truck between forward and reverse as its tires spun. To the officers at the scene, it appeared as though Guerrero was trying to regain traction and continue fleeing in his truck.

Officer Murray parked his car against the back bumper of Guerrero's truck, got out and drew his handgun. He approached Guerrero and yelled "Hey, hey, do you want me to fucking shoot you? Do you want to get shot? Get your hands off the steering wheel! Stop the fucking . . .!"⁷ Guerrero did not respond. Instead he maintained a "death grip" on the steering wheel and stared straight ahead. Guerrero continued loudly revving the engine and switching between drive and reverse, causing the tires to rapidly spin.

Officer Murray holstered his handgun and drew his Taser.⁸ Officer Hale started trying to break open the driver's side window. Other officers began arriving at the scene, including Senior

⁶ / At the time of the incident, none of the responding officers were aware that a tree on the other side of the fence was preventing Guerrero from continuing into the next yard.

⁷ / 12:45 on the excerpted Murray recording, approximately 9:55 p.m.

⁸ / The Simi Valley Police Department has authorized its officers to carry the Taser X-26 as a less than lethal weapon. The Taser works by firing electrodes into a subject and delivering an electric current which immobilizes the subject by overloading the central nervous system. Officer Murray had passed the Simi Valley police training on the use of a Taser and was authorized to carry a Taser.

Officer Rich Lamb, who climbed into the bed of the truck. Guerrero continued rocking his truck between drive and reverse and continued “flooring” the accelerator.

1. USE OF TASER

Once Officer Hale broke the driver’s window, Officer Murray fired his Taser at Guerrero and gave him a five second shock. The shock had no apparent effect on Guerrero.⁹ Guerrero continued to rev his truck’s engine and his hands never came off the steering wheel. Based on Guerrero’s reaction, Murray thought the Taser probes had missed Guerrero. He gave him a second five second shock about nine seconds later.

During the second shock, Guerrero moaned, rocked back in his seat, and released his grip on the steering wheel. As soon as the shock ended, Guerrero resumed trying to drive his truck out of the yard.

Murray delivered a total of eleven Taser shocks to Guerrero over an approximate one and one-half minute period. Each shock was five seconds in duration. During all but the first shock, Guerrero would respond by groaning, letting his foot off the accelerator and rocking back in his seat. However, each time the shock ceased, he would resume his attempt to escape. Guerrero never looked at Officer Murray while the Taser was being used.

2. REMOVING GUERRERO FROM HIS TRUCK

While Officer Murray was administering Taser shocks in his attempt to subdue Guerrero, Officer Lamb smashed the truck’s passenger side window with his flashlight, opened the passenger door and climbed into the truck. Guerrero had his foot depressed on the accelerator and was gripping the steering wheel. Lamb yelled “Hit it!” at Officer Murray, indicating Murray should administer another Taser shock to Guerrero. Lamb reached toward the steering wheel and Guerrero tried to hit his hand away. Lamb shifted the truck into park, took the key out of the ignition and threw it out of the truck.

⁹ / Officer Murray’s Taser discharge information showed eleven discharges beginning at 9:48 p.m. (21:48:25) and 9:50 p.m. (21:49:56). However, according to Officer Murray’s recording of the incident correlated with the SVPD dispatch logs, the actual Taser discharges occurred between 9:55 p.m. and 9:57 p.m. Officer Murray’s Taser’s internal clock was checked against the dispatch clock at the time the information was downloaded on May 25, 2007, and both reflected the same time, 17:10 (5:10 p.m.). At present, there is no explanation for the time discrepancy between the Taser clock and the police dispatch logs from May 15.

Officer Lamb grabbed Guerrero's right hand and managed to get a handcuff around the wrist. Officer Hale managed to grab Guerrero's left hand through the broken driver's window, but Guerrero kept struggling with him. Officer Johnson punched Guerrero's face and head several times in order to distract him. Officer Hale kept control over Guerrero's left hand as other Simi officers pulled Guerrero through the driver's window. Officer Johnson took control of Guerrero's right hand from Officer Lamb. Officer Lamb then grabbed Guerrero's legs and pushed him out of the truck.

3. RESTRAINING GUERRERO

Guerrero was pulled through the window and placed face down on the patio with most of his body on the lawn. Guerrero struggled as he was being pulled from the truck and continued to struggle as he was laid on the ground. He began grunting and screaming incoherently. Once the officers had gotten Guerrero onto the ground, they tried to control him and one of the officers told the others "take a break for a second."¹⁰

Officer Murray was no longer administering Taser shocks to Guerrero. Guerrero continued struggling against the officers trying to restrain him. Approximately four to six officers had their hands on Guerrero trying to restrain him while he was on the ground. Officer Mika was trying to control Guerrero's left hand, Officer Buckley was trying to control his legs, Officer LeBlanc was near Guerrero's left shoulder, Officer Young used one hand to hold down Guerrero's waist, and had his Taser out for use as a "drive stun" if necessary.¹¹ Officer Hale noticed Officer Buckley near Guerrero's feet, rising up and down every time Guerrero struggled.

It took about a minute to get Guerrero handcuffed, and he was struggling and groaning the entire time. Officer Hale asked for a Hobble – a leg restraint used by law enforcement.¹² The Hobble was wrapped around Guerrero's legs but was never connected to his handcuffs.

¹⁰ / 16:13 on the excerpted Murray recording, 9:58 p.m.

¹¹ The Taser X-26 allows the weapon to inflict a painful charge when the cartridge is removed. Such a charge is referred to as a "drive stun." Unlike a charge delivered through the electrodes, a "drive stun" does not affect the central nervous system but merely inflicts pain and induces compliance through pain avoidance. No drive stuns were delivered to Guerrero that evening.

¹² / A Hobble is a device to restrict leg movements of a detained subject by strapping the legs together and, if necessary, connecting the leg restraints to handcuffs.

4. MEDICAL AID

Based on the use of a Taser and Guerrero's erratic behavior, Officer Hale requested Officer Tallent to call for paramedics.¹³ At 9:59 p.m., Officer Tallent requested dispatch to send an ambulance to the Chelsea Court location.

Guerrero continued to struggle and groan until about 10 p.m., when he quieted down.¹⁴ At about 10:02 p.m., Officer Hale asked other officers to check Guerrero's breathing.¹⁵ Officer Buckley confirmed that Guerrero was still breathing and had a pulse.¹⁶ Officer Hale mentioned that they should get a mask for CPR, "just in case."¹⁷

At approximately 10:03, Officer Buckley again checked Guerrero's pulse, but this time could not find a pulse. He shouted out that Guerrero did not have a pulse and added "I need a mask, now!"¹⁸

Guerrero's handcuffs were removed and he was rolled onto his back. Officer Buckley is a certified First Aid/CPR Instructor and he began administering CPR to Guerrero. Guerrero was moved completely onto the concrete patio and Officer Lew, who is a certified EMT and certified CPR Instructor, joined Officer Buckley in providing CPR to Guerrero.

Ventura County Fire Department Paramedics arrived on scene at approximately 10:06 p.m. and took over the administering of First Aid. Paramedics from American Medical Response arrived shortly thereafter and assisted the fire personnel. When they arrived, Guerrero did not have a pulse. After a short while, his heart began beating again. He did not resume breathing on his own, so paramedics continued manually providing respiration.

Guerrero was transported to the Simi Valley Hospital. He never resumed breathing on his own. On May 21, 2007, Doctor Peter Kim, a neurologist, declared him to be brain dead at 9:55 a.m.

¹³ / SVPD General Order 0504 governs the use of Tasers by SVPD officers and recommends that medical personnel should be summoned whenever a Taser is used.

¹⁴ / The last audible sound from Guerrero is heard at about 10:00:30 on the excerpted Murray recording, 10:00:46 p.m.

¹⁵ / 10:02:07 on the excerpted Murray recording, 10:02:07 p.m.

¹⁶ / 10:02:56 on the excerpted Murray recording, 10:02:56 p.m.

¹⁷ / 10:03:01 on the excerpted Murray recording, 10:03:01 p.m.

¹⁸ / 10:03:49 on the excerpted Murray recording, 10:03:49 p.m.

Dr. Laurence Weekes, a surgeon, also declared him brain dead at 11:00 a.m. that same day. Guerrero remained on a respirator to allow his family time to visit and to seek an alternate medical opinion. On May 23, 2007, Guerrero was removed from a ventilator and was declared dead at 7:42 p.m.¹⁹

D. ADDITIONAL POLICE RESPONSE AND INVESTIGATION

Based on the nature of the incident, personnel from the SVPD Detective Unit were summoned to the scene on May 15, 2007. They searched the area around 897 Chelsea Court and began interviewing witnesses to the pursuit and backyard encounter. They took photographs of the locations and vehicles, Guerrero in the hospital, and most of the officers involved in his arrest. Officers searched the backyard for items of evidence and took photographs and measurements, and a diagram was later created drawn from those measurements.

Detective Sergeant Anzilotti arrived at Simi Valley Hospital at approximately 12:05 a.m. on May 16. Due to Guerrero's condition, he was unable to interview Guerrero or take photographs of him. Anzilotti did cause a blood sample to be drawn from Guerrero at 12:35 a.m. on May 16, 2007.

Detectives then began interviewing witnesses and canvassing the neighborhoods located near the pursuit and the backyard at 897 Chelsea Court. Photographs were later taken on May 16 and May 17, depicting Guerrero's physical condition.

E. WITNESS STATEMENTS

Over 180 individuals were interviewed, including all police officers involved in the incident. Based on the advice of counsel, Officer Matt Brill, Sergeant Robert Brill, Officer Brian Young, Officer Chris Hahesy and Officer Carl LeBlanc all declined to make voluntary statements about the incident.²⁰

¹⁹ / Guerrero's death certificate reports the time of death as 11:00 a.m. on May 21, 2007 – the time of the second "brain death" pronouncement.

²⁰ / The officers did make compelled statements to the personnel involved in the administrative investigation by Simi Valley Police Department. However, such statements are deemed compelled statements and were not released to the District Attorney's Office.

