

OFFICE OF THE DISTRICT ATTORNEY

February 12, 2021



REPORT ON THE JULY 5, 2019,
SHOOTING OF JOSHUA ORTIZ BY
CALIFORNIA HIGHWAY PATROL
OFFICER TIMOTHY PUTZEL

ERIK NASARENKO
DISTRICT ATTORNEY
COUNTY OF VENTURA

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I.

INTRODUCTION

On July 5, 2019, at approximately 5:41 a.m., the California Highway Patrol (“CHP”) in Ventura received a call regarding a male “running into traffic” on Highway 33 in the area of Old Creek Road near the unincorporated town of Oak View. The caller, Jennifer Hogue, described the subject as having long blonde hair, a red shirt, khaki pants, and work boots. Hogue added that the subject was “looking to get hit by a car.”

Officer Timothy Putzel had just recently started his morning shift as a uniformed highway patrol officer out of the Ventura CHP Office. Officer Putzel was in the city of Ventura at the time he was dispatched at approximately 5:42 a.m. While in route, Ventura CHP dispatch received another call at 5:50 a.m. regarding a male walking in the middle of Highway 33 between Casitas Springs and Oak View. The caller, Pat Grennan, described the individual as a white male, with long, dirty blonde hair, and approximately 35 years old.

As Officer Putzel drove northbound on Highway 33 past Old Creek Road, he saw a subject, later identified as Joshua Ortiz, matching the description of the 911 calls. By this time, Ortiz was shirtless. Officer Putzel decided to continue driving past Ortiz due to the narrow shoulder and high speed of traffic at that location. Officer Putzel staged his vehicle on West Portal Street, on the west side of Highway 33. As Officer Putzel saw Ortiz walking up the highway, he pulled his vehicle across Highway 33 to East Portal Street. Officer Putzel made eye contact with Ortiz and raised his hand for Ortiz to stop.

As Officer Putzel exited his vehicle, he was immediately struck in the head by a flurry of punches from Ortiz. Officer Putzel attempted to create space between himself and Ortiz by running towards the front of his vehicle. At this point, the recording system attached to his police vehicle (“MVARs”) recorded the remainder of the incident. Ortiz continued to strike Officer Putzel in the head with multiple blows. Officer Putzel attempted to unholster his taser but was unsuccessful.

Ortiz got Officer Putzel into a chokehold from behind and threw him to the ground. Officer Putzel was on his back with Ortiz standing over him. Officer Putzel attempted to ward off Ortiz by kicking up at him, which Ortiz simply pushed away. Ortiz continued to punch Officer Putzel in the face while he was lying on the ground.

Officer Putzel unholstered his pistol. He shot Ortiz one time in the chest. Officer Putzel got to his feet and pointed his pistol at Ortiz, who lay on the ground.

At 6:08 a.m., Officer Putzel broadcast on the radio that shots were fired. Ventura County Sheriff's Deputy Timothy Urton responded to the scene one minute later. Both Deputy Urton and Officer Putzel began lifesaving efforts on Ortiz. Deputy Urton began chest compressions and Officer Putzel administered breaths with a bag valve mask.

Emergency medical personnel as well as additional officers and deputies from the CHP and Ventura County Sheriff's Office began to arrive on scene. At approximately 6:15 a.m., firefighters from the Ventura County Fire Department and paramedics from Lifeline Medical Transport took over lifesaving efforts. Ortiz was pronounced dead at 6:27 a.m.

An analysis of Ortiz's blood by the Ventura County Sheriff's Office Forensic Sciences Laboratory revealed Ortiz's blood alcohol content was 0.03 percent. He did not test positive for any controlled substances.

The District Attorney's Office has an 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 Blake Heller and District Attorney Investigator Heather Tallent responded to the shooting scene and consulted with the investigating officers.

The Ventura County Sheriff's Office investigated the shooting, which included interviewing witnesses, collecting physical evidence, and photographing the area of the shooting.

In December 2019, the Ventura County Sheriff's investigation materials were submitted to the District Attorney's Office for a determination of whether the shooting of Joshua Ortiz 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 Blake Heller was assigned to review this case. He examined approximately 550 pages of reports, materials, and recordings, including interviews of police and civilian witnesses, diagrams, photographs, videos, records, radio transmissions, and medical documents.

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 Joshua Ortiz by California Highway Patrol Officer Timothy Putzel was justified and not a criminal act.

II.

STATEMENT OF FACTS

A. 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. Jennifer Hogue

At 5:41 a.m., on July 5, 2019, Jennifer Hogue placed a call to 911. The call was recorded. Hogue reported a male subject was "running into traffic looking to get hit by a car" near Highway 33 and Old Creek Road. She described the subject as having long blonde hair, and wearing a red shirt, khaki pants, and work boots. Hogue indicated that the male ran in front of her car when he saw her approaching. Dispatch then advised patrol of the call.

Detective Francis Saleh interviewed Hogue in more detail later that day. Hogue indicated that she was driving northbound on Highway 33 that morning on her way to work in Ojai. At approximately 5:35–5:40 a.m., she was near the “big red barn” at the intersection of Old Creek Road. She saw a man, later identified as Ortiz, walking on the shoulder in the same direction of travel. Ortiz was walking “a little bit more in the street” and she started to slow down. Ortiz made eye contact with her and started walking towards her car. He then ran towards the front of her car.

Hogue indicated she was driving approximately 50 mph and had to swerve into oncoming traffic to avoid him. Hogue looked in her rearview mirror and saw that Ortiz was still coming towards her car. She quickly drove around the corner and called 911.

Hogue indicated that she had a weird feeling when she made eye contact with Ortiz. She thought, “This dude doesn’t want to live at the moment.” It felt to her like he was “trying to commit suicide by my car.” Ortiz had an unsteady gait, and she felt he was mentally unstable. Hogue indicated that she presently worked in the medical field and has seen weird “snaps” like that with her clients. Hogue felt like Ortiz saw her as “an opportunity to take his life.”

Hogue later called Detective Saleh and said she remembered that Ortiz touched her car with his hand. Hogue noticed a handprint on the hood of her car that was not there previously. Detective Saleh met with Hogue and took a photo of the handprint.



Photographs of the hood of Jennifer Hogue’s vehicle, purporting to show a handprint made by Joshua Ortiz.

2. Pat Grennan

At 5:50 a.m., on July 5, 2019, Pat Grennan placed a call to 911. The call was recorded. Grennan reported a male subject was walking in the middle of the roadway on Highway 33 between Casitas Springs and Oak View. Grennan described the subject as a white male, approximately 35 years old, and having long dirty blonde hair. Grennan expressed concern that someone was going to hit the subject.

Detective Francis Saleh interviewed Grennan in more detail later that day. Grennan said he was driving southbound on Highway 33 at approximately 5:30–5:40 a.m., near Old Creek Road. He was travelling in the “canyon area” between Casitas Springs and Oak View when he saw an individual, later identified as Ortiz, with a red shirt in the middle of the roadway. Ortiz was walking uphill, northbound, in the “dead middle” of Highway 33. Grennan indicated a truck in front of him swerved and then Grennan swerved to avoid hitting Ortiz. Ortiz hit Grennan’s driver’s side window with his hand. Grennan remarked, “It scared the piss out of me.” After Grennan swerved, he saw Ortiz do the same thing to a truck that was travelling behind Grennan.

Grennan described Ortiz as having a “crazed look. Bug-eyed and screaming at people.” Grennan thought Ortiz was “looking for somebody to kill him.” Ortiz was wearing a bright red shirt and khaki pants. Grennan further described Ortiz as a tall, slender, white male with long dirty blonde hair.

3. Christopher Holladay

Christopher Holladay lived across Highway 33 from where the shooting occurred on Spring Street in Oak View. His residence faced east, in direct line of sight from where the shooting took place. Holladay indicated that he was in his driveway preparing to leave for work when he observed a marked CHP vehicle parked on West Portal Street at the intersection of Highway 33. After several minutes, he saw the vehicle had moved across Highway 33 onto East Portal Street.

Holladay witnessed the CHP officer, later identified as Officer Putzel, begin to exit his vehicle. Immediately, a male subject, later identified as Joshua Ortiz, began to attack Officer Putzel. Holladay stated, "I saw [Ortiz] swinging into the car right on [Officer Putzel] . . . and he opens the door and they start brawling, and [Ortiz] is getting the better of [Officer Putzel]."

Holladay added additional detail to the beginning of the incident. He indicated that Ortiz attacked Officer Putzel while the officer was still in his vehicle. According to Holladay, "[Officer Putzel] didn't even get a chance to get out." Holladay stated that Ortiz was hitting Officer Putzel in the head. Officer Putzel appeared to be stunned by the blows. As the attack continued, Holladay stated, "[Ortiz] was just on [Officer Putzel], all over him and swinging."

At one point, Holladay saw Officer Putzel on the ground "on all fours" while Ortiz was "on him." Holladay witnessed Officer Putzel shoot one time. Holladay showed Detective James Douglas the positioning of Officer Putzel by getting on one knee and holding his right hand near his rib cage.

Holladay witnessed Officer Putzel retrieve a bag from his vehicle and begin CPR. Holladay stood across Highway 33 until Officer Putzel indicated that he was okay. Holladay remarked, "[Officer Putzel] was really concerned with trying to keep [Ortiz] alive, and I was like, 'Dude, he's dead.'" Holladay indicated that he was approximately halfway down East Portal Street, and almost to the stop sign, when he witnessed the assault.

4. David Valdez

After the incident, David Valdez's mother went to the CHP office in Ventura and indicated that her son had witnessed the incident earlier that morning. Detective Gabriel Gonzales responded to David Valdez's residence to conduct a recorded interview. Valdez lived in the neighborhood across Highway 33 from where the incident occurred.

At approximately 6:00 a.m., on July 5, 2019, Valdez left his house for work. He drove to the stop sign of West Portal Street at Highway 33. He saw a CHP officer, later identified as Officer Timothy Putzel, exit his patrol vehicle on East Portal Street. He thought Officer Putzel had closed the door to his patrol vehicle. He saw Ortiz walk towards Officer Putzel and throw punches at the officer's head.

Valdez briefly checked the traffic from each direction. When he looked up, Officer Putzel was on his back and Ortiz stood over him punching and kicking him. Valdez heard and saw the officer shoot Ortiz. Officer Putzel was still on his back when he shot Ortiz. Afterward, he saw Officer Putzel walk towards the curb and later walk towards Ortiz, who had put his hand up.

Valdez indicated that he was stopped at the stop sign for a total of 3–5 minutes. The sun was out, and there was some fog that did not impede his view. Valdez drove away on Highway 33 after the incident was over.

5. Officer Timothy Putzel

Officer Putzel spoke briefly at the scene, where he indicated that there was only one suspect, later identified as Ortiz. Officer Putzel indicated he fired one round in the direction of a dirt berm on the north edge of East Portal Street.

On July 9, 2019, Officer Putzel gave a voluntary statement to Detectives Gabriel Gonzales and Cyrus Zadeh at the Ventura County Sheriff's Headquarters.¹ Officer Putzel was present with his representative from the CHP, Officer Russell Carver.

Officer Putzel started his shift briefing at 5:00 a.m., on July 5, 2019. He dressed at work in his standard patrol uniform, consisting of one "California Highway Patrol" patch on each shoulder, a "California Highway Patrol" badge on the left front side of his uniform,

¹ Officer Carver requested that the interview be delayed until July 9, 2019, as Officer Putzel was taking pain medication for a fractured orbital socket. Officer Putzel reviewed the MVARs video from his vehicle prior to the interview.

and a nameplate on the right front side of his uniform. He carried a .40 caliber Smith and Wesson semi-automatic pistol on his duty belt, along with extra ammunition magazines, a taser, pepper spray, and expandable baton. He also carried a folding knife in each of his back pockets.

Officer Putzel drove a Ford Explorer, which had “CHP” written on both sides as well as the back of the vehicle. His vehicle had an overhead light bar that contained red and blue lights. There were spotlights on both the driver’s side and passenger’s side. The vehicle was equipped with an MVARs recording system, which video-recorded his entire shift. The system also had an audio recording system, that could be activated manually by pressing a button, or automatically by turning on the emergency lights.² At approximately 5:30 a.m., Officer Putzel began driving his patrol vehicle.

Officer Putzel’s first call for service was regarding a male pedestrian that was running in lanes of traffic on Highway 33 at Old Creek Road. He was near McGrath State Beach south of Ventura at the time of the call.³ Although Officer Putzel commonly responded to calls for service of pedestrians in the roadway, his senses were heightened because he heard the subject was running in front of cars. Officer Putzel began driving northbound on Highway 33 to the scene of the call.

After Officer Putzel passed Old Creek Road, he saw a male, later identified as Ortiz, walking northbound on the right shoulder. Ortiz was shirtless but had long blonde hair and was wearing tan pants. Officer Putzel thought that this was the individual based on the description by the 911 callers. The shoulder was too narrow to safely stop and there was a blind corner ahead with two lanes of travel. Officer Putzel continued past the area and staged on West Portal Street and Highway 33 so he could contact the pedestrian in a safer location.

² With the MVARs system, unlike the video recording, the audio needs to be triggered to record sound.

³ CHP Dispatch logs indicate that Officer Putzel was dispatched at 5:42 a.m.

Officer Putzel waited until he saw Ortiz, who was still walking on the shoulder. Officer Putzel drove across Highway 33, made eye contact with Ortiz, and put his hand in the air to signal for him to stop. Officer Putzel parked his vehicle on East Portal Street approximately 20–30 feet up from the intersection of Highway 33. Officer Putzel looked in his driver’s side mirror and saw that Ortiz had turned the corner onto East Portal Street. The officer noticed that Ortiz was still walking towards his patrol vehicle and not stopping.

Officer Putzel indicated that he wanted to make sure Ortiz was okay, as it was cool that morning and Ortiz was not wearing a shirt or shoes. He was also going to tell Ortiz to stay out of the roadway, so as not to get hit by passing cars. Officer Putzel had not yet cleared his doorway when he asked Ortiz, “Are you okay, bro?” Ortiz charged at him.

Ortiz punched Officer Putzel immediately on the left side of his face. Officer Putzel described the blow as follows, “I felt like I was going to go out right there. I thought he almost knocked me out.” He said his vision was blurry and he was lightheaded.

Officer Putzel tried to create space between himself and Ortiz, yet Ortiz’s arms “didn’t stop flailing.” He estimated getting punched approximately 10 times while standing on the side of his vehicle. The officer attempted to unholster his taser, but he was unable to do so while sustaining blows. At this point, Officer Putzel moved up towards the front of his patrol vehicle while Ortiz pursued him from behind.⁴

Officer Putzel indicated that Ortiz grabbed his neck and choked him from behind, similar to a carotid choke hold.⁵ The officer thought he was going to get strangled. He felt pressure on his neck and could not breathe. Officer Putzel spun around and remembered

⁴ At this point in the attack, the MVARs video system in the patrol vehicle captured the remainder of the incident. During the assault, Officer Putzel explained that he did not have the opportunity to remotely trigger the audio portion. He first triggered the audio when he started performing CPR.

⁵ Officer Putzel stated that the carotid hold was a technique used in the California Highway Patrol in deadly force situations. He remarked, “Basically what he was doing to me was a carotid choke hold and that will kill you.” The officer indicated that carotid choke hold was considered a deadly force option that he learned from his training.

he thought to himself that he did not want to die. He remembered being punched again as he spun, which sent him to the ground.

Officer Putzel recalled repeatedly telling Ortiz, “Stop!” which had no effect. Officer Putzel was on his back on the ground as he tried to kick at Ortiz. Ortiz continued to punch him. During the flurry of punches, Officer Putzel particularly recalled one that he took on the right side of his face. His thought process was, “This guy is going to fucking kill me. He is not stopping. He’s going to fucking kill me.” The officer stated he was almost rendered unconscious by this blow.⁶

Officer Putzel thought that if he did not shoot Ortiz, Ortiz would kill him. His vision was extremely blurry, and he felt light-headed and nauseous. Ortiz was still on top of the officer, who was on his back. While he put his left hand out to keep Ortiz away from him, Officer Putzel was able to unholster his pistol and fire one round. Officer Putzel said, “I was just trying to make him stop — the one round, I saw him fall, so I didn’t attempt another trigger pull.”

After firing one round, Officer Putzel created distance between himself and Ortiz. Ortiz was now on the ground and no longer coming at the officer. Officer Putzel holstered his pistol. Ortiz was still moving, so Officer Putzel handcuffed him. After he handcuffed Ortiz, he broadcast, “Shots fired!” over the radio.

Officer Putzel recalled he was still stumbling as he went to his patrol vehicle and retrieved his medical bag. Officer Putzel remembered a deputy sheriff arriving on-scene, who helped him perform CPR on Ortiz.⁷ Officer Putzel began chest compressions and then asked the deputy to take over while the officer provided breaths with a bag valve. A second deputy arrived and applied a medical patch specifically designed for bullet

⁶ Officer Putzel suffered a displaced right orbital fracture as discussed in more detail below.

⁷ Later identified as Deputy Timothy Urton.

wounds to Ortiz's chest.⁸ At some point, a witness with a beard approached.⁹ The witness remarked, "That guy kept fucking beating you man!" Officer Putzel said the witness wanted to leave, but he asked him to please stay in the area.

When reflecting on the incident, Officer Putzel stated that he never radioed his dispatch that he was about to contact Ortiz. When he saw that Ortiz was simply walking on the shoulder and not violating the law, he was going to advise him to stay off the road. As he was being assaulted, Officer Putzel knew that back-up was not coming. "I knew it was just me and him. I knew I was not getting any help. I knew that there wasn't going to be anyone else there to stop him from killing me, except for me." Officer Putzel noted that this was the first time he had been assaulted in his 18 years as a law enforcement officer.

Officer Putzel indicated he did not want to be transported by ambulance to the hospital. He was brought to the Ventura County Medical Center by California Highway Patrol Officer Todd Pourrey. The doctor indicated that he sustained a concussion, a fracture to his right orbital bone, and a fracture to his auxiliary bone, which was under the orbital bone. He also had nerve damage, which resulted in numbness to his face.

6. Deputy Timothy Urton

At approximately 6:09 a.m., Deputy Timothy Urton was in his patrol vehicle stopped at the stop sign at West Portal Road and Highway 33. He witnessed a male across the highway waiving his hands in the air to get his attention. As Deputy Urton approached the scene, he saw Officer Putzel kneeling next to Ortiz with a medical bag next to him. Officer Putzel indicated that Ortiz walked up to his door and "just started swinging." Deputy Urton noticed redness and cuts on the left side of Officer Putzel's face. Officer Putzel's uniform was torn around the collar and his nameplate was on the ground near Ortiz.

⁸ Later identified as Detective James Douglas.

⁹ Later identified as Christopher Holladay.

Deputy Urton saw that Ortiz was wearing a yellow armband that he recognized as an inmate armband at the Ventura County Sheriff's Jail facility. The armband had the name "Joshua Ortiz." Deputy Urton radioed his dispatch and began to assist with chest compressions while Officer Putzel administered breaths. Officer Putzel remarked, "I was on the ground, he had me." Detective Douglas later arrived on scene and applied a clear bandage over the gunshot wound. Deputy Urton's body-worn camera captured the event.

7. Richard Hooper

Richard Hooper was interviewed at the scene of the assault. Hooper lived on Spring Street, on the opposite side of Highway 33 from where the assault occurred. Hooper was not an eyewitness to the incident; however, he heard Christopher Holladay yell outside. He heard what sounded like a firecracker. Eventually, he walked to the scene of the assault and saw officers performing CPR.

Detective Gabriel Gonzales later learned that Hooper took a photograph of Officer Putzel and Deputy Urton performing CPR on Ortiz. Hooper indicated that he sent the photograph to a friend, Rob Jones. Jones posted the photograph on the Facebook page "Safety for Citizens" in response to negative posts claiming that law enforcement had not provided aid to Ortiz.



Photograph taken by Richard Hooper showing Officer Putzel and Deputy Urton performing CPR on Ortiz. Officer Putzel is on the left.

B. Video from Officer Timothy Putzel's Vehicle

California Highway Patrol vehicles are equipped with a Mobile Video Audio Recording System (MVARs) mounted inside of the vehicle. The MVARs system consists of a forward-facing camera which records through the front windshield of the patrol vehicle. The camera does not capture any side or rear angles. The camera always records and cannot be deactivated during a shift unless an officer physically removes a DVD that is inserted into the system at the beginning of each shift. The audio can be activated by the officer from a remote on their person.¹⁰

¹⁰ Officer Putzel was not wearing a body-worn camera. The California Highway Patrol did not issue body-worn cameras to their officers at the time of this incident.

On July 5, 2019, the video system in Officer Putzel's vehicle was working properly. The video time stamp began recording from 0:00 when Officer Putzel started his vehicle in the Ventura CHP parking lot. At approximately four minutes into the recording, Officer Putzel drove out of the parking lot and began his patrol shift. As Officer Putzel responded to the call, the MVARs video captured Joshua Ortiz walking on the shoulder of Highway 33 north of Old Creek Road at 30:45 minutes into the recording.



Photograph exported from Officer Putzel's patrol vehicle MVARs showing Ortiz, identified with orange arrow, walking northbound on Highway 33 towards Oak View.

At 35:45 minutes, Officer Putzel drove across Highway 33 and parked on East Portal Street. At 36:05 minutes, Officer Putzel's vehicle briefly shook from side-to-side. At 36:11 minutes, Officer Putzel came into view on the video, as he was chased from behind by Ortiz.



Photograph exported from Officer Putzel's patrol vehicle MVARs showing the officer being pursued by Ortiz.

Ortiz threw two punches at Officer Putzel's face, as the officer tried to turn away from him. Ortiz maneuvered behind Officer Putzel and got him into a choke hold while continuing to throw punches.



Photographs exported from Officer Putzel's patrol vehicle MVARs showing Ortiz getting Officer Putzel into a chokehold.



Photograph exported from Officer Putzel's patrol vehicle MVARs showing Officer Putzel being thrown to the ground by Ortiz.

Eventually, Officer Putzel fell to the ground. While on the ground, Officer Putzel attempted to kick up at Ortiz who was standing over him. Ortiz threw several more punches with both hands at the officer's face while kneeling over him.



Photographs exported from Officer Putzel's patrol vehicle MVARs showing Ortiz punching Officer Putzel while the officer was lying on his back.

At 36:15 minutes, Officer Putzel drew his firearm while being punched by Ortiz. Officer Putzel fired a round into Ortiz, causing Ortiz to fall onto his back.



Photograph exported from Officer Putzel's patrol vehicle MVARs showing Officer Putzel shooting Ortiz.

At 36:40 minutes, Officer Putzel holstered his firearm and he appeared to stumble. Officer Putzel approached Ortiz, who turned over from his side onto his back as he threw his elbow towards the officer. Eventually, Officer Putzel was able to handcuff Ortiz and then used his hand-held radio to call for assistance. Officer Putzel began performing CPR with the assistance of Deputy Urton, who had arrived on-scene. At 42:45 minutes, Officer Putzel activated the audio recorder located on his person. The audio inside of the patrol vehicle was then triggered.

At 43:15 minutes, Officer Putzel told witness Christopher Holladay, "Dude, he walked up to my car and just started swinging man. He fucking got me good. He dropped me right here on the ground."

At approximately 58:05 minutes, emergency personnel ceased medical aid and covered Ortiz's body with a white blanket.

C. Prior Arrest of Joshua Ortiz by Port Hueneme Police on June 5, 2019

On June 5, 2019, at approximately 12:30 p.m., Port Hueneme Police Officer Frank Montelongo was dispatched to a call of a male throwing rocks at vehicles near

Bard Elementary School. Officer Montelongo arrived and saw Ortiz, who matched the physical and clothing description of the disturbing party. Officer Montelongo activated his overhead lights and advised Ortiz that he needed to speak with him. Ortiz looked in his direction and fled. After a two-minute pursuit, Officer Montelongo gained control of Ortiz and handcuffed him.

Officers interviewed witnesses at the scene, who indicated that Ortiz was throwing objects at vehicles and scratching vehicles with an unknown object. Another witness indicated that she was in line to pick up her daughter at Bard Elementary when Ortiz approached and attempted to open her back door where her baby was seated. Ortiz was unable to get inside of the locked door, and he ended up scratching her vehicle.

Ortiz was arrested for a violation of Penal Code section 594(b)(1), felony vandalism, and Penal Code section 148(a)(1), resisting arrest. He was convicted of resisting arrest and he served approximately one month in the Ventura County Jail. He was released on July 4, 2019.

D. Joshua Ortiz's Background

Joshua Ortiz (DOB 06/16/1998) was a 21-year-old, white male, 5 feet 11 inches, weighing approximately 170 pounds. He was single and moved out of his father's house in Yucaipa when he was 17 years old. He lived homeless in Mammoth Lakes and Bishop, California, in 2018–2019. For unknown reasons, he arrived in Ventura County in May 2019. He spent the majority of June 2019 in custody in the Ventura County Jail. He was released one day prior to his death.

Detectives from the Ventura County Sheriff's Office interviewed members of Ortiz's family and obtained police reports from both Inyo and Mono County Sheriff's Departments.

Detective Ron Chips interviewed Bambi Ortiz, Joshua Ortiz's aunt. She indicated that Joshua Ortiz moved out when he was 17 years old. She stated that he had mental illness

issues, and he thought he was “Jesus Christ.” She stated that he was not homicidal or suicidal, and generally happy-go-lucky. She had last spoken with him in May 2019.

Detective Sergeant Ron Chips interviewed David Ortiz, Joshua Ortiz’s father. He indicated that his son had been homeless for three years. Joshua Ortiz had a difficult time responding to the death of his mother approximately six years prior. David Ortiz had not heard from his son in several months. David Ortiz indicated that he did not know of any connections that his son would have in Ventura County and did not know why his son was in the county.¹¹

From February 2018 through May 2019, Ortiz was living in Bishop, California, and Mammoth Lakes, California. He was contacted multiple times by the Inyo and Mono County Sheriff’s Departments for theft, trespassing, public intoxication, and possession of controlled substances. Ortiz appeared to have significant issues with substance abuse involving alcohol and controlled substances. On June 13, 2018, he was contacted in Mammoth Lakes and found in possession of methamphetamine and a smoking pipe. On August 28, 2019, he was removed from a tourist bus in Red’s Meadow in the Mammoth Lakes area due to his high level of alcohol intoxication. Based on a review of the contacts and reports, it appears Ortiz was homeless. On September 7, 2018, he was contacted in Mammoth Lakes, California, holding broken glass and standing in a pool of his own blood. He told officers that he had a “change of heart.” Ortiz was taken into custody on a psychiatric hold.

During Ortiz’s time in custody in the Ventura County Jail, he was given a mental health assessment after staff members noticed that he was talking to himself. During the mental health assessment, staff members noted that Ortiz presented with paranoid ideation and altered thought processes. Ortiz was evaluated for a psychiatric classification. On June 27, 2019, Ortiz was recommended into the Telecare Vista outpatient medical program and was released from jail on July 4, 2019.

¹¹ Joshua Ortiz was first contacted by law enforcement in Ventura County on May 19, 2019. He was smoking in the city of Moorpark, which was a violation of a city ordinance. He was contacted by the Ventura County Sheriff’s Office and asked to put out his cigarette.

III.
PHYSICAL EVIDENCE

A. Crime Scene

The crime scene occurred on East Portal Street, just east of Highway 33. East Portal Street is a two-lane, asphalt-paved roadway that runs east and west. East Portal Street is situated between Highway 33 and Park Avenue, in the unincorporated area of Ventura County known as Oak View. This area is considered residential and commercial, with businesses and homes on East Portal Street. The street has a slight incline as it runs east from Highway 33. The north side of East Portal Street has a large planter with trees and a wood barrier that runs parallel to the asphalt curb along the street. The south side of East Portal street also has a raised asphalt curb that runs parallel with the street. There are no sidewalks on East Portal Street.



Photograph taken from Ventura County Sheriff's drone unit of East Portal Street looking west to the intersection of Highway 33. Officer Putzel's patrol vehicle is detailed by a blue arrow. Ortiz's body is being shielded from view by a red tarp and detailed with a light blue arrow.

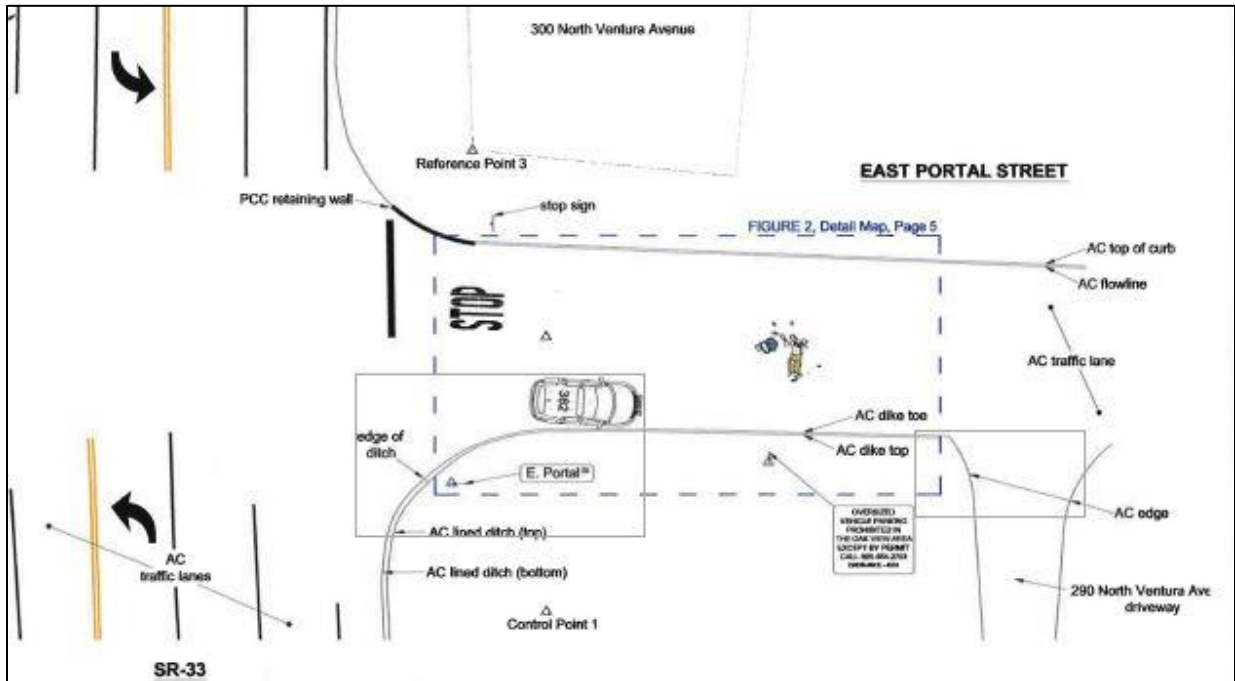
Various items of physical evidence were collected by the Ventura County Sheriff's Office. At the scene, Detective Frances Saleh drove southbound on Highway 33 to look for any discarded clothing. She located a red shirt approximately 50 yards north of Old Creek Road on the east shoulder. She found a pair of tan work boots north of the red shirt.



Photograph of Ortiz's discarded red shirt and work boots located on the east shoulder of northbound Highway 33.

Detective Cyrus Zadeh collected Officer Putzel's Smith and Wesson .40 caliber duty weapon at the Ventura County Medical Center. Zadeh noted that it appeared only one round had been fired. That round's shell casing had not been ejected from the gun and was still inside the chamber at the time of the inspection.

The California Highway Patrol prepared a crime scene diagram in the case, as shown below. The location of Officer Putzel's patrol vehicle and Joshua Ortiz's body are detailed to scale. No shell casings were located at the scene.



CHP diagram depicting the location of Officer Putzel’s vehicle parked on East Portal Street, near the intersection of Highway 33. Ortiz’s body is to the front, left of the vehicle.

B. Autopsy

On July 8, 2019, an autopsy was performed on Ortiz’s body by Dr. Christopher Young, a forensic pathologist and Chief Medical Examiner for the Ventura County Medical Examiner’s Office. Dr. Young located one gunshot wound to Ortiz’s chest. Dr. Young noted stippling and powder burns around the wound, indicating firing at close range. The bullet entered through Ortiz’s right upper chest and lodged in the lower left back, just beneath the surface of the skin. The overall bullet pathway was front-to-back and downward left-to-right. This bullet was recovered from Ortiz’s body. Dr. Young concluded that Ortiz died from the gunshot wound.

C. Toxicology Report

Ortiz’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 his blood showed that his blood contained caffeine and alcohol. His blood alcohol level was 0.03 percent.

D. Officer Putzel's Injuries

Sergeant Michelle Fournier arrived on-scene at approximately 6:18 a.m. She photographed Officer Putzel while he was still at the scene. Sergeant Fournier noted that Officer Putzel had a swollen face and blood around his lips.

Detective Gabriel Gonzales spoke with Officer Putzel on the morning of July 5, 2019, at the Ventura County Medical Center. Detective Gonzales noted that the officer had dark bruising forming around his right eye, which was swollen. Officer Putzel had a red scratch on his left cheek. Detective Gonzales also noticed blood stains on Officer Putzel's pant legs.

Ventura County Medical Center doctors performed a CT scan of Officer Putzel's facial bones. He was diagnosed with a displaced right orbital bone fracture, a non-displaced right sinus fracture, and a hemorrhage in his right sinus. He had symptoms consistent with a concussion. He was referred to a facial surgeon for potential nerve damage, as he had decreased sensation on the right side of his face.¹²

Four days later, detectives from the Ventura County Sheriff's Office took follow-up photographs of Officer Putzel's injuries. By that time, Officer Putzel had significant bruising and discoloration around his right eye.

IV.

LEGAL PRINCIPLES

A. Law of Homicide and Self-Defense¹³

¹² Two weeks after the incident, after evaluating Officer Putzel's injuries, the surgeon recommended no further treatment.

¹³ This legal analysis applies the laws in place as of July 5, 2019, the date of this shooting. Assembly Bill 392, Peace Officers: Deadly Force, which enacted Penal Code section 835a and modified Penal Code sections 196, was enacted on August 19, 2019, and became effective on January 1, 2020.

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 (November 2019 Update), CALCRIM 505, “Justifiable Homicide: Self-Defense or Defense of Another.”*)

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) 572 U.S. 765, 777; 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, supra*, 490 U.S. at 396.)

B. Joshua Ortiz's Criminal Conduct

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

- Assault on a peace officer by means likely to produce great bodily injury in violation of Penal Code section 245(c);
- Assault causing serious bodily injury in violation of Penal Code section 243(d);
- Resisting an executive officer in violation of Penal Code section 69; and
- Resisting, obstructing, or delaying a peace officer in violation of Penal Code section 148(a)(1).

V.

ANALYSIS

For several years, Joshua Ortiz had been dealing with mental health issues, likely exacerbated by substance abuse. Most of his law enforcement contacts centered around Mammoth Lakes and Bishop, California. Ortiz appeared to be living homeless during the majority of his contacts with police, where he was stealing food and told to stay away from some of the businesses. Ortiz's first appearance in Ventura County was in May 2019, approximately two months before his death. The reason he traveled to Ventura County is unknown. Ortiz was arrested in June 2019 and spent one month in the Ventura County Jail, where he was flagged as having mental health issues. He was released on July 4, 2019. Unfortunately, the plans for his mental health treatment had not yet come to fruition by the time he was released.

In the early morning hours of July 5, 2019, Ortiz was on foot, walking northbound on Highway 33 towards Ojai. Ortiz was running at vehicles driving by at speeds of 50 mph. He struck several vehicles with his hand as they swerved to avoid him. Both Jennifer Hogue and Pat Grennan remarked that it appeared Ortiz was trying to kill himself. They

both called 911 to convey the danger that Ortiz posed to himself and those on the highway.

Dispatch advised Officer Putzel that a subject was running at vehicles in the roadway and provided a physical description. Although pedestrian contacts were common for the California Highway Patrol, Officer Putzel's senses were heightened when he heard someone was running at vehicles on the highway.

As Officer Putzel drove past Ortiz on Highway 33, Ortiz had already discarded his shirt and boots. It was not a warm morning, and Officer Putzel grew even more concerned when he saw Ortiz approaching him, shirtless and shoeless, as the officer exited his patrol vehicle.

As Officer Putzel exited his vehicle to check on the status of Ortiz, he was immediately assaulted with a flurry of unprovoked punches by Ortiz. Officer Putzel attempted to unholster his taser, but he was unable to do so while being punched repeatedly. Officer Putzel attempted to create distance by running away from Ortiz. Ortiz grabbed the officer around his neck from behind and spun Officer Putzel to the ground while continuing to punch him.

Officer Putzel was lying on his back as he attempted to kick up at Ortiz to keep him at bay, but it was to no avail. Ortiz pushed the officer's legs to the side and hovered over him as Ortiz let loose a barrage of punches to the officer's face. Officer Putzel felt like he was going to lose consciousness.

Across Highway 33, David Valdez was facing the direction of the assault, where he was stopped at a stop sign on West Portal Street. He saw Ortiz walk towards Officer Putzel and throw punches at the officer's head. Moments later, Officer Putzel was on his back and Ortiz stood over him punching and kicking him.

Christopher Holladay had a similar perspective as he walked towards the incident on West Portal Street, across Highway 33. Holladay stated that Ortiz was hitting Officer Putzel in the head while the officer was still exiting his vehicle. Officer Putzel appeared to be stunned by the blows. As the attack continued, Holladay indicated that Ortiz was “all over” Officer Putzel swinging punches. Holladay saw Officer Putzel go down to the ground while Ortiz was on top of him.

Officer Putzel suffered significant injuries to his face during the attack. He sustained a fractured orbital bone on his right side and fractured sinus on his left side. His symptoms were consistent with sustaining a concussion. As he was sustaining the blows to his face, Officer Putzel felt light-headed, his vision was blurry, and he was losing consciousness.

Under these circumstances, a reasonable officer would have concluded, as did Officer Putzel, that Ortiz’s actions posed a significant threat of death or serious physical injury to the officer. Ortiz had thrown numerous punches at the officer, who had just exited his vehicle to check on Ortiz’s welfare. As Officer Putzel tried to create space, Ortiz got him into a chokehold from the rear, inhibiting the officer’s breathing, and then took the officer to the ground which is a position of disadvantage to the officer.

Officer Putzel found himself defenseless on his back. He tried to kick up at Ortiz, but it had no effect. Ortiz continued to punch the officer on both sides of his head. At this point, it is reasonable to believe that the immediate use of deadly force was necessary to defend against the danger that Ortiz presented. Ortiz’s actions constituted an assault by means likely to produce great bodily injury upon a peace officer, a violation of Penal Code section 245(c), and an assault causing serious bodily injury, a violation of Penal Code section 243(d). Ortiz’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 Putzel fired a single shot in response to the threat Ortiz posed. Ortiz immediately fell backwards, and Officer Putzel holstered his firearm. Consistent with his training,

Officer Putzel ceased the use of deadly force. Then, Officer Putzel immediately began life saving efforts on Ortiz with the assistance of Deputy Urton.

An evaluation of the reasonableness of Officer Putzel's decision requires consideration of the limited amount of time he had to decide to use deadly force in a completely unprovoked, violent situation. A review of the patrol vehicle MVARs video revealed that approximately 10 seconds passed from the time Ortiz initiated the assault to the point when Officer Putzel fired the shot. During this very brief window of time, Officer Putzel sustained numerous blows to his face, resulting in multiple fractures.

Officer Putzel was not legally obligated to retreat from the assault by Ortiz. However, Officer Putzel did attempt to gain space between himself and Ortiz to no avail. Ortiz continued to strike Officer Putzel so rapidly and viciously that he broke bones in Officer Putzel's face. The officer fired the shot as a last resort to avoid unconsciousness. At this point, Officer Putzel was thinking, "This guy is going to [] kill me. He's not stopping. He's going to [] kill me!" Officer Putzel knew that he was alone, and backup was not arriving. He fired his weapon to avoid the significant threat of great bodily injury or death. After Officer Putzel fired the shot, he secured the scene and began lifesaving attempts even though he had just sustained serious injuries.

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

VI.
CONCLUSION

It is the conclusion of the District Attorney that:

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