

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF VENTURA

May 18, 2015

REPORT ON THE AUGUST 14, 2012
FATAL SHOOTING OF
MICHAEL MAHONEY
BY OFFICERS FROM THE
OXNARD POLICE DEPARTMENT



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TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	STATEMENT OF FACTS.....	4
	A. OFFICER-INVOLVED SHOOTING.....	4
	B. ADDITIONAL POLICE RESPONSE AND INVESTIGATION.....	7
	C. WITNESS STATEMENTS.....	8
	1. TRAFFIC SERVICE ASSISTANT SONIA CASTRO.....	8
	2. OFFICER MICHAEL VELASQUEZ.....	9
	3. OFFICER JOSEPH BENTLEY.....	11
	4. OFFICER DAVID MCALPINE.....	17
	5. OFFICER MANUEL PEREZ.....	20
	6. SENIOR OFFICER STEVE TRICKLE.....	23
	7. BRIAN MAHONEY.....	25
	8. MICHAEL KITLINGER.....	28
	9. BEN VELASQUEZ.....	30
	D. MICHAEL MAHONEY’S CONTACTS WITH THE OXNARD POLICE DEPARTMENT.....	32
	1. CONTACTS PRIOR TO AUGUST 2012.....	32
	2. AUGUST 2, 2012.....	38
	3. AUGUST 12, 2012.....	40
	4. AUGUST 13, 2012.....	42
III.	FORENSIC EVIDENCE.....	44
	A. CRIME SCENE.....	44
	B. CAUSE OF DEATH.....	49
	C. TOXICOLOGY.....	49
	D. FIREARMS.....	50
IV.	LEGAL PRINCIPLES.....	51
	A. LAW OF HOMICIDE AND SELF DEFENSE.....	51
	B. MICHAEL MAHONEY’S CRIMINAL CONDUCT.....	53
V.	ANALYSIS.....	53
VI.	CONCLUSION.....	54
VII.	EXHIBIT I.....	56

I. INTRODUCTION

On the afternoon of August 14, 2012, officers with the Oxnard Police Department observed Michael Mahoney holding a black semi-automatic handgun to his head while standing on the front porch of his residence at 340 South H Street in the city of Oxnard. As Officers Joseph Bentley and Michael Velasquez contacted Mahoney in his front yard, Mahoney refused demands to drop the gun and instead fled up his driveway and into his residence. Officers chased after Mahoney and heard a gunshot from inside the residence. Not knowing if Mahoney had fired a gun at the officers, at an occupant of the residence, or made an attempt to commit suicide, Officers Bentley, McAlpine, and Perez moved to the driveway courtyard of the residence and gave Mahoney verbal commands to exit unarmed. Mahoney emerged in the open doorway of the residence armed with a flare gun and a knife and refused repeated requests by the officers to put the weapons down. Mahoney told the officers he had loaded the flare gun with a shotgun shell and then began a count to three while pointing the flare gun at the officers, who were in an exposed position. Mahoney fired the flare gun at the officers, causing Officers Bentley, McAlpine, and Perez to return fire. Mahoney was transported to the Ventura County Medical Center, where he was pronounced dead.

As will be discussed in the report that follows, the shooting of Michael Mahoney by Oxnard Police Officers reflects both the tragedy of mental illness and the inherent difficulties law enforcement faces in dealing with the mentally ill, particularly when they arm themselves with dangerous weapons.

Mahoney had suffered from mental illness and substance abuse for most of his life. Family members and law enforcement had attempted to intervene on numerous occasions. There had been at least 14 law enforcement contacts prior to the events of August 14, 2012. During

previous encounters, he was frequently armed with deadly and dangerous weapons including a 9 mm semi-automatic handgun, a flare gun and numerous knives.

Despite Mahoney's numerous convictions for various weapons and narcotics related offenses, one veteran Oxnard police detective had worked hard to assist him and his family in seeking mental health treatment. California law provides for the involuntary commitment of a person in serious need of mental health treatment to be transported to a designated psychiatric inpatient facility for up to 72 hours against their will.¹ Mahoney had been transported to a county mental health facility pursuant to this section by law enforcement on at least two occasions: 11/1/04 and 8/4/12.² Mahoney had been transported to a medical facility by law enforcement for evaluation and treatment of various health-related issues on at least four prior occasions: 4/5/07, 11/5/07; 5/24/09 and 11/4/11.

All the officers who responded to Mahoney's residence on the day of the shooting had additionally received special training in the use of crisis intervention techniques by law enforcement to de-escalate encounters with individuals who suffer from mental illness.³

¹ Welfare and Institutions Code, section 5150.

² Additional involuntary commitments can be authorized under Welfare and Institutions Code sections 5250, 5260, 5270.15 and 5300; however none were sought.

³ In 2001, the Oxnard Police Department partnered with the Ventura Police Department and the Ventura County Behavioral Health Department to develop the first Crisis Intervention Team (CIT). Officers are required to attend a 40-hour course which prepares them to respond to individuals who are in crisis as a result of mental disorder and to assess and assist those individuals in the most effective and compassionate manner possible. The CIT is now a national model for proactive interface between law enforcement agencies for the care and treatment of mentally ill individuals.

Unfortunately, all of the interventions attempted could not prevent the tragic results of August 14, 2012.⁴

The District Attorney's Office has a 24-hour, on-call, officer-involved shooting team available to all Ventura County law enforcement agencies to assist in the investigation of officer-involved shootings. Senior Deputy District Attorney Christopher Harman, District Attorney Investigator Robert Coughlin, and District Attorney Investigator Kimberly Michael responded to the shooting scene and consulted with the investigating officers.

The Oxnard Police Department conducted a detailed investigation of the shooting, which included interviewing witnesses, collecting physical evidence, photographing the area of the shooting, and conducting interviews with the involved officers, as well as other personnel who responded to the scene. The Oxnard Police Department investigative reports were then submitted to the District Attorney's Office for a determination of whether the shooting of Mahoney 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 830 pages of documents, more than 450 photographs, recorded interviews of police and civilian witnesses, diagrams, reports from the Ventura County Medical Examiner's Office and the Ventura County Sheriff's Office Crime Lab, records of radio transmissions, a video recording provided by a civilian witness, and examination of the scene of the shooting.

⁴ Welfare and Institutions Code section 5345-5349.5 ["Laura's Law" (AB1421)] was passed by the California Legislature in 2002. This law authorizes individual counties to implement and fund court-ordered involuntary assisted outpatient treatment for up to 180 days with a possible extension for another 180 days. A "Laura's Law Workgroup" was formed in late 2014 to evaluate the need for, funding and efficacy of such a program in Ventura County and to make recommendations to the Board of Supervisors. It is unknown whether this court mandated outpatient treatment might have prevented this tragedy.

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 Officers Joseph Bentley, David McAlpine, and Manuel Perez acted lawfully when they fired at Mahoney and that Mahoney's resulting death was a justifiable homicide.

II. STATEMENT OF FACTS

Michael Shane Mahoney was born on October 11, 1975. Mahoney's father, Edward Mahoney, lived at 340 South H Street in the city of Oxnard with Mahoney's older brother, Brian Mahoney. Michael Mahoney's twin sister, Tara Mahoney, lives in the city of Ventura. Mahoney spent his childhood in the Oxnard area but moved to Phoenix, Arizona with a friend when he was 19 years old. Shortly thereafter, Mahoney was arrested for his involvement in an aggravated assault and was sentenced to six years in the Arizona Department of Corrections. After completing his Arizona prison term, Mahoney returned to Oxnard to live and work. Upon his return to Oxnard, it became clear to Mahoney's father, sister, and brother that Mahoney would have episodes of severe mental health issues, which often revolved around a paranoia that criminal elements or government forces were conspiring against him. Detective Michael Young of the Oxnard Police Department had been familiar with Mahoney for decades and would often be called upon to speak with Mahoney whenever his mental health issues would come to the attention of the Oxnard Police Department. Over the years, Detective Young spent countless hours attempting to convince Mahoney, as well as his family members, that if Mahoney's mental health issues were not addressed, they could put Mahoney and/or members of his family or the public at large in serious danger.

A. OFFICER-INVOLVED SHOOTING

At approximately 12:43 p.m. on August 14, 2012, Officers Joseph Bentley and Michael Velasquez were traveling in the 300 block of South H Street when Officer Velasquez observed Mahoney standing on the front porch of 340 South H Street while holding a black semi-

automatic handgun to his head. Officer Velasquez immediately directed Officer Bentley's attention towards Mahoney, causing Officer Bentley to stop their patrol vehicle just north of Mahoney's location. Officer Bentley also notified Oxnard Police Dispatch that they were contacting a subject pointing a gun to his head. Officers Bentley and Velasquez exited their patrol vehicle and began giving commands to Mahoney to put the gun down. Both officers heard a clicking noise they believed to be Mahoney pulling the trigger of the handgun he was holding to his head. Believing the firearm was possibly unloaded, Officer Velasquez approached Mahoney, who then began running south along the side of 340 South H Street, turned and disappeared towards the residence through a covered driveway.

Officers Bentley and Velasquez chased after Mahoney, turning the corner which led to the driveway courtyard, only to realize they no longer could see where he went. There was, however, an open doorway leading from the north side of the driveway courtyard to the residence at 340 South H Street. In order to take cover but maintain visual contact with the open doorway, Officer Bentley took up a position against the garage in the southeast corner of the driveway courtyard. In order to observe both the doorway from the driveway courtyard and the front door of 340 South H Street, which could not be seen from inside the driveway courtyard, Officer Velasquez took up a position along the front of the residence, just south of the entrance to the driveway courtyard. As Officers Bentley and Velasquez waited for back-up officers to arrive at their location, they heard a gunshot from inside the residence, which Officer Bentley broadcast over the police radio. By this time, multiple units were responding to the area of 340 South H Street, to assist Officers Bentley and Velasquez, establish a perimeter around the residence and begin blocking off civilian vehicle traffic. One of these responding officers, Officer Manuel Perez, had just arrived at the alley behind 340 South H Street when he also heard a gunshot which appeared to be coming from the area of the residence.

Responding Officers David McAlpine and Perez entered the driveway courtyard of 340 South H Street from the alley and took up positions next to Officer Bentley against the garage in the southwest corner. From their location, Officers Bentley, McAlpine, and Perez observed Mahoney appear inside the doorway to the north of the driveway courtyard armed with two large kitchen knives, which he had pointed at his stomach. Officers immediately began attempting to convince Mahoney to drop the knives and surrender. Mahoney again disappeared from view and returned with a flare gun in his right hand and a large knife in his left hand. Mahoney told officers he had already loaded the flare gun with a shotgun shell and that the flare gun was not a fake. Mahoney moved in and out of view of the officers while holding the flare gun to his face and telling the officers to “fire” at him. Over the next several minutes, each officer in the driveway courtyard made several pleas to Mahoney to put the gun down. Mahoney then began pointing the flare gun directly at the officers from a distance of approximately 30 feet while telling the officers to kill him. Officers gave Mahoney numerous commands to drop the gun, but Mahoney replied, “On the count of three.” As Mahoney began his count, officers continued giving him commands to drop the gun. After he had reached the count of “two,” but before saying the word “three,” Mahoney fired a modified shotgun round from the flare gun directly at the officers⁵ and Officer Bentley returned fire. Within seconds, officers realized Mahoney was still standing inside the doorway to the residence and was still pointing the flare gun at the officers. Officers gave Mahoney another series of commands to put the flare gun down, with no response. Fearing for their own lives, as well as the lives of their partners who were in an exposed position in the driveway courtyard, Officers Bentley, McAlpine, and Perez fired their weapons at Mahoney, causing him to fall to the ground inside the doorway to the residence. Officers broadcast that shots had been fired and the subject was down at 12:54 p.m.

⁵ Based upon the large number of tools and ammunition components, combined with Michael Mahoney’s apparent experience with modifying flare guns to fire a shotgun shell, investigators were unable to determine what had been loaded into the shell which was recovered from the Orion flare gun on August 14, 2012.

B. ADDITIONAL POLICE RESPONSE AND INVESTIGATION

Just prior to the officer-involved shooting taking place, additional officers with the Oxnard Police Department arrived on scene, including an officer who was driving a BearCat armored police vehicle. At the time of the officer-involved shooting, the BearCat was just outside of the driveway courtyard. In the moments after the shooting and from their positions of cover, Officers Bentley, McAlpine, and Perez could not see Michael Mahoney's hands, nor the location of the flare gun. Mahoney was also non-responsive to the officers' requests to show his hands or otherwise comply with the orders necessary to take him into custody; however, they could see some movement as he lay on the floor in a fetal position.

The armored BearCat vehicle was driven into the driveway courtyard and positioned directly outside of the doorway to the residence where Mahoney was located. The positioning of the BearCat in front of the doorway finally provided cover for Officers Bentley, McAlpine, and Perez to change their location and join other officers. Mahoney was again given commands to show his hands, without a response. In order to move Mahoney enough to reveal if he was still in possession of a weapon and merely feigning injury, Senior Officer Steve Trickle deployed his police canine to grab onto Mahoney and to drag him closer to the doorway. As the canine did this, other officers were able to determine that Mahoney was no longer in possession of the flare gun and no longer a threat to the officers. Mahoney was immediately handcuffed and rushed out of the residence to waiting emergency medical personnel who were already staged to the front of the residence. Mahoney was treated briefly at the scene before being transported to the Ventura County Medical Center, where he was pronounced dead.

Once the scene at 340 South H Street was secured, and Mahoney transported for treatment, officers and detectives began the hours-long process of identifying and interviewing potential witnesses, collecting physical evidence, taking measurements and photographs, and diagramming the interior and exterior of the location. Officers and detectives with the Oxnard Police

Department were assisted by investigators from the Ventura County District Attorney's Office, investigators from the Ventura County Medical Examiner's Office, and forensic scientists from the Ventura County Sheriff's Office Crime Lab.

C. WITNESS STATEMENTS

Numerous individuals were interviewed, including all police officers involved in the incident and most of the neighbors. Summaries of the most pertinent witness statements are set forth below.

1. TRAFFIC SERVICE ASSISTANT SONIA CASTRO

Sonia Castro was interviewed by detectives at approximately 3:30 p.m. on August 14, 2012. Castro stated that shortly before 12:45 p.m. on August 14, 2012, she was on duty as a traffic service assistant driving a marked black and white Oxnard Police Department pickup truck southbound on South H Street.⁶ While stopped at the intersection of Second and South H Streets, Castro observed a white pickup truck stopped facing northbound on South H Street occupied by three individuals. An occupant of the white pickup truck was waving at Castro as if he was attempting to flag her down. Castro proceeded southbound and pulled over just south of the intersection. The white pickup truck made a U-turn in the intersection and pulled alongside Castro's vehicle. The occupants of the white pickup truck told Castro that there was a man down the street with a gun pointed to his head. The occupants of the pickup truck spoke limited English, so it was difficult for Castro to determine exactly where the man with the gun was located.

Castro asked the occupants of the white pickup truck to show her where the man was located and followed the white pickup truck as it proceeded southbound on South H Street until the

⁶ Traffic service assistants conduct minor collision investigations and parking enforcement, but are not sworn peace officers or armed with firearms. Vehicles driven by traffic service assistants are equipped with amber overhead lights.

occupants pointed to a residence on the east side of the 300 block of South H Street. Castro looked over in that direction and observed a white male in his late 20s or early 30s, wearing dark clothing, standing on the porch of a residence holding a gun in his left hand pointed at his head. Castro told the occupants of the white pickup truck to leave the area and continued southbound on South H Street before turning eastbound on Fourth Street, where she called in what she had observed to the Oxnard Police Department.

2. OFFICER MICHAEL VELASQUEZ⁷

At approximately 12:43 p.m. on August 14, 2012, Officers Michael Velasquez and Joseph Bentley were in uniform on patrol working a two-man gang enforcement unit. As they approached the 300 block of South H Street, Officer Velasquez looked toward the residence of 340 South H Street. He had responded to that location the day before for a call of a suicidal subject at that location. As their vehicle passed 340 South H Street, Officer Velasquez observed a white male subject standing on the front porch holding a black colored semi-automatic firearm to his head. Officer Velasquez advised Officer Bentley to pull their vehicle over and stop in the front of the residence. As Officer Bentley pulled over, Officer Velasquez exited the patrol unit, which was now just north of the subject's location. Officer Velasquez drew his firearm, pointed it towards the subject and gave him commands to drop the firearm. The subject continued to hold the firearm to his forehead and was nonresponsive to Officer Velasquez's commands. Officer Velasquez then saw the subject place his finger in the trigger guard of the firearm and begin pulling the trigger. Officer Velasquez could hear the clicking of the hammer of the gun dropping several times and believed the firearm to be unloaded.

As Officer Velasquez began to approach the subject, again telling him to drop the firearm, the

⁷ Officer Velasquez authored his own report documenting his response to this incident. Officer Velasquez had received CIT training July 18-22, 2005. (See footnote 3 regarding CIT training.)

subject began running south towards the driveway and then east on the driveway towards the back of the residence. Officer Velasquez ran after the subject and observed him run into a door on the south side of the northern portion of the residence. Officer Velasquez slowed down and checked the entrance. However, he did not see the subject in the short hallway of the residence.

It was at this time that Officer Velasquez backed up and advised Officer Bentley that he was going to move toward the front of the residence.

Officer Velasquez backed toward the front yard, just south of the driveway where he was able to view the door where the subject had entered, as well as the front door of the residence. Officers Velasquez and Bentley began setting up a perimeter on the residence as several other officers arrived on scene. Shortly thereafter, Officer Velasquez heard what he believed to be a gunshot from the interior of the residence where the male subject had entered.

Officer Velasquez requested a patrol unit position itself one residence south of 340 South H Street so that officers would be able to take cover behind the vehicle while maintaining a visual of the residence. Officer Velasquez also requested the Oxnard Police Department armored BearCat vehicle be deployed to the location. The BearCat arrived on scene shortly thereafter, at which time Officer Velasquez and other officers positioned themselves to the rear of the armored vehicle.

Officer Velasquez had advised the BearCat operator to position the armored vehicle on the driveway where officers could have both a view of the south side of the residence down the driveway and look eastbound in order to maintain a perimeter of the residence. Officer Velasquez also requested an additional officer approach from the north to take a perimeter position on the northwest portion of the residence.

Shortly after the BearCat was positioned in the driveway, Officer Velasquez heard what he believed to be approximately four to six shots fired from the area just east of his location on the south side of the residence. Officer Velasquez heard radio traffic that the suspect was down inside the south side door of the residence. Officer Velasquez heard other officers indicate the subject was approximately six to seven feet inside the residence; however, the other officers were unable to see the subject's hands. The decision was ultimately made to move the BearCat up into the driveway to get a better visual of the suspect who was inside the residence. As the BearCat approached, officers inside the BearCat were able to see the suspect who was down in the hallway. Officers exited the BearCat and ultimately removed the suspect from the residence so that medical aid could be rendered.

After the suspect was removed, Officer Velasquez and additional officers conducted a protective sweep of the interior of the residence. As Officer Velasquez walked into the residence, he saw what appeared to be an orange firearm in the hallway area, just inside the south entrance. After conducting the protective sweep of the interior of the residence, Officer Velasquez stayed in the residence until he was relieved by additional officers.

3. OFFICER JOSEPH BENTLEY

Officer Joseph Bentley⁸ was interviewed at 5:17 p.m. on August 14, 2012, at the Oxnard Police Department. Officer Bentley was interviewed by Oxnard Police Detectives Martin Perez and Bakari Myers in the presence of his attorneys. Officer Bentley agreed to provide a voluntary, recorded statement to the detectives about the events that led up to, and included, the shooting of Mahoney.

⁸ On August 14, 2012, Officer Bentley had been a full-time peace officer with the Oxnard Police Department for six years and was assigned to the Special Enforcement Unit (S.E.U.), which also comprises the Oxnard Police Department S.W.A.T. team.

Officer Bentley began the interview by describing an incident which had occurred on August 13, 2012, the day before the officer-involved shooting at 340 South H Street. Officer Bentley remembered there was a police radio call involving a suspect, later identified as Mahoney, possibly being in possession of a firearm. Officer Bentley said that he and other members of the Special Enforcement Unit (S.E.U.) responded and learned that the suspect was possibly in possession of a firearm inside his residence at 340 South H Street. Officer Bentley stated that officers attempted to contact Mahoney by telephone in order to negotiate with him; however, he would not comply. Mahoney's brother was home at the time and put the phone on speaker with members of the Oxnard Police Department. Supervisors on scene opted to clear the call with directions to the neighbors to call the Oxnard Police Department if Mahoney came outside with a weapon or threatened anyone in any way.

On August 14, 2012, Officers Bentley and Velasquez were working a two-man S.E.U. car. Officer Bentley was the driver and Officer Velasquez was the right front passenger. Officers Bentley and Velasquez had just finished conducting a probation search and were heading back to the Oxnard Police station when Officer Bentley heard Officer Velasquez state, "Oh my god," or something similar. Officer Bentley looked towards the right passenger side of his vehicle and saw a subject, later identified as Mahoney, standing on a set of steps while holding a black handgun to his head. Officer Bentley said he nosed the car into the east curb line of South H Street and towards the armed subject.



Front of 340 South H Street with location of patrol vehicle driven by Officer Joseph Bentley

Officers Bentley and Velasquez both exited their vehicle and ordered Mahoney to drop the handgun. During this time, Officer Bentley believed that he heard the click of a “dry fire⁹” come from Mahoney’s handgun. Officer Bentley said that Mahoney brought the firearm down away from his head, raised it back up toward his head, and then began fleeing from Officers Bentley and Velasquez south along the front of the property, then east through an opening in the property. Officer Bentley pursued Mahoney and began broadcasting the foot pursuit over his radio. Officer Bentley said that he made the Oxnard police dispatchers aware that he was pursuing the same suspect from the August 13, 2012, call and that the suspect was in possession of a gun. Officer Bentley then heard information being broadcast over the radio mentioning a call had just been received of a man armed with a gun.¹⁰

Officer Bentley lost sight of Mahoney after Mahoney entered the driveway courtyard area. As

⁹ In firearms training, dry firing is the practice of pulling the trigger on a firearm that is not loaded.

¹⁰ Reported by Traffic Service Assistant Sonia Castro.

Officer Bentley peered around the corner, he noticed an open door to the residence just off of the courtyard. Officer Bentley positioned himself near the corner of the garage to the south, while Officer Velasquez positioned himself to the north. Officer Bentley heard a shot fired from inside the residence and did not know if Mahoney had killed himself or was firing at someone else inside the residence. Mahoney came back into Officer Bentley's view of the doorway and did not show any signs of being injured. This caused Officer Bentley to become concerned that Mahoney may have shot someone inside the residence. Officer Bentley started backing up towards the alley where Officers McAlpine and Perez were located. All three officers positioned themselves where they still had some cover next to the garage but could also maintain a visual of the doorway.



Location where Officers Bentley, McAlpine, and Perez attempted to take a position of cover in the driveway courtyard

Officer Bentley could see Mahoney inside the doorway and it appeared he had two large knives held against his stomach. Mahoney would often disappear into an adjacent room just inside the doorway, making it difficult for Officer Bentley to see exactly what Mahoney was doing.

Mahoney yelled at officers to shoot him as Officer Bentley and the other officers attempted to talk with Mahoney, telling him, “Hey, hey Michael Mahoney, its Bentley man. Hey I’ve talked to you before man. I know you’ve got some stuff going on, brother It’s not worth it, brother Come on brother. Come on out, man.”

Officer Bentley said Mahoney once again disappeared inside the residence, but this time reappeared holding a different orange firearm. While Officer Bentley was not sure what type of handgun Mahoney was holding, one of the officers on scene mentioned the gun could possibly be a toy gun or a flare gun. Officer Bentley then heard Mahoney refer to the gun as a 12-gauge, indicating, “I already loaded it with a shotgun shell.” Mahoney continued to challenge the officers to shoot him while he pointed the gun alternately to his head and towards the officers. Mahoney told the officers that they had “to the count of three.” He pointed the gun directly at the officers as he began counting. Officer Bentley tried to maintain a position of cover against the corner of the garage but realized that Officers McAlpine and Perez were not in a position of cover. Just as Mahoney reached the end of the countdown, Mahoney fired one round from his flare gun, and Officers Bentley, McAlpine, and Perez opened fire. Officer Bentley fired two rounds from his department-issued .45-caliber handgun. Mahoney fell to the ground in a fetal position inside the doorway to the residence just as members of the Oxnard Police Department moved an armored BearCat vehicle into the courtyard. Multiple officers called to Mahoney to show his hands in order to ensure he did not have a weapon, but received no response. Since it was unknown if Mahoney was still armed and continued to be a threat to officers and the public, a canine officer was brought in to deploy his dog. When it was determined that Mahoney was no longer armed, officers transported him from the courtyard to waiting emergency medical

personnel at the front of the residence.

Officer Bentley estimated that Mahoney pointed the orange gun at himself two or three times and at the officers a minimum of three times. Detectives asked Officer Bentley why he decided to fire his weapon and Officer Bentley answered that while he had some cover and concealment, Officer Perez was completely exposed to the line of fire. When asked what he thought would happen if he did not shoot, Officer Bentley replied, "He's going to shoot one of us, and because I had some pretty good cover, it likely would have been Manny." Officer Bentley estimated the distance between the officers and Michael Mahoney at the time of the shooting to be approximately 25 to 30 feet. While Officer Bentley was not sure if the weapon Michael Mahoney pointed at the officers was a flare gun loaded with a flare or a 12-gauge shotgun shell, Officer Bentley believed the firearm would "do some pretty significant damage."

Detectives asked Officer Bentley why he thought this incident with Mahoney was different from other events. Officer Bentley replied, "Because this guy seemed like it was serious. I mean, not that others aren't serious, but it almost seems as if you can speak with somebody and you can kind of tell by either body language or the way they act that it's just a cry for help, that they just want some attention or whatever the case may be. With this guy, he was threatening to the point to where he was actually challenging and so I think this one just kind of uh... didn't catch me off guard but it was like, you know, this guy is playing for keeps. I don't know how else to put it."

Detectives also reviewed a recording obtained from the digital recorder Officer Bentley wore on his uniform. The date stamp on this recording was August 14, 2012, from 12:49:22 p.m. to 1:11:43 p.m.

When the digital recording began, it was clear that Officers Bentley, McAlpine, and Perez were already engaged in speaking to Michael Mahoney. Mahoney can be heard saying "fire . . . fire." Officer McAlpine can be heard saying, "He's got a knife to his stomach," and Officer Perez

saying, “two knives, two knives.” An unidentified voice can be heard describing a pink gun and Mahoney saying “I already loaded it with shotgun shell.” Officer McAlpine observed that “subject has, what appears to be a toy gun, possibly a flare gun” Officer Bentley stated, “That’s not the one [gun] he had, man. The first one was black.” Mahoney repeats “fire . . . fire” and “kill me” before announcing, “On the count of three . . . one . . . two” Officer McAlpine can be heard repeatedly saying “drop the gun . . . drop the gun.” Two shots can be heard as Perez and McAlpine continue to say, “Put it down. . . put it down now.” Bentley states, “Subject just . . . shot off the flare gun.”

No other officers were heard on the recording; however, the recording did capture statements made by Oxnard Police Department dispatchers Joanna Carter and Pam Rodriguez.¹¹

4. OFFICER DAVID McALPINE

Officer David McAlpine¹² was interviewed at 6:20 p.m. on August 14, 2012, at the Oxnard Police Department. Officer McAlpine was interviewed by Oxnard Police Detectives Martin Perez and Bakari Myers in the presence of his attorneys. Officer McAlpine agreed to provide a voluntary, recorded statement to the detectives about the events that led up to, and included, the shooting of Michael Mahoney.

On August 14, 2012, Officer McAlpine was assigned to the downtown business district of Oxnard along with his partner, Officer Robert Roldan¹³, when he heard Officer Bentley put out over the radio that he had a man with a gun to his head fleeing into a house. Officer McAlpine then immediately heard another broadcast reporting a man with a gun to his head on South

¹¹ The transcript of the recording from the time it was activated until other officers arrive at Officer Joseph Bentley’s position after the officer-involved shooting is attached as Exhibit 1.

¹² On August 14, 2012, Officer McAlpine had been a full-time peace officer with the Oxnard Police Department for approximately four years and had previously worked as a peace officer with the Los Angeles Police Department for three years. Officer McAlpine was assigned to Oxnard’s downtown business district. Officer McAlpine had also received CIT training January 13-17, 2014. (See footnote 3 regarding CIT training.)

¹³ Officer Roldan remained in the back alley as a perimeter officer and did not witness any of the events.

H Street. Officers McAlpine and Roldan drove to the location and entered the alley behind 340 South H Street, along with Officer Perez. Officer McAlpine heard a report over the radio of a shot having been fired inside the residence and believed the suspect may have taken his own life. Officer McAlpine could see Officer Bentley in the driveway courtyard area of the residence and he appeared to be alone; therefore, Officers McAlpine and Perez entered the courtyard of 340 South H Street and took positions with Officer Bentley along the south side of a garage.

Officer McAlpine observed Mahoney 10 feet inside the house in a hallway beyond an open door to the courtyard. He estimated Mahoney was probably 25 to 30 feet from the actual doorway, but Officer McAlpine was not in a position to see if he was holding anything at that time. As Officers Bentley and Perez attempted to speak with Mahoney to de-escalate the situation, Mahoney walked closer to the doorway and appeared to be in possession of two large knives. Mahoney continued to ignore the officers' commands and went into the house, out of view. When Mahoney returned, he held an item pointed at his face that initially appeared to be a large, orange revolver. Officer McAlpine then heard Michael Mahoney explain that the item was a flare gun loaded with a 12-gauge shotgun shell. Mahoney alternated between putting the flare gun in his mouth to pointing it at the officers. While officers gave Mahoney commands to put the gun down, Mahoney pointed the flare gun at the officers and stated he was going to count to three. When Mahoney got to the final count, Officer McAlpine heard the sound of gunfire. Officer McAlpine quickly glanced at Officers Bentley and Perez to see if they had been hit before returning his attention to Mahoney. Officer McAlpine immediately observed Mahoney in the same hallway with the flare gun still pointed at the officers. Fearing Mahoney was trying to kill one of the officers, and believing his fellow officers in the courtyard were in danger, Officer McAlpine fired his department-issued .45-caliber handgun at Mahoney. Officer McAlpine observed Mahoney fall to the ground inside the residence, but could not see where the flare gun was located.

At the time of the shooting, Officer McAlpine described Officer Perez as hunched down with his rifle at the corner of the detached garage, and Officer Bentley was standing directly behind Officer Perez, leaning over him. Officer McAlpine was behind Officer Bentley, leaning out to the left. Officer McAlpine remembers thinking he did not feel safe in that position and stated that after Mahoney “fired at us” he decided to move over to a nearby tree.

Officer McAlpine held his position in the courtyard until the Oxnard Police Department armored BearCat vehicle arrived. Mahoney was given multiple commands to show his hands, but was unresponsive. Officers used a canine to pull Mahoney closer to the doorway, where officers were able to determine he was no longer armed with a weapon. Officer McAlpine entered the threshold of the residence and assisted other officers with handcuffing Mahoney and carrying him to the front yard of 340 South H Street to receive emergency medical treatment.

Detectives asked Officer McAlpine what he thought would happen if someone fired a flare gun at him and Officer McAlpine replied, “If not kill me, injure me severely.” Officer McAlpine noted, “I remember looking at the sight, the front sight and him pointing at us and knowing, just fearing, that he’s about to shoot us, and then pulling the trigger. And he goes down, and I was, I’m like, I remember thinking did my gun go off? I looked at the hammer and the hammer was back. And I was like well, the hammer is back so it must have gone off.” Detectives followed by asking what it was specifically that made Officer McAlpine pull the trigger. Officer McAlpine replied, “He had already fired that thing at us. His goal was to kill us and I needed to protect myself and Joe and Manny. I needed to stop him from doing that.”

Detectives asked Officer McAlpine if anything about this incident felt different from other suicidal subject calls he had been to in the past. Officer McAlpine stated, “This subject was gonna try to kill us, to get us to hurt him. I felt he was gonna try to kill us, just so we could act

or so we would respond to him. And I feared he was gonna kill me just so that would happen.” Officer McAlpine added, “I always believe that there is a chance that I could talk someone out of something, but from what we were seeing of him, no. He was gonna do what he needed to do, regardless of the consequences.”

5. OFFICER MANUEL PEREZ¹⁴

Officer Manuel Perez was interviewed at 7:20 p.m. on August 14, 2012, at the Oxnard Police Department by Oxnard Police Detectives Martin Perez and Bakari Myers in the presence of his attorneys. Officer Perez agreed to provide a voluntary, recorded statement to the detectives about the events that led up to, and included, the shooting of Michael Mahoney.

On August 14, 2012, Officer Perez was working traffic enforcement on an Oxnard Police Department motorcycle in the area of Victoria Avenue and Teal Club Road when he heard a report over the radio of a man with a gun to his head. Officer Perez began responding from his location when he heard an update that the subject with the gun was now running. As Officer Perez drove northbound on South H Street, he observed a marked police unit parked in the middle of the street. Officer Perez turned and parked his motorcycle in the alley behind South H Street and retrieved his department-issued rifle. While retrieving his rifle, Officer Perez heard what he believed to be a shot. At this time, Officer Perez was joined by Officer McAlpine and they entered the property at 340 South H Street from the rear alley, taking a position in the driveway courtyard next to Officer Bentley. Officer Perez stated he moved towards the sound of the gunshot because he did not know if the suspect had fired at officers or if someone inside the house had been shot. Officer Perez was concerned there could be an officer down or something else happening inside the residence that he could not see.

¹⁴ Officer Perez had also received CIT training October 18-22, 2004. (See footnote 3 regarding CIT training.)

Officer Perez explained that he set up at the southwest corner of the detached garage, looked across the courtyard, and saw Mahoney inside the residence at the end of a 'T' hallway.

Mahoney was yelling and was holding two knives to his stomach area. Officer Perez remembered Mahoney yelling something to the effect of "kill me." Officer Perez tried to talk to Mahoney, who he described as in an "agitated" state. Mahoney walked out of view, so Officer Perez took a kneeling position in front of Officer Bentley.

Mahoney then came back into view holding a yellowish-orange gun. Mahoney told officers he had put a shotgun shell into the gun as officers gave Mahoney multiple commands to put the weapon down and come out of the residence. Officer Perez then noticed Mahoney point the yellowish-orange gun at his own head with his right hand as he held a knife to his stomach with his left hand and asked the officers to shoot him. Officer Perez then heard Mahoney counting, as if counting down to something, followed by a loud bang. Officer Perez glanced towards Officers Bentley and McAlpine to confirm they were not hit before seeing Mahoney still standing in the hallway and pointing the weapon at the officers. Fearing Mahoney was going to shoot at the officers again, Officer Perez fired his rifle and heard other shots before seeing Mahoney fall down. Officer Perez could not see Mahoney's hands from his location, so he waited for the arrival of the Oxnard Police Department armored BearCat vehicle, which pulled into the driveway courtyard. Officers gave Mahoney numerous commands with no response, and ultimately used the canine to move Mahoney closer to the door. Mahoney was then transported to the front yard of 340 South H Street to receive emergency medical treatment.

Officer Perez described the yellowish-orange gun used by Michael Mahoney as having a hollow barrel the size of a quarter and not looking like any toy gun Officer Perez had seen before.



The Orion flare gun after it had been collected as evidence



The two firing pin marks on the primer to the shell found in the Orion flare gun after it had been collected as evidence

Officer Perez had seen flare guns fired before and was aware they could create a huge blast. At the time, Officer Perez did not know if a flare gun could fire a shotgun shell, but after hearing the first gunshot, Officer Perez believed the sound was consistent with a larger caliber firearm.

Detectives asked Officer Perez what prompted his decision to fire his rifle at Michael Mahoney and Officer Perez replied, “He pointed it at us again and I feared for my safety, the safety of my partners. I thought he, you know, wanted to kill us. You know, I think that his intention was to kill us and I took a shot.” Officer Perez added, “You know, I am fearing for my safety, the safety of my, my partners there. They might get killed. I mean, you know. This guy has either a shotgun shell in his gun here. I mean I’ve seen what a shotgun shell can do to a body, a body or a target and that close of range, I mean. It could cause serious damage or death.”

6. SENIOR OFFICER STEVE TRICKLE¹⁵

At approximately 12:43 p.m. on August 14, 2012, Senior Officer Steve Trickle was working uniformed patrol in a marked black and white police canine unit with his police service dog, Cody. While in the 700 block of North Ventura Road, Senior Officer Trickle heard dispatch advise there was a male subject in front of the residence at 340 South H Street with a gun to his head. Dispatch also stated the subject was possibly Michael Mahoney. Senior Officer Trickle had been present on two calls at 340 South H Street in the previous two days and knew Mahoney was reported to have been having mental health issues.

Senior Officer Trickle arrived on scene at approximately 12:46 p.m. and stopped his patrol unit at the intersection of Third and H Streets to block both northbound and southbound traffic. Senior Officer Trickle walked towards the residence as additional responding units were walking towards 340 South H Street and staging on the southwest corner. Senior Officer Trickle was

¹⁵ Senior Officer Steve Trickle authored his own report documenting his response to this incident.

taking cover behind a sport utility vehicle on the west curb line of South H Street when he heard a gunshot from inside the residence, followed by what he believed was another gun shot a short time later.

Within a few minutes, numerous additional officers were on scene securing the perimeter of 340 South H Street from both the east alley of South H Street and the front corners of the residence. Once the armored BearCat vehicle arrived on scene, Senior Officer Trickle moved to a location directly to the rear of the BearCat. Within minutes of moving to the rear of the BearCat, Senior Officer Trickle heard several rounds being fired in the courtyard area of the residence. Senior Officer Trickle heard via radio that the gunfire was from Oxnard Police Department officers and the suspect was down in a hallway of the north side of the residence. Senior Officer Trickle observed several officers stage at the entrance to the hallway where the subject was down in a fetal position. The subject's hands were not visible and were near his belt or pants area.

Senior Officer Trickle gave numerous commands to the downed subject, advising him to show his hands or respond in any type of manner in order for officers to determine if he was still in possession of a firearm, knife, or any other type of weapon. Officers could see at least one knife within a few feet of the subject.

Based upon the information known to Senior Officer Trickle at the time, including: 1) the subject had brandished a weapon at officers which resulted in an officer-involved shooting; 2) the subject still posed a threat to officers due to the fact his hands were not visible, and it was uncertain if he was still in possession of a firearm, knife, or other weapon; and 3) the subject had numerous past contacts with the Oxnard Police Department, Senior Officer Trickle decided to deploy his police service dog, Cody.

While staged at the entrance to the hallway, Senior Officer Trickle placed Cody on a 30-foot line with a harness. Senior Officer Trickle gave the subject an additional warning, advising him to show his hands or he would be bitten by the canine. The subject did not respond verbally or in any other manner regarding the canine warning. Senior Officer Trickle deployed his canine, who bit the subject in the upper left torso below the armpit. Senior Officer Trickle observed no response from subject and the canine immediately re-gripped and bit the subject on the back portion of the left leg. While the canine had a grip on the subject's left leg, Senior Officer Trickle pulled on the 30-foot line and used the canine to pull the subject towards the officers. It was only at this time that officers were able to confirm the subject was no longer armed with any type of weapon. When the subject was within a few feet of the officers staged at the door to the hallway, officers took the subject into custody and immediately carried him out of the residence to be treated by emergency medical service personnel who were staged adjacent to the front driveway.

After the canine deployment, Senior Officer Trickle assisted other officers with coordinating the crime scene log, as well as the inner and outer perimeter crime scene tape.

7. BRIAN MAHONEY

Brian Mahoney initially arrived at 340 South H Street after the shooting and while officers and detectives from the Oxnard Police Department were processing the scene for evidence. Brian Mahoney was wearing a work shirt and name tag and identified himself to officers at the perimeter of the crime scene as Mahoney's brother. Brian Mahoney said he came from his work as soon as he heard the news of what had happened and spontaneously stated, "If you had to shoot him, I understand. I don't blame you guys for doing what you had to do."

A detective, accompanied by an investigator with the Ventura County Medical Examiner's Office, contacted Brian Mahoney at the scene and asked him if he knew what had happened.

Brian Mahoney responded by saying, “Well, I’ve been dealing with it for two months now and dealing with him all my life so I know what’s going on. And if you guys had to shoot him, you had to shoot him, I understand that.” Brian Mahoney asked if Mahoney was still breathing and insisted he would only answer questions after he knew the truth. Detectives informed Brian Mahoney of Mahoney’s passing and observed Brian Mahoney become emotional and punch a nearby cinderblock wall. After composing himself, Brian Mahoney rejoined detectives and spontaneously stated, “I removed the back door so you guys could make entry.” When asked what had been happening lately, Brian Mahoney stated, “He’s really unstable. He thinks everybody out in the world is out to get him.” Brian Mahoney was asked if he had tried talking to Mahoney and Brian Mahoney explained, “I won’t talk to him because he won’t get help.” Brian Mahoney stated Mahoney had recently been walking around outside with bayonets¹⁶ and had taken a flare gun, removed the flare, “and put a shotgun load in there.”

Brian Mahoney was asked if he would come to the police station to speak with detectives and a victim advocate, but he did not wish to leave the area, stating, “I’ve been dealing with his bullshit. I knew it was going to come to a head eventually. . . . We’ve asked you guys to help us. It’s nothing personal against you guys. I know you guys have to do your job and I . . . I would’ve had to do it myself.” Brian Mahoney then walked back to his work truck and used his cellular phone. Detectives overheard Brian Mahoney telling the person on the phone, “They had to shoot and kill my brother You know what? Life goes on. He made the fucking decision to do what he fucking did and he’s done. So I’m not going to sit here and waste the milk.”

After ending the telephone call, Brian Mahoney was asked to describe how Mahoney had been acting since the previous night. Brian Mahoney answered, “He was doing his normal crazy

¹⁶ A bayonet is a knife, sword, or spike-shaped weapon designed to fit in, on, over or underneath the muzzle of a rifle, musket or similar weapon, turning the gun into a spear.

bullshit.” Brian Mahoney stated Mahoney was acting paranoid and repeating, “They’re gonna kill me. They’re gonna kill me. They’re gonna kill me.” Brian Mahoney also noted his brother stated, “I got to kill myself before they come and kill me. They’re gonna come tonight.” Brian Mahoney again declined to go to the Oxnard Police Department to speak with someone, but agreed to remain on scene so another detective could conduct a more thorough interview. Brian Mahoney asked the original detective who spoke with him, “Tell the officer that did it he’s alright.”

Detective Hannah Estrada arrived at the scene of the shooting a short time later and completed a more detailed interview with Brian Mahoney. Detective Estrada located Brian Mahoney at the perimeter of the crime scene and introduced herself while expressing her condolences for Brian Mahoney’s loss. Brian Mahoney replied, “Well, you guys had to do what you got to do.”

Brian Mahoney confirmed he has been residing at 340 South H Street for the past 36 years, most recently living there with his father, Edward Mahoney, and his brother. Edward Mahoney was currently out of state and had been on vacation for the past 2 ½ months, leaving only Brian Mahoney at home with Mahoney. Although he resides on the property with Mahoney, Brian Mahoney said that due to Mahoney’s unstable and irrational behavior, Brian Mahoney had to live out of an exterior trailer that was located on the property. Brian Mahoney mentioned that all of his windows on his trailer were broken out by his brother.

Brian Mahoney stated that when he prepared to leave for work at approximately 7:15 a.m. the morning of August 14, 2012, Mahoney was walking around the house carrying a bayonet. Brian Mahoney said Mahoney had also armed himself with the bayonet the night of August 13, 2012, as well as a couple of days earlier. While carrying the bayonet on August 14, 2012, Mahoney stated he wanted to kill himself and that someone was out to get him so Mahoney was going to die fighting.

Brian Mahoney felt it was Mahoney's methamphetamine use that caused the paranoia.

Brian Mahoney lamented there was nothing he could do about it as he expressed anger and frustration over Mahoney's behavior, noting the suicidal statements paired with the paranoia of someone out to get him were Mahoney's "M.O."¹⁷ Brian Mahoney stated they could not have children at the residence, even family members, around Mahoney because of his behavior.

Brian Mahoney stated he had a fiancée at one point, but due to the repeated incidents involving Mahoney, she left Brian Mahoney. In the past two weeks, Brian Mahoney said he has not been able to go into the residence to even take a shower because he could not deal with Mahoney's behavior. Brian Mahoney had been forced to use a hose in the backyard for his personal hygiene.

Brian Mahoney was asked if Mahoney had access to any guns at the residence and he replied that between himself and his father, they had several guns in the residence that were registered to both Brian Mahoney and Edward Mahoney. Brian Mahoney stated all of the firearms were in locked safes and Brian Mahoney was confident that Mahoney could not have accessed them.¹⁸

8. MICHAEL KITLINGER

On the evening of August 14, 2012, Michael Kitlinger contacted the Oxnard Police Department to provide information about Michael Mahoney. Detective Robert Eckman conducted a telephone interview of Kitlinger at approximately 9:45 p.m. that evening.

Kitlinger stated he ran a sober living program at 619 West First Street and also worked at the Grace Bible Church at Fifth Street and Hobson Way in the city of Oxnard. Kitlinger stated he was familiar with Mahoney, as Mahoney often stopped by the sober living program facility to

¹⁷ Modus operandi is a Latin phrase, approximately translated as "method of operation." In English, it is often shortened to M.O.

¹⁸ Contrary to Brian Mahoney's beliefs, officers discovered a small open, unlocked gun safe in the hallway closet, the flare gun on the kitchen floor, and a 9mm Beretta 92F semi-automatic handgun with one round in the chamber on the kitchen counter.

visit. Mahoney came to the facility on the morning of August 14, 2012, between 8:00 a.m. and 8:30 a.m. Mahoney seemed extremely paranoid and thought people were after him. Mahoney told Kitlinger the rapture happened and his family was all gone. Mahoney was carrying a cross with him and was talking about his father being gone. Mahoney made a statement to Kitlinger to the effect that Mahoney's father would "never say that again." Kitlinger was unclear as to the meaning of that particular statement. Kitlinger stated he thought Mahoney was not mentally there that morning and was possibly high on drugs, as he did not notice any odor of alcohol. Mahoney kept talking about the rapture happening and that he was never going to see his family again. Kitlinger stated Mahoney was also talking about the government being after him.

Kitlinger indicated that Mahoney stayed at the sober living program facility for several hours. Because he was acting so strange, Kitlinger encouraged Mahoney to stay for the Bible study session with the pastor. Kitlinger described Mahoney as being in an extremely agitated state of mind and Kitlinger hoped he would not go out into public the way he was acting. Kitlinger later believed that Mahoney was not under the influence of drugs as there was no change in his demeanor over the hours he was at the sober living program facility and no sign of any drugs wearing off. Kitlinger said Mahoney was in this strange and agitated mental state the entire time he was at the facility and continued to speak about the rapture, God, and death. Kitlinger described Mahoney as being fixated on death and what was going to happen to him when he died.

Kitlinger believes Mahoney remained at the facility until just before 12:00 p.m. Kitlinger was surprised at how quickly Mahoney left, describing it as if Mahoney was on a mission. Mahoney left just as agitated as he had arrived. Kitlinger noted Mahoney left so quickly that he left his colostomy bag behind. Later, Kitlinger noticed police vehicles surrounding Mahoney's residence and decided to call the Oxnard Police Department. Kitlinger had not seen Mahoney in possession of any weapons during his time at the sober living program facility on August 14, 2012.

9. BEN VELASQUEZ

Ben Velasquez was interviewed by Detectives Martin Perez and Robert Eckman on August 28, 2012. Velasquez stated he moved to 320 South H Street around March or April of 2012 and his first contact with Mahoney was as he was moving into the residence. Mahoney had confronted him and questioned him as to what Velasquez was doing at the house. Velasquez indicated that he never felt personally threatened, but the rest of the family was concerned for their safety. Velasquez was specifically concerned for his wife and children at the house.

Mahoney appeared paranoid to Velasquez. He told Velasquez that the corner house was a government kill house and a house two doors down was a mafia house. They were growing drugs at the mafia house and they were planning to kill him. It was during this conversation that Mahoney told Velasquez he slept with a rifle.

The only time Velasquez felt concerned by Mahoney's actions was towards the end of July 2012. Mahoney had run up to Velasquez and his brother, Tim Velasquez, as they were watering the lawn. Mahoney was only wearing one shoe at the time and told them that someone had just broken into Mahoney's house and had stolen his prescription medication. Velasquez told Mahoney that they had been outside of 320 South H Street for the last hour and they were sure that no one had run from 340 South H Street. Mahoney then started yelling towards the field across from their house saying, "I'm gonna fucking get you, you fucking gang member bastards." Mahoney continued to yell at the field for approximately five minutes before describing the subjects who broke into his house as two black men. Mahoney looked at Velasquez and said, "You know, I can tell when someone is lying. I can read faces and emotions." Mahoney ended the conversation by suggesting to Velasquez they should all get together for a barbeque.

On at least two different occasions, Mahoney had come to the door of the Velasquez residence and asked them to call his sister, Tara Mahoney. Mahoney would tell them that he sensed something was wrong with his sister and he needed to get in touch with her. Velasquez said that it seemed as if Mahoney had a hard time getting in touch with his family, as it would take Tara Mahoney a day or two to call back. Velasquez believed Mahoney did not have a phone, as Tara Mahoney would call for Mahoney at the Velasquez residence.

On August 14, 2012, Velasquez was inside his residence at 320 South H Street when his brother ran into his room and told him the police were outside. Velasquez looked out the window and saw an armored vehicle drive up to 340 South H Street. Velasquez was surprised how fast the vehicle had arrived at the location and went to the front door to step outside. When Velasquez went outside his residence, he encountered a police officer who directed him back into the residence. Velasquez asked the officer if he could leave and the officer told him to go back inside because shots had been fired. Up until this point, Velasquez had not heard any shots having been fired.

Velasquez reentered his residence and went to a room with a window which faced South H Street. Velasquez opened the blinds to get a clearer view and heard a sound which could have been a gunshot or a boom. Velasquez was in possession of a small camera, which he turned on to record. Within seconds, Velasquez heard a series of booms which he believed to be gunfire.¹⁹

Velasquez felt the problem with Mahoney was escalating before the date of the shooting and Velasquez suspected things were going to go bad when he saw that Mahoney had shaved his head the week before the shooting. Velasquez stated he had discussed with Mahoney the

¹⁹ The 82-second video was provided to detectives and was time stamped 2012-08-14 at 1253 hours. In the video, you can hear a muffled volley of gunshots but cannot see the actions of Mahoney or the officers who shot. The only officers who are visible on the video are the officers holding a perimeter position near a patrol car.

medications Mahoney was taking, but that Mahoney told Velasquez the government was replacing the medication with sugar pills.

D. MICHAEL MAHONEY'S PRIOR CONTACTS WITH THE OXNARD POLICE DEPARTMENT

1. CONTACTS PRIOR TO AUGUST 2012

On November 15, 2001, officers with the Oxnard Police Department responded to 340 South H Street in reference to a possible domestic disturbance at the location. Upon arrival, officers contacted Shawn Mahoney, who reported that his uncles, Brian and Michael, had been arguing. Brian Mahoney contacted officers with blood on his face and appeared somewhat disoriented. Brian Mahoney stated his brother Mahoney had recently been released from prison and the two of them did not get along. However, Brian Mahoney did not want anything to happen to Mahoney because Mahoney was afraid of the police and would run if the police went looking for him. Based upon the apparent physical altercation which had taken place between Brian and Michael Mahoney, a 9mm handgun belonging to Brian Mahoney was taken by the Oxnard Police Department for safekeeping. Arriving officers observed an individual running from the alley behind 340 South H Street who they believed to be Mahoney, but they could not locate him prior to clearing the call.

On June 3, 2002, officers with the Oxnard Police Department responded to an apartment on Kelp Lane in reference to a roommate dispute. The reporting party indicated he had been allowing Mahoney to stay at his apartment for approximately one week because Mahoney had nowhere else to stay. The reporting party asked Mahoney to move out and an argument ensued, during which time Mahoney armed himself with a knife and stated, "You better not come near me." The reporting party exited the residence and called the police. Mahoney was contacted at the apartment and taken into custody for brandishing a deadly or dangerous weapon.²⁰

²⁰ This matter was submitted for review to the Ventura County District Attorney's Office and no charges were filed.

On August 6, 2003, officers with the Oxnard Police Department observed Mahoney riding a bicycle in the area of Fourth and G Streets. Mahoney was contacted by officers and determined to be in possession of a concealed fixed-blade knife which was attached to his rear waistband. Mahoney stated he had merely been showing his friend the knife before riding his bicycle back to his residence on South H Street. Mahoney was subsequently taken into custody for possession of a concealed knife.²¹

On November 6, 2003, Detective Michael Young received a call from Michael Mahoney at the Oxnard Police Department, during which Mahoney indicated he believed police officers were watching him from across the street and he was considering killing himself by taking pills. Detective Young, along with several uniformed officers, went to 340 South H Street and found Mahoney sitting at a table with pills in front of him. Mahoney was upset and appeared as if he had been crying. Mahoney stated he was having trouble reintegrating into society after his time in prison. After a short discussion, Mahoney agreed to follow Detective Young outside of 340 South H Street and was secured by other officers for a voluntary transportation to Ventura County Mental Health.

On November 1, 2004, Edward Mahoney drove his van into the parking lot of the Oxnard Police Department, where he contacted officers and told them his son wanted to hurt himself. Officers observed Mahoney in the van holding a spear to his own throat. Mahoney told officers, "You're gonna have to shoot me." While trying to convince Mahoney to put down the spear and come out of the van, Mahoney stated, "Just fucking shoot me officer. People want to kill me." Mahoney asked to speak with Detective Michael Young, but was told Detective Young was not at the police station. After 10 to 15 minutes, Mahoney agreed to put the spear down and exit the van. Mahoney was taken into custody for transportation to Ventura County Mental Health for an

²¹ This matter was submitted for review to the Ventura County District Attorney's Office and no charges were filed.

evaluation pursuant to California Welfare and Institutions Code section 5150.²² After Mahoney was taken into custody, Edward Mahoney began to cry and stated Mahoney was extremely paranoid and depressed, and he feared Mahoney was going to make officers shoot him.

On October 14, 2005, officers with the Oxnard Police Department were dispatched to the 300 block of South H Street regarding a family dispute. Officers contacted Edward Mahoney who stated he was inside the residence when he heard what he believed to be a gunshot or firecracker from somewhere inside the residence. Edward Mahoney found Mahoney inside the residence and Mahoney stated he did not know what had happened. A short time later, Brian Mahoney entered the residence with an empty handgun holster claiming that Mahoney had taken Brian Mahoney's 9mm handgun. Edward Mahoney told Mahoney to give the gun back to Brian Mahoney, at which time Mahoney fled the residence into the backyard. Brian Mahoney observed his 9mm handgun tucked in the rear waistband of Mahoney's pants. Mahoney then took the handgun and pointed it at his own head before fleeing into the rear alleyway. He ran to the residence located at 328 South H Street, where he entered an upstairs bedroom. Mahoney again pointed the handgun at his head and began to make statements about killing himself. Officers began a lengthy negotiation with Mahoney in efforts to get him to put down the gun and surrender to authorities. Mahoney made numerous statements about not wanting to hurt any officers, but merely wishing to end his own life. After approximately 40 minutes, Detective Michael Young arrived at the residence and made contact with Mahoney. After a short discussion, Mahoney agreed to put the gun down so that he could receive medical treatment to his finger which was injured when his gun went off as he was loading his gun with the intent of committing suicide. Mahoney stated he knew he needed help, but he did not feel the help he

²² Welfare and Institutions Code section 5150, or 72-hour hold, is a means by which someone who is in serious need of mental health treatment can be transported to a designated psychiatric inpatient facility for evaluation and treatment for up to 72 hours against their will. This includes when the person is either a danger to themselves or to others.

needed was available. After receiving treatment for his injury, Mahoney was transported to the Ventura County jail.²³

On June 30, 2006, officers with the Oxnard Police Department were dispatched to Ventura Road and Ninth Street reference a man down at that location. Officers located Michael Mahoney laying on his back in some landscaping and he appeared to be either sleeping or unconscious. Officers were able to get Michael Mahoney to wake up, at which time they located a fixed-blade knife in Michael Mahoney's waistband. Michael Mahoney stated he had taken some Valium earlier and was transported to St. John's Regional Medical Center for treatment prior to being taken into custody for possession of a concealed knife.²⁴

On April 5, 2007, officers with the Oxnard Police Department were dispatched to the Ventura County Probation Agency office in Oxnard after Mahoney arrived for an appointment with his probation officer and appeared to be under the influence of an unknown substance. Mahoney was contacted in a van being driven away from the probation office by Tara Mahoney. Tara Mahoney told officers that Mahoney had taken a large quantity of a mind-altering prescription medication. Officers transported Mahoney to St. John's Regional Medical Center where emergency room staff treated Michael Mahoney for several hours in an attempt to stabilize his condition.²⁵

On July 18, 2008, officers with the Oxnard Police Department were dispatched to 340 South H Street after Edward Mahoney reported that Mahoney was armed with a knife and was abusing prescription medications. Mahoney put down the knife prior to officers arriving on scene and

²³ Mahoney pled guilty to a felony violation of possession of a firearm by a felon and was sentenced to three years of probation and 168 days in jail. Mahoney's probation was revoked in April 2007 and he was sentenced to the California Department of Corrections for eight months.

²⁴ Mahoney pled guilty to a felony violation of possession of a concealed dirk or dagger. He was sentenced to three years probation and 270 days in jail. His probation was revoked in 2007 and was sentenced to the California Department of Corrections for 16 months.

²⁵ This matter was submitted to the Ventura County District Attorney's Office and no charges were filed.

was detained without incident. Edward Mahoney determined several of his prescription medications appeared to have been opened and were missing. Mahoney admitted taking the prescription medications in an attempt to kill himself because he needed help. Mahoney was transported to the Ventura County Medical Center where he was medically cleared prior to being transported to the Ventura County jail.²⁶

On May 24, 2009, Brian Mahoney flagged down a passing patrol vehicle with the Oxnard Police Department to report that Michael Mahoney was not taking his medication and was acting erratically. While speaking with Brian Mahoney, Michael Mahoney ran out of the front door of 340 South H Street and yelled to the officer, "Get a canine, get a canine." Michael Mahoney ran back into the residence and was observed standing in the hallway to the residence while armed with a knife in each hand. Officers gave Michael Mahoney commands to drop the knives and he complied. Michael Mahoney told officers he had seen two unknown subjects in the residence and appeared extremely agitated. Brian Mahoney explained to officers that Michael Mahoney had armed himself several times earlier that day after stating there were individuals inside the house. Brian Mahoney had taken the knives away from Michael Mahoney and searched the residence to confirm there was nobody else inside. Michael Mahoney was ultimately transported to the St. John's Regional Medical Center after he appeared to have a seizure while in police custody.

Between August 17 and 24, 2010, Mahoney left multiple voicemail messages for Detective Michael Young on Detective Young's Oxnard Police Department telephone number. In the messages, Mahoney expressed concerns that unknown individuals were intent on having him injured or killed. On August 31, 2010, Detective Young called the telephone number provided by Mahoney in the voicemail messages and spoke with Edward Mahoney. During the

²⁶Mahoney spent ten days in the Ventura County jail as a result of a hold placed by the California Department of Corrections for having violated the terms of his parole.

conversation, Detective Young explained to Edward Mahoney the substance of the prior calls and encouraged Edward Mahoney to seek treatment for Mahoney, as it appeared the prescribed medication was not properly addressing the paranoia. On September 2, 2010, Detective Young had a telephone conversation with Tara Mahoney in reference to the previous voicemail messages. Tara Mahoney stated she believed Mahoney had been drinking during the time when he left messages on Detective Young's voicemail, but had since resumed taking his medications and was now better. Detective Young expressed his concerns to Tara Mahoney that Mahoney would create a situation where a police officer would be called to the house and forced to take some type of action against Mahoney. Tara Mahoney stated she did not believe Mahoney would ever act out on his paranoia in that way.

On November 4, 2011, officers with the Oxnard Police Department were dispatched to 340 South H Street regarding an overdose at the location. Officers arrived to find Mahoney in medical distress. Tara Mahoney told officers on scene that Mahoney had attempted to commit suicide by overdosing on aspirin and Mucinex, as well as possibly naproxen and methocarbamol. Mahoney was transported to St. John's Regional Medical Center for treatment ahead of an involuntary 72-hour commitment to Ventura County Mental Health. Approximately five hours later, before the emergency room staff was finished with his treatment, Mahoney attempted to leave and became combative, ultimately picking up a chair to use to keep hospital staff at a distance. Officers from the Oxnard Police Department were dispatched to the hospital where they contacted Mahoney just outside of the emergency room.²⁷ When advised by officers that he needed to return to the emergency room for treatment, Mahoney became physically combative with the officers and refused to comply with their commands to remain seated. Officers ultimately had to deploy their electronic control devices to gain compliance and assist hospital staff in getting Mahoney onto a

²⁷ According to hospital staff, the level of aspirin in Michael Mahoney's system was life threatening and he would need to be intubated and/or sedated to receive proper treatment in hopes of preventing permanent damage and/or death.

gurney for treatment. Mahoney was subsequently intubated by hospital staff and treated for the overdose.²⁸

2. AUGUST 2, 2012

Just after midnight on August 2, 2012, officers with the Oxnard Police Department were dispatched to check the well-being of a subject seen yelling outside of his residence at 340 South H Street. As officers approached the front door, they could hear Mahoney yelling inside the residence. Mahoney was not wearing a shirt and appeared to be sweating profusely. Officers attempted to convince Mahoney to exit the residence through the front door in order to talk with them; however, he refused and took a fighting stance approximately 15 feet inside the front door. At this time, officers observed that Mahoney had armed himself with a large knife. Officers backed away from the front door and began to give Mahoney commands to drop the knife. Mahoney refused and began to pace between the living room and the kitchen of the residence. Officers attempted to calm Mahoney down by talking to him about various topics; however, instead of calming down, Mahoney made statements that he hoped the officers would take a clean shot at him because he did not want to feel any pain.

Even though it appeared to officers that Mahoney was becoming more agitated, they were successful in getting him to toss the knife he had out the front door, where officers could retrieve it safely. Shortly after doing so, Mahoney went to the kitchen and armed himself with two additional knives, holding one in each hand. Mahoney repeatedly ignored commands to drop the knives and made several statements regarding a “New World Order” stating that he wanted to stab himself. Mahoney also stated several times that he wanted to speak with Detective Young.

²⁸ According to Edward Mahoney, Brian Mahoney, and Tara Mahoney, Michael Mahoney lapsed into a coma and suffered irreparable damage to his digestive tract due to this overdose incident and was thereafter required to use a colostomy bag.

Detective Young was contacted at his residence at approximately 12:30 a.m. and was asked to respond to 340 South H Street to assist in gaining compliance from Mahoney.

At approximately 1:00 a.m., Detective Young arrived on scene and began conversing with Mahoney. Based upon prior contacts with him, Detective Young believed Mahoney was suffering from a mental health episode. Detective Young advised officers already on the scene that if he surrendered, Mahoney would not be arrested but would instead be transported for medical treatment. After being assured several times by Detective Young that he would not be arrested, Mahoney placed the knives down and came out of the front door where he was handcuffed and taken to a nearby ambulance to be medically evaluated. Mahoney admitted he had used methamphetamine and possibly a prescription painkiller. He appeared to have an off-white residue caked on the edge of his nostrils. The handcuffs were removed and Mahoney was placed on a gurney for transportation to the Ventura County Medical Center for medical treatment prior to being evaluated pursuant to Welfare and Institutions Code section 5150. Officers entered the residence at 340 South H Street and observed several different pill bottles that appeared to be empty, spilled pills on the floor, and crushed prescription pills on a table. Officers also retrieved the knives Mahoney had armed himself with during the incident.

Brian Mahoney was contacted at the scene and stated he was currently living in a camper on the rear of the property. Brian Mahoney stated that Mahoney had been going off all day and Brian Mahoney believed he was starting an episode because he had shaved his head. Brian Mahoney also reported that his official work truck had been vandalized by Mahoney earlier in the evening when he scratched the paint with a knife. Officers took photographs of the damage to the truck and expressed their concerns to Brian Mahoney regarding Mahoney's access to firearms at the residence. Brian Mahoney stated the firearms were kept in a safe to which only Edward Mahoney had the combination.

Upon his arrival at the Ventura County Medical Center, Mahoney became lethargic, non-verbal, and showed signs of decreased respiratory effort. His urine screen was presumptive positive for methamphetamines and emergency room personnel believed he had also taken aspirin. Mahoney was intubated and admitted to the hospital. On August 4, 2012, Mahoney was transferred to the Ventura County Medical Center's psychiatric unit pursuant to the involuntary hold. By August 6, 2012, Mahoney appeared much better and was taking his prescribed medications. He was discharged from the Ventura County Medical Center later that same date.

3. AUGUST 12, 2012

At approximately 11:20 a.m. on August 12, 2012, Mahoney contacted the Oxnard Police Department to request that officers meet him at the corner of Second and H Streets regarding people possibly poisoning the food and water in his home. While officers were in route to that location, Mahoney requested paramedics to respond to the location for an unknown medical condition.

Officers arrived on scene and contacted Mahoney next to an individual selling newspapers.²⁹ Mahoney complained of stomach pain from a possible food poisoning and mouth pain from the tap water at his residence. Officers asked Mahoney if he was in possession of any weapons and Mahoney voluntarily handed over a small pocket knife. Emergency medical personnel arrived on scene shortly thereafter and began to evaluate Mahoney. Officers also attempted to contact Detective Young via his department cell phone, but determined he was out of town.

At one point, the newspaper salesman walked over to and handed officers his cell phone. Officers were told that Mahoney's sister, Tara Mahoney, was on the line and was requesting to speak to them. Officers briefly spoke to Tara Mahoney, who asked officers to transport

²⁹ Mahoney used this individual's cell phone to call the Oxnard Police Department.

Mahoney to a mental health facility for help. The supervising officer on scene informed Tara Mahoney that Mahoney was refusing to be taken to a hospital and was not exhibiting a condition which would require officers to take him into custody for a psychological evaluation. The supervising officer asked if Tara Mahoney would be willing to respond to 340 South H Street to help him, but she was unable to do so. Tara Mahoney became noticeably upset that there was no one willing to help her brother. She stated that her brother lived with their father, but that he was currently on vacation. Tara Mahoney was told that officers were doing their best to help her brother, but that there was not much more they could do for him at this point if Mahoney refused to voluntarily obtain treatment. Tara Mahoney was told that Mahoney would be returning home shortly and to call the police if she needed further assistance.

Mahoney continued to decline to be transported to a hospital. Therefore, once emergency medical personnel finished their medical assessment of Mahoney, they left the scene. Before the officers left, they engaged Mahoney in a brief conversation telling him that Tara Mahoney was concerned about him and wanted him to go to a hospital. Mahoney stated that he suffers from "PTSD" and that he had been trying to call his father but was not able to get ahold of him. Mahoney then spontaneously stated, "In the house, I am armed." When asked to clarify, he replied, "Inside the house only, I am armed." When asked what he was armed with, Mahoney said, "A flare gun." When asked if he had any other weapons, Mahoney replied, "No, everything's fine."

Officers suggested to him that any time he wants to speak to officers, it would be best to walk down to the corner like he did that day, as officers would be happy to meet him there anytime he needed them. Mahoney responded by stating, "Hey, I'm no danger to you guys." Mahoney continued the conversation by telling officers he thought the food he was eating had been poisoned. Mahoney described how he made a pot of spaghetti sauce the other day and when he returned to his house after being gone for a little while, he thought the house was filled with

chemicals. Mahoney also complained about the tap water at his house and asked about having someone test it for him. Officers on scene then used their own money to purchase Mahoney a gallon of bottled water from a nearby store, as well as a Sunday paper from the newspaper salesman on the corner.

As a result of their contact with Mahoney, the officers determined he did not meet the criteria to be transported to Ventura County Mental Health for an involuntary 72-hour evaluation. Officers ended their conversation with Mahoney and he walked off with his newspaper and the gallon of water they had purchased for him.

4. AUGUST 13, 2012

At approximately 3:45 p.m. on August 13, 2012, an officer with the Oxnard Police Department was flagged down by Tim Velasquez on the 300 block of South H Street. Velasquez reported to the officer that Mahoney had come over to his house located at 320 South H Street earlier in the day while crying, hugged Velasquez, and asked Velasquez to contact Edward Mahoney to let him know Mahoney's body would be ready to pick up at 7:00 p.m. that night. Velasquez knew there had been a police standoff at 340 South H Street earlier in the month and took Mahoney's request as an indication he intended to commit suicide. Mahoney did not make any direct threats to himself or others and Velasquez did not see Mahoney in possession of any weapons before Mahoney returned to 340 South H Street. Because no direct threats or weapons were mentioned or seen, officers cleared the scene without making contact with Mahoney.

Approximately 15 minutes after officers left the scene, Mahoney went to 320 South H Street and re-contacted Velasquez to inquire about what Velasquez had told the police officers. Mahoney asked Velasquez to call his sister, Tara Mahoney, and ask her to come to Mahoney's residence. Velasquez was able to speak with Tara Mahoney and request she come to Mahoney's residence, but she stated she could not leave her Ventura residence. Velasquez relayed that information to

Mahoney, who then stated he was going to kill himself. Based upon this statement, Velasquez called the Oxnard Police Department to request that officers return to the location. Mahoney returned to his residence prior to police officers arriving back on scene.

At approximately 4:40 p.m., officers with the Oxnard Police Department were dispatched back to 340 South H Street. After arriving on scene, officers contacted Tara Mahoney by phone. Tara Mahoney stated she was in the city of Ventura and had not spoken to Mahoney recently. Tara Mahoney provided officers with Brian Mahoney's cell phone number and officers were able to make telephone contact with Brian Mahoney while he was inside 340 South H Street. Brian Mahoney stated Mahoney was also inside the residence and was minding his own business. Brian Mahoney exited the residence and spoke with officers outside. Officers explained to Brian Mahoney that Mahoney had made a comment about killing himself to a neighbor earlier in the day, but that officers did not want to enter the residence and unnecessarily provoke Mahoney. Brian Mahoney agreed and returned to the residence.

Officers contacted Detective Young and he agreed to speak with Brian Mahoney over the phone. Detective Young called Brian Mahoney's cell phone and Brian Mahoney agreed to put the phone in speaker mode so Mahoney could also hear it. Brian Mahoney entered the room where Mahoney was located and began to narrate what he was seeing to Detective Young. Brian Mahoney described Mahoney as pointing a flare gun which had been modified to accept a shotgun shell at his head and was holding a knife to his stomach. Detective Young began speaking to Mahoney via the speakerphone and told Mahoney that he was out of the state and could not respond to 340 South H Street. Mahoney told Detective Young that he loved him, but that gangs were after him so he needed to die. Detective Young recommended to Brian Mahoney that he move to another room in the house for his own safety. Brian Mahoney then observed Mahoney swallow a handful of unknown prescription pills. Brian Mahoney requested that Detective Young ask officers to enter the residence, but Detective Young was concerned that

officers entering the residence could escalate the situation and put Brian Mahoney, Mahoney, and the officers at risk. Brian Mahoney agreed and exited the residence to re-contact the officers who were waiting outside.

Brian Mahoney and officers spoke at length outside of 340 South H Street regarding Mahoney and they agreed that officers should not enter the residence due to the danger to both Mahoney and the officers. Brian Mahoney explained he believed he could convince Mahoney to exit the residence if officers agreed not to arrest him, but agreed it would not be safe for Brian Mahoney to go inside the residence as long as Mahoney was in possession of the flare gun. Brian Mahoney stated Mahoney had previously loaded the flare gun with a shotgun shell, but that Mahoney currently had no access to firearms in the house. Officers suggested that Brian Mahoney spend the night somewhere other than 340 South H Street for his own safety, but Brian Mahoney elected to remain at the residence. Officers instructed Brian Mahoney to call the Oxnard Police Department should they need any further assistance. Brian Mahoney never contacted the Oxnard Police Department for further assistance.

III. FORENSIC EVIDENCE

A. CRIME SCENE

Following the shooting on August 14, 2012, 340 South H Street was secured immediately after Michael Mahoney was carried from the residence to the front yard so he could receive treatment by emergency personnel. Detectives with the Major Crimes Unit of the Oxnard Police Department obtained a search warrant for the residence for the purposes of collecting physical evidence and obtaining photographs and measurements. Detectives were assisted by forensic scientists from the Ventura County Sheriff's Office Crime Lab, who specialize in evidence collection and firearm trajectory analysis.

The 300 block of South H Street is a residential neighborhood on the east side of the street with

single family homes to the north and south of 340 South H Street. The west side of South H Street was made up of the vacant lot at 937 West Fifth Street, formerly occupied by the old Oxnard High School. South H Street is a standard residential width asphalt roadway with concrete gutters and concrete sidewalks. There were three civilian vehicles parked on the northbound curb line on the east side at 320 South H Street and to the north. There were several police vehicles also located around the perimeter of the house, and because of the time of day, there were no exterior lights illuminated at 340 South H Street.

The front of the residence faces westbound on South H Street with a small covered concrete porch. Adjacent to the porch area is the front lawn, which slopes down and away from the house. Two loaded 9mm handgun magazines were located on the front lawn in an area between the porch and the sidewalk.³⁰ A pair of handcuffs with blood on them, items related to the emergency medical treatment of Michael Mahoney, and clothing which had been removed from Michael Mahoney, were located on the grass between the sidewalk and the curb line in front of 340 South H Street.

A courtyard is located at the end of the driveway which could be accessed off of South H Street. There is an attached overhang above the driveway that joins the main residence to the north and a small guest quarters toward the south. The east side of the driveway opens onto the western mouth of the courtyard.

On the north side of the courtyard is the main residence. On the south side of the courtyard is a large storage shed made of corrugated plastic, sheet metal, and a wood frame. On the southeast side of the courtyard is a detached two-car garage. Separating the latter two structures is a

³⁰ The magazines were located directly in front of the area where Mahoney was originally seen with the black semi-automatic handgun. These magazines fit the black, 9mm Beretta 92F semi-automatic handgun recovered from inside the kitchen.

concrete walkway leading away from the courtyard parallel to the south side of the garage and toward the alley.

A large kitchen knife with a white handle and a black plastic cart with a bullet strike mark on it were located in the courtyard adjacent to the south door of the residence. A spent .45-caliber cartridge case was located on a paved area near the garage in the courtyard. Two spent .223-caliber cartridge cases and two spent .45-caliber cartridge cases were found in a dirt flowerbed in the courtyard near the garage.



Area of the driveway courtyard where the spent cartridge cases were located.

Note: Only three of the five spent cartridge cases are depicted by numbered photo markers in this photo.

The rear yard contained numerous inoperable vehicles and/or vessels including a red Ford truck, a motorcycle, a Palomino truck camper, a pop-up tent trailer, a truck bed, an inhabited Prowler camping trailer, a green Kawasaki golf cart, and a turquoise boat on a trailer. There were other miscellaneous items, including firewood and tires, observed in the uncut grass.

On the north side of the courtyard was an open doorway leading into a small hall. This hall had yellow-patterned linoleum flooring with blood smears and patterns. A few feet in from the courtyard doorway on the left side was an entrance to the adjoining kitchen where numerous pieces of evidence were located and collected. A few feet further inside, a small hallway meets perpendicularly with the main hallway of the residence. This east/west running hallway begins at the door which faces South H Street and through the residence leading to a family room, a living room, a restroom, and the bedrooms.

The kitchen located inside the doorway leading from the courtyard contained a flare gun which showed strike marks on primer laying on the kitchen floor, a kitchen knife with a black handle on the kitchen floor, a 9mm Beretta 92F semi-automatic handgun with one round in the chamber on the kitchen counter next to the stove, two kitchen knives with black handles on the kitchen counter next to the stove, a spent bullet projectile on the kitchen floor, and a bullet fragment on the threshold between the kitchen and the hallway.



Inside the residence there were numerous firearms accessories, ammunition paraphernalia, various hunting and/or weapons related periodicals, and paperwork located in the northeast master bedroom. A large green rifle safe and a smaller unlocked and opened gun safe were located in the main hall closet.



Large green safe and small
unlocked safe

Next to the safe was a brown handgun holster which contained unspent bullets. A dagger and a crow bar were located on a rocking chair in the family room, and a spent bullet projectile was located on a chair in the northwest bedroom. There were also several weapons, ammunition, specialized firearm tools, and firearm paraphernalia located in the locked shed on the south side of the courtyard.

B. CAUSE OF DEATH

On August 15, 2012, Ventura County Medical Examiner Ronald L. O'Halloran performed an autopsy on Michael Mahoney. He found that Mahoney died of a gunshot wound to the chest and that the manner of death was a homicide, meaning a death at the hands of another.

Dr. O'Halloran determined that Mahoney suffered two distinct gunshot wounds in addition to a small laceration caused by a bullet jacket fragment. One bullet entered Mahoney's right chest and passed through the right lung. This bullet traveled from front-to-back and slightly left-to-right, fracturing ribs along its path before exiting out of Mahoney's back. The entrance wound measured 3/8 inch in diameter. Another bullet entered Mahoney's scrotum and was recovered from the right abdominal cavity. This bullet tracked upward and slightly left-to-right, producing three holes in the intestines before coming to rest two inches below the liver. The entrance measured 3/4 inch in diameter. Mahoney's left elbow had a laceration that contained a 1/4 inch by 1/8 inch fleck of copper jacket material.

The bullet recovered from Mahoney's abdominal cavity, the piece of copper jacket located in his elbow, as well as blood and urine samples, were collected and retained for analysis by the Ventura County Sheriff's Office Crime Lab.

C. TOXICOLOGY

Michael Mahoney's blood and urine were examined for the presence of drugs by the Toxicology Section of the Ventura County Sheriff's Office Crime Lab. An analysis of Mahoney's blood did not detect the presence of controlled or prescription medications above the minimum reporting limits of detection. The presence of amphetamines and methamphetamines were detected in Mahoney's urine, but a confirmatory test was inconclusive. No other controlled or prescription drugs were detected in Mahoney's urine. Samples from both Mahoney's blood and urine were examined for the presence of alcohol and determined to contain 0.00% alcohol.

D. FIREARMS

Multiple items were submitted to the Firearms Section of the Ventura County Sheriff's Office Crime Lab for analysis, including the firearms used by the involved officers, the 9mm Beretta pistol and Orion flare gun recovered from inside the kitchen of 340 South H Street, the bullets, bullet fragments, and cartridge casings recovered from 340 South H Street, and the items recovered during the August 15, 2012, autopsy.

The 9mm Beretta 92F semi-automatic pistol recovered from a shelf in the kitchen of 340 South H Street was test-fired and determined to be in proper working order.



The 9mm Beretta 92F semi-automatic pistol after it had been collected as evidence.

The Orion flare gun recovered from the kitchen floor inside 340 South H Street was test-fired using modified 12-gauge shotgun shells and was determined to be in normal operating condition. The test-fired shotgun shells were microscopically compared to the fired shell located in the Orion flare gun that was recovered from the kitchen floor. While there was agreement in class and individual characteristics, there was an insufficient agreement for a conclusive identification.

IV. LEGAL PRINCIPLES

A. LAW OF HOMICIDE, SELF-DEFENSE, AND DEFENSE OF OTHERS

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

The shooting of another person in self-defense or in the defense of others is justifiable and lawful.

The law of self-defense and the defense of others was codified in 1872 and has remained substantially unchanged since then. It is found in Penal Code sections 197 through 199.

Homicide is justifiable when committed by any person “resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person.” Penal Code section 197(1). CALCRIM 550 provides the specific jury instructions on the defense of self-defense, which provide that a person is not guilty of murder or manslaughter if 1) That person “reasonably believed that [the person] [or] someone else . . . was in imminent danger of being killed or suffering great bodily injury”; 2) that person “reasonably believed that the immediate use of deadly force was necessary to defend against that danger”; and 3) that person “used no more force than was reasonably necessary to defend against that danger.”

CALCRIM 550 further provides that in deciding whether that person’s “beliefs were reasonable, consider all the circumstances as they were known to and appeared to [that person] and consider what a reasonable person in a similar situation with similar knowledge would have believed. If [that person]’s beliefs were reasonable, the danger does not need to have actually existed.” It also provides that “[a person] is not required to retreat. He or she is entitled to stand his or her ground and defend himself or herself and, if reasonably necessary, to pursue an assailant until the danger has passed. This is so even if safety could have been achieved by retreating.”

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

Police officers have a duty “to maintain peace and security” and “to protect citizens from harm.” *Batts v. Superior Court* (1972) 23 Cal.App.3d 435, 438. A police officer may use deadly force when the circumstances create a reasonable fear of death or serious bodily injury in the mind of the officer. *Graham v. Conner* (1989) 490 U.S. 386, 396-397. Reasonableness includes “allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” *Id.*

Under the Fourth Amendment, police are “not required to use the least intrusive degree of force possible” but may use only such force as is objectively reasonable under the circumstances. *Forrester v. City of San Diego*, (9th Cir. 1994), 25 F.3d 804, *Scott v. Hendrick* (9th Cir. 1994) 39F.3d 912, 915. An officer's use of deadly force is reasonable only if “the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.” *Tennessee v. Garner*, (1985) 471 U.S. 1, 3, [85 L.Ed.2d 1, 105 S.Ct. 1694]. “The test of reasonableness in this context is an objective one, viewed from the vantage of a reasonable officer on the scene. It is also highly deferential to the police officer’s need to protect himself and others.” *Martinez v. County of L.A.* (1996), 47 Cal.App.4th 334, 343 (quoting *Graham* 490 U.S. at 396-397). The reasonableness test requires careful attention to the facts and circumstances of each particular case, including: (1) “the severity of the crime at issue”; (2) “whether the suspect poses an immediate threat to the safety of the officers or others”; and (3) “whether [the suspect] is actively resisting arrest or attempting to evade arrest by flight.” *Graham*, 490 U.S. at 396.

B. MICHAEL MAHONEY'S CRIMINAL CONDUCT

Michael Mahoney engaged in felony and misdemeanor criminal conduct on August 14, 2012.

Had he survived, he could have been charged with the commission of the following crimes:

- Attempted murder of a Peace Officer in violation of Penal Code section 664/187
- Assault with a Firearm on a Peace Officer in violation of Penal Code section 245(d)
- Negligent Discharge of a Firearm in violation of Penal Code section 246.3(a)
- Exhibiting A Deadly Weapon to Resist Arrest in violation of Penal Code section 417.8
- Felon in Possession of a Firearm in violation of Penal Code section 29800(a)
- Resisting an Executive Officer in violation of Penal Code section 69
- Exhibiting A Deadly Weapon in violation of Penal Code section 417(a)(1)
- Resisting A Peace Officer in violation of Penal Code section 148(a)

V. ANALYSIS

When Officers Bentley and Velasquez observed Michael Mahoney standing outside of 340 South H Street with a black semi-automatic handgun pointed at his head, they were confronted with a serious situation which posed a danger not only to Mahoney and Officers Bentley and Velasquez, but also to the public at large. When Mahoney refused to drop the firearm, but instead fled into the residence, Officers Bentley and Velasquez had no choice but to pursue Mahoney and attempt to determine if there was anyone else inside the residence who may have been in danger. Before they could make that determination, Officers Bentley, Velasquez, and Perez heard a gunshot. Not knowing if Mahoney had taken his own life, or had seriously injured or killed another, Officers Bentley, McAlpine, and Perez were forced to take positions in the driveway courtyard of 340 South H Street. This position left them partially exposed and vulnerable. Mahoney's reappearance just inside the doorway heightened the concern of Officers Bentley, McAlpine, and Perez that someone else could be seriously injured inside.

Mahoney refused numerous requests and commands to put down his weapons and come out of the house peacefully. Instead, Mahoney armed himself with a flare gun that he told officers was loaded with a shotgun shell. Based upon their close proximity to Mahoney and their lack of adequate cover or concealment in the driveway courtyard, Officers Bentley, McAlpine, and Perez each individually recognized that Mahoney was capable of causing serious injury or death to themselves, their partners, or anyone inside the residence at that moment.

Mahoney controlled the encounter from his initial contact with Officers Bentley and Velasquez, to his fatal countdown minutes later with Officers Bentley, McAlpine, and Perez. Every action he took set in motion the events that led to his death. Officers Bentley, McAlpine, and Perez each fired based on their honest and reasonable belief that Mahoney was trying to kill them. Each used the force necessary to defend against that danger and only until Mahoney no longer posed a threat.

VI. CONCLUSION

It is the conclusion of the District Attorney that:

1. At the time Officers Joseph Bentley, David McAlpine, and Manuel Perez fired their weapons at Mahoney, they honestly and reasonably believed that they were in imminent threat of death or great bodily injury.
2. At the time Officers Joseph Bentley, David McAlpine, and Manuel Perez fired their weapons at Mahoney, they honestly and reasonably believed that the immediate use of deadly force was necessary to defend themselves against the danger posed to them by Michael Mahoney.
3. Officers Joseph Bentley, David McAlpine, and Manuel Perez used no more force than was reasonably necessary to defend against the danger posed to him by Mahoney.
4. The fatal shooting of Michael Mahoney by Officers Joseph Bentley, David McAlpine, and Manuel Perez was justifiable homicide.

The purpose of this report is to determine if Officers Joseph Bentley, David McAlpine, and Manuel Perez of the Oxnard Police Department were justified in using deadly force in defending themselves against the aggressive acts of Michael Mahoney on August 14, 2012. The chain of events that led to the shooting was set into motion by the deceased. Officers Bentley, McAlpine, and Perez were performing their duties in responding to a man unlawfully exhibiting a firearm in public and negligently discharging a firearm in his home. This dangerous situation quickly escalated to an assault with a firearm on a peace officer. If Mahoney had obeyed the lawful orders of Officers Bentley, McAlpine, and Perez to drop the flare gun which he ultimately fired at the officers, they would not have been put in a position where their lives were threatened. If Mahoney had not pointed the flare gun at Officers Bentley, McAlpine, and Perez while threatening to shoot them, the officers would not have needed to use deadly force to protect themselves.

These facts clearly placed each officer in reasonable fear for his own life and the life of others. The use of deadly force by Officers Bentley, McAlpine, and Perez was justifiable under the facts and circumstances and laws of the State of California.

Exhibit 1:

Transcript of recording obtained from the digital recorder of Officer Joseph Bentley, beginning at 12:49:22 p.m. on August 14, 2012.

JB: Officer Joseph Bentley

MP: Officer Manuel Perez

DM: Officer David McAlpine

MM: Michael Mahoney

DJ: Oxnard Police Dispatcher Joanna Carter

DP: Oxnard Police Dispatcher Pam Rodriguez

UNK: Unknown speaker

MP: What's going on? You want some cigarettes? We'll get you some cigarettes.

MM: Nope.

MP: What do you want?

JB: Hey, hey Michael Mahoney, its Bentley man. Hey I've talked to you before man.

I know you've got some stuff going on, brother.

MM: Fire.

JB: Hey, we don't need this to happen man.

MM: Fire.

JB: We don't need this to happen.

DM: He's got a knife to his stomach.

MP: Two knives, two knives.

DM: Station 3, 23 David 3, subject's got two knives to his stomach.

DJ: 10-4

DP: 23 David 3 is advising the subject has knives to his stomach.

MP: Come on Michael Mahoney, come on.

DM: Come out.

UNK: Pink gun, pink gun.

MM: I already loaded it with a shotgun shell.

DJ: 23 David 3 is advising he has a visual of the subject and he has two knives up against his stomach.

DM: Station 3, 23 David 3, subject has, what appears to be a toy gun, possibly a flare gun (unintelligible).

MP: Come on.

MM: Fire.

MP: (unintelligible)...talk to you, come here, come on.

JB: That's not the one he had, man. The first one was black.

DP: Confirming he put it in his house.

JB: Hey Michael Mahoney, come on out brother.

DM: He has it down to his side at this time.

JB: Let's talk man.

DP: Copy. (unintelligible).

JB: Michael Mahoney, come on bro.

MM: Fire.

JB: It's not worth it, brother.

DM: Subject is inside his house. Right in the doorway.

DJ: ...he's advising on band two...(unintelligible)...toy gun, possibly a flare gun. He's inside his house. Right in the doorway.

JB: Come on brother. Come on out bro.

DM: Come on man.

MM: Fire.

JB: Michael Mahoney, this is not what we need bro.

DM: Come on man.

JB: You know what? Come on man.

MM: You know what they're trying to do to me.

JB: I know what they're trying, dude. Come on.

DM: Come out and talk to us man.

MP: (unintelligible) ...something down... (unintelligible)...right?

DM: Head's up guys.

MM: Fire.

DM: Come on man, just... (unintelligible).

MP: We want to talk to you, come here man.

DM: Pointing a flare gun.

MP: Don't point that at us man. Put it down. Put it down.

MM: Fire.

MP: Put it down.

MM: Fire.

MP: Put it down. Put it down. Damn it. What is it? Is it a flare?

DM: Looks like a flare gun, man.

MP: Put it down. Don't point that at us. What is it? What is it?

MM: ...(unintelligible) ... get shot...(unintelligible).

MP: Drop it. Drop it. Damn it.

DM: Subject's pointing it a flare gun at us.

DM: (yelling loudly) Drop the gun now! Drop the gun! Drop the gun, now! Drop, drop the gun out of your right hand! Drop it now!

MM: Kill me.

DM: Drop it. We don't know if it's a real one or not.

MM: It's not... (unintelligible)... a fake.

DM: Ok, drop the gun.

MM: Fire.

MP: Damn it.
DM: Drop the gun now!
MM: On the count of three.
DM: Drop the gun!
MM: One.
MP: Damn it.
DM: Drop the gun now.
MM: Two.
MP: Drop.
DM: We're gonna have'ta drop him, man.
MP: Drop the gun. Drop the gun.

[Two shots heard]

DJ: (unintelligible).
DP: 10-33 still in effect on band one.
MP: Put it down!
DM: Put it down now!
MP: Put it down now!
DM: Put it down! Now!
JB: Subject just (unintelligible) shot off the flare gun.
DM: Drop the gun now! Drop it!

[Four shots heard]

JB: Shots fired. Shots fired. Subject down.

DJ: 2 Frank 23, 10-4 subject down... (unintelligible)... on band 2. 23 David units
advising the subject's down.

DP: 10-33 (unintelligible).

JB: Just hold, just hold, just hold.

DM: He's not moving. I got visual.

DM: Subject is still down, not moving.

DP: Subject is still down and not moving.

JB: Let's hang until we get them. We can cover and have them come up through on
the street side.

DJ: Units advising subject down still not moving.