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September 28, 2011

Chief John Welter
Anaheim Police Department
425 S. Harbor Blvd.
Anaheim, CA 92805

Re: TRAVIS MOCK
District Attorney Case No. 11SA015 #12
District Attorney Investigations Case No. S.A. 11-008
Anaheim Police Department DR # 2011-25093
Orange County Crime Laboratory Case # FR-11-42280
Officer Involved Shooting – Non Fatal – Involving Anaheim Police Lieutenant TIM SCHMIDT

Dear Chief Welter:

Please accept this letter detailing the Orange County District Attorney's Office's investigation and legal conclusion in connection with the above-listed incident during which Anaheim Police Lieutenant Tim Schmidt shot Travis Mock, who survived his injuries. The incident occurred in the city of Anaheim on February 17, 2011.

OVERVIEW

This letter contains a description of the scope of and the legal conclusions resulting from the Orange County District Attorney's (OCDA) investigation of the early-morning, February 17, 2011, non-fatal officer-involved shooting of Travis Mock (hereinafter "Mock") in Anaheim Hills, California. The letter includes an overview of the OCDA investigative methodology and procedures employed, as well as a description of the relevant evidence examined, witnesses interviewed, factual findings, and legal principles applied in analyzing the incident and determining whether there was criminal culpability on the part of the officer involved in the shooting. The format of this document was developed by the OCDA, at the request of many Orange County police agencies, to foster greater accountability and transparency in law enforcement.

On February 17, 2011, Investigators from the OCDA Special Assignment Unit (OCDASAU) responded to the area of Anaheim Hills, California (hereinafter, "the Scene") after Mock was shot by

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on-duty Anaheim Police Lieutenant Tim Schmidt in the street in front of Lieutenant Schmidt's home. During the course of their investigation, OCDASAU Investigators interviewed more than 60 witnesses, and obtained and reviewed the following: Anaheim Police Department ("APD") reports, and dispatch and radio traffic recordings; Anaheim Fire Department ("AFD") medic reports; Orange County Sheriff Crime Lab ("OCCL") reports, including toxicology, forensic alcohol examination, latent print, officer processing and firearms examination reports; crime scene investigation photographs; medical records and photographs related to the injuries sustained by Mock; criminal history records related to Mock, including prior criminal history records and parole reports; the personnel record of Lieutenant Schmidt; and other relevant reports and materials, including audio recordings and video footage of the neighborhood canvass conducted and media coverage of the incident.

The OCDA conducted an independent and thorough investigation of the facts and circumstances of this event and has impartially reviewed all evidence and legal standards available. The scope and findings of this review are expressly limited to determining whether any criminal conduct occurred on the part of APD officers or personnel, specifically Lieutenant Tim Schmidt. The OCDA will not be addressing herein issues of policy, training, tactics or civil liability.

METHODOLOGY OF INVESTIGATION

Among other duties, the OCDASAU is responsible for investigating officer-involved shootings within Orange County when someone has been injured as a result of police gunfire. An OCDASAU Investigator is assigned as a case agent and is supported by other OCDASAU investigators, as well as investigators from other OCDA units. Six Investigators are assigned to the OCDASAU on a full-time basis. There are additional OCDA investigators assigned to other units in the office trained to assist when needed. On average, eight investigators respond to the incident within an hour of being called. The investigators assigned to respond to an incident perform a variety of investigative functions that include: witness interviews, canvass, crime scene processing and evidence collection, vehicle processing, and hospital investigative responsibilities, as needed. The OCDASAU audio records all interviews and the OCCL processes all physical evidence related to the investigation.

When the OCDASAU Investigator has concluded the investigation, the file is turned over to a deputy district attorney for legal review. Veteran deputy district attorneys from the Homicide or Gang Units review fatal, officer-involved shootings and custodial death cases and determine whether criminal charges are appropriate. Prosecutors assigned to the Special Prosecutions Unit review the non-fatal, officer-involved shooting cases for possible criminal filings. Throughout the review process, the assigned prosecutor will be in consultation with his or her supervisor, and this Assistant District Attorney will eventually review and approve any legal conclusions and resulting memos. The case may often be reviewed by multiple veteran prosecutors, their supervisors and the District Attorney. If necessary, the reviewing prosecutor may send the case back for further investigation.

FACTS

Background of Defendant and Events Leading Up to the Confrontation

Travis Mock is a 27 year-old male who has a criminal history dating back to January 2001, showing numerous prior criminal arrests and convictions, and law enforcement contacts. This criminal history supports the conclusion that, at the time of this incident, Mock had familiarity with the physical appearance of police officers and police arrest procedure. He is a member of the white supremacist, criminal street gang, Insane White Boys, and was on parole at the time of this incident through the California Department of Corrections and Rehabilitation for the commitment offense of second degree burglary. His prior criminal offenses and law enforcement contacts included: Obstruct/Resist Public Officer; Assault Peace Officer/Emergency Personnel; Battery Against Peace Officer; Fugitive from Justice; Vehicle Theft; Receive Known Stolen Property; Possess Burglary Tools; Burglary; Burglary (Second Degree); Theft by Forged/Invalid Access Card; Forgery; Possession of Illegal Drug Paraphernalia; Possession of Controlled Substance; Possession of Controlled Substance for Sale; and probation violations.

According to Mock, on February 16, 2011, between 10:00 p.m. and 11:00 p.m., he had smoked a "twenty" of methamphetamine. Approximately five hours later, at 4:00 a.m. on February 17, 2011, Mock and his younger brother, Kyle Mock, arrived in a neighborhood in Anaheim Hills. Kyle Mock drove Mock to this neighborhood in a black Chevrolet Suburban or GMC Yukon. Once there, Mock began stealing mail from the residential mail boxes. At approximately 5:15 a.m., Mock started stealing mail from the residential mail boxes on the cul-du-sac in front of Lieutenant Schmidt's home. Mock was wearing dark clothing and had two cellular phones in his right side jacket pocket. One of the phones is blue and black, and the other red and black. According to Mock, the phones had no service, but he kept them for his contacts. He was also carrying a black nylon bag that contained stolen mail from the mailbox of one of Lieutenant Schmidt's neighbors.

Voluntary, Consensual Statement of Lieutenant Tim Schmidt Regarding the Incident

Tim Schmidt has been employed by APD for 16 years. Prior to that, he had been employed as a police officer at the Tustin Police Department for approximately 4 years. Schmidt is assigned at APD to the patrol division as a Lieutenant, and is currently assigned as the Watch Commander of APD Team Four. As an APD Lieutenant, Schmidt is assigned an APD unmarked police vehicle, which is a silver, Chevrolet Impala.

Lieutenant Schmidt gave a voluntary, consensual statement to the OCDA on February 18, 2011.

According to Lieutenant Schmidt, on Wednesday, February 16, 2011, he started his shift at 6:00 p.m., and was scheduled to end his shift on Thursday, February 17, 2011, at 6:30 a.m. On Thursday, February 17, 2011, between approximately 5:25-5:30 a.m., Lieutenant Schmidt left the APD Central Station in downtown Anaheim, en route to his residence in the area of Anaheim Hills. He was driving his assigned, unmarked, police vehicle, and was dressed in full APD patrol uniform, with his APD-issued,

