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May 8, 2017

**PUBLIC REPORT ON OFFICER INVOLVED SHOOTING OF MICHAEL DUCAINE
GILES BY A LAW ENFORCEMENT OFFICER ON NOVEMBER 21, 2016**

The Santa Barbara County District Attorney's Office has completed its review of the investigation, conducted by the Santa Barbara County Sheriff's Office, of the homicide of Michael Ducaine Giles which occurred on November 21, 2016, in Lompoc, California.

The following analysis is based upon investigative reports, analyzed evidence reports, video and audio recordings, and witness statements taken during the investigation conducted by the Santa Barbara County Sheriff's Office ("SBSO") and submitted to this office by SBSO Detective Sergeant Richard Brittingham and SBSO Detectives Jason Vasquez and Michael Emens.

The District Attorney finds the shooting was a justifiable homicide under Penal Code section 196(2).

SUMMARY

On November 21, 2016 at 8:04 a.m., the Lompoc Police Department dispatch received a 911 call reporting an intoxicated male subject who was refusing to leave the Jet Action Coin Laundry located at 1004 North H Street in Lompoc.¹ The subject, later identified as Michael Ducaine Giles, was described as being intoxicated, belligerent, and holding a bottle of alcohol. When Lompoc Police Officers Agbodike and Kifer arrived to contact Giles, he fled out the back door to the laundromat and through the alleyway.

Officers Agbodike and Kifer searched the rear parking lot and found Giles hiding underneath a large utility truck parked in the northeast corner of the shopping center parking lot. Officer Kifer saw a knife sheath on Giles' belt and advised him not to touch it. Giles responded by pulling out the knife, crawling out from under the truck, and running west towards another business, Coast Home Furnishings, where he hid again in an alcove behind the business. Officers located Giles standing against the building holding the knife at his chest.

Officers commanded Giles to drop the knife, but he ran again, west towards H Street as Officers Agbodike and Kifer continued to pursue him.

¹ Jet Action Coin Laundry is located in a large shopping center at 1004 North H Street in the City of Lompoc. The shopping center is located at the corner of North Avenue and North H Street. Jet Action Coin Laundry is situated in between Lompoc Valley Florist and Home Décor and Attitudez Salon on the east side of the shopping center. On the north side of the shopping center is Coast Home Furnishings. USA Gasoline is located on the southwest corner of the center at North H Street and E. North Avenue.

Giles entered the street and ran through traffic to the bike path south of the Embassy Suites where he hid in some bushes on an embankment adjacent to the bike path.²

Meanwhile, Corporal Scott heard the initial call, and the follow-up broadcasts by Kifer and Agbodike on the radio and drove towards the location. He drove his patrol vehicle into the Embassy Suites parking lot. He drove past Giles' last known location, parked his vehicle and began searching for Giles on foot.

While Officers Agbodike and Kifer approached from H Street on the path looking for Giles, Corporal Scott approached from the west and walked towards H Street on the bike path. Agbodike and Kifer could not see Giles but could see movement in the bushes where he appeared to be hiding; they relayed this information to Corporal Scott.

As Corporal Scott walked towards the two officers, he saw that Officer Agbodike had her Taser drawn and Officer Kifer had his firearm drawn.

Corporal Scott, who already had his Taser out, holstered his Taser and transitioned to his firearm.

Initially, Corporal Scott could not see Giles. But when he was approximately 10 feet away, he was able to see Giles lying face down, on the ground, with his upper body in the brush. Corporal Scott then gave commands to Giles to drop the knife.

Although they could not see Giles, Officers Agbodike and Kifer also shouted commands for him to drop the knife and to show his hands.

Giles did not respond to the commands nor did he move.

As the officers continued giving commands, Giles suddenly sat upright and turned towards Corporal Scott.

Due to the low-lying bushes, Corporal Scott could not see Giles' lower body, and thus could not discern if Giles was sitting, crouching or kneeling. Corporal Scott said Giles stared at him without saying a word. Giles was then holding the knife in his right hand, at shoulder height, and with the blade perpendicular to the ground.

Corporal Scott continued to yell commands at Giles.

Suddenly, Giles lunged forward at Corporal Scott with the knife in his hand. In response, Corporal Scott fired two rounds at Giles. One round struck Giles in the upper right torso, and the other round struck him in his right forearm/wrist area.

² Embassy Suites is located at 1117 North H Street, across the street and just north of the shopping center with Coast Home Furnishings and Jet Action Laundry. There is a parking lot on the south side of the hotel. Adjacent to the parking lot is an embankment covered in landscaped brush and bushes. Just south of the embankment is a bike path and a chain link fence along a canal.

When interviewed, Corporal Scott stated that he made the decision to shoot because he felt he had nowhere to go as Giles advanced towards him with the knife. Corporal Scott was worried about his position of “disadvantage” as Giles was above him on the embankment and Corporal Scott stood on lower ground with a fence at his back. Corporal Scott feared Giles would seriously injure or kill him if he reached him with the knife.

Following the shooting, officers stepped in to provide medical aid to Giles. Fire and medics arrived on scene and took over the medical aid. Giles was transported to the Lompoc Valley Community Hospital where he was pronounced dead by the emergency room physician.

Forensic Pathologist, Dr. Montez opined that Giles sustained non-survivable injuries from a perforating gunshot wound to the chest.

The District Attorney’s duty in reviewing this homicide is to determine whether the shooting of Michael Ducaine Giles was lawful. We also feel it is our responsibility to provide a detailed explanation, to the public, about the facts and the law in that regard. As stated in *Graham v. Connor* (1989) 490 U.S. 386, this process “requires careful attention to the facts and circumstances.” Hence, the analysis below will give careful attention to both the facts and circumstances of the fatal shooting of Michael Ducaine Giles.

PART I - STATEMENT OF FACTS BY INDIVIDUAL WITNESSES

LPD 911 calls and Radio Traffic

911 calls

Tom Hoskins

On the morning of November 21, 2016 Tom Hoskins, the owner of Jet Action Coin Laundry at 1004 North H Street in Lompoc, dialed 911. Hoskins requested an officer to respond to the business because there was a drunk person who would not leave and was “getting pretty violent.” Hoskins reported the drunk person had a bottle of vodka in his hand, was becoming increasingly violent by “getting in a female’s face,” and was refusing to leave. Hoskins described the person, later identified as Michael Ducaine Giles, as a white male in his 20’s, 5’10” or 5’11” tall, with a thin build, long hair, wearing a green hat and dark Levis. During the 911 call a male voice can be heard yelling loudly in the background. The dispatcher advised Hoskins that an officer was on the way.

In a statement provided to law enforcement later that morning, Hoskins explained that Giles arrived at Jet Action Coin Laundry around 8:00 a.m. on November 21. Giles was carrying a vodka bottle and was obviously drunk. An employee of the laundry stopped Giles at the door and told him he could not come in as he was obviously not doing laundry and he was carrying a bottle of vodka. Giles refused to leave and became “belligerent.” The employee called Hoskins to come out front at this point. Hoskins approached Giles and told him several times to leave. Giles refused, continued to “bother people” and hit the door with the vodka bottle twice. Hoskins then called 911. When Officer Agbodike arrived Giles ran out of the back door.

Radio Traffic

At 8:04 a.m. Lompoc Police Department dispatched LPD Unit 37 (Officer Agbodike) to a call of a “415” (disturbance) at Jet Action Coin Laundry located at 1004 North H Street. The dispatcher advised over the radio that there was a 20-30 year old, intoxicated white male subject wearing a green hat and dark pants being very verbal with the reporting party and threatening to get physical.

At 8:12 a.m. Officer Agbodike radios that she is on scene.

At 8:14:30 a.m. Officer Agbodike broadcasts that she is “out with 1” in the north parking lot.³

In less than 30 seconds, at 8:14:57 a.m., Officer Kifer states that he has one at gunpoint and that the subject has a knife.

At 8:15:02 a.m., Officer Agbodike reports the subject is running.

The next radio broadcasts are from Officer Kifer reporting Giles’ location (running northbound across H Street; across traffic towards Pizza Garden and Embassy Suites; and along ditch hiding in the bushes).

At 8:16 a.m. Corporal Scott reports that he is on scene at 1004 North H Street.

At 8:17:21 a.m. Corporal Scott broadcasts “shots fired.” At 8:19 a.m. Corporal Scott broadcasts their location as “north of canal.” Five seconds later, Officer Agbodike clears medics to enter scene.

Involved Officer’s Statement

Corporal Charles Scott

On November 21, 2016 Corporal Scott was working patrol. At that time he had been a police officer with the Lompoc Police Department (“LPD”) for four years. Prior to working at LPD he was a police officer at Chowchilla Police Department for eight years. Corporal Scott heard a call on the radio involving a man outside of a laundromat acting belligerently and possibly intoxicated. He then heard that Officer Agbodike would respond to the call with Officer Kifer responding as “back-up.” Corporal Scott continued driving in the area when he next heard Officer Kifer say that he had the subject, later identified as Michael Ducaine Giles, at gun point and that the subject had a knife. Officer Agbodike also repeated on the radio that the subject had a knife.

Upon hearing this, Corporal Scott immediately activated his lights and sirens and began driving towards their location. While driving, Corporal Scott heard the officers report the subject was now running north towards the movie theater and he still had the knife.

³ “Out with 1” refers to the officer being out with the subject, Michael Giles, in the parking lot after he fled from the laundromat and into the parking lot.

Corporal Scott knew the location and that there was an alleyway behind the businesses where there would likely be fewer people and cars than in the parking lot, so he drove behind the businesses to hopefully cut the subject off. As he drove in the alleyway he heard the officers report the subject running across H Street. As Corporal Scott drove westbound through the parking lot he saw Officer Kifer on the east side of H street running northbound and Officer Agdobike running across the street chasing Giles.

Corporal Scott then saw a male subject wearing a black jacket running westbound along the canal which is parallel to a paved bike path and the Embassy Suites Hotel on H Street. That subject met the description the officers broadcast over the radio; therefore Corporal Scott knew this was the person with the knife.

Knowing his patrol vehicle could not fit on the bike path, Corporal Scott decided to drive ahead of Giles into the Embassy Suites parking lot to cut him off before he fled further down the bike path towards a residential area.

As he drove into the parking lot, Corporal Scott could no longer see onto the bike path, and thus could not see Giles as the path is below an embankment covered with bushes and brush. At that point, he heard the other officers report that Giles was now hiding in the bushes. As Corporal Scott exited his vehicle he encountered a hotel employee standing near his vehicle watching what was happening. Corporal Scott instructed the employee to go inside the hotel for his safety.

Corporal Scott walked down the embankment and onto the bike path with his Taser drawn. He could see about 50 yards down the path towards H Street. He could also see Officers Kifer with his handgun drawn and Officer Agbodike with her Taser deployed as they walked towards his location.

Once Corporal Scott realized they had one less lethal force option available (Officer Agbodike), he holstered his Taser and drew his handgun. Corporal Scott then walked on the bike path towards H Street. Officers Kifer and Agbodike were yelling, "He's about 10 feet or 10 yards ahead of us!" and "We don't know where he's at!" As Corporal Scott approached Giles' location he saw him lying face down in the bushes with his head facing north towards the parking lot and his feet facing south. Corporal Scott immediately stopped. At that point he was approximately 10 feet away from Giles. Corporal Scott yelled commands to Giles to "Drop the knife!" and "Show me your hands!"

In response to these commands, Giles quickly sat up and Corporal Scott saw the knife in his right hand pointed upwards, held at his shoulder height, and with the blade facing perpendicular to the ground.

At this point Corporal Scott realized he had nowhere to go. There was a chain link fence behind him and Giles was in a position above him on the embankment. Corporal Scott continued to yell commands to drop the knife.

In response, Giles stared at him and then lunged forward and towards Corporal Scott with the knife.

Corporal Scott further explained that Giles never seemed to look for an escape route, but rather looked straight at him while lunging towards him with the knife in an upright position. Fearing for his life, Corporal Scott fired two shots at Giles

Giles immediately fell over to a position described by Corporal Scott as a “seated fetal position.” Giles still held onto the knife and Corporal Scott continued to yell commands to drop the knife. Giles responded, “I can’t, I can’t!” And at that point Corporal Scott noticed one of Giles’ hands was bleeding so he assumed one of his shots hit him in the hand or fingers. Giles fell onto his back still gripping the knife.

Corporal Scott and Officers Kifer and Agbodike then moved towards Giles. Eventually he released his grip on the knife but it remained about three inches away from his fingertips. Corporal Scott and the other officers broadcast “shots fired” and “suspect down” over the radio

At this time Corporal Scott saw LPD Chief Walsh arriving at the scene and rushing out of his vehicle. Chief Walsh took Officer Agbodike’s handcuffs and began placing handcuffs on Giles’ left hand. Chief Walsh and Corporal Scott then lifted Giles and moved him onto the bike path so that when medics arrived they would have a better area to work on him.

Corporal Scott then noticed a bullet hole in Giles’ mid-chest area when Chief Walsh lifted his shirt.

Medics arrived shortly thereafter and began performing life saving measures on Giles.

Witness Officers’ Statements

Officer Robert Kifer

On November 21, 2016, Officer Robert Kifer was working patrol. Officer Kifer heard over the radio that Officer Agbodike and Corporal Scott were dispatched to a possibly drunk male creating a disturbance at Jet Action Coin Laundry located at 1004 North H Street. Officer Kifer advised Corporal Scott that he was in service and he would provide back up to Officer Agbodike. Officers Agbodike and Kifer arrived at Jet Action Laundry at the same time. Officer Kifer saw a male standing in the front that met the description of Giles. Giles quickly walked to the back of the business. Officer Agbodike instructed Officer Kifer to go around the building to the back of the business while she walked inside towards his location. Officer Kifer did not see Giles once at the back of the building, but Officer Agbodike advised that the subject was running northbound down the alley behind the businesses.

They both drove their patrol vehicles toward the north side of the parking lot. Officer Kifer assumed Giles would head down the ravine behind a chain link fence nearby, but Officer Agbodike then advised the subject was hiding under a parked large “utility truck” about 15-20 yards away from them. Officer Kifer was still in his patrol vehicle when he saw the subject had a knife in a sheath on his hip. When Kifer exited his vehicle he instructed Giles to “Show me

your hands” and “Don’t go for your knife.” Instead of complying, Giles grabbed his knife, crawled out from underneath vehicle and started running westbound, disappearing behind a furniture store. Officer Kifer noticed as Giles ran he had the knife in his right hand.

Officers Kifer and Agbodike ran after Giles, taking a wide turn around the building. Officer Kifer saw Giles hiding around the corner, with the knife in his hand, then Giles immediately started running towards H Street. Officer Kifer yelled commands to Giles to stop and he broadcast a description of Giles over the radio, the direction he was running (across H Street and down the path near the canal), and that he was still armed with a knife. Giles ran about 20-30 yards down the path when Officer Kifer heard Officer Agbodike say he had disappeared into the bushes off the path. Officer Kifer could not see Giles at this point.

Officer Kifer saw Corporal Scott arrive on scene in his vehicle when he drove into the Embassy Suites parking lot past them. He then saw Corporal Scott ahead of him on the path walking east, and Officers Kifer and Agbodike yelled to Corporal Scott that the suspect is hiding in the bushes and still has the knife in his hand. They yelled at Giles “Show us your hands!” and “Drop the knife!” Corporal Scott walked closer to Giles. Officer Kifer had his firearm drawn, as did Corporal Scott. Officer Agbodike had her Taser drawn. Officer Kifer estimated that all of them were approximately seven yards away from Giles in a triangle formation when Giles then “popped up” out of the bushes⁴. All of the officers continued to yell commands at Giles, “Show me your hands!” and “Drop the knife!” Officer Kifer heard Giles yelling something that he could not understand or make out. Officer Kifer could not see the knife at this point because Giles was too far down in the bushes and Officer Kifer was to the left of Giles. Giles was facing directly towards Corporal Scott, then he made a sudden movement onto his feet from what seemed like a seated position. Officer Kifer said Giles then moved very quickly towards Corporal Scott. Officer Kifer thought Giles was going to run at Corporal Scott.

In response to Giles’ sudden movement, Corporal Scott fired at him twice. Giles still did not drop the knife after he was shot. Eventually he started to succumb to his wounds and fell backwards, and the knife fell out of his right hand. At that time, Corporal Scott and Chief Walsh, who arrived seconds after shots were fired, pulled Giles out of the bushes so that paramedics could have better access to him. While they were moving Giles, Officer Kifer stepped on the knife to push it into the ground so that it could no longer be easily grabbed.

Officer Kifer stood by while first aid was rendered by paramedics. Officer Kifer accompanied Giles to the hospital in the ambulance. Medics continued to perform CPR while en route to hospital. An emergency room physician pronounced Giles dead at the hospital at 8:45 a.m.

Officer Onyemauche Agbodike

On November 21, 2016 Officer Agbodike was working patrol. At approximately 8:00 a.m. Officers Agbodike and Kifer responded to a dispatch call involving a white male adult who had been drinking, was possibly carrying a vodka bottle, and was causing a disturbance at the Jet Action Coin Laundry located at 1004 North H Street. When she arrived and parked directly in

⁴ Officer Kifer described this movement as Giles sitting up quickly, “like he was going to get up and run.” He further described Giles’ “getting up” movement as “a very quick movement.”

front of the laundromat, Officer Agbodike saw a white male who was holding a Smirnoff Vodka bottle in the doorway of the business. The subject, later identified as Michael Ducaine Giles, made eye contact with Officer Agbodike and immediately turned and started walking towards the back door. By the time she made it inside she saw that Giles was running towards the back door.

Officer Agbodike then instructed Officer Kifer to go around the building to the back to try and cut him off at the alley.

When she arrived at the rear of the business she saw that Giles had exited the building and was running northbound through the alleyway.

Both officers next returned to their patrol vehicles to drive towards the north end of the shopping complex. By then Officer Agbodike had lost sight of Giles but recalled he was wearing a backpack when she first saw him. When she drove near a parked large utility truck she noticed a backpack on the ground near the driver's side.

Officer Agbodike immediately parked in front of the truck and got out of her car. Officer Kifer parked behind her. She then saw Giles hiding under the front passenger side of the truck. She also saw a broken Smirnoff Vodka bottle on the ground. Agbodike placed her hand on her gun at this point because she was not sure what Giles had in his hands as she could not see his hands. Officer Kifer had a better view of Giles and broadcast over the radio that the subject had a knife in his hand. Both Officers drew their guns.

Giles looked at Officer Agbodike, and she and Officer Kifer both yelled at him several times to drop the knife. Giles said, "No" and crawled out from under the truck. At first she thought he was going to run at her, but he pivoted and ran away from them towards H Street. When Giles ran past some bushes and around the building, Officer Agbodike lost sight of him. Still both officers pursued Giles on foot, but took a wide turn around the building in case he was waiting around the corner for them.

As Officer Agbodike came around the corner, she saw Giles standing against the wall with the knife against his chest in an overhand grip. Officer Agbodike yelled, "Drop the knife!" Giles turned and started running again towards H Street. A car almost struck Giles as he ran across the street. Then she saw him duck into some bushes along the bike path adjacent to a canal. She waited for vehicles to pass, then ran across H Street to the bike path.

Officer Agbodike soon heard a police vehicle's sirens approaching as she was crossing the street. She saw that it was Corporal Scott and that he pulled into the adjacent parking lot at the Embassy Suites.

Officer Agbodike holstered her weapon and deployed her Taser because she saw that Officer Kifer had his firearm drawn and she wanted a less lethal option available. She saw Corporal Scott exit his vehicle and walk eastbound on the bike path. As Officers Agbodike and Kifer walked westbound on the path they advised Corporal Scott that Giles was in the bushes along the bike path. Officer Agbodike saw that Corporal Scott had his Taser out then she saw him holster his Taser and draw his weapon.

Officer Agbodike could not see Giles at this point but she could see movement in the bushes where he was hiding. She was approximately 10-15 feet away from the suspect's location. She and the other officers kept giving Giles commands to drop the knife.

Corporal Scott came closer to the location where Officer Agbodike believed Giles was hiding and she heard Corporal Scott yell, "Drop the knife!" several times. She still could not see Giles but could see constant movement in the bushes.

Approximately four to five seconds passed from the last command she heard Corporal Scott give Giles and when she heard two shots fired.

Officer Agbodike believes she may have looked away when the shots were fired because she does not remember seeing the shots fired but remembers hearing them. She did see Giles after the shots were fired and he was crouched down with a knife in his hand.

After he had been shot, Corporal Scott was still yelling, "Drop the knife!" "Drop the knife!" Giles eventually dropped the knife but it was still near his hand. Then Chief Walsh arrived and grabbed Officer Agbodike's handcuffs to handcuff Giles. Chief Walsh, Corporal Scott, and Officer Agbodike all lifted Giles out of the bushes and onto the pavement so that medics would have a better location to work on him.

Once he was away from the knife the handcuffs were removed from Giles' wrist. Officer Agbodike then radioed that it was safe for paramedics to arrive.

Chief Patrick Walsh

In the morning on November 21, 2016 Chief Walsh was driving to work southbound on H Street in the area of Central Avenue in Lompoc when he saw lights on a police car flashing and heard sirens. He looked down to see that his radio was turned off. He switched the radio on and when he got to the area of Barton Avenue and H Street he heard an officer on the radio say "He's hiding in the bushes." Chief Walsh had just seen a patrol vehicle turn into the parking lot at the Embassy Suites on H Street. Chief Walsh then decided he was going to assist officers by driving towards the field adjacent to the movie theater and Embassy Suites to establish a perimeter to the west in case the suspect decided to flee in that direction.

When Chief Walsh pulled into the parking lot on the north side of Floriano's Restaurant (the first driveway west of H Street on Barton Avenue), he heard on the radio, "Shots fired." Chief Walsh drove out of the parking lot and back onto H Street, parked on H street and got out of his vehicle. He put on his tactical vest and ran to assist the officers.

As Chief Walsh approached the area where the officers were, he could hear them giving orders to the suspect, later identified as Michael Duaine Giles. He saw Giles lying on his right side and observed a knife approximately two inches away from his fingertips. Chief Walsh took Officer Agbodike's handcuffs from her handcuff pouch and approached Giles with Corporal

Scott. As they approached, another officer stepped onto the knife to push it into the ground while Chief Walsh placed handcuffs on Giles' left wrist. Chief Walsh decided they should lift Giles out of the bushes and onto the pavement so that when medics arrived they would have a flat surface to work on.

Once they moved Giles onto the pavement Chief Walsh determined he was no longer a threat as he was away from the knife, his breathing was labored, and he was gasping. At that point Chief Walsh removed the handcuffs from Giles' left wrist. He crouched next to Giles who was still breathing with his eyes open, and Chief Walsh told him to "hang in there."

Fire and paramedics arrived within minutes of Chief Walsh's arrival and they began performing life saving measures.

Statements of Medical Personnel

Lompoc Firefighter William Steffens

Firefighter Steffens was a crewmember on Engine #2 on November 21, 2016 when the crew was dispatched to the scene of an officer involved shooting near the Embassy Suites on North H Street in Lompoc.

Upon arrival, Steffens saw a Lompoc police officer standing by with a patient, later identified as Michael Giles. They were located near the bike path. As Steffens and his partner, Firefighter Slipich, began their evaluation of Giles he noticed an empty knife sheath on his belt. Meanwhile, Lompoc police officers pointed out the gunshot wounds on Giles and Steffens and his partner began lifesaving efforts. Steffens was not able to detect a pulse. After several minutes Giles was transported to Lompoc Valley Hospital.

Lompoc Firefighter Matthew Slipich

Firefighter Slipich was also a crewmember on Engine #2 on November 21, 2016 when the crew was dispatched to the scene of an officer involved shooting near the Embassy Suites on North H Street in Lompoc. Upon arrival they learned Giles had multiple gunshot wounds. A Lompoc police officer was with Giles and assuring him that help was there. Slipich and Steffens immediately began lifesaving efforts, such as bleeding control and CPR. Slipich and Steffens were assisted by paramedics. At some point it was determined, due to Giles' rapidly declining condition, that they would forgo helicopter transport so they prepared Giles for ambulance transport.

Paramedic Elizabeth Newborn

Elizabeth Newborn was a paramedic on training assigned to Medic 17 on November 21, 2016.

At approximately 8:00 a.m. Newborn learned that Medic 17 had been dispatched to stage at nearby 1037 North H Street.

Newborn drove the ambulance.

When they arrived she saw that fire personnel were already performing life saving measures on Giles. One of her partners, Alexander Baker began assisting firefighters.

Newborn was directed to place leads on Giles. Giles was unresponsive so she was then directed to use the AED.

After about three to five minutes of performing first aid on Giles, he was still unresponsive. Giles was then prepared for transport to the hospital. When they arrived at the hospital, one of the paramedics advised the emergency room physician what steps had been taken. The emergency room physician then pronounced Giles dead.

Paramedic Terrence Rogan

Paramedic Terrence Rogan was assigned to Medic 17 on November 21, 2016.

At approximately 8:00 a.m. Medic 17 was dispatched to stage near 1037 North H Street. Rogan's trainee, Newborn, drove the ambulance, while Rogan sat in the front passenger seat and Paramedic Alexander Baker sat in back. While en route they learned they were responding to the scene of a shooting.

When they arrived on scene fire personnel were evaluating Giles. Fire personnel were cutting off Giles' clothes because they determined he had been shot twice.

Rogan observed Giles was unresponsive, and had agonal breathing with a weak pulse. He also observed that Giles had been shot once in the arm and once in the upper right chest with a possible exit wound in the back. Paramedic Baker began providing primary care to Giles.

Shortly after they arrived Giles stopped breathing, CPR was started, and it was determined that he needed to be transported to the nearest medical facility. They prepared Giles for ambulance transport, and upon arrival at the hospital he was pronounced dead by an emergency room physician.

Paramedic Alexander Baker

Paramedic Alexander Baker was assigned to Medic 17 on November 21, 2016. Baker was at the AMR main station located at 701 E. North Street in Lompoc when he heard on the radio fire and rescue were dispatched to a traumatic injury. Radio dispatch also told fire and rescue to stage near 1037 North H Street.

Baker, along with trainee Newborn and Paramedic Rogan, responded to the scene Code 3 (lights and sirens). Upon arrival a Fire Department Captain informed them that Giles had been shot twice. Baker went to Giles while Rogan and Newborn gathered equipment. When Baker assessed Giles he was "modeled and cold" but was still breathing and had a pulse. Baker observed he had what appeared to be a gunshot wound to the right, mid-clavicle or shoulder area

and a gunshot wound to the right wrist. Baker said that CPR was not started because Giles still had a pulse. Rogan arrived with bandages and they bandaged the chest and wrist wounds.

As Baker was establishing an intravenous port in Giles' shin he was advised Giles no longer had a pulse. Baker confirmed there was no pulse and began placing patches on Giles to "shock him."

After checking his rhythm, they determined he had "pulseless electric activity" with no pulse, so they decided to administer CPR.

Baker administered 1 mg of epinephrine and then started to prepare Giles for transport.

While rolling him onto the backboard a possible exit wound was observed in his back. This wound was bandaged and Giles was placed on the backboard and into the ambulance.

While en route to the hospital, a firefighter continued CPR and Newborn assisted with ventilations.

This continued all the way to Lompoc Valley Hospital. Baker administered a second dose of epinephrine.

Upon arrival at the hospital, an emergency room physician checked for a femoral pulse, and finding none, he declared Giles dead.

Statements of Relevant Civilian Witnesses

Blanca Rodriguez

Blanca Rodriguez was doing laundry at the Jet Action Coin Laundry on the morning of November 21, 2016. While her clothes were washing she left to have coffee. She returned about 20 minutes later. When she returned she saw a man, later identified as Michael Ducaine Giles, arguing with the laundromat's owner, Tom Hoskins. She observed that Giles appeared intoxicated and Rodriguez heard Hoskins tell Giles to leave the laundromat. Giles refused to leave and said he was not doing anything wrong. Hoskins warned Giles that he would call the police if he would not leave.

Rodriguez heard a loud sound and believed Giles struck the door with the glass liquor bottle he was carrying. Rodriguez ignored Giles and continued to fold her laundry.

At some point Giles tried to speak to Rodriguez but Hoskins told him to leave her alone. She could only understand some of what Giles said due to his level of intoxication and her limited understanding of English. She believed he made statements such as, where was God when he needed him; that he was homeless; and he did not have a family. Rodriguez had never seen Giles before and could only describe him as wearing a hoodie.

A short time later Rodriguez saw two police officers enter the laundromat and Giles immediately exited out the back door.

Approximately five minutes later, Rodriguez heard one or two gunshots. She asked a laundromat employee, Gloria Franco, whether she heard the gunshots but Franco replied that she had not heard the shots. A short time later Rodriguez heard sirens and saw an ambulance and fire truck in the area.

Sara Lang

At approximately 8:30 a.m. on November 21, 2016 Sara Lang arrived at her place of employment, Lompoc Valley Florist and Home Décor, located at 1026 North H Street. Lang parked her car in the parking lot in front of the business and lowered her car windows. While she was still in her car she observed two police vehicles drive into the parking lot north of the florist and approximately 100 yards away from where she was parked.

One of the vehicles was already stopped in the parking lot while she saw the second vehicle, driven by a female police officer, drive into the lot from the alleyway behind the building where she works. Lang described the two police vehicles stopped on opposite sides of a large white-colored tree trimming truck.

Lang saw the two officers outside of their vehicles with their firearms in their hands and yelling, "Drop the knife!"

She specified that she heard the female officer tell the person to drop the knife three separate times.

Lang could not see the person the officers were confronting. Lang then described hearing a sound like glass breaking but could not see what caused that sound.

Lang saw the officers approaching the tree trimming truck from opposite sides then she saw the person, later identified as Michael Ducaine Giles, running westbound in front of Coast Home Furnishings followed by the two officers running after him.

She described Giles as a white, male adult, in his 20's, with long, brown hair and a thin build. He was wearing a green top and dark jeans. She could not see if he was carrying anything and she did not recognize Giles as someone she knew or had seen before.

She lost sight of Giles and the officers when the Alfie's Fish and Chips building obscured her view of them. Shortly after losing sight of them Lang heard what she believed was two gunshots. She did not hear any screaming or commands. After hearing the gunshots she got out of her car and walked to the sidewalk in front of Alfie's Fish and Chips and saw several police vehicles arriving on scene.

Juan Palomares

Juan Palomares is a handyman and was working at the Embassy Suites in Lompoc on November 21, 2016. At some time in the morning of November 21 Palomares was working on a plumbing problem in room 140 at the hotel. After finishing his work in room 140, Palomares walked down to his truck which was parked on the south side of the hotel parking lot. While at his truck, Palomares observed a Lompoc Police Department vehicle arrive and park behind his truck. He saw the officer get out of his vehicle holding a gun. The officer told Palomares to get back. Palomares walked back inside the hotel.

Sometime shortly thereafter he heard two gunshots. Palomares did not see Giles on the bike path. He explained that based on where his truck was parked he would not have been able to see anyone if they were hiding in the bushes on the embankment along the bike path.

Yvonne Dunlap

On November 21, 2016 at approximately 8:15 a.m. Yvonne Dunlap was lying on her hotel bed at the Embassy Suites in Lompoc when she heard a police siren. She went to the south facing window where she saw a police SUV driving into the parking lot, and a white male police officer, later identified as Corporal Scott, get out of the SUV. She then saw Corporal Scott gesture to another male standing nearby in what seemed like an effort to tell the person to stay away. Corporal Scott ran towards the bike path that was adjacent to the parking lot.

When Corporal Scott reached the bike path he drew his handgun and started shouting commands at a person Dunlap could not see. She could not recall the exact words Corporal Scott used but remembered hearing the word "drop." Dunlap described the commands given by Corporal Scott as given in a sequence by yelling a command then waiting; yelling a command then waiting; and so on for at least three times. Soon after the commands were yelled Dunlap heard between one and three gunshots fired. She moved away from the window at this point and took cover. When she returned to the window, Dunlap saw a number of other officers and medical personnel present. She could then see what she perceived as medical personnel attending to someone who presumably had been shot.

At some point while standing at the window, Dunlap took photographs with her cell phone. The below photo depicts Dunlap's vantage of Corporal Scott as he pointed his firearm.



Inez Plasencia

Inez Plasencia was a guest at the Embassy Suites in room 341.

Room 341 faces the south side of the Embassy Suites parking lot and the bike path. On the morning of November 21, 2016 Plasencia was sitting on the bed in room 341 when she heard someone yelling then three distinct shots.

After the shots she heard someone yelling, “Drop it!” Plasencia looked out the window but could not tell where the incident took place because there were two large trees blocking her view. While looking out of the window she saw an officer putting on a vest and running up the bike path towards the hotel and other officers who she could now see. Shortly after, she heard sirens and saw other police vehicles and fire and paramedics arriving.

Estefani Ponce

On November 21, 2016, sometime after 8:00 a.m., Estefani Ponce was walking northeast through the parking lot of the Fallas Discount Store located at 1009 North H Street. Ponce was walking towards the bus stop in the Albertson’s Shopping Center located at 1500 North H Street. As she approached the bike path area south of Embassy Suites Hotel, Ponce saw an unknown male, later identified as Michael Ducaine Giles, run from the east side of North H Street to the west side of North H Street. She also saw two police officers, later identified as Officers Kifer and Agdobike, chasing Giles. Ponce could not provide any description of Giles nor if he was carrying anything in his hands. Ponce could only describe one of the two officers she saw as “a brown skinned female officer.” She said that when Giles reached the west side of the North H Street he “jumped” into some bushes on a hillside and laid down. She thought he laid face down.

She saw Officers Kifer and Agbodike stop on the bike path short of where she perceived Giles was lying down. She also thought they had their guns pointed at Giles.

Ponce then saw a Lompoc Police SUV drive into the Embassy Suites parking lot and stop just west of where Giles was lying in the bushes. She saw an officer, later identified as Corporal Scott, get out of the SUV, walk to the bike path and stop just southwest of where Giles was lying. She next saw Corporal Scott point his gun at Giles. Ponce could hear Corporal Scott yelling something at Giles but she could not understand what he was saying because she does not speak English. Ponce's view was obscured by a fence and bushes, so she could not actually see Giles at this point. Ponce did not hear the other officers yelling commands at Giles, but she heard what she perceived as Corporal Scott yell "bitch" at Giles then fired two shots at him. Although Ponce could not see Giles, she knew he had been shot because after hearing the two shots fired she saw Giles' bloody arm raised above the bushes. Ponce said she did not see Giles advance towards Corporal Scott. Ponce also stated that she could not see Giles at any time after he jumped into the bushes because her view was obscured by a fence and the bushes.

Forensic Documentation of Shooting Scene

The scene was processed by forensic personnel. They located a large, fixed blade knife, that was approximately 9 ¾" inches overall in length. The blade was 5 ¼" in length. There was also a knife sheath and Giles' clothing. Additionally they found two .40 caliber shell casings.

Located on the east side of H Street behind 1040 North H Street, forensic personnel located a backpack containing two unopened packs of Newport cigarettes, a bottle of Chrystal Palace vodka, a mason jar just under ½ full of marijuana, a vial of cannabidiol hemp oil ("CBD oil"), an empty wallet, a lighter, and other miscellaneous items.



Photo of Giles' knife recovered from scene.

Autopsy

The autopsy of Michael Ducaine Giles was performed on November 22, 2016 by Doctor Manuel Montez, who is a forensic pathologist employed by the Santa Barbara County Sheriff's Office. Dr. Montez located two gunshot entrance wounds to Giles' body and one exit wound. The first gunshot wound was an entrance wound over the right upper chest. This gunshot perforated the ribs and right lung and Dr. Montez determined this was a fatal gunshot wound. The second, non-fatal gunshot wound was to the right forearm. This gunshot penetrated over the front of the right forearm, near the wrist. There were perforations of the bones of the forearm. The bullet lodged in the musculature of the upper right forearm, near the elbow.

A toxicology report showed that Giles had a blood alcohol concentration of 0.246g/100 ml, and had THC, amphetamine and methamphetamine in his system.

Suspect History

Martin Giles

Martin Giles is the 26-year-old brother of Michael Giles. In the evening of November 20, 2016 Martin was at his house in Lompoc where he lives with his father, Jack Giles. Michael was present that evening even though Jack had a restraining order prohibiting Michael from being at his house.

Martin described Michael's state of mind that evening as "under the influence" but he was not sure if he was under the influence of drugs or merely alcohol. Martin further described Michael as rambling on for hours, behaving belligerently, and talking loudly. Martin assumed Michael was under the influence of alcohol because he noticed a bottle in his pocket.

Martin explained that close to midnight Michael and Jack started arguing and Jack told him he was going to call the police. Michael then stated, "If the police get called I'm going out in style"; "Fuck it, I am fucking done"; "I am going to pull out my knife and have them shoot me." Martin told Michael not to do that and begged his father not to call the police. Jack did not call the police. Michael asked Martin to get him his flashlight from inside the house. When Martin returned outside with the flashlight Michael was gone.

Martin explained that Michael had expressed suicidal thoughts in the past and had even taken suicidal actions such as cutting his wrists. He also said Michael struggled with alcohol and drug abuse.

Additionally, Martin stated that for the past few years Michael always carried a knife on his belt for his protection.

Part II - LEGAL ANALYSIS AND CONCLUSION

Applicable Law

Homicide is the killing of one human being by another, either lawfully or unlawfully. Homicide includes murder and manslaughter, which are unlawful, and the acts of excusable and justifiable homicide which are lawful. The shooting of another person in self-defense or in the defense of others is justifiable and not unlawful. Penal Code section 196(2) defines justifiable homicide by public officers. “Homicide is justifiable when committed by public officers and those acting by their command in their aid and assistance when necessarily committed in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty.” Under California law anyone, including a police officer, who is threatened with an attack that justifies the use of self-defense need not retreat. The person attacked may stand his ground and defend himself, if necessary, by deadly force, even if he might have more easily gained safety by flight. See *People v. Newcomer* (1897) 118 Cal. 263, 273; *People v. Dawson* (1948) 88 Cal.App.2d 85, 95.

A police officer may use deadly force where the circumstances create a reasonable fear of death or serious bodily injury in the mind of the officer. *Graham v. Connor* (1989) 490 U.S. 386; *Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334. In *Graham*, the United States Supreme Court held that the reasonableness of the force used “requires careful attention to the facts and circumstances” of the particular incident “including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.” (*Id.*, at 396). Further the Court states, “[t]he ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene rather than with the 20/20 vision of hindsight.” (*Id.*, at 397). Moreover, “[t]he calculus of reasonableness must embody allowance for the fact that police officers are often forced to make a split-second judgment—in circumstances that are tense, uncertain and rapidly evolving—about the amount of force that is necessary in a particular situation.” (*Id.*, at 397-398). Under *Graham*, we must avoid substitution of our personal notions of proper police procedure for the instantaneous decision of an 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* (6th Cir. 1992) 954 F.2d 343, 347. *Graham’s* definition of reasonableness has been described as “comparatively generous to police in cases where potential danger, emergency conditions or other exigent circumstances are present” (*Roy v. Inhabitants of the City of Lewiston* (1st Cir. 1994) 42 F.3d 691) and also as giving police “...a fairly wide zone of protection in close cases....*Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334.

Legal Analysis

Officers Agbodike and Kifer responded to a call of a possibly intoxicated person acting belligerently at a laundromat. Upon arrival, Giles ran out of the business and hid under a parked

large utility truck. When officers located him, Giles was armed with a knife. Instead of dropping the knife and surrendering, Giles ran from officers eventually hiding in bushes along an embankment. Corporal Scott arrived to the scene to assist Officers Agbodike and Kifer. All three officers attempted to locate Giles and ordered him to drop the knife. Giles responded by jumping up from his hiding place in the bushes and lunging forward with a knife towards Corporal Scott. Fearing for his life, Corporal Scott fired two rounds at Giles, striking him in the right forearm and chest.

Corporal Scott's actions were reasonable under the standard set forth in *Graham* based on the totality of circumstances in this case.

CONCLUSION

The circumstances created a reasonable fear of death or great bodily injury in the mind of Corporal Charles Scott. Based on the investigation by the Santa Barbara County Sheriff's Office, applying the law as set forth in PC 196(2), and the cases cited *supra* in this report, Corporal Scott acted reasonably in his use of deadly force; therefore, the shooting of Michael Ducaine Giles is a justifiable homicide.