

OFFICE OF THE DISTRICT ATTORNEY

August 18, 2016



REPORT ON THE MARCH 28, 2015,
SHOOTING OF MEAGAN HOCKADAY
BY OXNARD POLICE OFFICER ROGER GARCIA

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I.

INTRODUCTION

On March 28, 2015, at approximately 12:54 a.m., Oxnard Police Department Dispatch received a call regarding a domestic dispute at 501 West Vineyard Avenue, apartment 574, in the city of Oxnard. The caller, Luis Morado, requested that a police officer be sent to his address. Morado reported that his wife, Meagan Hockaday, had hit him. Morado also reported Hockaday was under the influence of alcohol. The dispatcher heard screaming during Morado's call.

Officer Roger Garcia, who was working uniform patrol, responded to the call for service. Officer Garcia was the first officer to arrive on scene. Officer Garcia made contact with Morado at the open front door of the apartment. Morado was not wearing a shirt. Morado had visible injuries to his chest. Officer Garcia asked Morado, "What are you guys doing?" Morado replied, "Look what she's doing." Morado added, "I'm not even doing anything." Officer Garcia instructed Morado to sit down. Officer Garcia then addressed Hockaday. Garcia said, "Ma'am. Ma'am." Hockaday replied, "No." Hockaday retreated inside the apartment to the kitchen, which was not visible from Officer Garcia's position near the front door. Morado told Officer Garcia, "She's going to get a knife. She's going to get a knife." Hockaday came back into Officer Garcia's view and was holding a fixed-blade serrated kitchen knife in her hand. The blade of the knife was approximately 5 ½ inches in length.

Hockaday charged towards Morado and Officer Garcia with the knife in her hand. Morado, in fear of Hockaday, ran past Officer Garcia and towards the front door of the apartment. Hockaday continued to advance with the knife in her hand towards Morado and Officer Garcia. As Hockaday advanced, Officer Garcia discharged his firearm four times causing her to fall to the ground. Two rounds were later located within Hockaday's body and two more rounds were located within the apartment.

Less than 20 seconds passed between Officer Garcia making contact with Morado at the front door, Hockaday advancing with the knife towards Morado and Officer Garcia, and Officer Garcia firing his weapon.

Officer Garcia broadcast on the radio that shots were fired. Emergency medical personnel as well as additional officers from the Oxnard Police Department responded to the scene. At 1:19 a.m., Hockaday was pronounced deceased at the scene by emergency medical personnel.

Morado and Hockaday had three children together, ranging in age from seven months to four years. The couple's four-year-old and two-year-old children were near the den of the apartment during the shooting. The infant was in the bedroom. None of the children were physically harmed during the incident.

Based on analysis conducted by the Ventura County Sheriff's Office Forensic Sciences Laboratory, Hockaday was no more than 15 inches away from the muzzle of Officer Garcia's gun when Officer Garcia fired the shots. Based on the location of the bullets, Hockaday was swinging the knife with her right arm at the time she was shot.

An analysis of Hockaday's blood by the Ventura County Sheriff's Office Forensic Sciences Laboratory revealed Hockaday's blood alcohol content was 0.20 percent.

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. Once the District Attorney's Office was notified of the shooting, Senior Deputy District Attorney Andrea Tischler and Senior District Attorney Investigator Adam Wittkins responded to the shooting scene and consulted with the investigating officers.

The Oxnard Police Department conducted an investigation of the shooting, which included interviewing witnesses, collecting physical evidence, and photographing the area of the shooting.

On February 26, 2016, the Oxnard Police Department's investigation reports were submitted to the District Attorney's Office for a determination of whether the shooting of Meagan Hockaday was justified and, if not, whether criminal charges should be filed. The scope of the District Attorney's review was limited to those issues.

Senior Deputy District Attorney Tom Dunlevy was assigned to review this case. He examined approximately 750 pages of reports, materials, and recordings, including interviews of police and civilian witnesses, diagrams, photographs, records, and radio transmissions, and authored this report. The District Attorney met with the family of Meagan Hockaday, at their request, to discuss the investigation on June 17, 2016. Additional investigation and review was requested, undertaken, and completed on or about July 12, 2016.

Based on the evidence available for review, the District Attorney's independent investigation, and the applicable legal authorities, it is the opinion of the District Attorney that the shooting of Meagan Hockaday by Oxnard Police Officer Roger Garcia was justified and not a criminal act.

II.

STATEMENT OF FACTS

A. 911 Call

At 12:54 a.m. on March 28, 2015, Luis Morado placed a call to 911. The call was recorded. When asked to state his emergency, Morado told the dispatcher to send a police officer. Morado told the dispatcher he lived at 501 West Vineyard Avenue, apartment 574. Morado said a "domestic dispute" was occurring. Morado identified the perpetrator as his wife, Meagan Hockaday. Morado reported Hockaday was under the influence of alcohol. Morado said he drank some beer but indicated he was not intoxicated. Morado told dispatch there were kids in the house. Morado said it was "too much for the kids to handle." He reported Hockaday hit him and went on to add, "You can see right now when the police officer comes." At various points during the call,

Hockaday could be heard screaming in the background. Dispatch advised that officers were on their way and the call ended.

B. Audio from Officer Roger Garcia's Recorder

Officer Garcia's recording device captured audio of the incident, beginning with Officer Garcia's initial contact. Officer Garcia made contact with Morado and Hockaday by asking, "What are you guys doing?" Morado responded, "No. Hey! Hey! Look. Look what she's doing! Look!" Morado said, "Look! Look! See? I'm not even doing anything. Look!" Officer Garcia asked Morado to take a seat. Officer Garcia then attempted to address Hockaday. Officer Garcia said, "Ma'am. Ma'am." Hockaday replied, "No." Morado then said, "She's gonna get a knife. She's gonna get a knife." The sound of four gunshots being fired can be heard on the recording approximately 17 seconds after Officer Garcia initially asked, "What are you guys doing?" Following the sound of gunfire, Morado stated, "Don't shoot her!"

The audio recording continues with Officer Garcia advising dispatch of the shooting and requesting emergency medical services for Hockaday. Shortly after radioing dispatch, Officer Garcia told Hockaday, "All right. Ma'am? Ma'am? We got it. We got...Ma'am? We've got someone to help you out ok? We got someone to help you out all right?" Officer Garcia went on to say, "We got someone on the way ok? Stay with me all right? Stay with me!"

C. Witness Statements

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

1. Luis Morado

Detective Martin Perez spoke briefly with Morado on March 28, 2015. Detective Perez interviewed Morado in greater detail later that same day at the Oxnard Police Department.

During the interview at the Oxnard Police Department, Morado provided background on the history of his relationship with Hockaday. Morado said he met Hockaday in 2007 and shortly thereafter they became a couple. Morado described an incident that occurred on July 4, 2009, during which both he and Hockaday had been drinking. Morado admitted to striking Hockaday with the back of his hand during an argument. This incident was reported to police when it occurred. Morado was subsequently charged with, and pled guilty to, a misdemeanor violation of Penal Code section 273.5(a), willful infliction of corporal injury on a spouse or cohabitant. Morado successfully completed probation, including attending 52 sessions of domestic violence counseling.

Morado indicated his relationship with Hockaday improved for some time. However, after the birth of their second child, Hockaday experienced depression and anxiety. Morado reported Hockaday began consuming alcohol more frequently. On August 14, 2014, Morado and Hockaday's third child was born. Morado claimed Hockaday was subsequently diagnosed as suffering from post-partum depression.

Morado reported that, around November 2014, Hockaday began making allegations against Morado that he had molested their children. At that time, both Child and Family Services and the Oxnard Police Department investigated Hockaday's allegations. The children denied having been abused or molested by Morado in each investigation. There were no physical findings to corroborate a claim of sexual assault. On March 1, 2015, in an effort to discuss her allegations, Officers James Kitka and John Martin contacted Hockaday. In her interview, Hockaday said her suspicions were due to a motherly feeling. Hockaday also said that her daughters were wetting the bed and sometimes reporting soreness in the genital area. She admitted none of her daughters had disclosed

any molestation to her. Officer Kitka noted Hockaday had severe mood swings during this contact with her.

In the months leading up to the shooting, Hockaday continued to accuse Morado of sexually abusing their children. Morado said Hockaday also began being physically abusive towards him when she slapped him for the first time around Christmas 2014. Morado also described another incident in January 2015 when they had been drinking and Hockaday armed herself with a knife, brandishing it at Morado. During this incident, while holding the knife in her hand, Hockaday told Morado, "You are a pussy. You can't even tell me the fucking truth. You are a fucking coward." Due to the loud arguing, police were called out that evening. However, Morado admitted he did not tell the Oxnard police officers that Hockaday had brandished the knife at him, but only reported a verbal dispute.

Morado then discussed the events that happened on March 27, 2015, the evening before the shooting. Morada said Hockaday, their children, and he went to the residence of Hockaday's mother, Monique Wallace. Morado purchased a 12-pack of beer that day. He estimated he drank two or three of the beers while Hockaday consumed the rest. After watching a movie at Hockaday's mother's residence, Morado wanted to return home. Hockaday disagreed and the two argued. Hockaday eventually permitted Morado to drive them home, but insisted that Morado drive around first so Hockaday could listen to music. Morado estimated Hockaday consumed two to three beers at her mother's residence and the rest of the beer on the drive home. Morado estimated he drove the family around until between 12:30 and 1:00 a.m. on March 28, 2015, before returning to their apartment complex and parking their van.

Morado reported that after he parked the vehicle, Hockaday became furious and slapped him multiple times. She then began to throw items from the van at him including papers, toys, and a diaper bag. Morado's account was corroborated by Detective Mike Young's inspection of the vehicle and surrounding area, which revealed debris in and around the vehicle. Detective Young also located a 12-pack of Modelo beer on the front passenger floorboard. The beer pack contained four empty beer cans. Detective Young also located

an empty 25-ounce can of Bud Light in a plastic bag on the floorboard of the second row of the van.

Morado reported that while he was trying to get Hockaday out of the vehicle, Morado grabbed her by the shoulders. Morado said when he released Hockaday, she tripped and fell. After her fall, Hockaday appeared to be calm. The family went inside the apartment. Once inside the apartment, Hockaday called her mother. Morado said the children were standing next to Hockaday crying while she was on the phone. He saw Hockaday pull their hair and tell them to go to sleep.

After Hockaday ended her conversation, Morado received a call from Hockaday's mother on Morado's phone. Morado told Wallace what had occurred in the apartment parking lot. Wallace instructed Morado to keep Hockaday at their apartment and put the girls to sleep. According to Morado, Wallace said she was going to call Child Protective Services on Hockaday so Hockaday could get some mental help. After finishing the phone conversation with Wallace, Morado went to the den, where Morado and Hockaday's two-year-old and four-year-old daughters slept. When Morado left the living room, Hockaday was sitting on the couch.

Morado turned off the lights and laid down in the den for a few minutes. Hockaday turned on a light, which Morado believed was the kitchen light. Morado heard Hockaday opening drawers in the kitchen and then come into Morado's view. He saw that she had armed herself with a knife in her right hand. Morado reported Hockaday is right-handed. Hockaday extended the knife towards Morado, telling him, "Get over here you fucking punk." Morado approached Hockaday and grabbed her from behind to hold her. Hockaday said, "You little fucking punk. Little coward. You are going to get what you deserve." Morado said he took the knife from Hockaday and threw it into the kitchen. Morado reported he got cut when taking the knife from Hockaday. Officers observed and photographed an injury to Morado's hand consistent with his account (below.)



Morado reported that after disarming Hockaday she began scratching, kicking, and hitting him while chasing him around the living room. At some point during the struggle, Morado removed his shirt because Hockaday had ripped it. Hockaday also ripped his boxer shorts during the struggle. Officers observed and photographed injuries to Morado's torso consistent with his account (below.)



Morado reported that Hockaday then grabbed a ceramic coffee cup and threw it at him. Detective Jeff Kay observed coffee stains and a coffee cup near a wall on the living room floor, corroborating Morado's account.

At some point during the altercation, Morado reported that the couple's children came out of the den where they slept. Morado believed they were present for most of the altercation. The two-year-old daughter was standing in an area adjacent to the living room and the four-year-old daughter was going back and forth between the den and living room. Morado was not able to say specifically where the two-year-old and four-year old were located when shots were fired.

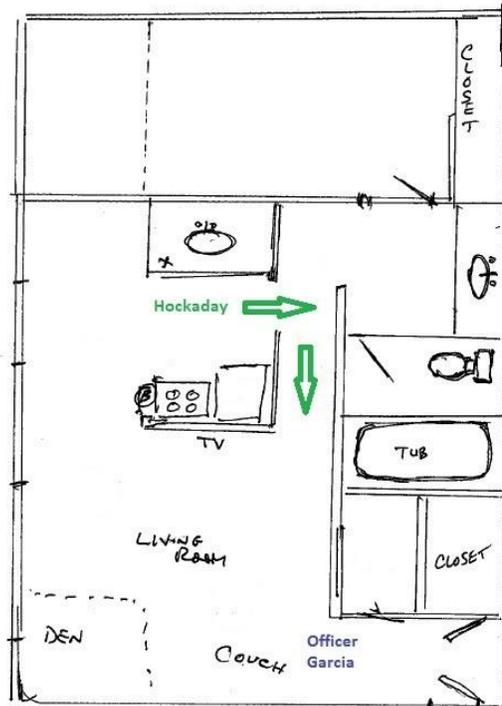
Morado said Hockaday attacked him again during which he was able to pin her to the floor. He then called 911. While he was on the phone with Oxnard Police Department dispatch, Morado reported Hockaday was screaming and still trying to hit him. Hockaday can be heard screaming in the background as Morado placed the 911 call.

Morado told Hockaday the police were coming, at which point she left the room and returned with a steak knife in her hand. Morado was able to take the knife from Hockaday a second time and throw it on the floor. Morado believed he pinned Hockaday down two or three more times during the course of the struggle but each time she was able to get away from him. At one point, Morado opened the door waiting for police to arrive and unsuccessfully tried to push Hockaday out the door. Hockaday continued to attack Morado, scratching his arms and back while the apartment door was left open. Morado was struggling with Hockaday inside the apartment when he observed Officer Garcia standing at the doorway. Morado reported that Officer Garcia entered the apartment with his gun drawn. Hockaday could not see Officer Garcia because her back was to him. Morado released Hockaday when he saw Officer Garcia. Hockaday then went quickly to the kitchen. Morado told Officer Garcia that Hockaday was going to get a knife. Hockaday then returned from the kitchen and advanced towards Morado and Officer Garcia with a knife in her right hand.

At the crime scene, Morado told Detective Perez, “I ran because I seen a fucken knife in her hand.” At the crime scene, Morado further stated, “The cop came in and she still ran and got it,” referring to the knife. However, during a later interview at the Oxnard Police Station, Morado said he did not actually see the knife in Hockaday’s hand when she returned from the kitchen which contradicted his earlier statement.

Morado reported he saw Hockaday get “something” and then heard her coming from the hallway side of the kitchen. Morado said he was afraid of Hockaday at that moment and believed Hockaday was coming for him, not the officer. Morado said he ducked under the officer’s gun and ran towards the doorway, thereby placing Officer Garcia between himself and Hockaday. Morado heard Officer Garcia fire three to four gunshots; however, Morado did not actually see Hockaday get shot.

According to Morado, the diagram below depicts the path Hockaday took when Hockaday returned from the kitchen and advanced towards Morado and Officer Garcia. The diagram also indicates the approximate location Morado believed Officer Garcia was standing at that moment in time.



2. Officer Roger Garcia

Officer Garcia spoke with Sergeant David Walker at the crime scene, providing answers to public safety questions. When Sergeant Walker arrived at the crime scene, Officer Garcia was kneeling next to Hockaday saying, “Stay with me.” Officer Garcia pointed to the knife Hockaday was brandishing when Officer Garcia fired shots. Garcia reported that he fired shots in a westbound direction, slightly downward. Officer Garcia said the shooting occurred in the entry way to the apartment, just inside the front door. When Sergeant Walker turned to speak with another officer, Officer Garcia returned to Hockaday’s side to tell her that an ambulance was on the way.

Officer Garcia estimated he fired two to three shots. Officer Garcia said Hockaday was coming at both Officer Garcia and Morado. Officer Garcia reported his gun jammed during the incident. Officer Garcia believed Hockaday’s clothing may have caught on his gun, resulting in the jam. Sergeant Walker inspected Officer Garcia’s nine millimeter Beretta service pistol and noted that the condition of Officer Garcia’s pistol was consistent with a jam or malfunction having occurred.

3. Paramedic Andrew Mulligan

On March 28, 2015, Paramedic Andrew Mulligan responded to the call for service for an officer-involved shooting at 501 West Vineyard Avenue, apartment 574. When he arrived, Mulligan noticed two shell casings on the door mat located in front of the apartment. Mulligan also observed a five- to six-inch knife just inside the apartment near the front door. He saw Hockaday on the floor inside the apartment, about four feet from the doorway. He noticed a gunshot wound to Hockaday’s right shoulder. Mulligan noted no signs of life and, at 1:19 a.m., he pronounced Hockaday deceased.

4. Hockaday and Morado’s Children

Hockaday and Morado’s four-year-old and two-year-old daughters were contacted by detectives. The daughters were unable to provide details regarding the shooting;

however, they did report their parents were fighting. The four-year-old also reported that her parents were throwing things and hitting each other.

5. Monique Wallace

Monique Wallace is Meagan Hockaday's mother. On March 28, 2015, Detective Robert Eckman contacted Wallace to inform her of her daughter's death. Detective Eckman spoke with Wallace regarding the previous evening. Wallace verified that Hockaday, Morado, and their children were at Wallace's residence on the evening of March 27, 2015. Wallace estimated they left her residence at about 10:45 p.m. Wallace reported witnessing verbal altercations between Hockaday and Morado on prior occasions. Wallace also mentioned having a phone conversation with Morado after Morado, Hockaday, and their children left Wallace's residence on March 27, 2015. Wallace said she advised Morado to go home and take the kids. Wallace said she also told Morado that if Hockaday wanted to stay up drinking, then Hockaday could go sit in the car with her beer and listen to the radio. Wallace said she told Morado that Wallace was "so tired of this" and Morado said he was as well.

6. Maria Consuelo Morado

Maria Consuelo Morado is Luis Morado's mother. Ms. Morado lived with Hockaday and Luis Morado for about seven years. Ms. Morado reported that she noticed their relationship deteriorating approximately seven months prior to the shooting when her son and Hockaday began yelling more frequently at each other. Ms. Morado moved out in late February or early March 2015 due to the problems Luis Morado and Hockaday were having. Ms. Morado observed that Hockaday had begun to drink alcohol more frequently in the months leading up to the shooting. Ms. Morado described Hockaday as violent and easily agitated.

7. Raymundo Morado

Raymundo Morado is Luis Morado's brother. Raymundo lived with his brother Luis and Hockaday for a period of time. Raymundo said he witnessed verbal arguments between Luis and Hockaday; however, Raymundo did not personally witness any physical confrontations. Raymundo observed that his brother Luis and Hockaday would have problems when they both consumed alcohol.

III.
PHYSICAL EVIDENCE

A. Crime Scene

The crime scene consisted of the apartment located at 501 West Vineyard Avenue, apartment 574. The layout of the apartment is depicted below.

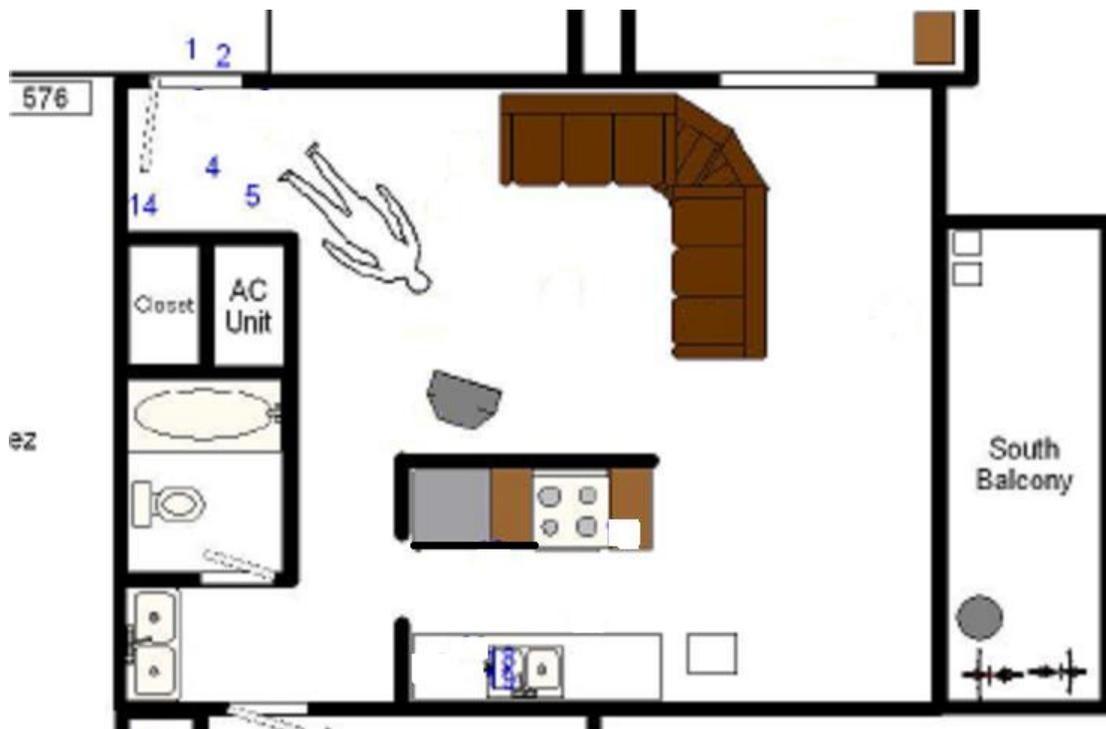


Various items of physical evidence were located at and collected from the crime scene. These items included the knife Hockaday brandished during the incident, four spent shell casings, and fragments from two bullets.

The knife is depicted below as it was located by officers who responded to the scene.



A crime scene diagram was prepared noting the location of the items of evidence. Item 4 on the diagram below denotes the location where the knife brandished by Hockaday was located by detectives. Items 1, 2, 5, and 14 denote the four spent shell casings located at the crime scene.



In addition to the knife located in the entryway of the apartment near Hockaday's body, detectives located additional knives strewn about the kitchen area. Two knives were found in the kitchen sink and another knife on the floor of the kitchen. There was a knife block also on the kitchen floor. It appeared the knives had been removed from the knife block.

Two bullet holes were located inside the apartment. Fragments from the two bullets were recovered from inside the walls. Forensic Scientist Song Wicks of the Ventura County Sheriff's Office Forensic Sciences Laboratory determined the path of these two bullets. One bullet hole was located in the decorative molding of the closet directly across from the front door entrance. The bullet strike, denoted by photo marker "A," is depicted in the photograph below. The rod in the photograph reflects the bullet trajectory.



The second bullet strike, denoted by photo marker "B" below, was located in the baseboard molding of the west wall of the living room. The bullet associated with this bullet hole struck the floor before lodging in the wall. As such, the vertical angle of the

bullet path could not be measured. However, extrapolation of the bullet path from the strike to the floor led to the front door opening, as depicted in the photographs below.



Forensic Scientist Wicks was able to determine Officer Garcia's position at the time he fired these two shots based on the extrapolation of the bullet paths associated with holes "A" and "B," and the location of the discharged cartridge cases. Forensic Scientist Wicks concluded Officer Garcia was positioned near the opening to the front door of apartment 574.

Detective Jeff Kay noted lighting conditions in the apartment. He reported that the light in the hallway leading from the kitchen towards the front door and the living room light were turned off. This would have reduced the visibility between Officer Garcia's position and the hallway from which Hockaday advanced with the knife. Moreover, from Officer Garcia's position at the time shots were fired as determined by Forensic Scientist Wicks, Officer Garcia may not have been able to see Hockaday until she reached the end of the hallway (below.)



B. Autopsy

On March 30, 2015, an autopsy was performed on Hockaday's body by Dr. Jon Smith, a forensic pathologist and former Chief Medical Examiner for the Ventura County Medical Examiner's Office. Dr. Smith located three gunshot wounds to Hockaday's person. One of these gunshot wounds was an elliptical superficial laceration to Hockaday's right elbow. Dr. Smith described this injury as a grazing or "tangential" gunshot wound.

Dr. Smith located a second gunshot wound which he described as a penetrating gunshot wound to Hockaday's right shoulder. Dr. Smith determined this shot was fired at extremely close range, noting stippling and powder burns around the wound. This bullet entered through Hockaday's right shoulder and lodged in the right upper back. The overall bullet pathway was right to left, front to back, and downward with the body in the anatomic position. This bullet was recovered from Hockaday's body.

Dr. Smith located a third gunshot wound to Hockaday's right mid back. The bullet entered through the right back, perforated the right lower lung lobe, and lacerated several organs before lodging in the subcutaneous soft tissue in the left chest. The overall bullet pathway was right to left, back to front, and slightly upward with the body in the anatomic position. This bullet was recovered from Hockaday's body.

Dr. Smith also located a one centimeter laceration to the index finger of Hockaday's left hand. Dr. Smith concluded that Hockaday died from multiple gunshot wounds and that the killing was a homicide, meaning a death at the hands of another.

Dr. Lawrence Nguyen, a forensic pathologist currently employed by the Ventura County Medical Examiner's Office, conducted an independent review of Dr. Smith's autopsy report, the Medical Examiner's Office case file, photographs from the crime scene and autopsy, and the report authored by Forensic Scientist Wicks regarding the muzzle-to-target distance determination, which was completed subsequent to Dr. Smith's autopsy report. Dr. Nguyen concurred with Dr. Smith's and Forensic Scientist Wicks' findings regarding the cause and manner of death. Dr. Nguyen's findings were consistent with Forensic Scientist Wicks' determination with regards to the penetrating gunshot wound to Hockaday's right mid back in that the muzzle of Officer Garcia's gun was 15 inches or less from Hockaday's body at the time the shot was fired.

C. Firearms Analysis

Forensic Scientist Wicks conducted an analysis to determine the muzzle-to-target range between Officer Garcia's gun and Hockaday's person at the time shots were fired. Forensic Scientist Wicks analyzed Hockaday's tank top visually and noted an oval hole in the garment at the point where a bullet made contact with Hockaday's person. This particular hole in Hockaday's garment coincided with the bullet that struck Hockaday in the right mid back. Forensic Scientist Wicks determined that the hole did not exhibit characteristics associated with a contact shot, indicating that the muzzle of Officer Garcia's gun was not touching Hockaday's garment at the time the shot was fired. Forensic Scientist Wicks conducted microscopic examination and chemical testing of the garment for the presence of gunpowder particles. Forensic Scientist Wicks compared the results of analysis from Hockaday's garment to the results of analysis from test fires taken at different muzzle-to-target distances using the same Beretta pistol Officer Garcia used during the incident. Forensic Scientist Wicks was able to determine from his scientific testing that the muzzle-to-target range for the gunshot was from no closer than near-contact and no farther than 15 inches from Hockaday's garment.

Forensic Scientist Wicks also conducted a firearms analysis comparing the four cartridge cases and two bullets found at the crime scene, and the two bullets recovered from Hockaday's body to rounds test fired from Officer Garcia's nine millimeter Luger caliber Beretta pistol. Forensic Scientist Wicks concluded that all four bullets and all four cartridge cases were fired from Officer Garcia's Beretta pistol.

D. Toxicology Report

Hockaday's blood was collected at the autopsy. The blood was analyzed for drugs and alcohol by forensic scientists with the Ventura County Sheriff's Office Forensic Sciences Laboratory. Analysis of her blood showed that her blood contained caffeine and alcohol. Her blood alcohol level was 0.20 percent.

E. DNA Analysis

Forensic Scientist Kristin Allard of the Ventura County Sheriff's Office Forensic Sciences Laboratory conducted DNA analysis on the knife Hockaday used during the incident. Swabs collected from the handle and blade of the knife revealed a mixture of DNA from multiple contributors. The DNA profiles for these contributors were compared to the DNA profiles of Morado and Hockaday. Based on this comparison, Forensic Scientist Allard determined that both Morado and Hockaday were included as possible contributors to the DNA mixture found on the knife.

IV.

LEGAL PRINCIPLES

A. Law of Homicide and Self-Defense

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

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

CALCRIM 505 sets forth the specific jury instructions on self-defense. It provides that a person is not guilty of murder or manslaughter if 1) that person “reasonably believed that [the person] [or] someone else . . . was in imminent danger of being killed or suffering great bodily injury”; 2) that person “reasonably believed that the immediate use of deadly force was necessary to defend against that danger”; and 3) that person “used no more force than was reasonably necessary to defend against that danger.” (*Judicial Council of California Criminal Jury Instructions (March 2016 Update), Calcrim 505.*)

CALCRIM 505 further provides that in deciding whether that person’s “beliefs were reasonable, consider all the circumstances as they were known to and appeared to [that person] and consider what a reasonable person in a similar situation with similar knowledge would have believed. If [that person]’s beliefs were reasonable, the danger does not need to have actually existed.” It also provides that “[a person] is not required to retreat. He or she is entitled to stand his or her ground and defend himself or herself and, if reasonably necessary, to pursue an assailant until the danger has passed. This is so even if safety could have been achieved by retreating.” (*Ibid.*)

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

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

Under the Fourth Amendment, police are “not required to use the least intrusive degree of force possible” but may use only such force as is objectively reasonable under the circumstances. (*Forrester v. City of San Diego* (9th Cir. 1994) 25 F.3d 804, 807.) An officer’s use of deadly force is reasonable only if “the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.” (*Tennessee v. Garner* (1985) 471 U.S. 1, 3.) Furthermore, “if police officers are justified in firing at a suspect in order to end a severe threat to public safety, the officers need not stop shooting until the threat has ended.” (*Plumhoff v. Rickard* (2014) 134 S.Ct. 2012, 2022.)

“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. Meagan Hockaday's Criminal Conduct

Hockaday engaged in felony and misdemeanor criminal conduct immediately prior to the shooting. Had she survived, she could have been charged with the commission of the following crimes:

- Assault with a Deadly Weapon in violation of Penal Code section 245(a)(1)
- Willful Infliction of Corporal Injury Upon a Spouse or Cohabitant in violation of Penal Code section 273.5(a)
- Criminal Threats in violation of Penal Code section 422
- Assault on a Peace Officer in violation of Penal Code section 245(c)
- Brandishing a Deadly Weapon in violation of Penal Code section 417(a)(1)
- Resisting an Executive Officer in violation of Penal Code section 69
- Resisting, Obstructing, or Delaying a Peace Officer in violation of Penal Code section 148(a)(1).

V.

ANALYSIS

In the months leading up to March 28, 2015, Meagan Hockaday began drinking more heavily. Hockaday displayed increased aggression towards Luis Morado. Morado reported that Hockaday physically assaulted him on several occasions prior to March 28, 2015. Hockaday also made repeated allegations that Morado was molesting their children, despite no apparent basis in fact for these allegations.

On the evening of March 27, 2015, Hockaday voluntarily became intoxicated. She argued with her husband, Morado, over returning to the family apartment. Hockaday insisted that Morado drive her around for an extended period of time while she continued drinking. When Morado parked the family van at the apartment complex, Hockaday

became extremely agitated, throwing items at him and around the vehicle. Hockaday also battered Morado, slapping him multiple times.

Once the family returned to the apartment, Hockaday's conduct in retrieving a knife from the kitchen and extending it towards Morado constituted a violation of Penal Code section 417(a)(1), brandishing a deadly weapon. Moreover, Hockaday's threat to Morado, saying, "You are going to get what you deserve," while she simultaneously brandished a deadly weapon constituted a violation of Penal Code section 422, criminal threats. Morado struggled with Hockaday and was able to disarm her of the knife. However, during the process, Hockaday and Morado each received a laceration to their finger, consistent with a tussle over the knife. Additionally, the presence of DNA profiles on the knife consistent with both Hockaday's and Morado's DNA profiles corroborates that a struggle over the knife occurred. Throughout the night, Hockaday repeatedly armed herself with a knife in an aggressive manner towards Morado. At one point, she also threw a coffee mug at Morado. She scratched Morado repeatedly on his torso and back, leaving visible injuries. In so doing, Hockaday committed a violation of Penal Code section 273.5(a), corporal injury to a spouse or cohabitant.

Morado's fear for his physical safety rose to the level where he felt it necessary to call 911. He immediately requested an officer to respond and stated it was "too much for the kids to handle," indicating concern for the wellbeing of their children as well. He reported that Hockaday was being physically abusive towards him.

Dispatch advised officers of the domestic dispute reported by Morado and identified Hockaday as the disturbing party. Dispatch further advised that a female could be heard screaming in the background during the call and that there were children in the home.

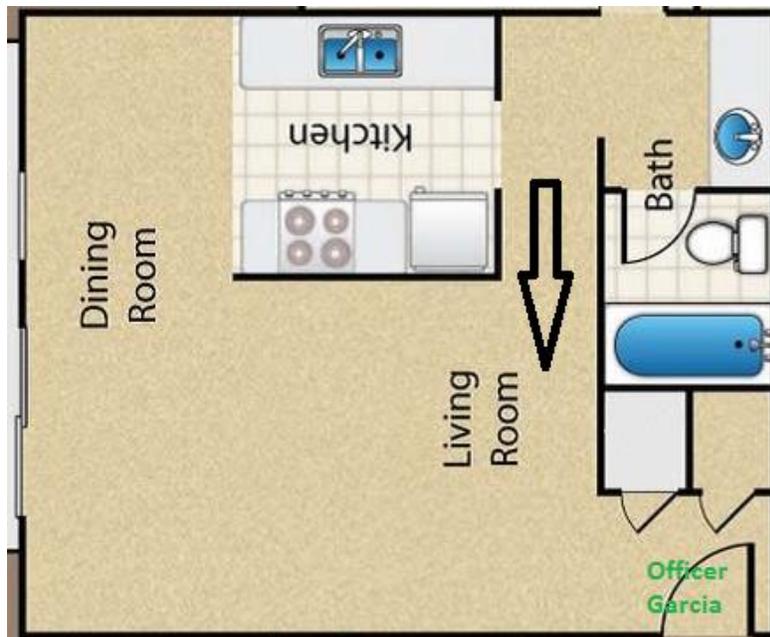
Based on this information, Officer Garcia knew he was responding to a potentially volatile domestic situation with children present.

Officer Garcia was the first to arrive on scene and entered through the open doorway. As he observed Morado and Hockaday struggling, Officer Garcia attempted to diffuse the situation by asking Morado to take a seat. Since Morado had removed his shirt after Hockaday ripped it, Officer Garcia was able to observe visible lacerations to Morado's chest. Officer Garcia then attempted to speak with Hockaday, but she said, "No" and quickly retreated towards the kitchen. As Officer Garcia lost visual contact with Hockaday, Morado told Officer Garcia that Hockaday was going to get a knife. At this point, Officer Garcia reasonably believed that Hockaday had already physically inflicted visible injuries to Morado, young children were present inside the apartment, and Hockaday had retreated further into the apartment to arm herself with a deadly weapon.

Morado told officers that he was standing between Hockaday and Officer Garcia until Hockaday returned from the hallway. Officer Garcia's view of Hockaday would have been obscured by a combination of Morado standing between them and the lack of lighting in the apartment until Hockaday was within striking distance of Officer Garcia.

The diagram below reflects Hockaday's path of approach and Officer Garcia's approximate location at the time he fired shots.¹

¹ Positions determined by Forensic Scientist Song Wicks.



According to Morado's statement on the night of the incident, Morado told Officer Garcia that Hockaday was going to get a knife then saw Hockaday approaching with a knife in her hand. Morado feared Hockaday would attack him with the knife so he ducked under Officer Garcia's firearm and ran to a place of physical safety leaving Officer Garcia directly in front of Hockaday as she advanced with the knife. Based on the location of the gunshot wounds to her right shoulder and right mid back, and the laceration to her right elbow, it is reasonable to assume that she was swinging the knife in her right hand.

Hockaday came within 15 inches or less from the muzzle of Officer Garcia's gun while Hockaday was still armed with the knife. The knife Hockaday was holding had a blade length of approximately 5 ½ inches. This indicates that Hockaday was within striking distance of both Officer Garcia and Morado. Given the proximity of Hockaday to Officer Garcia and Morado and the length of the blade, Hockaday could have easily stabbed Officer Garcia and/or Morado, causing great bodily injury or death.

Under these circumstances, a reasonable officer would have concluded, as did Officer Garcia, that Hockaday's actions posed a significant threat of death or serious physical injury to both Officer Garcia and Morado. Hockaday armed herself with a deadly weapon and advanced on Officer Garcia and Morado, causing Officer Garcia to reasonably believe that the immediate use of deadly force was necessary to defend against the danger that Hockaday's actions presented. Hockaday's actions constituted an assault with a deadly weapon, a violation of Penal Code section 245(a)(1), and an assault with a deadly weapon on a peace officer, in violation of Penal Code section 245(c). Hockaday's actions also constituted violations of Penal Code section 69, resisting an executive officer, and Penal Code section 148(a)(1), resisting, obstructing, or delaying a peace officer.

Officer Garcia fired four shots in close succession in response to the threat Hockaday posed. Two of those shots entered Hockaday's body, resulting in her death. The bullet paths for the two bullets that entered Hockaday's body, one to the right shoulder and one to the right mid back, are consistent with Hockaday swinging the knife in her right hand at the same time Officer Garcia fired the shots.

An evaluation of the reasonableness of Officer Garcia's decision requires consideration of the limited amount of time he had to make a decision to use deadly force in a tense, violent situation. A review of Officer Garcia's belt recorder reveals that less than 20 seconds passed from the time Officer Garcia initially asked both parties what was occurring to the point when Officer Garcia fired the four shots. During this very brief window of time, Hockaday had armed herself with a knife, Morado changed positions by retreating behind Officer Garcia, and Hockaday advanced on Officer Garcia and Morado with the knife in hand in a threatening manner.

Officer Garcia was not legally obligated to retreat from the assault by Hockaday. In fact, Officer Garcia would likely have been unable to move backwards, given that Morado was standing behind him. Officer Garcia reasonably perceived Hockaday as presenting a threat to public safety, specifically to Morado, who had taken cover behind Officer Garcia. There is no indication that Officer Garcia fired any shots after Hockaday was disarmed. Rather, the evidence shows Officer Garcia immediately reported the shooting to dispatch and then knelt by Hockaday's side until paramedics and other officers arrived.

Under this set of facts and the laws governing self-defense, Officer Garcia reasonably defended both himself and Morado. Officer Garcia justifiably responded to the threat of imminent danger of great bodily injury and death at the time he discharged his weapon at Hockaday.

VI.

CONCLUSION

It is the conclusion of the District Attorney that:

- A. At the time Officer Roger Garcia fired his handgun at Meagan Hockaday, Officer Garcia honestly and reasonably believed that he was in imminent threat of death or great bodily injury, and that Luis Morado was in imminent threat of death or great bodily injury.
- B. Officer Roger Garcia honestly and reasonably believed that the immediate use of deadly force was necessary to defend himself and Luis Morado against the danger posed by Meagan Hockaday at the time Officer Garcia fired his weapon.
- C. Officer Roger Garcia used no more force than was reasonably necessary to defend against the apparent danger posed by Meagan Hockaday.
- D. The fatal shooting of Meagan Hockaday by Officer Roger Garcia was a justifiable homicide.