

**REPORT ON THE FATAL SHOOTING OF**

**DIANA SHOWMAN**

**ON AUGUST 14, 2014**



**JEFFREY F. ROSEN**

**DISTRICT ATTORNEY**

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## PREAMBLE

The summary of this incident is drawn from reports prepared by the San Jose Police Department and submitted to the District Attorney's Office by the case agent, Detective Sergeant Stewart Davies. The submission included various narrative reports documenting interviews of the involved officers and civilian witnesses, electronic recordings of involved officers and percipient civilian witnesses, crime scene details, cell phone videos, and the autopsy report. This review was conducted pursuant to the Officer-Involved Incident Guidelines adopted by the Santa Clara County Police Chiefs' Association on May 12, 2011.

## FACTUAL SUMMARY

Diana Showman was born on July 5, 1995. Her parents were James and Victoria Showman. Diana Showman was diagnosed as bi-polar at six years of age and had been on several medications to regulate her behavior. She had a history of occasionally becoming angry and violent per her family. On November 5, 2013, she became violent with her family, was restrained by her father and was placed on a 72 hour hold as a danger to herself and others by Santa Clara County Sheriff's Deputies. On November 11, 2013, another 72 hour hold was initiated after Showman attempted suicide by drinking laundry detergent that she thought was bleach. On May 20, 2014, deputies placed Showman under another 72 hour hold when she was cutting herself and told deputies that she intended to kill herself.

On August 12, 2014, Diana Showman was 19 years old and was living with her mother on Homerite Drive. Her mother caught her stealing and locked her out of the house. Her family called the Sheriff's Department and James Showman, who was separated from Victoria Showman, agreed that Diana could stay with him at a rental property he was working on at 799 Blossom Hill Road in San Jose.

Text messages from Diana Showman's phone indicate that on August 13 and 14, 2014, Diana was having an argument with her girlfriend and also expected an unknown person to be coming to collect money from her.

On August 14, 2014, James Showman went to work in the morning. Diana was awake and watching television when he got up at 5:30 a.m. James called her from work that morning to remind her to take her medication.

That morning Diana Showman took her father's Dewalt cordless power drill which was bright yellow and spray-painted it flat black. The drill is trigger activated and had a trigger guard. (See Exhibits 1 and 2 for photos of the drill.)

At 10:36 a.m. Diana Showman call 911 and said that she had an Uzi assault weapon and would shoot her mother and brother if the police did not come. She spoke to the 911 operator for more than 20 minutes during which time she said that her mother and brother were locked in a back room. The operator asked her repeatedly to leave the weapon in the house when she came

outside. Ultimately Diana Showman told the operator that she had left the gun on the table and would be coming out. Prior to this she asked the operator if it was illegal to lie to police.

Multiple officers responded to the call of a woman with an Uzi holding her mother and brother hostage and threatening to shoot them. Officers Morales and Monlux and Sgt. Gonzalez took tactical positions to the southwest of 799 Blossom Hill Road. Officers Anderson and Okuma took positions to the southeast of the entrance to 799 Blossom Hill Road. Officers Okuma and Anderson were both armed with AR-15 assault rifles given the report that the suspect was armed with an assault weapon. Multiple civilians witnessed the shooting and the minutes preceding it. (See Exhibit 4 for a diagram of the approximate locations of the key officers, Diana Showman and the civilian witnesses at the time of the shooting.)

When Showman exited the house at approximately 10:57 a.m. she was holding the now painted black power drill in her right hand and her cell phone in her left hand. There was no drill bit in the drill. Officer Okuma was designated to give all commands to the suspect and began ordering her to put the weapon down.

Showman raised both of her hands over her head and dropped the cell phone but not the drill. Officer Okuma continued to tell Showman to put the weapon down. Showman pointed the drill in the direction of Officers Morales and Monlux and Sgt. Gonzalez (See Exhibit 4 for video still taken by Michael Tropf) then put it behind her own head and began walking toward Officer Okuma. Showman then pointed the drill at Officer Okuma then lowered it to her side. Showman then turned back toward Officers Morales and Monlux and Sgt. Gonzalez and pointed the drill toward them again. Showman then lowered the drill again and began walking toward Officer Okuma.

Officer Okuma continued to tell Showman to stop and drop the weapon. Showman never spoke to any of the officers. Showman continued walking toward Officer Okuma who was pointing her AR-15 rifle at Showman. Showman stopped approximately 30 feet from Officer Okuma and raised the drill. Showman pointed the drill at Officer Okuma. (See Exhibit 6 for video still taken by Pedro Alba Nevado.) Officer Okuma's last order to Showman was, "Stop it. Stop right there." Officer Okuma believed the drill was a firearm and thought she was going to be killed by Showman. Officer Okuma fired a single round at the center of Showman's body. The round struck Showman in the upper torso and Showman fell to the ground. This was captured on video by a civilian bystander, Pedro Alba Nevado.

Sgt. Gonzalez and Officers Monlux, Anderson and Okuma made a tactical approach to Showman who was laying on her back and still moving her arms. Officer Monlux kicked the drill away from Showman. Officer Okuma picked the drill up and put it in her patrol car. Sgt. Mason later placed the drill in its approximate original position from where Officer Monlux had kicked it.

The home at 799 Blossom Hill Road was searched and no one else was located inside. Showman's brother and mother were never in the home that day. Showman's prescription medication was found inside the home.

Officers secured, searched and provided first aid to Showman prior to and until paramedics arrived. Showman was taken to Valley Medical Center where she died at 12:19 p.m.

The conclusion from her autopsy was that Showman died as a result of the single gunshot wound. Showman had therapeutic levels of her prescription medication in her blood at the time of her death.

## **STATEMENT OF FACTS**

### **PRIOR INCIDENTS**

On November 5, 2013, Santa Clara County Sheriff's Deputies placed Diana Showman on a 72-hour psychiatric hold pursuant to Welfare and Institutions Code section 5150. Showman was at her mother's home on Homerite Drive in San Jose. Showman called 911 and reported that she had intentionally ingested bleach. Showman had ingested a cleaning solution she thought was bleach in order to end her life. The substance was actually a laundry soap and was less toxic than bleach. Showman told the deputy that she had bi-polar disorder and was under the supervision of a psychiatrist at Kaiser Permanente. She said that her best friend told her via Facebook that she was ending their friendship. Showman said she became upset and decided to drink bleach. She said she ingested a quarter cup, vomited it up, and then ingested another quarter cup which stayed down. She said she ingested the substance in the hopes that it would take her life.

On March 19, 2014, Santa Clara County Sheriff's Deputies placed Diana Showman on a 72-hour psychiatric hold again. They responded to the Homerite Drive home in San Jose. Diana had gotten into an argument with her mother about her mother's drinking, and then began arguing with her younger brother, Robin. She called her father, who had been separated from her mother for approximately six months. When her father arrived, he said that he was going to take Robin to stay with him. Diana became more agitated and rushed at her mother. Her father tackled her and she kicked at him. When police arrived she told them she was bi-polar. Her parents told deputies that Diana had been diagnosed as bi-polar at age three. All of the family members said they were concerned for their safety.

On May 20, 2014, Santa Clara County Sheriff's Deputies placed Diana Showman on a 72-hour psychiatric hold after she cut herself. They responded to the Homerite Drive home in San Jose after Diana called 911 and reported that she was upset and wanted to kill herself. The deputy saw that Diana appeared to have been cutting her legs. Diana told the deputy she wanted to kill herself and was trying to figure out how to do it. Diana said she wanted to see a doctor to prevent herself from doing this. Diana admitted that she had been cutting her legs earlier in the day in order to deal with the anxiety of having her phone taken away by her mother. Diana said she had attempted suicide several times before that day.



## SHOOTING ON AUGUST 14, 2014

### **911 CALL FROM DIANA SHOWMAN**

At 10:36 a.m. on August 14, 2014, Diana Showman called 911 from her cell phone. She began the call by advising the 911 operator, "I will shoot my family if the cops don't come to me before I shoot them." Diana Showman sounded calm during the entire call which lasted more than twenty minutes. The 911 operator also remained calm during the entire call.

The operator took general information from Diana Showman such as the address and type of structure she was in, as well as her name, date of birth and physical description. Diana Showman told the operator that she had her mother and brother locked in a room and that she had an "Uzi" assault weapon. Showman said that she did not have a medical diagnosis and was not on any medication.

Diana Showman was told multiple times that when she came out of the house she needed to leave the weapon behind. Diana Showman said that she could not do that. When the operator finally told Showman to go outside after approximately 21 minutes on the phone with Showman, Showman told him that she was leaving the weapon on the table in the home. The operator told her to hold her hands up when she came out and to do what the offices told her. Soon after this Showman is no longer heard speaking on the phone. At approximately 22 minutes and 22 seconds in the call another voice is heard in the background yelling for Showman to put her hands up and drop "it". Within ten seconds there is a thud which is probably the sound of the phone striking the lawn. The 911 call continues to record for approximately three more minutes with no other discernable sounds. A popping sound is heard at 25 minutes and 48 seconds into the call followed by unintelligible voices, but it cannot be definitely said to be the sound of a gunshot.

## LAW ENFORCEMENT OFFICER STATEMENTS

### **SGT. JAIME GONZALEZ (2913)**

On August 14, 2014, Sgt. Gonzalez was the uniformed patrol sergeant for District Yellow in the Southern Division of San Jose. At approximately 10:36 a.m. officers were dispatched to 799 Blossom Hill Road based upon a call from Diana Showman at that address. Officers were advised that Diana Showman said she had an Uzi submachine gun, was with her mother and 15-year-old brother, and was going to shoot them if police did not respond. Showman described herself as a white female adult with a blond ponytail wearing a blue shirt and black basketball shorts.

Sgt. Gonzalez authorized officers to respond with their emergency lights and siren. When he arrived, officers had already begun setting up a perimeter, putting an arrest team in place including a CIT (Crisis Intervention Trained) officer and Specialist. Officer Morales was coordinating the events. Officer Morales was at the corner of Playa Del Rey and Blossom Hill

Road with Officer Monlux. Officers Okuma and Anderson were east of this intersection and were attempting to block multiple lanes of traffic on Blossom Hill Road and hold the perimeter as they waited for additional officers to arrive.

Sgt. Gonzalez went the rear of 799/797 Blossom Hill Road (a multiple unit residential building). He saw that Officers Macias and CIT Officer Valverde there. Officer Nguyen was holding the perimeter and blocking traffic at Playa Del Rey and Wedgewood Drive. Sgt. Mason was also to the rear of the building.

Officers received updates from dispatch during the incident. An identification of Diane Showman was made, but was listed at a different address. No local or state criminal history was associated to Diane Showman. No weapons were registered to her. No phone number for 799 Blossom Hill Road could be located. The cell phone of the 911 caller had a GPS coordinate at 799 Blossom Hill Road.

Dispatch advised that the 911 caller was still on the line. Sgt. Gonzalez instructed dispatch to tell the caller to disarm and exit the home.

Sgt. Gonzalez heard over the radio that the suspect-caller was exiting to the front, toward Blossom Hill Road. He met up with both Officers Morales and Monlux who were taking cover behind a patrol car at the corner of Blossom Hill Road and Playa Del Rey. He heard several commands for the suspect to drop the weapon which she was holding in her right hand. She had walked out the front door and was in the front yard area. She was facing away from Sgt. Gonzalez and was facing Officers Okuma and Anderson. She had her hands above her shoulders and what appeared to be an Uzi type weapon pointed up when Sgt. Gonzalez first saw her. The suspect then turned toward Sgt. Gonzalez and pointed the Uzi-type weapon at Sgt. Gonzalez, Officer Morales and Officer Monlux. Sgt. Gonzalez feared for the safety of the officers and himself, but the line of fire was not clear for any of them to shoot. The suspect had walked too far out into the front yard for officers to have a clear and confident shot due to the multiple lanes of traffic, pedestrians and Officers Okuma and Anderson being in the backdrop.

Officer Okuma coordinated with Officer Morales over the radio to have the suspect surrender to Officers Okuma and Anderson. Officer Okuma then started to give commands for the suspect to surrender to them. The suspect again pointed the weapon in the direction of Sgt. Gonzalez, Officer Morales and Officer Monlux. Sgt. Gonzalez did not fire out of concern for the surrounding people in the vehicular and pedestrian traffic as well as the other officers who were in his line of fire. The suspect then turned away from Sgt. Gonzalez and started to walk toward Officer Okuma and Officer Anderson. Repeated commands were given for the suspect to drop the weapon. The suspect did not drop the weapon.

The suspect then pointed her weapon in the officers' direction several times and did not comply with their commands. The suspect advanced further with the weapon pointed at Officer Okuma. As the suspect was closing the distance, Officer Okuma fired at the suspect. The suspect was hit and fell to the ground. Sgt. Gonzalez updated dispatch that shots were fired and to send Fire and EMS personnel. Sgt. Gonzalez instructed Officer Morales to maintain their cover to the front of the duplex with his rifle. Sgt. Gonzalez instructed Officer Monlux to move

forward with him and to link up with Officers Okuma and Anderson in order to make the arrest of the armed suspect.

Officer Monlux and Sgt. Gonzalez moved forward toward Officers Okuma and Anderson. The four of them then approached and handcuffed the suspect. Sgt. Gonzalez saw that the suspect was bleeding from the upper chest and instructed the officers to provide first aid until medical personnel could arrive. Officer Monlux then handed Sgt. Gonzalez his weapon so he could perform first aid.

Officer Okuma secured the suspect's weapon in her driver's front seat of her marked patrol car which was left parked at the scene on west bound Blossom Hill Road.

They were still concerned about any other possible threats that could emerge from the duplex so Officers Morales and Anderson maintained cover to the front. Sgt. Gonzalez instructed Sgt. Mason to enter the residence, looking for any other threats and or victims since the suspect had threatened to shoot her mother and 15-year-old brother. Sgt. Mason then entered the target residence and rendered it safe.

Fire and EMS arrived and rendered medical aid to the suspect. The suspect was then transported to VMC via ambulance and Officer Macias followed and maintained custody of the prisoner and provided updates.

Sgt. Gonzalez updated dispatch to notify the lieutenant of the event. Sgt. Gonzalez set up the command post across from the scene, in the east bound lanes of Blossom Hill Road. He made a preliminary request for resources including numerous officers, sergeants and PICS (Patrol Initiated Crime Scene) to respond to assist with the investigation. Sgt. Gonzalez gave instructions for a canvass of the area to be completed by Sgts. Mason and Finnie, for photos to be taken and for the father of the suspect to be transported to the witness center.

Lt. Pedreira arrived and was fully briefed along with Sgt. Mason. Sgt. Gonzalez was then relieved of the command post and requested to respond to San Jose Police Department in order to complete the investigation.

### **SGT. JAMES MASON (3761)**

On August 14, 2014, at approximately 10:43 a.m. Sgt. Mason responded to the area of Blossom Hill Road and Playa Del Ray to assist other Officers on a possible hostage barricade where the suspect was threatening to shoot her mother and fifteen-year-old brother with an "Uzi." At the time, he was in full uniform and driving a fully marked patrol vehicle, working as a Southern Division supervisor. Sgt. Gonzales was the District Yellow Sergeant and had already arrived on scene. Sgt. Mason arrived on scene at approximately 10:49 a.m. and took a position to the rear near the alley. As Sgt. Mason arrived, Officer Valverde was making contact with a male and female that lived at 797 Blossom Hill Road, the opposite side duplex of 799 Blossom Hill road. Officers Watson and Macias were on the same side of the building as Sgt. Mason.

During this time, dispatch had advised that the suspect, who was on the phone with dispatch, had locked her mother and brother in the back bedroom and had put the gun down on the table. The officers immediately attempted to determine if they could locate any access to the "back bedroom" of 799 Blossom Hill Road. From his position Sgt. Mason saw that there was a back patio area surrounded by a wooden, 6 inches wide slat, 6 foot tall fence. They were able to clearly see through the slats that the gate in the fence was unlocked and the rear sliding door to the house was open approximately 8 inches. At that point, they were unable to determine if the sliding door went into a bedroom or the main part of the house. At one point, the officers on the opposite side of the house had requested dispatch to tell the suspect to exit the front with nothing in her hands. A short time later, those officers advised that the suspect was exiting the front door. Those officers then updated that the suspect had a weapon in her hands and was pointing it at officers. At this time, based on the threats made by the suspect, her apparent present ability (weapon in hand) and demonstrated intent (pointing a gun at officers), Sgt. Mason decided that he and three officers would attempt to evacuate the hostages. Sgt. Mason was able to open the fence gate and take a position at the open rear sliding door. From that position Sgt. Mason was able to easily see into the residence. The sliding door went into the living room / kitchen area with a clear view of the open front door. He saw that the living room and kitchen were clear, and that there was a hallway with bedroom doors leading toward the front of the house. At approximately 10:58 a.m. he heard a single shot fired on the front of the house. At about the same time, an officer advised over the radio that a shot had been fired. He confirmed with Sgt. Gonzalez the suspect was "down". Not knowing whether the suspect was incapacitated at that point, and wanting to eliminate any possibility of her retreating back into the residence with hostages, he made entry from the rear to evacuate any hostages. He advised officers at the front of the house that they were making entry from the rear. At the same time, Sgt. Gonzalez advised that he was putting together an arrest team. No hostages / victims were located inside the residence.

Sgt. Mason then responded to the front of the residence. He observed the suspect down in a supine position in the #3 lane of westbound Blossom Hill Road, just east of 799 Blossom Hill Road. Officer Monlux appeared to be giving first aid (wound pressure). Sgt. Gonzalez advised that Officer Okuma was the "shooter". Sgt. Mason noticed that Officer Okuma was now seated inside her patrol car. He walked over to check on her welfare and to advise her of the Officer-Involved Protocols that were about to take place.

As he got to her vehicle, he noticed a black object on her driver's seat that resembled a gun. When he asked what it was, Okuma stated, "That's what she was pointing at us. Monlux kicked it to the side when we approached her, so I picked it up and set it here to secure it." Sgt. Mason carried it back to where Officer Monlux was providing first aid to the suspect and asked him where it had been prior to being picked up by Officer Okuma. Sgt. Mason then placed it in the position that Officer Monlux showed him. Sgt. Mason recognized the object to be a cordless drill that had been painted black.

Sgt. Mason re-contacted Sgt. Gonzalez and reminded him that because he was a "witness officer" to the shooting, that he too would have to go to the Homicide Unit and be sequestered.

Sgt. Mason then took over as Incident Commander of the crime scene. Lt. Pedreira arrived on scene a short time later.

Traffic was shut down on Blossom Hill road eastbound and westbound, and officers taped off the crime scene. As additional resources arrived on scene, Sgt. Mason assigned the following tasks:

- Officer Macias was immediately assigned to follow the paramedic rig to Valley Medical Center and stay with the Suspect.
- Sgt. Finnie was assigned as the Canvass Sergeant
- Sgt. Bortellotti was assigned to escort Officer Okuma to SJPD
- Officer E. Marquez was assigned to escort Officer Monlux and Officer Morales to SJPD
- Officer O. Sanchez was assigned to escort Officer Anderson to SJPD
- Sgt. Gonzalez drove himself to SJPD
- Sgt. Jeglum was assigned as scribe
- Officer Tompkins was assigned as the Log Officer
- Officer Zarate was assigned to escort witness R. Baker to the Witness Center
- Officer A. Rodriguez was assigned to escort witness R. S. Myers to the Witness Center
- Officer G. Silva was assigned to escort witness A. Mazari to the Witness Center
- Officer Prescott was assigned to escort witness P. J. A. Nevado to the Witness Center.

Sgt. Mason and Lt. Pedreira briefed Homicide Unit personnel when they arrived on scene. Sgt. Mason remained on scene until the Crime Scene Unit concluded their investigation.

#### **OFFICER RAMON MACIAS (4222)**

On August 14, 2014, at approximately 1037 hours, Officer Macias was dispatched to 799 Blossom Hill Road in San Jose on the report of woman with a gun threatening to shoot her family if the police did not show up. He arrived on scene and took a position on Playa Del Rey to the rear of the target address with a direct line of sight to the rear sliding-glass door of the residence at 799 Blossom Hill Road.

A broadcast went out over the air of "shots fired", and an arrest team was requested to take the suspect into custody. Fire and EMS were activated for the down suspect.

With the suspect reportedly down outside in front of the house, Sgt. Mason assembled an entry team to enter the house and clear it of any victims. Sgt. Mason, Ofc. Valverde, Ofc. Watson, and Officer Macias entered the residence through a sliding-glass door located to the rear of the residence to locate any victims. The entry team cleared the residence and did not locate any victims.

He secured the scene with orange tape. Sgt. Mason instructed Officer Macias to follow the suspect to the hospital and report on her conditions as they evolved. He arrived at Valley Medical Center Emergency Room with Medic 33 at approximately 11:25 a.m. and followed the suspect to the trauma room. At 11:45 a.m. he followed the suspect from the Emergency Room to the Second Floor Surgery Department. At 12:19 p.m., Dr. A. Garland pronounced the suspect deceased. Officer Macias called dispatch to update the event on her condition and asked them to contact Detective Kirby (2916) of the Homicide Unit to inform him of the update. The Santa Clara County Coroner was contacted by VMC Hospital. At 2:00 p.m. Coroner Investigator Andrea Whelan responded to VMC Second Floor Surgery to retrieve the body and assume responsibility from SJPd.

#### **OFFICER ANDREW WATSON (4099)**

On August 14, 2014, at approximately 10:37 a.m. Officer Watson responded to 799 Blossom Hill Road to the report of a woman calling and threatening to kill her entire family inside their home with an Uzi unless the police arrived.

He arrived on scene at approximately 10:49 a.m. and responded to the back alley of the residence which allowed Officer Macias, Officer Valverde, Sergeant Mason and Officer Watson a visual of the back gate and sliding door. Officer Watson could hear commotion inside the home and a female voice yelling. After about 10-15 minutes on scene, negotiations between SJPd Communications and the 911 caller were termed "uncooperative" as it was broadcasted to units on scene. Multiple units had already arrived on scene at Blossom Hill Road.

At around 10:57 a.m. he could hear movement inside the home and officers from the front of the house yelling loudly, "Put down the weapon", ten to fifteen separate times. As this was happening, officers on the backside of the home had no visual of the front of the house and were intent on finding any hostages as the 911 caller was confirmed to have walked out the front door.

Sergeant Mason unlatched the back gate and they were prepared to enter the back sliding door when he heard a loud "bang" and moments later officers broadcasted that, "Shots were fired." It was later broadcasted that the 911 caller was down. Sergeant Mason, Officer Valverde, Officer Macias and Officer Watson entered the rear of the residence to locate any hostages and were unable to locate anyone inside the house.

Officer Watson took a position to block all vehicle and pedestrian traffic along Playa Del Rey and taped off street and sidewalk access to the residence.

Officer Valverde advised that the 911 caller's father had arrived and he needed an additional officer to help him. Officer Watson arrived in the rear alley three to four houses east of the 911 caller's address and made contact with Witness James Showman. Witness Showman was very upset and he seemed to have an idea of something serious that had happened, but he was not told what happened. Officer Watson asked Witness James Showman if he could provide a statement and he said, "Yes." Officer Watson transported Witness Showman to the witness center then returned to the scene of the incident.

### **OFFICER BRENNAN MONLUX (4212)**

On August 14, 2014, at 10:36 a.m., Officer Monlux was on routine patrol in a marked San Jose Police patrol vehicle. SJPD Dispatch advised that a weapons disturbance was occurring in a neighboring patrol district at 799 Blossom Hill Road. Officer Monlux responded with emergency lights and siren. While en route to the call, SJPD Dispatch advised that a female subject was "threatening her family with an Uzi," stating that she "would shoot them if police did not come".

Officer Monlux arrived on scene and parked in the northern portion of the intersection of Playa Del Rey and Blossom Hill Road. Due to the fact that the female suspect stated she had a gun, he put on his police helmet and retrieved his 40mm projectile weapon as a less lethal option.<sup>1</sup> The 40mm rifle was on his back and he drew his service pistol from his holster.

From his position to the south-west of the target address he could see a walkway that the two duplexes shared. 799 Blossom Hill Road is connected to 797 Blossom Hill Road and separated by this sidewalk. He observed Officer Okuma and Officer Anderson take a position to the south-east of the target address behind a patrol vehicle. While watching the 799 Blossom Hill Road and simultaneously blocking public traffic flow to Playa Del Rey, Officer Monlux heard additional police units arrive over the radio and begin to take perimeter spots around 799 Blossom Hill Road. Officer Okuma broadcast over the radio that she would give verbal commands to the suspect should she exit the residence, and that Officer Morales and Monlux would take her into custody once it was safe to do so. Officer Morales acknowledged this plan over the radio and he and Officer Monlux verbally communicated that this was understood.

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<sup>1</sup> Officer Ken Hardesty (3541) is a certified instructor for the 40mm projectile rifle. Per Officer Hardesty, the effective range of this weapon is 15 to 60 feet. The San Jose Police Department uses this weapon to fire sponge rounds and it is used the majority of the time within 21 feet of the target. The initial velocity of the 40mm projectile is 200 miles-per-hour. The approved target areas are the arm below the elbow, the lower abdomen, thigh, the leg below the knee, and the buttocks. Shots to the head and upper torso can be fatal.

SJPD Dispatch advised that the suspect had told the call taker that she had put the weapon down on the table and had locked her family in a back room of the residence. Dispatch also advised that the suspect agreed to exit the residence.

From his position approximately 75 feet from the sidewalk, Officer Monlux observed a heavy female adult walk down the pathway and stand on the lawn.<sup>2</sup> She had a large L-shaped object in her right hand. The object was black in color and appeared similar to the weapon she stated she had. The suspect initially held the weapon at her side, pointed toward the ground. Officer Monlux could hear Officer Okuma give direct, verbal commands to the suspect to, "Drop the weapon. Drop it on the ground and put your hands in the air."

The suspect began to walk slowly toward Officer Okuma and Officer Anderson's position. The suspect raised her right arm and pointed the weapon straight up toward the sky. Her right arm bent slightly and she lowered the weapon behind her head. Officer Okuma again gave direct verbal orders to "Drop the weapon." Officer Okuma announced herself as "San Jose Police" and told the suspect to drop the weapon for a third time.

At that moment, the suspect lowered the weapon where the front of it was pointed directly toward Officer Okuma and Officer Anderson. The weapon, which Officer Monlux believed to be a firearm, was pointed toward Officer Okuma, making it readily accessible as a shooting weapon. Officer Okuma told the suspect to, "Drop the gun." The suspect lowered the weapon and then turned to the right and pointed it in the direction of Officer Morales and Officer Monlux. Believing that she was about to fire at them, Officer Monlux lowered the majority of his body behind the patrol vehicle, but began to line up the sights of his firearm on the suspect.

The suspect then turned back toward Officer Okuma where she raised the weapon again. Officer Monlux observed Officer Okuma discharge her firearm once, striking the suspect in the chest. The suspect fell to the ground and dropped the weapon that she had been holding. Once it was safe to do so, Officer Morales, Sgt. Gonzalez, and Officer Monlux moved into position to take the suspect into custody. With Officer Morales' help, Officer Monlux rolled the suspect onto her stomach and placed her in handcuffs. Officer Monlux observed a small amount of blood on the back of the suspect's shirt. Officer Monlux did a pat search of the suspect for additional weapons but found none. He rolled the suspect back onto her back. She looked up at him and he could see that she was breathing by the rise and fall of her chest. She was audibly taking deep breaths and he could see her eyes focused on him. He told her to "keep breathing". He put on latex gloves and applied direct pressure on the wound to her chest. His objective was to stop as much bleeding as possible until trained medical personnel arrived to take over.

He held his position, applying pressure to the suspect's wound for approximately three minutes, until medical and fire personnel arrived on scene. Once the paramedics were ready, he released pressure off the wound and moved out of the way.

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<sup>2</sup> Showman was out of the effective range of the 40mm projectile weapon given Officer Monlux's position at least 75 feet away.



He removed his gloves and helmet at the scene. He began to hang Police tape to secure the area. He was kept separated from all other involved officers until he was transported to SJPD to give his statement.

### **OFFICER JULIO MORALES (3181)**

On August 14, 2014, at approximately 10:37 a.m., Officer Morales was dispatched to a disturbance involving weapons at 799 Blossom Hill Road in San Jose. The reporting party, Diana Showman, said she had a Uzi firearm and would shoot her family if police didn't come. She stated she was in the kitchen with her mother and 15-year-old brother.

Officer Morales responded with his red lights and siren activated from the area of Winfield Blvd. and Blossom Hill Road. He arrived in the area at approximately 10:39 a.m. The suspect was described as a white female adult, blonde ponytail, blue shirt, and short black basketball shorts. She stated to communications personnel that she obtained the gun online and would walk out unarmed when needed. The suspect then became uncooperative and would not give the phone to her mother.

Officer Morales located the address on the north east corner of the intersection of Blossom Hill Road and Playa Del Rey. The address was the western half of a single story tan duplex adjacent to 797 Blossom Hill Road. The duplex was u-shaped with the front door to 799 Blossom Hill Road deep into the "U". The front door had a white metal security gate that was closed along with the closed front door. Officer Morales set up a perimeter position on the corner near the south west corner of the residence. The front of the residence was facing south toward Blossom Hill Road. He deployed his carbine rifle and put on his ballistic helmet due the threat of an automatic submachine gun.

He had arriving units (Officer Valverde) set up on opposite corners in the north east area of the duplex in the alley north of Blossom Hill Road and south of Wedgewood Drive. He had additional units (Okuma and Anderson) establish perimeter positions on the corner of Blossom Hill Road east of the duplex observing the front entrance opening of the "U". He had an additional unit (Monlux) reposition his vehicle behind Officer Morales' position to move them further away from the duplex on the front corner and to use his vehicle for protection from gunfire. An additional arriving unit (Macias) established a perimeter position on the north west corner of the duplex by Playa Del Rey and the alley north of Blossom Hill Road.

He had communications complete a records check for the suspect and residence checking for weapons registered, prior mentally disturbed person incidents, and criminal history. Sgt. Gonzalez arrived on scene and was updated on the situation. Updates from communications stated no prior mentally disturbed incidents, no weapons registered, and no criminal history associated to the residence. The suspect was uncooperative and would not put down the weapon. The suspect reported to communications personnel that she locked her mother and brother in the back room. The suspect reported her bedroom faced the Playa Del Rey side (western side) of the

duplex. The suspect then reported that she left the weapon on the table and was coming out of the residence with no weapon.

Officer Morales coordinated with Officer Okuma to have her cover the front "U" opening because she had a better angle and when the suspect emerged Officer Monlux and Officer Morales would handle communicating to the suspect to have her surrender.

A white female with long hair wearing a dark t-shirt and black shorts emerged from the "U" front door area opening. The female suspect was holding what appeared to be a firearm in her right hand. Officer Morales was approximately 50 yards away from the suspect. The firearm appeared to be a shotgun or rifle with the barrel sawed off and the stock sawed off. The firearm was pointing down. Officer Morales commanded the suspect to drop the gun. The suspect kept walking south toward Officer Okuma and Anderson. The suspect walked out to the area of the sidewalk. The suspect did not drop the gun as commanded. The suspect then pointed the firearm toward Officer Monlux and Officer Morales. Officer Morales did not fire his carbine because the backstop behind the suspect was the sidewalk and Blossom Hill Road which was occupied by vehicular traffic. Officer Morales did not have a clear backstop. The suspect then immediately turned and continued walking toward Officer Okuma and Anderson with the gun pointing down. The suspect continued walking directly toward them holding the gun. The suspect did not comply with repeated commands to drop the weapon. The suspect closed to within 10 yards of Officers Okuma and Anderson then raised the gun toward them. Officer Morales heard one gunshot then observed the suspect fall to the ground. He advised the perimeter units to hold the perimeter while the arrest team approached the suspect.

Medical personnel were called in to treat the suspect of a gunshot wound as soon as the suspect was secured and the residence was cleared. Medical personnel treated the suspect. Officer Morales was transported to SJPD to give his statement.

#### **OFFICER JONATHAN VALVERDE (3987)**

On August 14, 2014, at approximately 10:38 a.m., Officer Valverde responded to 799 Blossom Hill Road, San Jose.

SJPD-Dispatch advised over the radio the reporting party, Diana Showman, had an Uzi and would shoot her family if police didn't come. Officer Valverde responded with emergency lights and siren activated. SJPD-Dispatch advised Diana Showman told them that she was in the kitchen with her mother and fifteen-year-old brother. SJPD-Dispatch advised Diana Showman told them she purchased the Uzi online and she locked her mother and brother in the back room.

Upon arrival, at approximately 10:44 a.m., Officer Valverde was given the assignment to secure the north east corner of the exterior portion of 799 Blossom Hill Road. He parked in the alleyway behind 793 Blossom Hill Road.

Upon doing so, he saw a male, who was later identified as Tony Lee Hernandez, and a female, who was later identified as Christina Mendoza, near two motorcycles just east of the primary address. He asked both to walk toward his location.

Christina Mendoza said she lived at 797 Blossom Hill Road. He asked both of them if anyone else was inside of their residence, and they stated, "No." Their motorcycles were still on and parked near the primary location. He escorted both parties to their motorcycles and brought them back to his vehicle's location.

Sgt. Mason and Officer Watson arrived at his location. He heard a SJPD officer advise that a woman was walking out through the front of the primary residence. Sgt. Mason was able to open the rear gate to 799 Blossom Hill Road. Officer Valverde assisted Sgt. Mason and entered the back patio portion of the primary residence. The rear sliding door was opened and he could see inside a portion of the residence. He heard a SJPD officer advise over the radio that the female had a weapon and was not following verbal commands. He heard one gunshot coming from the front of the residence. It was confirmed one shot was fired and the scene was not secured.

Sgt. Mason, Officer Watson, Officer Macias, and Officer Valverde entered the primary residence, 799 Blossom Hill Road, through the rear sliding door. Each interior room was checked for victims inside and the garage was checked. There were no victims located inside of the residence. There were no other people inside of the residence. The interior portion of the residence was secured.

Officer Valverde was able to obtain Tony Hernandez's and Christina Mendoza's statements. Neither heard anything prior to police arrival and neither observed the shooting.

He continued to hold the rear portion of the primary location for scene security and was relieved of his duties at approximately 4:30 p.m.

#### **OFFICER WAKANA OKUMA (3745)**

Officer Okuma has been an officer for 13 years. She is a Crisis Intervention Trained (CIT) officer, meaning she has received a 40 hour training class on how to effectively communicate with mentally ill persons and people with traumatic brain injuries. She is also a member of the SJPD "Specialist" program, meaning she has additional training on the rapid deployment of arrest teams and setting up perimeters around tactical situations. She is also qualified to carry and use an AR-15 carbine rifle.

On August 14, 2014, Officer Okuma was assigned to the day shift patrol. The hours of that shift were 6:30 a.m. to 4:30 p.m. She arrived ready for work at 6:30 a.m. The event involving Diana Showman first came out as a priority dispatched event at approximately 10:36 a.m., meaning the two closest units regardless of beat or district assignment were sent to the event. After hearing the details of the reporting party stating she had an Uzi and would shoot her

family if the police didn't respond, Officer Okuma responded to the call by switching to channel 6 and advising that she was going to the call and was also responding code three, meaning she would be using her emergency lights and siren.

When Officer Okuma arrived, she initially stopped directly in front of the target address of 799 Blossom Hill Road. She backed up and parked about two houses east of the address. Parking in front of the target address would have been dangerous based upon her training and experience. Officers Morales and Monlux were both on scene and had parked to the southwest of the target address. At the time there was still a lot of traffic on Blossom Hill Road. She requested additional units to block off west bound traffic.

An officer arrived next to her and she directed him to take a position on the rear side of the address. Officer Anderson then showed up and parked his patrol SUV in the middle lane of Blossom Hill Road. Since the caller stated she had an Uzi, Officer Okuma retrieved her department issued AR-15 from her trunk. She did not retrieve her AR-15 until after she saw at least one other officer putting on his helmet and another officer with a 40mm less than lethal rifle.

Officer Okuma heard the dispatcher update the event several times, advising that the reporting party was still armed with an Uzi and that her family was still inside. When she heard the word "Uzi," Officer Okuma pictured a weapon similar to a tech-9, something small and short, thick bodied and metal. She believed that Uzis were capable of being modified in their dimensions. Officer Okuma understood an Uzi to be a submachine gun capable of firing multiple rounds with a single trigger pull. Dispatch advised that the reporting party was not cooperative and said she would not put her weapon down. There was also confusion over the radio about whether the target address was at 799 or 797.

She communicated with Officer Morales that when the suspect exited the house, she would communicate verbally with the suspect and Morales and Monlux would be the arrest team that would take the suspect into physical custody. Officer Okuma advised over the radio that she was utilizing her AR-15. The dispatcher advised that the suspect was becoming uncooperative. Dispatch had also broadcast the suspect's description as a white female.

Officer Okuma positioned herself on the side of the patrol SUV behind the engine block which gave her a view of where the suspect would have to exit the house, as well as provide a good cover position in the event the suspect fired at her. Dispatch advised that the suspect had agreed to come outside. Officer Okuma did not hear one way or the other as to whether she had agreed to come out armed or unarmed. Officer Okuma could not see the front door from her position as she was offset and the front door was recessed back and between the two duplexes. When Officer Okuma first viewed the suspect, the suspect was walking out of the house, she could see that the suspect had something in each of her hands. She could see the object in her left hand was something small and saw what she thought was a gun in her right hand. Throughout the incident, the suspect held what Officer Okuma believed was an Uzi type of weapon in her right hand. She saw that it had an upper body and what appeared to be an extended magazine in the handle. At first the suspect held the weapon over her head. The suspect looked to the suspect's right. Then the suspect brandished the weapon toward Officers

Morales and Monlux. Officer Okuma was speaking to the suspect and the suspect turned her attention to Officer Okuma. She ordered the suspect to put down the weapon. The suspect dropped the small object in her left hand, but not the gun like item in her right hand.

The suspect started to walk toward Officer Okuma and for a moment pointed the weapon at Officer Okuma. The suspect then lowered the weapon and continued walking forward. Officer Okuma told the suspect to stop and she briefly did. The suspect again raised and lowered the weapon and pointed it at Officer Okuma. The suspect wasn't saying anything but had her gaze fixed on Officer Okuma. As she was advancing, Officer Okuma was continuously telling the suspect to drop the gun. The suspect said nothing, but had a blank stare on her face and was only looking at Officer Okuma. Then the suspect pointed the weapon directly at Officer Okuma. Officer Okuma believed the suspect was going to shoot her and Officer Okuma fired her weapon in defense of her own life. Officer Okuma fired her rifle at the center of the suspect because she needed to stop the threat to her life and shooting at the center of the suspect's body provided the greatest likelihood of hitting the suspect and stopping the threat. She did not fire at the suspect's hand because the likelihood of successfully hitting that target and ending the immediate threat was low. Prior to firing at the suspect, Officer Okuma gave the suspect multiple opportunities to drop the weapon and surrender. The suspect never did.

After the shooting, the arrest team moved in and placed hand cuffs on the suspect. Officer Okuma maintained cover on the suspect. Officer Okuma assisted in one of the handcuffs.

It wasn't until after the shooting that she saw that what she thought was a gun was actually a power drill painted black.

Because of how quickly the events unfolded, Officer Okuma did not think that her Crisis Intervention Training came into play. The suspect would not respond to her statements and presented an immediate threat to Officer Okuma and others. The suspect came straight toward Officer Okuma prior to Officer Okuma firing her rifle at the suspect.

#### **OFFICER GARY ANDERSON (3884)**

On August 14, 2014, Officer Anderson was working a pay car assignment when the incident occurred at 799 Blossom Hill Road. He normally works in District Yellow on the midnight shift. Officer Anderson is a patrol "specialist"; an officer who has received more firearms and tactical training than the average SJPd patrol officer.

At 10:36 a.m. Officer Anderson heard the call for service broadcast over the SJPd radio. The call was broadcast as a priority; a disturbance involving weapons. Officer Anderson was not the primary officer dispatched to the call. The details of the call broadcast on the radio were as follows: a female said she had an Uzi and was going to shoot all of her family members if the police did not respond.

Officer Anderson was not priority dispatched to the call. He said an unknown officer (to him) and other units were priority dispatched to the call. Officer Anderson advised dispatch to attach him to the call and that he was responding Code 3 (meaning his emergency lights and siren were activated). He then drove to the scene. Officer Anderson remembered hearing on the radio as he responded to the scene that dispatch updated the call saying that the woman had locked her family members in the bathroom or possibly another room.

When Officer Anderson arrived on scene, Officer Okuma was already at the scene. She had been driving a Ford Crown Victoria patrol car. Officer Anderson had been driving a Ford Explorer (SUV) patrol vehicle. Officer Julio Morales was on scene and set up on Playa Del Rey just west of the suspect residence.

Officer Anderson positioned his patrol vehicle at an angle in the #2 westbound lane of Blossom Hill Road just east of Playa Del Rey next to Officer Okuma's vehicle, which was parked in the #3 westbound lane. He positioned his vehicle in that lane because Officer Okuma had directed him to do so in order to block traffic.

Officer Anderson did not know how much time had elapsed from the time he arrived on scene until the time he was told that the suspect was going to exit 799 Blossom Hill Road. The only thing Officer Anderson thought he said on the radio while the suspect was inside the residence was to have additional police units set up traffic control positions on Blossom Hill Road east of the incident in order to stop any westbound traffic from proceeding through where the incident was occurring.

Officer Anderson and Officer Okuma were in position near their vehicles in front of 799 Blossom Hill Road for "a little while". While they were in position, Officer Anderson told Officer Okuma to cover him while he retrieved his rifle from his vehicle. A scenario with a suspect armed with a firearm made deployment of his rifle appropriate. Officer Anderson is a "specialist" meaning he had special training with respect to using an assault rifle. Officer Okuma covered him as she was positioned over the hood of his vehicle (the SUV) while he retrieved his rifle. After he was armed with his rifle, Officer Anderson took up a standing tactical position at the rear of his vehicle while Officer Okuma remained in position at the front of his vehicle.

Officer Anderson and Officer Okuma discussed who would give voice commands to the suspect once contact was made with her. It was decided that Officer Okuma would give voice commands to the suspect.

When the suspect exited 799 Blossom Hill Road she was waving an object in her right hand. The woman pointed the object at the officers positioned on Playa Del Rey, ignoring continuous commands to drop the item. Officer Anderson was in a position to fire at the suspect at that time, but did not in the hope that she would drop the weapon. The suspect then walked forward and pointed the object down. She then raised the object over her head and then lowered it behind her head. Officer Anderson thought that she was going to drop the object, but then she raised it again and pointed it in a threatening manner straight forward. The woman continued to walk toward Officer Anderson and Officer Okuma into the street. The suspect lowered the

weapon as she walked toward them, but then raised it and pointed it in their direction just prior to being shot. Officer Anderson was not sure how close the suspect got to Officer Okuma and himself before Officer Okuma shot her. Officer Anderson said he was to the left of the suspect and that the suspect's body concealed the object as she lowered it to her side when she was facing him and Officer Okuma.

Officer Anderson said he heard numerous commands being given to the suspect, telling her to drop what was in her hand. He could not specifically remember if he heard the command to drop a weapon. He did not issue any commands himself because he and Officer Okuma had already decided that Officer Okuma would make all of the voice commands. (This is consistent with "control and cover" practices used by the San Jose Police Department whereby only one officer issues verbal commands to a suspect in order to avoid confusing a suspect with potentially conflicting instructions from multiple officers.) Officer Anderson felt that the suspect was focusing her attention on Officer Okuma, who was engaging her with verbal commands. The suspect did not say anything during the incident.

Officer Anderson thought the suspect was armed with a weapon when she was advancing toward Officer Okuma. Because of that he thought he might have to shoot her. Officer Anderson described his shooting backstop as including the officers positioned on Playa Del Rey as well as the suspect's residence and other homes to the right side. As the suspect advanced on Officer Okuma, Officer Anderson's backstop had significantly narrowed, placing other officers at risk if he fired his rifle at the suspect.

After Officer Okuma fired, Officer Anderson saw the suspect fall onto her back. Officer Anderson estimated that the suspect was 20 yards away from him when she was shot. The object that had been in the suspect's right hand fell in front of her. Two unknown officers that had been in position on Playa Del Rey approached the suspect and made the scene safe (handcuffing her) while Officer Anderson covered them with his rifle from the hood of his patrol vehicle. Officer Anderson watched the house because the officers did not know who else was inside.

After the suspect had been shot and taken into custody Officer Anderson was able to get a look at the object that had been in the suspect's right hand. The object appeared to be a power drill. At the time the suspect had been brandishing the drill at officers he thought the object had been an Uzi, which he described as a compact firearm. The object was all black and he believed it could be an Uzi.

#### **DET. SGT. STEWART DAVIES (3230)**

On August 14, 2014, Det. Sgt. Davies was assigned to the Homicide Unit. His partner was Detective Wayne Smith. They were advised about an officer-involved shooting in front of 799 blossom Hill Road in San Jose. The initial call stated that Diana Showman had called the police and warned that she had an Uzi and would shoot family members if the police didn't respond. Det. Smith and Det. Davies responded to the scene and arrived at 12:00 p.m.

Upon arrival they met with the on scene commander, Lt. Pedreira. They were briefed by Lt. Pedreira, Sgt. Finnie and Sgt. Mason. They were advised that Officer Monlux and Morales arrived and positioned their car just southwest of 799 Blossom Hill Road. Sgt. Gonzales was positioned with them. Officer Okuma parked her patrol car on the north curb of Blossom Hill Road and Officer Anderson had positioned his patrol SUV in the #2 lane of Blossom Hill Road to provide cover and block traffic. At the time the suspect exited the house, Officer Anderson was standing by the right rear of the SUV and Officer Okuma was beside the front left side of the SUV.

Diana Showman was advised by dispatch to exit the house unarmed. Diana Showman agreed and came out of the house. Officer Okuma engaged in verbal commands to get Diana Showman to cooperate. Diana Showman had the weapon in her right hand and ignored Officer Okuma's commands. When the suspect advanced on Officer Okuma and raised the weapon, Officer Okuma fired one round from her AR-15. Diana Showman dropped to the ground and officers handcuffed her and rendered aid. Once the situation became static, they saw that the weapon was a cordless power drill painted black. One officer kicked the drill away from where the other officers were tending to Diana Showman. Officer Okuma picked up the drill and moved it to her patrol car. When Sgt. Mason saw that she had moved the drill, he had Officer Monlux put the drill in the place where it had been prior to him kicking it away. After the briefing, Sgt. Davies and Det. Smith walked the crime scene along with Crime Scene Unit (CSU) officers.

They were also advised that several civilians had witnessed the incident and two had recorded the event on their cell phones. The following witnesses had agreed to go to the station for further interviewing; Pedro Nevado, Russell Baker, Ali Nazari, Michael Tropf and Ryan Myers. James Showman arrived at the scene and was transported to the witness center where Sgt. Davies and Det. Smith interviewed him. Sgt. Davies and Det. Smith interviewed Officer Wakana Okuma the day of the shooting also.

#### **DET. WAYNE SMITH (3487)**

On August 14, 2014, Det. Smith was assigned as a homicide investigator in the San Jose Police Department Homicide Unit. At 11:05 a.m. he was advised of an officer-involved shooting at 799 Blossom Hill Road in San Jose. He and his partner, Detective Sergeant Davies, assumed primary responsibility for investigating this case.

Det. Smith and Sgt. Davies interviewed witness at the San Jose Police Department, including Ryan Myers and Officer Gary Anderson.



## **OFFICER JANET CUSIMANO (2807)**

On August 14, 2014 at 11:05 a.m. Officer Cusimano of the Crime Scene Unit was notified of the officer-involved shooting near the intersection of Blossom Hill Road and Playa Del Rey in San Jose.

Officer Cusimano arrived at the scene at 12:00 p.m. Present at the scene were Homicide Lt. Kihmm, Patrol Lt. Pedreira, Homicide Sgt. Davies and Det. Smith, Sgt. Mason, Sgt. Finnie, Sgt. Trayer, Sgt. Jeglum, Sgt. Johnson, Sgt. Anya, and DA Investigator Reyes. Ofc. Jepson was acting as inner perimeter security on Blossom Hill Road, east of Playa Del Rey. All of Blossom Hill Road in both directions was closed to vehicle traffic from Allen Avenue to the west and Cahalen Avenue to the east. The north side of Blossom Hill Road was closed to pedestrian traffic. The street was closed using San Jose Police Officers, their San Jose Police vehicles, orange barrier tape and orange safety cones. The weather was approximately 79 degrees, bright and sunny. During the investigation digital photographs, video and measurements were taken. The Santa Clara County Sheriff Department responded to the scene and deployed the Leica Scan Station to capture a 3D Laser Scan of the crime scene. A briefing of the events was given by Lt. Pedreira as to what he knew at that time.

At 12:30 p.m. Officer Kirby arrived on scene to assist with evidence collection. Officer Cusimano made the following notations regarding the crime scene investigation:

### **Overall Crime Scene:**

Blossom Hill Road was a six lane roadway that travels in an east and west direction. There are three lanes and a bicycle lane in each direction. There was also a left turn lane at the intersection of Playa Del Rey. Playa Del Rey was west of the residence and travels in a north and south direction. This was the closest intersection to the incident. Residential single story duplexes line the north side of Blossom Hill Road. Two story four-plex apartments line the south side of Blossom Hill Road east of Playa Del Rey.

### **Crime Scene Specific:**

The Officer-Involved Shooting scene was located in the west bound lanes of Blossom Hill Road. The suspect's residence was located on the northeast corner of Blossom Hill Road and Playa Del Rey. There were two San Jose Police vehicles located on Playa Del Rey. San Jose Police Vehicle #1530 was parked in the crosswalk along the east curb, facing north bound. San Jose Police Vehicle #1675 was parked in the crosswalk along the west curb, facing south bound and slightly turned blocking the roadway. Two additional San Jose Police vehicles were located on Blossom Hill Road. San Jose Police Vehicle #3242, an SUV, was parked in west bound lane #2 blocking the roadway. The vehicle was slightly turned facing in a southwest direction. San Jose Police Vehicle #1645 was parked blocking west bound lane #3 and the bicycle lane. The vehicle was turned facing a southwest direction. Located inside the trunk of the San Jose Police Vehicle #1645 was a black rifle bag containing a "Colt Law Enforcement Carbine" assault rifle. Across the street parked against the south curb of Blossom Hill Road, east of Playa Del Rey were

two witness vehicles. A black Chevrolet Corvette with California license plate "SLAMN04" and a maroon Chrysler Voyager van with California license plate "5MPD799".

Located on the Blossom Hill Roadway in the west bound lane #2, southeast of San Jose Police Vehicle #3242 was a spent shell casing. West of San Jose Police Vehicle #1645, in the bicycle lane was a dark gray painted cordless drill. The cordless drill smelled as if it had been freshly painted. North of the cordless drill against the north curb of Blossom Hill Road was a medically cut pair of black basketball shorts with gray stripes down the sides. Located in the grass in front of 797 Blossom Hill Road was an empty crushed "Marlboro" cigarette pack. Also found on the grass near the cement walkway between 799 and 797 Blossom Hill Road was a blue Samsung cell phone.

### **8/14/14 1300 hours:**

At 1:00 p.m. Sgt. Davies notified Officer Cusimano that consent had been obtained to search the residence of 799 Blossom Hill Road. This was a single story, three bedroom duplex located on the north side of Blossom Hill Road. The 799 address was found on the west side of the duplex. The attached garage was located to the rear on the north side of the duplex. The security gate and front door were both found unlocked and open. The front door entered into the dining/kitchen area. A table was set up with a computer on top of it under the counter. There was a large tool bag set on the floor next to the table. No dining table was present.

The door to the garage was located to the east of the front door. Inside the garage, located on a plastic table work bench were three paint spray cans. Two silver paint spray cans were empty and out of paint. One was a dark gray color spray can that worked. The paint spray can was "Prestique roof accessory paint" color "sablewood". This paint color matched the color of paint found on the cordless drill outside the house.

Found on top of the kitchen counter were the following prescription medications for suspect Diana Showman:

1. "Ranitidine" 150 mg (empty)
2. "Abilify" 5mg (25 ½ pills)
3. "Topiramate" 100mg (82 pills)
4. "Lithium Carbonate" 300mg (93 pink capsules)
5. "Risperidone" 1mg (49 pills)
6. "Lamotugine" 100mg (56 pills)
7. "Bupropion HCL" 75mg (63 pills)
8. "Strattera" 25mg (131 capsules)

9. "Thioridazine" 25mg (8 pills)

West of the kitchen was the living room. No evidence was located inside the room. South of the living room was the northwest bedroom. The room was practically empty and no evidence was located inside the room. South of the bedroom was the hall bathroom. No evidence was located inside the bathroom. South of the hall bathroom was the middle bedroom. The bedroom had indicia for the suspect Diana Showman. There was a bed on the floor against the south wall and a dresser along the east wall. The room was dirty and messy. No evidence was collected from the room. South of the middle bedroom was the master southwest bedroom. The door had been forced open by responding officers during the rescue attempt. James Showman advised that he had a weapon inside the bag inside his bedroom crawlspace. Located under the west closet, inside the crawlspace was a black duffel bag. The black duffel bag had a lock on it and was not opened. Per Sgt. Davies the bag was to be photographed and left at the scene.

At 2:34 p.m. Santa Clara County Sheriff Deputy Sgt. Leon #1685 arrived on scene and assisted us by deploying the Sheriff Department's Lieca Scan Station to capture a 3D laser scan of the scene. After the completion of the 3D laser scan, the digital thumb drive containing the Lieca Scan information was turned over to Officer Cusimano.

At 4:20 p.m. Santa Clara County Sheriff Deputy Sgt. Leon #1685 cleared the scene. San Jose Police vehicles #1530, #1675, #1645 and #3242 were cleared from the scene and driven back to the San Jose Police Department by department members. The residence of 799 Blossom Hill Road was locked and secured.

**8/14/14 1630 Hours:**

At 4:30 p.m. Officer Kirby and Officer Cusimano cleared the scene with the above mentioned evidence items and responded to the San Jose Police Department Homicide/Crime Scene Unit. Officer Thompson stayed on scene to wait for Coroner Investigator Andrea Whelan.

**8/20/14 1120 Hours, Santa Clara County Medical Examiner's Office:**

On August 20, 2014 at 11:20 a.m. Officer Cusimano went to the Santa Clara County Medical Examiner's Office to collect the evidence that was obtained during the autopsy of suspect Diana Showman. Coroner Investigator Andrea Whelan provided her with a CD containing digital photographs and a bag of evidence that Dr. O'Hara had collected for Coroner case #14-02765. The evidence provided was:

1. Spent projectile
2. Two brown paper bags
3. Blue short sleeve t-shirt

4. Black under wire bra

5. Yellow underpants

**OFFICER DAMIAN BOTOLOTTI (3026)**

On August 14, 2014, at approximately 11:03 a.m. Officer Botolotti arrived on scene. Sgt Mason asked him to transport Officer Okuma to San Jose Police Department. Lt Pedreira instructed him to obtain a public safety statement from Officer Okuma. He read Officer Okuma the applicable questions from his department issued card. The questions and answers are listed below:

**PUBLIC SAFETY STATEMENT:**

Were you involved in an officer-involved shooting? Yes

Approximately how many rounds did you fire, and in what direction? I fired one round. I fired it in a northwest direction from my position next to my patrol car.

Do you know if any other officers fired any rounds? No one else fired.

Is it possible that the suspect fired any rounds at you? No

Are you aware of any witnesses? Only the other officers that were here when it happened.

End of Interview.

Officer Botolotti transported Officer Okuma to SJPD and arrived there at 11:37 a.m. Officer Okuma was immediately contacted by Sgt. Lonac of the Crime Scene Unit. Officer Botolotti contacted Sgt. Larry Day of the Robbery Unit, and coordinated the transition of his detectives taking over the monitoring of Officer Okuma and the witness officers.

**OFFICER CLIFF JEPSON (2882)**

Officer Jepson was assigned to the perimeter of the scene.

### **OFFICER GERARDO TRIAS (3765)**

Officer Trias canvassed the area for witnesses. Michael Tropf said that he had video of the incident on his cell phone and agreed to let the police copy it. Officer Trias provided the copy of the video to Sgt. Davies and transported Tropf for interview.

### **OFFICER LEO PRESCOTT (3624)**

On August 14, 2014 at approximately 11:07 a.m. Officer Prescott responded to the area of 799 Blossom Hill Road to assist officers with a report of a weapons disturbance. He arrived at approximately 11:13 a.m. At the time of his arrival he saw several police vehicles and officers closing the area to preserve evidence. He saw what appeared to be a cordless drill in the street on Blossom Hill Road. Next to the drill he saw a black and white piece of clothing.

Rural/Metro ambulance had transported a person recently from the scene and San Jose Fire Department Personnel were still on scene and removing their medical equipment. He observed one firefighter pick up the clothing item that was next to the drill and Officer Prescott yelled at him not to touch anything. He observed the firefighter throw the clothing item approximately 6-8 feet north of its original location, placing it closer to the curb. The firefighter left prior to being identified.

Officer Prescott began to take several photographs of the scene. He took photos from the intersection of Blossom Hill Road and Playa Del Rey in a full circle. He took photos of the front and back of 799 Blossom Hill Road. He took photos of the drill and its location in the street.

He observed a cellular phone and empty pack of cigarettes on the front lawn of 799 Blossom Hill Road and took photos of them. He took photos of the police vehicle positions near 799 Blossom Hill Road and attempted to take photos of the perception/angle from the house toward the police vehicles as well as from the police vehicles toward the house.

Officer Prescott contacted Pedro Alba Nevado as Nevado was about to drive away. Nevado said he had witnessed the incident from his car across the street. The vehicle was parked on the south side of Blossom Hill Road facing eastbound approximately in front of 790 Blossom Hill Road. The proximity and angle of this location would have allowed Nevado to possibly witness most of what had occurred and provided Nevado a vantage point slightly behind and to the left of the officers involved.

Officer Prescott obtained a statement from Nevado. Officer Prescott received permission to make digital copies of a video Nevado had made of the incident. Officer Prescott obtained the

cellular phone's password from Alba and turned the phone and consent to search form over to Det. P. Guire.

**OFFICER AURELIO RODRIGUEZ JR. (2954)**

On August 14, 2014, at approximately 10:45 a.m., Officer Rodriguez responded to 799 Blossom Hill Road on a call of a disturbance involving a weapon. He took a position at the intersection of Blossom Hill Road and Playa Del Rey. He directed traffic until witness Myers walked up to him and told him he saw what happened. He took a statement from Myers then transported Myers to the witness center.

**OFFICER JOHN TOMPKINS (3153)**

On August 14, 2014, Officer Tompkins was the log officer from 11:33 a.m. to 13:13 a.m. when he passed the log to Officer Sanchez.

**OFFICER BINDI CRISTIANO (2735)**

On August 14, 2014, Officer Cristiano canvassed the area for witnesses. She contacted witness Ochoa, who was standing on the south sidewalk in that area, and obtained his statement. Ochoa did not witness the incident. She then contacted witness Montes who was also on that sidewalk and obtained his statement. Montes did not witness the incident. She crossed the street to the dental offices at 827 Blossom Hill Road and contacted witnesses in suites E2 and E7. No one at the offices witnessed the incident.

**OFFICER SANDRA JEAN PARENTE (2945)**

On August 14, 2014, Officer Parente did traffic control at Blossom Hill and Playa Del Rey stopping east bound traffic. She remained at the scene until 4:45 p.m.

**OFFICER JOSE DAYSOG JR. (2942)**

On August 14, 2014, Officer Daysog canvassed the residential area and pedestrians that were standing around the south side of Blossom Hill Road east of Playa Del Rey and the business complex on the northwest corner of Blossom Hill Rd and Playa Del Rey. He made contact with several residence and pedestrians.

**OFFICER CHRISTINE ZARATE (3165)**

When Officer Zarate arrived on scene she used her patrol vehicle to block northbound traffic of Playa Del Rey south of Blossom Hill Road. Medical personnel were providing medical aid to the suspect in the roadway of Blossom Hill Road.

There was a crowd of people watching the scene from the southwest corner of Blossom Hill Road and Playa Del Rey. She began to ask individuals if they saw what happened. Witness Baker stepped forward and said that he witnessed the incident. Officer Zarate took Baker's initial statement and then took him to SJPD. Baker did not video the incident.

**OFFICER GERARDO SILVA (4295)**

Officer Silva contacted witness Ali Nazari at the northwest corner of Blossom Hill Road and Playa Del Rey. Witness Nazari agreed to go to the Witness Center and be interviewed by SJPD detectives. At approximately 11:49 a.m. Officer Silva transported witness Nazari to the Witness Center.

**OFFICER JAVIER ACOSTA (3419)**

Officer Acosta arrived at 799 Blossom Hill Road at 11:34 a.m. and was instructed by Sgt. B. Finnie to canvas the neighborhood. He contacted people or attempted contact at the following residences: 781, 773, 755, 757 and 771 Blossom Hill Road. No one who he spoke with said they witnessed the incident.

**OFFICER PATRICK KIRBY (2916)**

On August 14, 2014, Officer Kirby arrived at Valley Medical Center then went to 799 Blossom Hill Road and assisted Officer Cusimano and Thompson with processing the scene until 4:30 p.m.

**OFFICER GLENN BALDWIN (2956)**

On August 14, 2014, Officer Baldwin was working uniformed patrol and arrived at the scene at 11:07 a.m. He was the Police Officer's Association representative for the day and was Officer Okuma's point of contact for the rest of the day and went to SJPD with her.

**OFFICER OMAR SANCHEZ (3978)**

Officer Sanchez transported Officer Anderson to SJPD after the incident. He then returned back to the scene around 1:30 p.m. and took over the log officer responsibilities from Officer Tompkins from 1:30 p.m. to 4:30 p.m.

**OFFICER TODD TRAYER (3301)**

Officer Trayer assisted with the canvassing officers who were contacting and knocking on doors on the southeast corner of Blossom Hill Road and Playa Del Ray. The officers had already started the canvass as there were approximately a dozen spectators watching. Officer Trayer spoke to multiple residents who all said that they did not witness the shooting.

**OFFICER KENNETH LEYTEM (3174)**

Officer Leytem interviewed residents in the incident area on August 14, 2014. The residents said they did not witness the shooting.

**OFFICER JOSE VARGAS (4311)**

Officer Vargas assisted with canvassing the neighborhood for witnesses. Everyone he spoke with said that they did not witness the shooting.

**OFFICER MARIO SHEN (4224)**

Officer Shen canvassed the neighborhood for witnesses. He spoke with residents along Blossom Hill Road. No one he spoke with said that they witnessed the shooting.



**OFFICER COREY GREEN (3226)**

Officer Green canvassed the neighborhood for witnesses but did not locate anyone who said that they witnessed the shooting.

**DET. RYAN CHAN (3854)**

On August 14, 2014 Det. Chan assisted with the officer-involved shooting investigation. He obtain a signed consent to search form from James Showman, the owner of the residence located at 799 Blossom Hill Road. He took James Showman to SJPD where he signed the consent form. At 3:30 p.m. Det. Chan and Det. Tran transported James Showman and his wife to another residence near Camden and Leigh Avenue.

**DET. KEN TRAN (3603)**

Det. Tran was a Homicide Detective on August 14, 2014. He and Det. Guire interviewed Pedro Jesus Alba Nevado and Michael Tروف at SJPD that day.

**DET. RAUL CORRAL (3469)**

On August 14, 2014, Det. R. Corral was a detective in the Homicide Unit. He and his partner, Detective Sergeant Merlin Newton (2711), assisted with the investigation of the incident by interviewing Russell Baker at SJPD.

**TREATMENT AND AUTOPSY OF DIANA SHOWMAN**

**INVESTIGATOR ANDREA WHELAN**

Inv. Whelan is an investigator for the Santa Clara County Medical Examiner. She collected evidence associated with Diana Showman's body, interviewed the emergency medical staff who treated her as well as Diana Showman's family regarding her medical conditions.

The family reported that Diana Showman took medication on a daily basis: Abilify 5mg, Risperidone 1mg, Lamictal 100mg, Bupropion 75 mg, Lithium 300mg, Stattera 25mg, and Topamax 100mg.

Medical records at Kaiser Hospital also showed prescriptions for Omeprazole 25mg, Etodolac 400mg, and Chlorhexidine Gluconate (Peridex Mouthwash). San Jose Police Officers

recovered Abilify, Risperidone, Lamictal, Bupropion, Lithium, Strattera, and Topamax, as well as Lamotugine 100 mg, Rantidine 150mg and Thioridazine in 25mg doses.

#### **DR. ADELLA GARLAND**

Dr. Garland reported that Diana Showman was treated at the Valley Medical Center on August 14, 2014 at 11:27 a.m. Due to severe damage to her aorta Diana Showman's heart stopped and she could not be resuscitated. She was pronounced dead at 12:19 p.m. There was a single wound to the chest. The projectile was not removed during surgery.

#### **DR. JOSEPH O'HARA**

Dr. Joseph O'Hara is the Chief Medical Examiner for the Santa Clara County Medical Examiner's Office. He is a forensic pathologist and has performed hundreds of autopsies in his career. He performed the autopsy of Diana Showman on August 15, 2014.

Dr. O'Hara documented Showman's height as 69 inches and her weight as 250 pounds. He observed that her appearance was consistent with her listed age of 19 years.

In addition to evidence of emergency medical treatment, Dr. O'Hara noted a defect to the medial aspect of the right upper quadrant of the abdomen, centered approximately 21 inches below the head and ¾ inches to the right of the anterior midline. The wound was 1/8 inch in diameter and consistent with an entrance gunshot wound. There was no soot visible on the skin edges or within the wound track. There was no stippling or gun power particles on the skin around the entrance wound.

The hemorrhagic wound track sequentially perforated the skin of the abdomen, the peritoneum, created an approximately 4 inch in diameter perforating defect of the anterior aspect of the left side of the free edge of the liver, perforated the mid pancreas, perforated the aorta, perforated the hilum of the left kidney and adrenal gland, perforated the medial aspect of the left twelfth rib then perforated the muscles of the back and lodged in the subcutaneous tissue of the back.

Associated injuries included a scant hemoperitoneum (presence of blood in the peritoneal cavity). On the left side of the mid back, centered approximately 19 inches below the top of the head and 9 inches to the left of the posterior midline was the point of lodgment. A 56 grain, markedly deformed, orange jacketed missile with five deformed petals was recovered from this site. The trajectory of the missile was from Showman's front to back, right to left and slightly downward.

Showman's blood sample showed therapeutic levels of Atomoxetine (150 ng/ml), Bupropion (72 ng/ml), Lamotrigine (2.4 ug/ml), and Topiramate (5500 ng/ml). Atomoxetine is used to treat ADHD. Bupropion is an antidepressant commonly marketed as Wellbutrin. Lamotrigine is used to treat epilepsy. Topiramate is an anticonvulsant with central nervous system depressant effects. There was no ethanol or other common drugs of abuse detected in Showman's blood sample.

Dr. O'Hara concluded that the cause of death was a gunshot wound of the abdomen that perforated the aorta. The manner of death was homicide, meaning that someone other than Showman inflicted the wound which resulted in Showman's death.

### CIVILIAN STATEMENTS

#### **ALI NAZARI**

Ali Nazari was interviewed by Det. Ray Avalos (2808) on August 14, 2014. He lives at the corner of Blossom Hill Road and Play del Ray and his apartment is kitty corner from the shooting. From his bedroom on the second floor he saw the two minutes prior to the shooting. His view was not obstructed.

He saw a white woman wearing shorts and a shirt or tank top holding what looked like a gray revolver. He said that it was not like a snub nosed revolver, but regular sized. His bedroom window was about 50 to 60 yards from the woman. He could see two sets of officers. There were three officers behind a car, and then on the other side of the woman were two officers behind another car. He did not see where the woman came from and he did not know her.

The woman pointed the gun at the three officers for a couple of seconds, but the officers did not shoot. The woman then turned toward the two officers on the other side of her and began walking toward them. The woman stopped about 10 to 15 feet from the car that the two officers were by. The woman then raised the revolver up and aimed at the two officers. As soon as she did that Ali Nazari heard a single shot and saw the woman immediately drop to the ground. The woman was not moving when she was on the ground.

He saw the woman point her gun at least once at each group of officers. He was surprised they didn't shoot her earlier. He thought they could have because she was pointing the gun at them. He thought the woman was about 20 feet away from that group of three officers. When she turned and walked toward the second group of officers he knew she was going to get shot if she pointed the gun again because she was so close to the officers' car.

He thought the officers told the woman about a dozen times to drop the weapon. He did not recall the woman saying anything during the incident.

His impression was that the woman was trying to commit suicide using the officers. There were cars passing by and the woman never pointed the gun at the passing cars. She only

pointed the gun at the officers. He felt like the officers had to shoot the woman because she was endangering them. He thought the woman was pushing the officers to shoot her.

After the shooting he saw officers approach the woman and handcuff her.

## **MICHAEL TROPF**

Michael Trof told Officer Trias that he was sitting in his vehicle parked on the south side of Blossom Hill Road in front of 794 Blossom Hill Road. He saw officers arrive on scene and started video recording the incident on his Samsung Galaxy Note 1 cellphone. He was parked across from the officers on Blossom Hill Road. He had a clear view of the entire incident. He observed officers were also parked in the intersection of Blossom Hill Road and Play Del Rey. As officers were standing by, he observed a female exit the residence with an object in her hand. He originally said that it looked like an Uzi gun of some type, but he was not sure. He also said that it could have been a Makita drill. He again was not sure. He observed the female subject point the object at officers at the intersection as she walked out of the residence. He could hear the officers giving commands numerous times telling the suspect to "STOP PUT THE GUN DOWN!!" He also observed the female raising the gun over her head and also putting it to her side. She then advanced toward the officers near him. The officers continued giving her commands to put the gun the down. The suspect continued to walk toward the officers then pointed the gun at them. He heard one shot and saw the female on the ground. During the video taping of the incident, he did not realize he moved the camera away when the female was shot, but he did see her raise the gun at the officers while advancing on them. He further said that he felt that it was a justified shooting.

He agreed to be transported to the Robbery Unit to have the video copied from his cell phone onto a CD. He agreed to be interviewed at the Witness Center by investigators, but was concerned about his own health as he had a doctor's appointment regarding an injury to his vertebrae.

Michael Trof was interviewed by Homicide Detectives Tran and Guire at SJPD later the same day. He told them that he lived in the area and had just left his house when he pulled over on the south side of Blossom Hill Road, just east of Playa Del Rey to observe the police activity. He did not have to pull over, but he wanted to stop, "To see what was going on ... to be nosy." He noticed there were officers at various locations in the area and they were all looking toward a house on the corner. He then started to record the officers with his cell phone because, "I didn't know if they were training or if it was really live." He said, "I then saw a female came out ... holding what appeared to be a gun or a drill ... I couldn't make out what it was ... but it resembles a firearm." Trof stated his initial reaction when he saw the female holding the weapon was to "not get out of my car".

Trof said his first reaction when he saw the item the woman was holding was that it was a drill. Trof said he works construction and has seen drills that from a distance look like a mini-Uzi with a long magazine. Then he thought to himself that they make mini-Uzis that looked like

the item the woman has holding. From a distance he couldn't be sure what the item was. He did not want to draw attention to himself by getting out of his car because he didn't want to "make attention for her if it is in fact a firearm, so I sat in my car with the window up filming".

Tropf further stated, "I was looking at two officers and an SUV, parked facing west, with the rifle on the hood of the vehicle yelling at the female, "Put down your weapon". At that point Tropf said he knew it was real. The female then walked toward the officers who were east of her on Blossom Hill Road. The officers "continuously kept telling her "put down your weapon" ... she wasn't saying anything or putting down the firearm or the weapon ... she didn't seem very respondent whatsoever, just continuously walk towards the two officers that were at the SUV ... and continuously pointing the weapon at them ... and that's when they fired". Tropf never heard the suspect say anything the entire time. The female officer who shot the woman was easy to understand as she kept telling the suspect to stop and drop the weapon.

He had seen his video prior to the second interview. As the suspect kept approaching the female officer he did not capture part of the shooting because his hand was shaking, but he saw when the woman pointed the gun at the female officer and the female officer then shot the suspect. He thought the female officer was justified in shooting because she couldn't know if that was a real gun or not and the suspect just kept walking toward her and pointed the gun at the officer.

Tropf said that his car windows were partially cracked opened and he was parked about 40 feet from the officers who were yelling commands, thus he was able to hear the officers verbal commands. Based on his observations, Tropf felt the suspect was "on drugs and suicide by cop".

## **PEDRO JESUS ALBA NEVADO**

Nevado told Officer Prescott that he was parked in his car waiting to pick up a friend. When he pulled up and parked he saw two police vehicles on the north side of Blossom Hill Road blocking westbound Blossom Hill Road traffic. He also observed a group of police officers on the north/west corner of Blossom Hill Road and Playa Del Rey.

He observed a female exit the house on the north/east corner of Blossom Hill Road and Playa Del Rey (799 Blossom Hill Rd) and walk south toward Blossom Hill Road.

He observed the female holding a cordless drill in her left hand and down to her side. Officer Prescott asked Nevado if he knew the object was a cordless drill at the time the female came out of the house. Nevado said that he initially thought the drill was a gun and he only later observed that the item appeared to be a drill once it was no longer in the female's hand.

He saw the female walk south, away from the house and emerge from between two portions of the house that extended from the front door and created a concealed walkway from the front door toward the street.

He saw the female, once she emerged from the walkway of the house, turn her torso toward the officers who were on the north/west corner of Blossom Hill Road and Playa Del Rey and point the object he believed at the time to be a gun at the officers. He could hear the officers on the corner yelling at the female several times to drop the weapon. The female then turned to her left and began walking toward the two police vehicles that were parked on Blossom Hill Road. He saw two officers standing near a police SUV, which was one of the two police vehicles in the street. He said he saw a female officer standing near the hood of the police SUV and a male African American officer standing near the rear bumper of the police SUV.

He heard the female officer yell at the female 3 or 4 times, "Drop your weapon." Nevado said the female did not drop the object and continued to walk toward the female officer. Nevado said that from the time the female began to approach the police SUV until the female was shot was approximately 5-10 seconds.

The female walked up to a distance of only a few feet away from the police SUV, at which time he saw the female point the object, as if pointing a gun, directly at the female officer. He then heard and saw the female officer shoot the female one time.

He saw the female immediately fall to the ground. He saw the African American officer come up behind the female officer and touch her shoulder. The two officers then walked up to the female together while still pointing guns at her. He heard someone yell, "Put her into custody." He then saw a group of officers from the north/west corner of Blossom Hill Road and Playa Del Rey, who were led by an officer in a helmet, approach the female, who was now on the ground. He saw the officers then place the female in handcuffs.

He thought the whole incident, from the moment the female left the house, until the moment she was shot, took approximately 2-3 minutes.

Nevado was interviewed later that day by Homicide Detectives Tran and Guire. Nevado told them that he had just dropped off his sister at Oakridge Mall and was on his way to a friend's house when he had to pull over on the south side of Blossom Hill Road, just east of Playa Del Rey, because of police activity. Nevado indicated he started recording the activity with his cell phone when he saw the suspect come out of her house. The suspect had a gun in her hand and was pointing it up in the air when she first came out of the house. The suspect pointed the weapon at one group of officers. An officer told her to drop the weapon. The suspect raised the weapon up over her head and then turned toward the other officers. When she turned Nevado jerked back because he thought he was now in danger. He said you can see when he pulled back in the cell phone video he took. He said, "She kept walking towards the officer ... with the weapon pointed at her ... she pointed the weapon at the officer ... she never dropped her hand with the weapon." He heard a female officer say, "Drop the weapon," 3-4 times as the suspect was walking toward the female officer with the weapon pointed at the female officer before the female officer shot the suspect.

Nevado said it looked like the suspect had her gun pointed at the female officer's head when the female officer shot her with her rifle. It took 5 to 10 seconds for the officers to approach the suspect once she was on the ground. Someone said to "put her in custody." An

officer with a helmet was the first to cuff the suspect. They moved the suspect and then the officer with the helmet looked like he was putting pressure on the wound with his open hands. He wasn't sure if he recorded this part because he stopped the video after the shooting and then resumed the video later. Medical personnel arrived and started treating the suspect.

Using a satellite map of the area, Nevado indicated he was parked almost directly across the street, on Blossom Hill Road, from the suspect and the officers. He clarified that his car engine was on, the car stereo was off, and his driver's side window was down while he was observing and recording the event as it unfolded.

## **RYAN STEVEN MYERS**

Ryan Steven Myers told Officer Rodriguez that he was walking his dog in front of his house on the 800 block of Blossom Hill Road when police arrived and surrounded the house across the street on the corner. He put his dog inside the house and came back outside to see what was going on. He was standing by the mail box in front of his house and had an unobstructed view of the scene. A man exited the corner house with a gun in his hands. The police yelled, "Drop the gun" multiple times. The man started walking toward the officers by the SUV police car. The officer continued yelling for the man to drop the gun. The man continued walking toward the officer and pointed the gun at him. He heard one gunshot and the man fell. The police waited a while then they flanked the man that was on the ground. One of the officers kicked the gun away while two other officers turned the man over and handcuffed him.

Det. Smith and Sgt. Davies interviewed Ryan Myers at SJPD the day of the shooting. Myers told them that just before the incident he had been taking his dog for a walk westbound on Blossom Hill Road on the south side of the street. When Myers returned back from walking his dog he was in the area of his residence on the 800 block of Blossom Hill Road. He saw two police cars travelling on Blossom Hill Road in a westbound direction. They then blocked off traffic in the street. Myers then saw another police car on Playa Del Rey. Two officers had their guns drawn. Officers then surrounded a residence. Myers then put his dog inside his residence and came back outside. He said that things "got crazy". To get a closer look at what was going on, Myers walked eastbound on Blossom Hill Road approximately two to three houses down from his residence. He stayed on the south side of the street.

Officers surrounded the residence and a woman came out of the residence. She had a gun in her hand, pointed it in the air and then pointed it at an officer who was on Playa Del Rey. The woman then walked toward an officer near an SUV. The female officer repeatedly told the woman to put down the gun. The woman walked toward the female officer and then pointed the gun at the female officer. At that time the female officer fired a shot. An ambulance arrived shortly thereafter. Myers was about four or five houses away from the incident.

Sgt. Davies showed Myers a Google map with an overhead view of the intersection of Blossom Hill Road and Playa Del Rey. Myers said that the map looked familiar to him, but his

residence was not depicted on the map. He said that his residence was approximately five or six houses west of the intersection. Myers drew on the map, showing where police cars were located when the incident took place. He drew boxes depicting patrol vehicles in the #1 westbound lane of Blossom Hill Road just east of the suspect's residence at 799 Blossom Hill Road, a patrol vehicle located on the northeast corner of Blossom Hill Road and Playa Del Rey, and a patrol vehicle located near the northwest corner of Blossom Hill Road and Playa Del Rey.

Myers said that when he first saw the female come outside he saw her walking down a concrete pathway (southbound) in front of 799 Blossom Hill Road. When the woman came out of the residence the patrol cars were already in place. Myers saw three officers behind the patrol vehicle located at the northeast corner of Blossom Hill Road and Playa Del Rey. He also saw two officers near the SUV and the patrol car parked next to it.

When the woman came out of the residence, she pointed the gun at the officers on the northeast corner on Playa Del Rey. She then started walking slowly in the other direction toward the officers near the SUV. Myers said that the woman was given numerous (5-7) commands to drop the gun. The command was, "Put the gun down." Myers said the commands were given in a loud tone. The woman kept walking toward the officers at the SUV. From where he was standing, Myers said he couldn't see clearly what the woman was pointing at the officers, but it looked like a gun. After the commands were ignored, he heard one gunshot. After the gunshot, the woman fell to the ground. Three officers approached the woman and pushed the gun away from her. They then turned her over onto her stomach and arrested her. After the woman had been taken into custody, ambulance and fire department personnel responded to the scene. The woman was placed into an ambulance and then departed from the scene.

After the woman was transported from the scene, Myers approached the scene for a closer look. He said he was "shocked" and had never in his life seen anything like what had just happened.

Myer had lived at on Blossom Hill Road for approximately 5-7 months when the incident happened. The residence where he lives is in a duplex, surrounded by other duplexes on Blossom Hill Road. He said that the intersection and area where he lives is busy with lots of vehicular and pedestrian traffic.

Myers said that the woman walked toward the officer as if she was going to shoot the officer.

## **RUSSELL BAKER**

Russell Baker told Officer Zarate that he was at the southwest corner of Blossom Hill Road and Playa Del Rey. He saw officers across the street so he watched to see what happened next. He saw a female come out of the residence. She walked out holding both arms up in the air. She had something in each hand. He couldn't see what she was holding in her left hand. Whatever it was, she dropped it to the ground. He saw that in her right she was holding what he



thought was a Mac 9 firearm. He is former military and is familiar with guns. He could see that it was a "gun that looked like a Mac 9". He said that he heard officers yelling at the woman to drop the gun. He heard the commands, "Put it down," "stop," and "drop the gun". The woman with the gun wasn't listening to the officers and was ignoring their commands. She raised her right arm and "pointed the gun to the left and to the right". Baker demonstrated with his arm outstretched straight out and moved his arm from side to side. He saw her walking into the street still holding the gun and the officers continued to yell at her to put down the gun. He saw an officer standing at the driver side of the SUV patrol vehicle, standing over the hood, pointing a weapon at the woman. He didn't recall if the officer was a male or female. The suspect started to walk toward the SUV. The suspect raised her right arm up and "pointed the gun directly at the officer" standing behind the SUV. He then heard one shot and the suspect went down to the ground. He watched as other officers "grouped together" and approached the suspect. Baker stated, "I don't blame the officer for shooting her" and "I feel bad for that officer, he had no choice but shoot her." He also stated, "She just wouldn't listen, she wouldn't drop the gun."

Baker was interviewed again at SJPD by Detectives Corral and Newton. He told them that he was coming home from dropping off his step-daughter at school when he observed police officers driving up. He walked over to see what was going on. Baker noticed the street was blocked off by police. He stood by to watch what was going on. Baker observed a person whom he identified as being possibly a female walk out the front door from between two units toward the street. The female had her hands up with her elbows bent at 90 degree angles and holding something in both hands. Baker saw the female holding what he thought resembled a sub-machine gun in one hand and an unknown object in her other hand.

Baker could hear a police officer (to the right) directing the female to put the gun down. Baker saw the female drop what she had in her left hand, but kept the item in her right hand in an upward position. The female extended her right arm and pointed the item at the police officers who were facing east on Blossom Hill Road. The female turned and pointed the item at the officers on the other side. The female did this a few times. Baker thought she was attempting "death by cop." Baker said the female "point blank pointed it at them."

Baker said the female was not listening and started to walk toward the officer located on the eastside. The female would move forward and stop. The officer was directing the female to put the gun down and to drop it. Another officer gave the female directions and she turned and pointed the item at him. The female turned around and started to walk toward the officer. The female got between 15 or 20 feet from the officer who was standing in front of the SUV and pointed the gun at her/him. Baker heard one shot being fired. Baker said he was amazed only one shot was fired, because when the female pointed the gun at the officer he thought the female was going to pull the trigger. He described the woman as deliberately pointing the gun at the officer like she intended to shoot the officer. After the female was shot she fell to the ground and a group of officers went over and handcuffed the female. Fire and paramedics arrived shortly after that. Baker said the ambulance blocked his view and he only saw her being brought out and being placed in the ambulance.

When the Homicide Detectives told him they wanted to go over his initial statement in more detail Baker told them the following: Baker stated at approximately 10:30 am he was

arriving home from dropping off his step-daughter at school. When he arrived home he noticed approximately four police officers in the area of Playa Del Rey at Blossom Hill Road. Baker parked his vehicle and went into his residence. Approximately five minutes later Baker walked to the area of Playa Del Rey at Blossom Hill Road (south/west corner). Baker stated he stayed in this area the entire time of the incident.

The detectives used a Google Earth photo of the area which Baker used to describe various locations. Baker said police were attempting to block off the area. He was standing on the southwest corner of Playa del Rey at Blossom Hill Road. Baker observed approximately four marked police vehicles positioned in the area. Baker saw the female exit her residence which was located on the northeast corner of Blossom Hill Road at Playa Del Rey. The female had both her hands up (arms bent at the elbows) and was holding what Baker said looked similar to a black "Mac 9" or a sub machine gun in her right hand and an unknown object in the left hand.

Baker could not tell what the female had in her left hand due to the angle he was standing. The female threw the object she was holding with her left hand to the ground. Baker saw officers at the scene out of their police vehicles with their weapons drawn. The female pointed the gun at the officers on Blossom Road then pointed the gun at the officers located on Playa Del Rey. Baker said the female did this several times to the officers. Baker saw the female with her right hand fully extended and pointing the gun in the officers' direction.

Baker could hear the officers (located east of the residence) speaking to the female, but could not hear if the female was verbally responding. Baker could hear the officer(s) yelling at the female to put the gun down and to drop it. Baker said the officer who was positioned with the rifle on the hood of the SUV was giving the directions to the female. Baker could hear the officer(s) continuously telling the female to drop the weapon, put it down and stop. Baker believed the female was able to hear the officer's instructions because he could hear them from where he was standing which was further from the scene.

Baker said the female did not follow the officer(s) direction and started to walk toward the officers located east of the residence on Blossom Hill Road. Baker said as the female walked toward police she stopped approximately two times before walking toward them again. Baker said as the female walked toward the police she was holding the gun in an upward position as if it was ready to be used, but not directly pointing it at police. As the female was walking toward the police they were still giving the female the same verbal directions as earlier. The female continued to walk toward police and got approximately 20 to 30 feet from the officer and extended her right arm. Baker described the female as being in a firing position (arm extended) pointing directly at the officer standing by the hood of the SUV. Baker said he heard one gunshot fired and could not believe more officers did not shoot. Baker said when the female pointed the gun at the officer he thought the female was going to pull the trigger.

Baker said he was approximately 75 to 100 feet from where the incident occurred. After the shooting a group of officers walked toward the female. The female was lying on her back and the officers rolled her over (to her stomach) and handcuffed her. The officers rolled her back over (onto her back) and looked as if they were looking for weapons or checking her wound.

Baker said the female was not speaking but could see her feet moving. Baker said the ambulance arrived within five minutes of the incident. Baker was later contacted by police.

Baker was asked what he was thinking when he first saw the female exit her residence. Baker said the first thing that came to his mind was “death by cop”. Baker defined “death by cop” as a person who is unable to kill themselves and wanted to be killed (shot) by a cop. Baker thought the female would have shot someone else or the officer if the officer did not shoot her. Baker was positioned near a tree in the event the female pointed the weapon in his direction. Baker did not know the female who was shot.

## **JAMES SHOWMAN**

James Showman told Officer Watson that Diana Showman was his daughter that he and his estranged wife (Victoria Caulfield-Showman) adopted her at birth along with two other children. Since Diana was three years old, he said Diana Showman has had a history of mental illness. At age six, she was diagnosed with bipolar disorder. In the past, the Diana Showman has had multiple attempts of taking her own life including taking a heavy dose of prescription pills and also consuming large amounts of detergent. Diana Showman had been distraught lately and he and his wife had just discussed trying another treatment at San Andreas treatment center.

He last saw Diana Showman at around 6:00 a.m. on August 14, 2014, when he was leaving for work. After he left the house and left for work, he realized he left his wallet at home and also forgot to remind Diana Showman to take her medication. He called Diana Showman and reminded her to take her medications. He returned home to pick up his wallet and also to pick up some paperwork regarding the San Andreas facility where he wanted Diana Showman to go for treatment. He and Diana Showman are the only occupants of the house at 799 Blossom Hill Road. Diana Showman takes a large list of different types of medications and there were so many that he could not name them. Diana Showman’s medications are all located in the kitchen.

He owns a gun that he hides in the crawlspace in his bedroom and Diana Showman is not aware of this gun. She would be locked out of his room since he locks the room every day before he leaves for work.

He believed that his daughter was capable of presenting a firearm to police in order for the police to shoot her. He said Diana Showman was severely unstable at that time.

James Showman told Sgt. Davies and Det. Smith that he was Diana Showman’s father. Diana had been diagnosed as bi-polar at the age of six, but had issues prior to that. Since then she had been on several medications to control her behavior. James and his wife, Victoria Caulfield-Showman, also have a 15-year-old son, Robbie.

About a year ago, James and his wife (Victoria Caulfield-Showman) separated. James moved into their rental property at 799 Blossom Hill Road while his wife stayed on Homerite. For the most part, Robbie stayed with James while Diana stayed with Victoria. James said that

the two children couldn't stand each other and had to live apart. During the past year, Diana had made a couple of "feeble" attempts to kill herself. The attempts included an overdose of something he said was like Advil and the ingestion of laundry soap. After each attempt, Diana was taken to the hospital for a 72-hour hold, but was back home within 24 hours. James Showman said Diana Showman knew how to act normal and what to say to get released.

Diana would get violent when she got angry. Diana had put her fist through a hollow core door when she was eleven or twelve. She had issues at school where she was suspended during her sophomore year at Leigh High School. She had a sexual encounter with a boy and told the school that she had been raped, but it was obvious she was not telling the truth and she was suspended. A few weeks later Diana slapped the boy and was suspended again. Diana did not pass the high school exit exam and was in remedial classes. James Showman said (in March of 2014) he had to restrain Diana after Victoria called and said that Diana had gotten into an argument with Victoria about claiming that their son Robbie had run away when he hadn't and had thrown Victoria down during the argument. When James arrived he physically restrained Diana when Diana lunged at Victoria. James said there were other times he had to subdue Diana physically.

Diana went to a special program at West Valley College after high school, but skipped several weeks and was kicked out. She liked softball and did some assistant coaching and umpiring.

On Tuesday, August 12, Victoria Showman told James Showman that she could not take Diana living with her any more. Diana Showman had broken into her room and stolen money. Victoria Showman locked Diana Showman out of the house on Homerite and the Sheriff's Office (S.O.) was eventually called. The S.O. then called James Showman and he agreed that Diana Showman could stay with him. The S.O. then dropped Diana Showman off at the Blossom Hill Road address and Robbie went to the Homerite address.

James Showman said he had to lock up any valuables when Diana Showman stayed with him because she would often steal items. He also said he locked up her medication because she had tried to kill herself in the past. On Thursday morning, James Showman was up around 5:30 a.m. to go to work. Diana Showman was awake and watching TV. When he left, he forgot to leave her medications out. Normally, she takes a "cocktail" of medications and he sets them out for her. James Showman called from work to remind her to take her medications. He said she knew the correct dose of each one and had been taking her own meds for the last few weeks. He said that Diana confirmed with him that she knew what medications to take. The medications were not locked up.

James Showman did not think Diana drank alcohol. He said that Diana knew that she could not drink alcohol with her prescription medications.

James Showman had been remodeling the home and had several construction tools laying around the house and in the garage. He said he owned a Milwaukee saber saw that might look like a gun and a Dewalt power drill that was bright yellow. The last time he saw the Dewalt drill was the previous week. He thought he kept it in the garage. He did not use it often because the

reverse did not work. He said he had paint in the house, but wasn't sure if he had black paint. He said his son had some spray-paint, but he thought that was silver. He also owned a .38 caliber revolver that he kept in a concealed crawl space under his bedroom closet floor. The gun was in a bag and had a trigger lock on it. He always kept his bedroom door locked. He kept the ammunition in a separate location in a locked box. Diana Showman didn't know he owned the gun. His son knew he owned the gun, but not where he kept it.

James Showman returned home on Thursday around 11:30 a.m. to get his wallet that he had left behind. He was stopped by the police and was told that Diana had been involved in an officer-involved shooting. James Showman agreed to come to SJPD for an interview. His wife, Victoria, also came to SJPD, but was not interviewed.

## **JERRY SHOWMAN**

Jerry Showman identified himself to Medical Investigator Andrea Whelan as Diana Showman's brother. He told Inv. Whelan that Diana was diagnosed with bipolar disorder as a teenager and was on multiple medications for the condition. He said Diana Showman had been hospitalized that summer for suicidal ideation, but he said she had no attempts or plans to commit suicide. He said that Diana Showman had expressed the need for psychiatric care and this led to her hospitalization and she was now being seen regularly by a psychiatrist. He did not think Diana Showman abused alcohol or drugs, but said she had difficulties taking her prescribed medications on a regular basis. He thought she had been taking them in recent weeks.

## **CELL PHONE EXAMS AND VIDEOS**

### **TROPF VIDEOS**

As he told police, Tropf recorded some of the events from August 14, 2014 with his cell phone. Two videos were made by Tropf; one that shows some events before and at the time of the shooting, and one that shows the emergency medical response after the shooting. Both of Tropf's videos were made from the opposite side of Blossom Hill Road from where the shooting occurred.

The first "Tropf" video is 10 minutes and 24 seconds long. It begins by showing a female officer (Officer Okuna) and a male officer (Officer Anderson) with rifles with a SJPD SUV between them and the homes on the opposite side of Blossom Hill Road from the camera. The video pans to the left and shows at least two more officers near patrol cars at the intersection of Blossom Hill Road and Playa Del Rey. Traffic passes between the camera and the officers repeatedly.

Officer Okuna is positioned behind the hood on the driver's side of the SUV. Officer Anderson is at the rear of the same SUV.

At 3:53<sup>3</sup> the video pans over and shows a figure in a blue shirt and dark shorts (Diana Showman) with an object in her right hand walking from the buildings. Showman raises her hands above her head. The object in Showman's right hand is dark and "L" shaped. The quality of the video is such that you cannot distinguish the face or sex of the figure.

Talking can be heard in the background, but it cannot be understood. Showman walks forward with her hands in the air with the L shaped object still in her right hand.

At 4:21 Showman points the object at the officers who are near the intersection.

At 4:22 Showman points the object up again and resumes walking toward Officer Okuma and Officer Anderson.

At 4:24 someone is yelling, but what is said cannot be understood. Showman points the object at Officer Okuma.

At 4:27 Showman lowers both of her hands to her sides. Showman is still holding the L shaped object in her right hand.

At 4:28 Showman raises the object and points it at the officers in the intersection again.

At 4:29 Showman lowers the object and faces the camera. The quality of the video is such that you can still not distinguish facial features. Showman then begins walking with the object at her side toward Officer Okuma. Cars continue to pass on Blossom Hill Road between Showman, Officer Okuma, Officer Anderson and the camera.

At 4:38 you can understand the words when Officer Okuma says, "Stop right there." Showman continues to walk toward Officer Okuma.

At 4:48 you can understand the words when Officer Okuma says, "Put it on the ground." Showman continues to walk toward Officer Okuma.

At 4:49 Showman is out of the video frame. You can hear Officer Okuma say, "Stop right there." You can hear a male voice, but cannot understand it. A male voice then says something about, "You've gotta move back." Another male voice responds, "I got it. I got it."

At 4:55 Showman is still out of the frame. Office Okuma says, "Stop it. Stop right there." This is immediately followed by the sound of single gunshot. Neither Showman nor Officer Okuma are in the frame when the gunshot is heard.

At 4:59 the camera pans right and Showman can be seen prone on the ground, and appears to be on her back. Her feet are the closest part of her body to the SUV. Her feet appear to be approximately one car length away from the front bumper of the SUV.

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<sup>3</sup> All times from video are listed as minutes:seconds. For example, 3:53 is three minutes and 53 seconds into the recording. These times do not designate the hour and minute of the day.

At 5:02 the camera pulls away from Showman and shows only the street.

At 5:05 the camera returns to Showman who is still prone.

At 5:09 the camera pans right and shows Officer Anderson near the front driver's tire of the SUV and Officer Okuma to his right toward the driver's door of SUV.

At 5:24 Showman moves her right arm toward her body and lifts it off the ground a few inches repeatedly. Cars continue to pass between the camera and Showman. The L shaped object Showman had been holding cannot be seen.

At 5:54 a male officer with a helmet enters the frame from the left and circles around Showman.

At 6:01 four officers, including the Officer Anderson and Officer Okuma approach Showman.

At 6:07 the officer with the helmet rolls Showman over.

At 6:41 the man holding the camera man says, "Damn, I just watched that girl get shot by the cops. But, she was pointing a gun at the cops. Or whatever she had. Looked like a drill." Officers appear to be inspecting and searching Showman.

At 7:40 it looks like an officer is checking Showman's pockets and then puts his hand(s) on her chest and maintains that position until the video ends two and a half minutes later.

At 8:06 Officer Okuma returns to Showman, bends down and touches her around her shorts.

At 10:17 two fire trucks are seen pulling up from the right.

The second "Tropf" video is one minute and 17 seconds long and is taken from the same position as the first "Tropf" video.

At :05 a firefighter walks to Showman who is still prone on the ground. Officers are still near Showman. An officer with a helmet is kneeling over Showman and appears to have his hand(s) positioned on her chest or stomach. Two more firefighters approach with bags and attend to Showman. The helmeted officer maintains his position until the end of the recording.

At 1:17 the video ends.

## NEVADO VIDEO

As he told police, Nevado recorded some of the events from August 14, 2014 with his cell phone. The video was made from the opposite side of Blossom Hill Road from where the shooting occurred. It is two minutes and 26 seconds long. The resolution of this video is higher than the "Tropf" videos, but appears to have been taken from roughly the same distance. There is audio, but the ambient noise from traffic passing between the camera, Showman and the officers makes it difficult to understand some of what is said.

The video begins by showing a female officer (Officer Okuma) positioned between the front driver's door and tire of a SJPD SUV. A male officer (Officer Anderson) is positioned at the rear driver's side bumper of the SUV. Both have their attention directed toward a figure in a T shirt and shorts (Showman) who is standing near the walkway that leads to 799 Blossom Hill Road.

At :11 you can hear Officer Okuma giving commands.

At :19 the camera pans left and shows Showman standing with her arms up, with a black object in her right hand.

At :20 the Showman turns toward Officer Okuma and Officer Anderson.

At :22 the camera pans left and Officer Okuma steps back and away from Showman. You can hear voices, but it is not clear what is said. Officer Anderson is still at the rear of the SUV. Cars are passing between the camera and the officers.

At :27 the camera turns and shows nothing.

At :35 Officer Okuma can be heard saying, "Stop right there."

At :37 Officer Okuma says, "Drop it."

At :44 the camera still shows nothing, but you can hear Officer Okuma continuing to give commands. One that can be understood after traffic passes is, "Put it on the ground. Stop right there."

At :50 a male voice can be heard, but the only part that can be understood is, "I got it. I got it."

At :52 the camera pans left and shows Showman pointing an "L" shaped black object at Officer Okuma. Showman appears to be approximately one car length away from the officer. Officer Okuma says again, "Stop right there." (See Exhibit 6.)

At :53 you hear a gunshot. The camera flinches and pulls away as Showman begins to bend forward at the waist without bending her knees.



At :57 the camera returns to Officer Okuma and Showman is prone on the ground. Officer Okuma maintains her position behind the hood of the SUV.

At 1:06 the camera pulls away. You can hear sirens in background.

At 1:10 the camera pans back and Officer Anderson is now next to Officer Okuma.

At 1:12 the camera pulls away.

At 1:19 the camera returns to the officers.

At 1:23 one or both of Showman's arms are moving.

At 1:50 an officer with a helmet comes up from the left of Showman toward Showman. A second officer follows from same side.

At 1:57 all four officers make a tactical approach to Showman.

At 2:00 the camera pans right and the officers are out of the frame.

At 2:02 the camera pans left and the officers are rolling Showman over.

## **SHOWMAN'S CELL PHONE**

Showman's cell phone was examined. Based upon the contents of various text messages it appears that the day before the shooting Showman was having problems with a girlfriend named Stephanie and was expecting an unknown person to come to her (Showman's) home to collect money. There was nothing in the text messages indicating a plan to harm herself or others.

## **RELEVANT LEGAL PRINCIPLES**

This review was conducted pursuant to the joint protocol between this office and all Santa Clara County law enforcement agencies calling upon the District Attorney to conduct an independent assessment of the circumstances surrounding the use of deadly force. This review does not examine such issues as compliance with the policies and procedures of any law enforcement agency, ways to improve training or tactics, or any issues related to civil liability. Accordingly, such a review should not be interpreted as expressing an opinion on these matters.

Possible criminal charges against an officer-involved in a fatal shooting include murder (Penal Code section 187) and voluntary manslaughter (Penal Code section 192). In order to convict an officer of any of these charges, however, it would be necessary to prove beyond a

reasonable doubt that no legal justifications existed for the officer's actions. (*People v. Banks* (1977) 67 Cal.App.3d 379.) Several justifications may apply in any given case and they are set forth in Penal Code sections 196 and 197. The justification pertinent to this is the use of force in self-defense/defense of others.

#### Penal Code Section 197: General Right to Self-Defense

California law permits all persons to use deadly force to protect themselves from the threat of death or great bodily harm. Penal Code section 197 provides that the use of deadly force by any person is justifiable when used in self-defense or in defense of others. The relevant Criminal Jury Instruction as written by the Judicial Council of California and set forth in CALCRIM 3470 permits a person being assaulted to defend himself from attack if, as a reasonable person, he had grounds for believing and did believe that bodily injury was about to be inflicted upon him or upon another person. In doing so, such person may immediately use all force and means which he believes to be reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to defend against that danger and to prevent the injury which appears to be imminent.

One may resort to the use of deadly force in self-defense where there is a reasonable need to protect oneself from an apparent, imminent threat of death or great bodily injury. Perfect self-defense requires both subjective honesty and objective reasonableness. (*People v. Aris* (1989) 215 Cal.App.3d 1178, 1186.) "Imminence is a critical component of both prongs of self-defense." (*People v. Humphrey* (1996) 13 Cal.4th 1073, 1094.) Response with deadly force must be predicated on a danger that portends imminent death or great bodily injury. The person's right of self-defense is the same whether the danger is real or merely apparent. (*People v. Jackson* (1965) 233 Cal.App.2d 639.) Reasonableness and immediacy of threat are intertwined. Self-defense "is based on the reasonable appearance of imminent peril of death or serious bodily injury to the party assailed . . ." (*People v. Turner* (1948) 86 Cal.App.2d 791, 799.)

In *Aris*, the trial court's clarifying instruction to the jury on the subject was to the point and later cited with approval by the California Supreme Court: "An imminent peril is one that, from appearances, must be instantly dealt with." (*In re Christian S.* (1994) 7 Cal.4th 768, 783.)

What constitutes "reasonable" self-defense is controlled by the circumstances. The question is whether action was instantly required to avoid death or great bodily injury. In this regard, there is no duty to wait until an injury has been inflicted to be sure that deadly force is indeed appropriate. In one case, a robber pointed a gun at his victim and a deputy sheriff was called to the scene of the robbery. Before the robber could get off a shot the deputy fired his weapon, wounding the robber. The appellate court remarked that "[s]uch aggressive actions required immediate reaction unless an officer is to be held to the unreasonable requirement that an armed robber be given the courtesy of the first shot." (*People v. Reed* (1969) 270 Cal.App.2d 37, 45.)

#### Penal Code Section 196: Justifiable Homicide by Public Officer

In addition to using deadly force in self-defense or defense of others, police officers may use deadly force in the course of their duties under circumstances not available to members of the general public. Penal Code section 196 provides that use of deadly force by a public officer is justifiable when necessarily used in arresting persons who are “charged with a felony” and who are fleeing from justice or resisting such arrest. Section 196 applies where the officer has “reasonable cause” to believe that the person has committed a forcible and atrocious felony and the officer has probable cause to believe that the suspect poses a threat of future or imminent death or great bodily injury, either to the officer or to others. Forcible and atrocious crimes are generally those crimes whose character and manner reasonably create a fear of death or serious bodily harm, such as murder, mayhem, rape and robbery. (*People v. Kilvington* (1894) 104 Cal.86, 89; *Kortum v. Alkire* (1977) 69 Cal.App.3d 325, 333.)

When a police officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others, it is not constitutionally unreasonable to prevent escape by using deadly force. (*Tennessee v. Garner* (1985) 471 U.S. 1, 11.) This limitation was subsequently clarified by the United States Supreme Court in *Graham v. Conner* (1989) 490 U.S. 386, wherein the Supreme Court explained that an officer’s right to use deadly force is to be analyzed under the Fourth Amendment’s “objective reasonableness” standard. The test of reasonableness in this context is an objective one, viewed from the vantage of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. (*Graham, supra*, 490 U.S. at 396.) It is also highly deferential to the police officer’s need to protect himself and others. The calculus of reasonableness must embody allowance for the fact that “police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation. (*Id.*) The “reasonableness” inquiry in an excessive force case is an objective one: the question is whether the officers’ actions are “objectively reasonable” in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. (*Id.*)

As one court noted, “[U]nder *Graham* we must avoid substituting our personal notions of proper police procedure for the instantaneous decision of the officer at the scene. We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day. What constitutes ‘reasonable’ action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure.” (*Smith v. Freland* (6<sup>th</sup> Cir. 1992) 954 F.2d 343, 347.)

The Supreme Court’s definition of reasonableness is therefore “comparatively generous to the police in cases where potential danger, emergency conditions or other exigent circumstances are present.” (*Roy v. Inhabitants of City of Lewiston* (1<sup>st</sup> Cir. 1994) 42 F.3d 691, 695.) In effect, the Supreme Court intends to surround the police who make these on-the-spot choices in dangerous situations with a fairly wide zone of protection in close cases. (*Martinez v. County of Los Angeles* (1996) 47 Cal.App.4<sup>th</sup> 334, 343-344.)

The test for determining whether a homicide was justifiable under Penal Code section 196 is whether the circumstances reasonably created a fear of death or serious bodily harm to the officer or to another. (*Martinez v. County of Los Angeles* (1996) 47 Cal. App. 4th 334, 349.)

Officers may reasonably use deadly force when they confront an armed suspect in close proximity whose actions indicate intent to attack. (*Id.* at 345.) In such circumstances, the courts cannot ask an officer to hold fire in order to ascertain whether the suspect will, in fact, injure or murder the officer. (*Ibid.*) A peace officer does not have to wait until a gun is pointed at the officer before the officer is entitled to take action. An officer is entitled to use deadly force when the officer has reason to believe the suspect is armed, even if the officer cannot confirm that the suspect is actually armed. (*Anderson v. Russell* (2001) 247 F.3d 125, 129, 131.)

The amount of force used must be reasonable under the circumstances. When justified in using force to stop a threat, the Supreme Court has held that officers may continue to use force until that threat has ended. (*Plumhoff v. Rickard* (2014) 134 S.Ct. 2012, 2012.) In *Plumhoff v. Rickard* police fired fifteen rounds at the suspect in approximately ten seconds. The Supreme Court held this was reasonable, stating “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.” (*Ibid.*)

#### Penal Code section 199: Justifiable and Excusable Homicide; Discharge of Defendant

If the homicide appears to be justifiable or excusable, the person indicted must, upon his trial, be fully acquitted and discharged.

#### Penal Code section 417: Threatening With Weapon

Every person who, except in self-defense, in the presence of any other person, draws or exhibits any deadly weapon whatsoever, other than a firearm, in a rude, angry or threatening manner is guilty of a misdemeanor.

#### Penal Code section 417.8: Exhibiting Weapon at Peace Officer

Every person who draws or exhibits any firearm, whether loaded or unloaded, or other deadly weapon, with the intent to resist or prevent the arrest or detention of himself or another by a peace officer is [guilty of a felony].

#### Penal Code Section 69: Resisting or Deterring Officer

Every person who attempts, by means of any threat or violence, to deter or prevent an executive officer from performing any duty imposed on such officer by law, or who knowingly resists, by the use-of-force or violence, such officer, in the performance of his duty is guilty [of a felony or misdemeanor].

#### Penal Code Section 148(a) (1): Resisting or Obstructing a Peace Officer

Every person who willfully resists, delays, or obstructs a...peace officer...in the discharge or attempt to discharge any duty of his or her office...[is guilty of a misdemeanor].

#### Penal Code Section 245(c): Assault with a Deadly Weapon Against Officer

Any person who commits an assault with a deadly weapon upon the person of a peace officer...who knows or reasonably should know that the victim is a peace officer engaged in the performance of his duties, when the peace officer is engaged in the performance of his duties, [is guilty of a felony].

#### Penal Code Section 835a: Use of Reasonable Force to Effect Arrest

Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

#### Penal Code Section 836(a): Peace Officer's Authority to Arrest

A peace officer may arrest a person in obedience to a warrant, or...without a warrant, may arrest a person whenever any of the following circumstances occur: (1) The officer has probable cause to believe that the person to be arrested has committed a public offense in the officer's presence. (2) The person arrested has committed a felony, although not in the officer's presence. (3) The officer has probable cause to believe that the person to be arrested has committed a felony, whether or not a felony, in fact, has been committed.

#### Police Power to Detain

An officer has the right to temporarily detain a person when the officer has a reasonable suspicion of that person's involvement in criminal activity. Reasonable suspicion demands some minimum level of objective justification, but considerably less than is required for probable cause to arrest. (*United States v. Sokolow* (1989) 490 U.S. 1, 7; *Terry v. Ohio* (1968) 392 U.S. 1, 22.)

Whether reasonable suspicion exists depends upon a consideration of the totality of circumstances. (*United States v. Sokolow, supra*, 490 U.S. at pp. 8-9; see also, *United States v. Arvizu* (2002) 534 U.S. 266, 277-278.) It is immaterial that there might be a possible innocent explanation for the activity witnessed by the police officer. Even innocent behavior will

frequently provide a showing of reasonable cause to detain. (*United States v. Sokolow, supra*, 490 U.S. at pp. 9-10.)

One function of a temporary detention is to resolve any ambiguity in the situation to find out whether the activity was in fact legal or illegal. (*People v. Souza* (1994) 9 Cal.4<sup>th</sup> 224, 242.) A detention is intended to permit a speedy, focused investigation to confirm or dispel the individualized suspicion of criminal activity justifying it. (*People v. Soun* (1995) 34 Cal.App.4<sup>th</sup> 1499, 1516.) Indeed, an officer would be derelict in his duty if he did not investigate any suspicious circumstances confronting him. (See *People v. Higgins* (1994) 26 Cal.App.4<sup>th</sup> 247, 250.)

Officers may properly base a detention on information received from a fellow police officer, dispatcher, or other “official channels,” because the law generally considers such persons or sources to be reliable. (*United States v. Hensely* (1985) 469 U.S. 221.)

### Police Use-of-Force to Detain

An officer attempting to enforce a lawful detention or arrest may use an amount of force that is reasonably necessary. (*People v. Brown* (1985) 169 Cal.App.3d 159, 167.) The right to verify or dispel suspicion is meaningless unless officers may, when necessary, forcibly detain a suspect. (*People v. Johnson* (1991) 231 Cal.App.3d 1, 12.) “Levels of force and intrusion in an ‘investigatory stop’ may be legitimately escalated to meet supervening events, such as attempted flight.... A ‘reasonable’ reaction in this context, like ‘probable cause,’ turns on ‘the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act.’ ” (*Id.* at 13, citing *United States v. White* (D.C. Cir. 1981) 648 F.2d 29, 40.)

Even if a detention is unjustified (thereby unlawful), every person has a duty to submit to the orders of a peace officer and may not resist unless excessive force is used or threatened. (*Evans v. City of Bakersfield* (1994) 22 Cal.App.4<sup>th</sup> 321, 332 [“Our conclusion is dictated by a pragmatic realization that the rule allowing forcible resistance leads to riots and violence by fostering a belief on the part of the detained person that he is the sole judge of whether the detention is or is not proper. (Cf. *People v. Burns, supra*, 198 Cal.App.2d Supp. at p. 841.). ...”].)

### Welfare and Institutions Code section 5150

*“When a person, as a result of a mental health disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer, professional person in charge of a facility designated by the county for evaluation and treatment, member of the attending staff, as defined by regulation, of a facility designated by the county for evaluation and treatment, designated members of a mobile crisis team, or professional person designated by the county may, upon probable cause, take, or cause to be taken, the person into custody for a period of up to 72 hours for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment in a*

facility designated by the county for evaluation and treatment and approved by the State Department of Health Care Services.” (Cal. Welfare and Institutions Code section 5150 (emphasis added).) This statute authorizes police officers to take someone into custody who because of a mental health disorder is a danger to herself, himself or others.

## ANALYSIS

This report is limited to an examination of the use of deadly force by Officer Wakana Okuma. We have carefully examined her recorded statement describing the events that ended in the shooting of Diana Showman, as well as the statements of each law enforcement officer who witnessed the shootings, the statements of each civilian witness to the event, and any audio or video which may have captured any portion of the incident. Our review is limited to a determination whether the officer was legally justified in using force that resulted in the death of Diana Showman.

Officer Okuma and the other officers on scene were advised by their dispatcher that the suspect at 799 Blossom Hill Road said she had an Uzi assault weapon and had threatened to shoot her mother and brother. An Uzi is a type of assault firearm capable of firing multiple rounds with a single trigger pull. An Uzi may have a folding stock and maintains its ammunition magazine in the handle of the weapon. Uzi magazines hold up to 32 rounds of ammunition. The magazine protrudes below the bottom of the handle grip. There are three variations of the weapon (not including the Uzi pistol) which with the stock folded range in length from 18.5 inches to 11 inches.<sup>4</sup> (See Exhibit 1.) While Uzi is the name of a specific firearm, the word is often used by laymen to describe any submachine or machine pistol with a magazine extending from the bottom of the firearm’s handle.

Dispatch provided a description of the suspect which Diana Showman matched upon exiting the home at 799 Blossom Hill Road. Showman did not respond to commands. Officer Okuma was reasonable in believing that Showman was the armed suspect to whom she had been dispatched. Dispatch had reported that Showman was threatening to shoot her mother and brother. Officer Okuma and the other officers were acting within the scope of their duties by attempting to detain and arrest Showman.

When she exited the home Diana Showman was carrying a trigger activated Dewalt power drill that she had spray-painted flat black. (See Exhibit 2.) There was no drill bit in the drill. The drill did not have a power cord. The drill had a trigger guard just like a firearm. The shaft for the drill bit was empty giving it the appearance of the open end of a firearm’s barrel. (See Exhibit 3.) Given the appearance of the painted drill and the dispatcher’s report that the suspect claimed to be armed with an Uzi, Officer Okuma believed and was reasonable in believing that the drill was some type of firearm.

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<sup>4</sup> See [www.uzi.com](http://www.uzi.com).

None of the other officers on scene at the time of the shooting recognized the drill as not being a firearm until after the shooting. The only civilian witness who recognized the drill as a drill prior to the shooting was Michael Tropf who explained that he worked construction and was very familiar with power drills. Tropf noted to the officers that the drill looked like a firearm. Russell Baker, who said that he had been in the military and was familiar with firearms, believed the drill to be a gun. Pedro Nevado initially believed the drill was a gun, but realized it was not after Showman had been shot and dropped it. Both Ryan Myers and Ali Nazari described the drill as a gun and both seemed unaware during their interviews that it was not. These observations by other witnesses, officers and civilians, further support the reasonableness of Officer Okuma's belief that Showman was pointing a firearm at her when she shot Showman. Indeed, all of this was Showman's intent. Showman told the 911 operator that she had a gun and she painted the drill to look like a gun specifically to trick the responding officers into believing she had a gun.

The law permits any person to use deadly force where there is a reasonable need to protect oneself or others from an apparent, imminent threat of death or great bodily injury. The fact that Showman was not armed with a firearm at the time of the shooting does not negate a legal justification for the shooting as long as the officer honestly believed she posed an imminent threat of death or great bodily injury to the officer or others.

The Pedro Nevado cell phone video shows that Officer Okuma fired when Showman was pointing the drill directly at her from approximately 30 feet away. The Tropf and Nevado videos both confirm that Officer Okuma ordered Showman repeatedly to stop and put the weapon down. Showman never answered. Showman did not put the drill down. Instead she repeatedly pointed it at both groups of officers. Showman continued to advance on Officer Okuma despite her orders to stop. Even if Officer Okuma had suspected that the weapon may not be a firearm, it would have been unreasonable for her to allow Showman to advance close enough with the weapon pointed directly at her in order to get a better view of the weapon to either confirm or dispel such a suspicion. Based upon Showman's close proximity and the fact that the drill was pointed directly at Officer Okuma, it was reasonable for Officer Okuma to conclude that Showman posed an immediate threat of death or great bodily injury.

Officer Okuma fired a single round. Because she believed Showman was armed with a firearm, particularly one capable of firing multiple rounds with a single trigger pull, Officer Okuma's use of a firearm in order to stop the immediate threat was reasonable. When Showman was struck she immediately fell to the ground. Officer Okuma used no further force upon Showman because she was no longer an immediate threat to do bodily harm.

Because she reasonably believed that Showman was going to shoot her with a firearm, Officer Okuma was justified in firing her rifle at Showman in order to stop that threat to her own life. The evidence supports Officer Okuma's statement that she fired at Showman because she feared for her own life.

Additionally, Officer Okuma was legally permitted to use reasonable force to effect an arrest of Showman and stop an apparent imminent attack because Officer Okuma had reasonable cause to believe that Showman had committed multiple felonies, including exhibiting a weapon



at a peace officer and assault on an officer with a firearm and Showman was continuing to point a weapon at the officers. Officer Okuma had reasonable cause to believe Showman committed both of these offenses when she saw Showman pointing the painted drill at Officer Okuma and other officers. Officer Okuma was not required to retreat or withdraw when Showman refused to follow commands to put the weapon down. Because Officer Okuma reasonably believed that Showman was approaching her with a machine gun and was going to fire it at her, Officer Okuma used reasonable force in order to arrest Showman.

### CONCLUSION

After examining all of the evidence, we find that Officer Okuma acted in lawful self-defense and used reasonable force under the circumstances in order to make an arrest when she fatally shot Diana Showman. Her conduct was therefore justifiable and no criminal liability attaches to it.

Dated: 5-30-15

Respectfully submitted by,

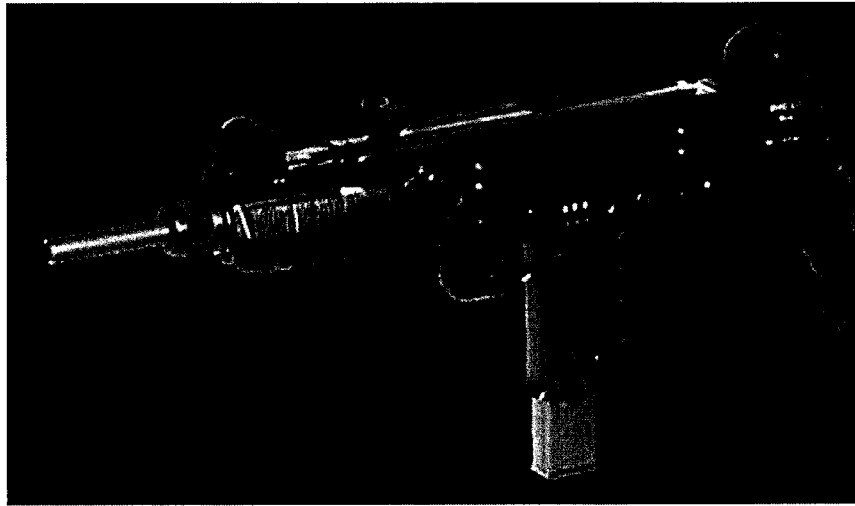


James K. Leonard  
Supervising Deputy District Attorney

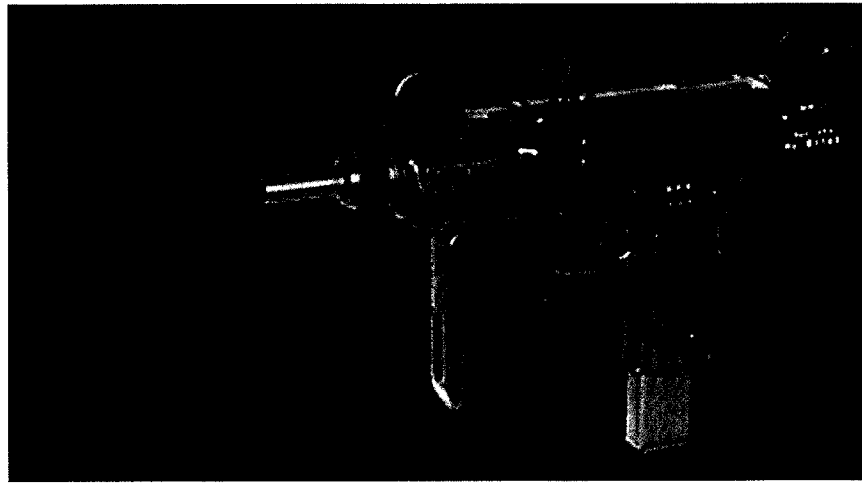
JEFFREY F. ROSEN  
District Attorney

# Exhibit 1

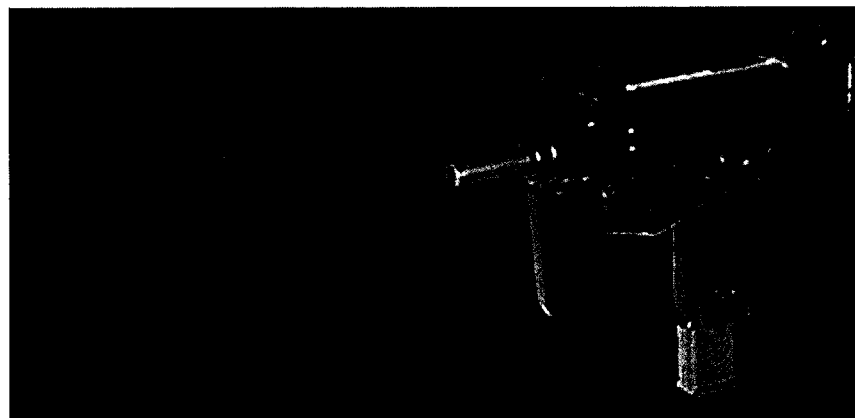
## Uzi Submachine Gun



Mini Uzi



Micro Uzi



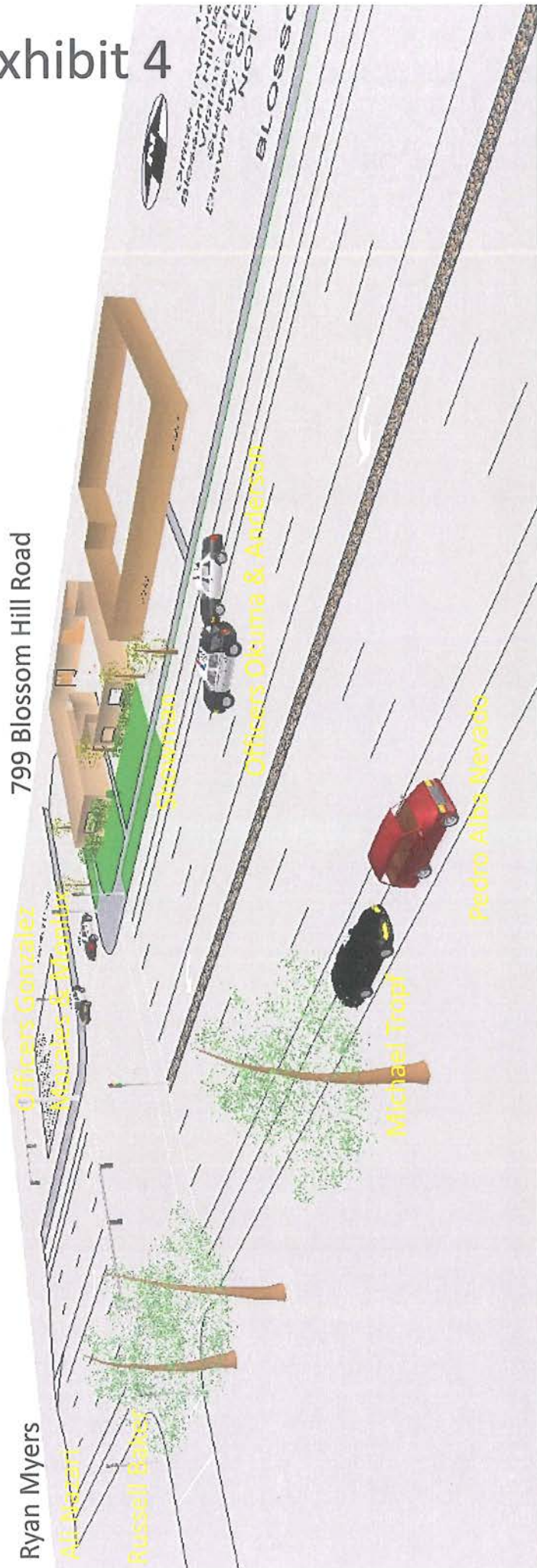
# Exhibit 2



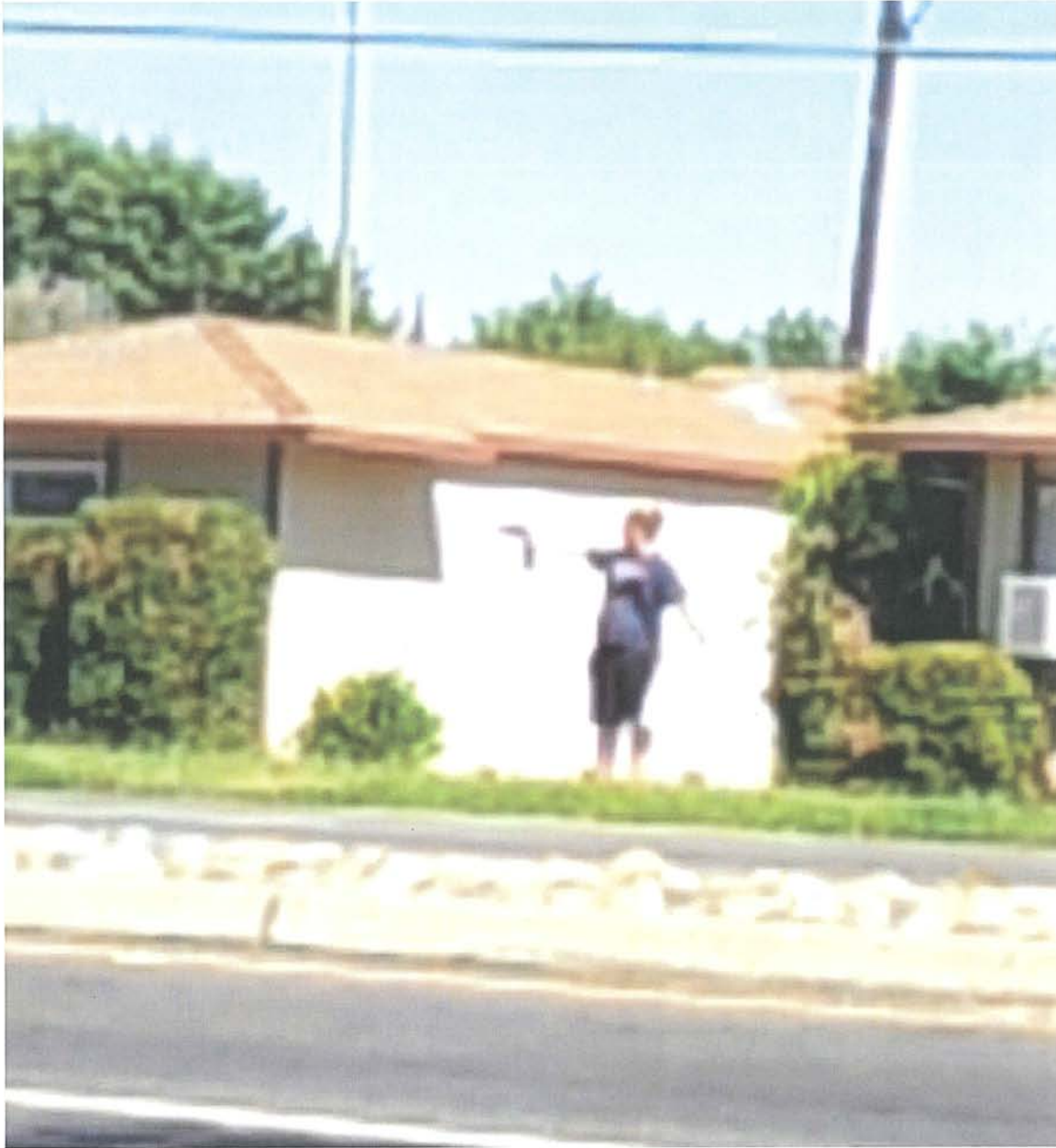
# Exhibit 3



# Exhibit 4



# Exhibit 5



# Exhibit 6

