

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF VENTURA

JANUARY 5, 2009

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

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I. INTRODUCTION

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

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

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

Based on the information available for review, the District Attorney's investigation, and the applicable legal authorities, it is the opinion of the District Attorney that there is insufficient evidence to prove beyond a reasonable doubt that the actions of any Simi Valley Police Officer caused the death of Reymundo Guerrero. Further, the force used to subdue and arrest Reymundo Guerrero was justified, was not excessive and did not constitute a criminal act.

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

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

II. STATEMENT OF FACTS

A. GUERRERO’S ERRATIC DRIVING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. PURSUIT

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

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

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

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

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

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

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

C. BACKYARD AT 897 CHELSEA COURT

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

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

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

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

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

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

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

1. USE OF TASER

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

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

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

2. REMOVING GUERRERO FROM HIS TRUCK

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

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

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

3. RESTRAINING GUERRERO

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

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

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

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

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

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

4. MEDICAL AID

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

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

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

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

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

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

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

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

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

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

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

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

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

D. ADDITIONAL POLICE RESPONSE AND INVESTIGATION

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

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

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

E. WITNESS STATEMENTS

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

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

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

1. STEVE BROWN

On May 15, 2007, Brown was driving home from a golf tournament trip when he stopped at a stop sign at the intersection of Fitzgerald Road and Erringer Road. A gray and maroon two-tone late model Ford or Chevrolet truck driven by a Hispanic male with a shaved head, in his late twenties to early thirties, approached northbound on Erringer Road. The truck turned onto Fitzgerald in front of Brown after a "California stop" (rolling through the stop sign) and Brown had to swerve to avoid being struck by the truck.

The truck drove next to Brown and the driver raced the engine as if he wanted to race. The driver appeared to be "out of it," so Brown ignored him. The driver rolled through the next stop sign at Crosby Avenue, cutting off another driver who had to brake and back up to avoid colliding with the truck.

The truck stopped at the intersection of Fitzgerald and Sycamore Drive, and appeared to be waiting for Brown. Once Brown reached the stop sign, the driver revved his engine. They drove into the intersection at the same time and the truck cut Brown off by driving into Brown's lane. The truck continued driving on Fitzgerald Road and Brown stayed behind the truck.

The truck then began braking multiple times in front of Brown, as if to annoy him. The truck eventually reached the intersection of Fitzgerald Road and Watson Avenue, and made a rolling stop onto northbound Watson. Brown continued home without encountering the truck again.

Brown believed that he arrived home between 9:45 p.m. and 10:30 p.m. Brown heard the sound of tires burning out ten to fifteen minutes after he arrived home. A few minutes later, he heard sirens and the sounds of a collision, then more sirens and what sounded like a chase. He figured the police were chasing the truck he had encountered.

2. MELANIE THOMAS

On May 15, 2007, Melanie Thomas was stopped at the intersection of Coastal Oaks and Sequoia Avenue when she heard tires squealing. She drove a little further and saw a newer maroon pickup truck with a tan stripe at the intersection of Sequoia Avenue and Pine View Drive. The truck was facing the wrong direction and backing up in the southbound lane of Sequoia Avenue.

Thomas turned onto Corto Street just as the truck passed her. The truck stopped suddenly with its tires squealing as it stopped. The truck then began backing up rapidly, missing her car by about five feet. Ms. Thomas continued driving home on Corto Street.

Thomas parked her car outside her house on Pine View Drive. She started to get out of her car when she saw the same truck driving eastbound on Pine View. The truck sped by her parked car. She had just opened her car door but closed it to avoid the truck hitting it. She believes the truck would have hit her if she had already gotten out of her car.

The truck stopped suddenly, approximately fifteen feet away from her. It then began backing rapidly back down the street and out of sight. She felt that the truck was driving too fast for a residential area.

Thomas went inside her house and told her father, witness Troy Thomas, what had just happened. Troy Thomas called 911 and went in search of the truck. While in her house, Thomas heard what she assumed was the truck driving very fast on Pine View Drive a couple of times, then reverse back down the street. She did not see the truck again.

3. OFFICER TROY THOMAS - LAPD

a. Interview

Troy Thomas is a peace officer employed by the Los Angeles Police Department. On May 15, 2007, he was off-duty and at home when he heard the sound of an unknown vehicle racing up and down Sequoia Avenue. At approximately 9:15 to 9:20 p.m., his seventeen-year-old daughter, Melanie Thomas, came home from work. She appeared “frantic” and “unnerved” and told him someone had tried to run her off the road and tried to run her down as she was getting out of her car.

Officer Thomas went outside and saw what appeared to him to be an older model Chevy truck, maroon over silver in color, at the end of the cul-de-sac of Pine View Drive. The truck revved its engine and sped back down Pine View Drive toward Sequoia Avenue.

Officer Thomas went back inside and grabbed his cell phone and car keys. He got into his car and drove after the truck in order to obtain its license plate number.

Officer Thomas next saw the truck driving on Cinnabar Place, crossing High Point Place.²¹ He estimated the truck to be traveling at 40-50 mph. The truck reached the northern cul-de-sac and began screeching tires and rocking between reverse and forward. The truck then sped off toward the southern end of Cinnabar Place and drove past Officer Thomas at a high rate of speed.

Officer Thomas lost sight of the truck but heard its tires squealing around the southern cul-de-sac. The truck then returned to the northern cul-de-sac. The truck began tailgating a car and it appeared as though the truck was going to hit the other car. The car's driver got out and ran from his car to avoid the truck.

The truck eventually left the cul-de-sac, turned on High Point, then turned left and headed south on Sequoia toward a dead end. The truck made a U-turn at the end of Sequoia Avenue, revving its engine, and began driving rapidly toward Simi Valley Police Officers who had arrived at Sequoia. Officer Thomas was on the phone with the dispatch and told the dispatcher "Tell your guys to be careful 'cause this guy's driving crazy, he's driving very erratically."

The truck ran the stop sign at High Point and Sequoia at a speed Officer Thomas approximated to be 60 mph. He feared the truck was going to collide with a police car that was stopped there, but the truck passed the police car, drove over the center median, made a U-turn, drove over the median again, and headed back south on Sequoia. Officer Thomas thought that the truck hit one of the police cars as it turned.

The truck made a right turn onto Manorgate Place and the officers followed it. Officer Thomas then went home and had no further involvement until he was contacted by Simi Valley Police.

²¹ / Cinnabar Place is a double cul-de-sac that runs north and south across High Point Place.

b. 911 Calls

Officer Thomas made two calls to SVPD on May 15, 2007. During the first call, he told the dispatcher that the truck that had been on Sequoia Avenue and Pine View Drive had moved to High Point Place.

During the second call, Thomas told the dispatcher that the driver was trying to run people off the road, and was at Cinnabar Place and High Point Place. He described the truck as trying to “run folks down.”

Officer Thomas then reported the truck as heading southbound on Sequoia Avenue and stated “I don’t think this guy knows his way around.” As he spoke with the dispatcher, Officer Thomas related that police had arrived at the area of Fitzgerald Road and Sequoia Avenue. He then narrated as the truck turned around and came back up Sequoia Avenue “driving right at ‘em,” referring to the police cars. He then reported that the truck went around the officers and that the officers had begun following the truck. The dispatcher ended the call to deal with the ongoing pursuit.

4. BRIAN KANE

a. Interview

At approximately 9:30 p.m., on May 15, 2007, Brian Kane was in his house on Pine View Drive when he heard a loud vehicle noise in front of his house. Kane went outside and saw a pickup truck at the east end of his cul-de-sac that was “behaving very erratically . . . beyond anything I’ve seen in my neighborhood.” He described the truck as a Ford F-150 with a distinctive two-tone paint job. Kane never got a good look at the driver.

The truck was repeatedly squealing its tires in acceleration and jamming on its brakes. Kane saw the truck accelerate and brake at least six to eight times, and the truck never moved more than ten feet any one time. The truck then turned around and drove toward him at a high rate of speed. Kane ran because he was afraid that the truck was going to run him down.

The truck continued down Pine View Drive toward Sequoia Avenue. The driver stopped the truck and resumed its “bizarre” accelerating and braking. Kane felt that the truck was an

extreme hazard. He began walking toward the truck while he was speaking to a police dispatcher in order to obtain its license plate number.

The truck turned left on Sequoia Avenue from Pine View Drive and headed south on Sequoia. Kane asked the dispatcher to send someone to the area of Sequoia and Fitzgerald.

Kane did not see the truck again but heard “the squealing sound of continued . . . the same operation” from what he believed was the area of High Point Place. One of Kane’s neighbors had walked down to Sequoia Avenue to see what was happening. Kane told her to move away from Sequoia because he “feared for anyone who might be in the path.”

Later, he heard tires squealing and a big thud that sounded like the truck had hit something. He saw at least 10 to 12 police cars eventually respond to the scene.

b. 911 Call

Kane called to report a silver and black “two-toned Ford flatbed pickup truck” squealing its tires in his neighborhood. He described the truck as “kind of parking” on the corner of Sequoia Avenue and Pine View drive. He stated that he could not see who was in the truck, then described the truck as turning southbound onto Sequoia. He was placed on hold for a short while, then told the dispatcher that he did not see the truck, and added that Fitzgerald Road was the only other way out of the area.

5. GRAYSON GILLILAND

On May 15, 2007, at approximately 9:40 p.m., Grayson Gilliland was standing in his front yard waiting for his friend, Ryan Rubin, to arrive. As Rubin’s car pulled onto Cinnabar Place, Gilliland’s cul-de-sac, Gilliland saw a red over black Ford F-150 truck speeding toward Rubin. The truck was driven by a male Hispanic with a “beer belly” who was wearing a blue shirt.

The truck braked rapidly and came to a sudden stop in front of Rubin’s car. Gilliland noticed what he thought was an undercover police car pull up a short distance away, turn off its

emergency lights, and then back up and park at the intersection of Cinnabar Place and High Point Place.²²

The truck and Rubin's car faced each other and were approximately ten feet apart. Every time Rubin moved his car, the truck would move to block Rubin from moving any further forward. The truck then pulled into the driveway of Derek and Pamela Freeman's house, and Rubin quickly drove into Gilliland's driveway.

The truck driver got out and approached Derek Freeman, who was in his front yard. The driver threw something at Freeman. Gilliland later heard from Freeman that the truck driver threw a CD at him.

The driver went back to his truck and Freeman followed him. They were both yelling. The driver "peeled out" as he drove away and turned right onto High Point Place. Gilliland and Rubin ran into Gilliland's backyard and looked over a block wall onto Sequoia Avenue.

On Sequoia, Gilliland saw a parking enforcement truck, a white truck, and a marked black and white police car, which were all stopped on Sequoia. The truck turned on Sequoia and headed directly toward the stopped vehicles. The truck slammed on its brakes as it passed the marked patrol car and began doing "donuts" in the street. The truck then drove south on Sequoia. Another marked police car appeared on the scene. Both police cars activated their emergency lights and pursued the truck.

The truck returned north on Sequoia, still pursued by the police cars. The truck resumed doing "donuts" near the street north of Fitzgerald Road. One of the pursuing police cars pushed the truck along the curb, but the truck revved its engine and drove away. Gilliland last saw the truck turn off of Sequoia Avenue on one of the streets north of Fitzgerald Road.

²² / Most likely, witness Troy Thomas.

6. DEREK FREEMAN

On the evening of May 15, 2007, Derek Freeman was watching television with his family when he heard a car doing “burnouts” in his cul-de-sac. The sound went on for two to three minutes, so Freeman went outside. Derek Freeman saw a man in an early 2000 Ford F150 truck.

The truck was silver in color with two doors and an extra cab. The truck appeared to be trying to block another car from “negotiating” the cul-de-sac. He first thought it was a bunch of kids messing around, so he yelled “what the hell are you guys doing?” He caught the attention of the truck driver, who backed up and slammed to a halt in front of Freeman’s house. The driver of the other car pulled into a neighbor’s driveway and ran into that house.

The truck driver got out of his truck and approached Freeman. The driver was a “Mexican looking guy” in his 30’s who was about 5’9” with short dark hair, a stocky build and a thick Hispanic accent. The driver wore a light color Polo type shirt and light color jeans. He held several CD cases in his hand and began cursing at Freeman.

The driver told Freeman “Don’t mess with me again.” The driver acted as though he was drunk or under the influence of drugs. He had a dazed appearance, his speech was slow and incoherent, his eyes were glassy, his movements were exaggerated and he staggered as he walked.

Freeman’s wife and daughter had come outside and Derek Freeman told his wife to get the telephone. The driver came within a couple of feet of them and Freeman dialed 911. The driver took a CD from one of the cases and threw it at Freeman, telling him “Don’t come in my house again.” Derek Freeman had never seen the truck or the driver before, so he did not understand what he meant. Pamela Freeman then told the driver to get off their property. Freeman heard sirens approaching and the driver walked back to his truck and sped away. Freeman later heard a collision and then did not hear anything else.

7. OFFICER ROBERT TRULIK - LAPD

At the time of the incident, Robert Trulik was a peace officer employed by the Los Angeles Police Department. On May 15, 2007, Officer Trulik was on his way home from work when his wife called and told him about a “nutjob” who was driving crazy in their neighborhood. He

drove to the area of Sequoia Avenue and looked around for a while but did not see anything. He pulled next to a curb on Sequoia Avenue and a few moments later a police officer in a marked patrol car pulled up next to him.

As Officer Trulik spoke to the officer, a vehicle came up from behind him at a high rate of speed. The vehicle was driving north, crossed into the southbound lanes and did a two-wheeled skid, almost hitting the police car. The driver looked at Officer Trulik, began driving in circles in the middle of the street, and then took off north. The police car followed.

The vehicle made a left turn and hit the curb while trying to turn around. Two police cars tried to pin the car at the curb but the car backed into one of the police cars and drove away. Once the driver got away from the police, Officer Trulik headed home.

8. SENIOR OFFICER BUTCH HALE

On May 15, 2007, at approximately 9:38 p.m., Senior Officer Hale was in the area of Sycamore Drive and Royal Avenue when he responded to a radio call of a reckless driver on Cinnabar Place. Senior Officer Murray also called in to respond to the call.

At Sequoia Avenue, Officer Hale encountered a white pickup truck driven by an off-duty LAPD Officer.²³ That officer described the suspect vehicle as a red pickup truck. While they were speaking, the suspect truck appeared heading north in the southbound lane of Sequoia Avenue. The truck made a “power slide” past Officer Hale, then spun around with its engine revving loudly. The off-duty officer told Officer Hale “that’s him.” Officer Hale activated his emergency lights and began driving after the truck.

Officer Murray was also on Sequoia Avenue, a little south of Officer Hale. As Officer Hale began pursuing the truck, he noticed Officer Murray activate his emergency lights and follow the truck. The truck made a hard left turn with its engine revving loudly and slid against the east curb of Sequoia. The truck then headed north and Officer Murray and Officer Hale pursued it.²⁴

²³ / Witness LAPD Officer Trulik.

²⁴ / A diagram drawn by Senior Officer Hale of the route Guerrero followed during the pursuit is included in the Appendix as Exhibit B.

The truck made a wide, hard left turn onto Manorgate Place, with its engine revving loudly. The truck's engine was loud enough that Officer Hale could hear it over Officer Murray's car's siren. The truck continued turning until it hit the south-west curb of the intersection of Manorgate Place and Sequoia Avenue. The truck began moving forward and backward with its engine constantly revving. The truck driver never looked at Officer Hale, even though Officer Hale was only twenty feet away with his emergency lights activated and his spotlight illuminating the driver. Instead, the driver stared at a block wall in front of him and maintained a "death grip on the steering wheel" and, in Officer Hale's opinion, looked "totally crazy."

The truck engine continued to rev loudly, and the truck was still rocking back and forth. Officer Hale was concerned about the risk the truck driver was posing to others by his bizarre behavior. He was also concerned that the driver might be trying to force a confrontation with the police since he did not appear to be trying to flee the area.

Officer Hale attempted to ram the left front wheel of the truck with his patrol car and pin the truck against the curb. As he drove toward the truck, the truck surged forward and the front of Officer Hale's car hit the truck's driver's door. The truck then backed up and fled south on Sequoia Avenue.

The truck drove past Fitzgerald Road and made another hard turn, striking the curb. The truck headed north on Sequoia Avenue and again turned left at Manorgate Place.

Officer Murray followed the truck in his patrol car. Officer Hale turned off his siren and backed up to try and watch the intersection of Beachnut Avenue and Fitzgerald Road, the only other exit from Manorgate. When the truck did not appear after a few seconds, Officer Hale drove onto Manorgate. He heard Officer Murray on the radio announcing the truck was stopped on Chelsea Court, a two sided cul-de-sac.²⁵

Officer Hale turned left on Chelsea Court, toward the southern cul-de-sac. He saw the truck stopped and facing northeast as though it had hit the curb while trying to turn around. Officer Murray was out of his car and yelling at the driver. The truck's engine was revving very loudly

²⁵ / An aerial photograph of the area around Chelsea Court is included in the Appendix as Exhibit C.

and the truck moved forward and backward. The driver was looking straight ahead with his hands clenched around the steering wheel.

The truck began backing up onto the sidewalk and Officer Hale again rammed the truck to pin it in. Guerrero's truck drove against Officer Hale's car and managed to escape, then drove north on Chelsea Court.

Officer Murray followed the truck to the northern end of Chelsea Court. At the end of the cul-de-sac, the truck turned left onto a grassy area between the residence at 897 Chelsea Court and a metal fence lining the northern edge of the cul-de-sac. Officer Hale saw car lights in the backyard of 897 Chelsea, so he stopped his car and ran into the backyard.

The truck had driven through a fence on the northern side of 897 Chelsea Court, made a hard left and had crashed into a fence on the southern border of the backyard. A cinder block wall was on the passenger's side and Officer Murray's police car was directly behind the truck.²⁶

When Officer Hale entered the backyard, the truck was loudly revving its engine, as if the driver had the accelerator floored. The truck was rocking between forward and reverse and the tires were spinning. Officer Murray was on the driver's side of the truck shouting for the driver to turn off the car.

Officer Hale unsuccessfully tried to open the driver's door, and then broke the driver's side window after several tries. Officer Hale then noticed that Senior Officer Lamb had climbed into the bed of the truck. Officer Hale was concerned that Lamb would be crushed between the truck and the cinder block wall. Officer Hale yelled at Murray: "Tase him! Tase him!"

Officer Hale heard the clicking sounds from the Taser, but did not see any effect on the driver other than groaning. Officer Hale was shocked by the driver's lack of reaction to the Taser since Officer Hale had personally experienced the effects of a Taser as part of his qualification training to carry a Taser.

²⁶ / A diagram of the backyard at 897 Chelsea Court is included in the Appendix as Exhibit D. Photographs of the truck in the backyard are included in the Appendix as Exhibit E.

Once the Taser shock stopped, the driver seemed more agitated and resumed flooring the accelerator. The truck engine stopped a couple of times, and each time the driver would restart it. Officer Murray continued to deliver Taser shocks while Officers Murray and Hale both shouted at the driver to stop the truck.

Officer Hale heard the clicks from the Taser and each time it was applied, it would cause the driver to freeze and groan. As soon as the clicks stopped, the driver would resume revving the engine and spinning the truck tires. Officer Hale remembers hearing the Taser applied at least three different times.

Officer Lamb managed to get at least partially into the truck cab and Officer Hale became concerned for his safety. Officer Hale yelled at Officer Murray to use the Taser again. Eventually, Officer Lamb yelled that he had a handcuff on the driver. Officer Hale grabbed the suspect's left hand with both of his hands and tried to pull his hand out of the window but was unable to get him out.

As Officer Hale was trying to pull the driver from the truck, four to five other police officers appeared next to him. They helped to pull the driver out of the vehicle through the driver's window. The driver was then placed on his stomach on the patio.

Once the driver was on the ground, Senior Officer Buckley was near the driver's feet, rising up and down as the driver struggled against the officers. Officer LeBlanc was near the driver's left shoulder and Officer Chris Johnson was also in the area around the driver.

Officer Hale requested a Hobble restraint, which was placed around the driver's legs but not connected. He also asked Officer Tallent to call for an ambulance based on the driver's erratic behavior and his having been shocked by a Taser.

At some point, Officer Hale noticed the driver was not moving and he told someone to see if he was breathing. Officer Buckley said "I need a mask and gloves now!" Officer Hale ran to get gloves and a mask and when he returned Officer Buckley was providing first aid to the driver.

Several officers were administering some form of first aid but Officer Hale never saw CPR being performed. Officer Hale also saw someone holding a “gigantic baggie of something” that he understood had been recovered from either the driver or his truck.

Hale concluded the interview by stating:

I've been doing this almost thirty years and this is the only guy I've ever had who stayed and tried to keep this going right with us at that intersection. I thought that he wanted to hurt somebody really bad. Usually everybody runs from you, they want to get away. And the other thing that shocked the heck out of me is, having experienced the Taser, it didn't do anything to him the first time. He kept working his way through that with no problem whatsoever. And he was angry.

9. SENIOR OFFICER MURRAY

a. Interview

On May 15, 2007, Senior Officer Brian Murray was in the area of Sequoia Avenue and Royal Avenue when he heard a call regarding a disturbing vehicle in the area of Sequoia and Fitzgerald Road that may have been involved in an altercation with an area resident, and that the vehicle was heading north on Sequoia.

As he approached the area of Sequoia Avenue just north of Manorgate Place, he observed Senior Officer Hale's police car stopped near another vehicle. Officer Murray stopped in the southbound lane near the center island. A few moments later he heard screeching tires and observed a pickup truck with smoke coming from its tires “barreling” in from his right and driving in between his and Officer Hale's patrol cars, then continuing onto the west curb of Sequoia.

Murray's initial impression was that it “was some sort of a road rage incident and that this guy was about to get out and start chewing somebody out because there was . . . no other explanation why somebody would drive to an area where there's two patrol cars in such a way.”

The truck then either turned around or backed out between the police vehicles “power sliding” in the same erratic manner. The truck turned around and began driving southbound on Sequoia

Avenue. The truck drove a short distance before turning around again. Murray was “extremely confused and wondering what this guy was about, what he was doing, what his intentions were. ‘Cause it was different than anything I’d ever seen before as far as . . . is he evading? Is he trying to hurt somebody? Is he trying to run somebody over? ‘Cause the way he was driving, it was a matter of time before somebody got hurt.”

The truck turned around again in the street and drove onto the curb where several pedestrians and occupied parked vehicles were present. At some point, the truck drove onto a sidewalk and Officer Hale tried to pin the vehicle with his police vehicle. The truck driver “lit” the tires up and drove away southbound on Sequoia. Murray broadcast that they were in pursuit.

The truck drove half way to the southern end of Sequoia Avenue – a dead end – then turned around and headed north again. The truck drove at a high rate of speed and began to make a sharp left turn at Fitzgerald Road. The truck then made “one or two loop-de-loos” (360 degree turns) in the street and proceeded northbound on Sequoia Avenue. The truck then turned left onto Manorgate Place, and drove at approximately 60 mph up Manorgate, a residential street. An unknown female on the corner of the intersection jumped into some bushes to avoid being struck by the truck as it passed.

The truck turned left onto Chelsea Court, a two headed cul-de-sac that runs north and south. The truck slowed down at the southern end of the cul-de-sac, made a U-turn, drove onto the sidewalk and came to a stop. Officer Murray got out of his car, turned off his siren, drew his handgun, and yelled “Hold up! Stop your car! Stop the car man! Stop the car!” The truck continued loudly revving its engine and the driver did not respond.

The truck revved its engine again and began driving on the sidewalk. Officer Hale tried to ram the truck again. He hit the driver’s door at approximately 15 to 20 mph. The truck seemed to stop, and then the truck’s tires began squealing again. The truck rocked back and forth several times, eventually broke free and drove north on Chelsea Court.

The truck reached the north end of Chelsea Court and Officer Murray was two to three car lengths behind it. The truck made a left turn without braking. Officer Murray followed the truck

