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PRESS RELEASE

Napa County District Attorney Gary Lieberstein announced today that his office has completed its investigation into the November 28, 2010 fatal shooting of Richard Poccia, age 60, by a Napa police officer. After careful review of all the evidence, the District Attorney's Office has concluded that, while this was an extremely tragic situation, Officer Nicholas Dalessi acted with legal justification, specifically, reasonable self defense, when he shot Poccia.

The incident began on the morning of November 28, when the Napa Police Department received multiple reports from Poccia's wife, Samanda Dorger, and family friends, that Poccia, who was alone in his residence on Meek Avenue, had been in severe psychiatric distress for two days and was deteriorating. The police were informed that Poccia was drinking heavily, owned at least 13 firearms, including rifles and handguns, had fired a shot through an interior wall of his residence, was suicidal, and presented a danger to others. Poccia had previously been employed as a nurse for several years but more recently had been unemployed for months. A physician friend had visited Poccia earlier in the day and told police that Poccia spoke of confronting police officers if they came to his home and said, if they did, they would die or he would die, or both. The physician confirmed that Poccia was suffering from post traumatic stress syndrome and paranoia. He also told police that Poccia was armed with two handguns and a shotgun.

Napa police consulted with Poccia's health provider who stated that Poccia may be suffering from withdrawal from Klonopin, commonly prescribed for seizure and panic disorders. Police also requested assistance from Napa Mental Health. A social worker tried to reach Poccia by telephone but he did not answer and did not return a voicemail message.

Napa police eventually managed to contact Poccia by calling his cell phone. Poccia agreed to walk out of his house unarmed and to speak with officers on scene. Due to the number of firearms that Poccia possessed and the evidence that he was mentally unstable, the officers directed Poccia to walk out of the house slowly with his hands up. Initially, Poccia complied. However, when he approached the officers to within eight feet, his demeanor quickly changed. Despite the officers' repeated assurances to Poccia, addressing him by his first name, telling him they would not hurt him and were there only to help him, Poccia became belligerent and aggressive. He ignored constant commands to keep his hands up and to move slowly. Instead, he lunged at an officer, yelled profanities, and assumed a fighting stance. Although officers repeatedly ordered Poccia to keep his hands raised, he suddenly reached into his waistband and started to pull out an object. When he did so, Officer Dalessi assumed it was a gun and fired a single shot which killed Poccia instantly. The object that Poccia had pulled from his waistband was later identified as a metallic 4" folding knife. He otherwise was unarmed.

Subsequent toxicology testing showed that at the time of his death, Poccia's blood-alcohol level was .32%. Tests also revealed the presence of Methadone and Diphenhydramine, a common sedative.

Under California law, a killing by a police officer is justifiable and lawful when necessarily and reasonably committed in overcoming actual resistance to the performance of legal process, or in the discharge of any other legal duty (see California Penal Code Section 196). In determining whether a police officer's use of deadly force was necessary and reasonable, we recognize that officers often are forced to make split second judgments under tense, dangerous, and complex circumstances. Here, Poccia ignored the officers' announcements and directions. The officers were aware of his earlier threats to kill and knew that he owned numerous firearms, including some capable of being concealed on his person. When Poccia suddenly reached into his waistband and began to retrieve an object, the officers had less than one half-second to react.

Given the totality of the circumstances, Officer Dalessi was justified in believing that Poccia presented an immediate and serious threat of death or great bodily harm. Under the law, the jurisdiction of the District Attorney is limited to a determination of whether or not a criminal act was committed in the use of lethal force. Accordingly, we have determined that Officer Dalessi's use of deadly force here was legally justified and, thereby, no criminal act was committed in the use of such force while carrying out his duties as a sworn police officer.