



OFFICE OF THE
DISTRICT ATTORNEY
ORANGE COUNTY, CALIFORNIA
TONY RACKAUCKAS, DISTRICT ATTORNEY

JIM TANIZAKI
SENIOR ASSISTANT D.A.
VERTICAL PROSECUTIONS/
VIOLENT CRIMES

JOSEPH D'AGOSTINO
SENIOR ASSISTANT D.A.
GENERAL FELONIES/
ECONOMIC CRIMES

MICHAEL LUBINSKI
SENIOR ASSISTANT D.A.
SPECIAL PROJECTS

JAIME COULTER
SENIOR ASSISTANT D.A.
BRANCH COURT OPERATIONS

CRAIG HUNTER
CHIEF
BUREAU OF INVESTIGATION

ROBERT WILSON
INTERIM DIRECTOR
ADMINISTRATIVE SERVICES

SUSAN KANG SCHROEDER
CHIEF OF STAFF

December 31, 2015

Chief Raul Quezada
Anaheim Police Department
425 S. Harbor Boulevard
Anaheim, CA 92805

Re: Officer-Involved Shooting on June 8, 2015
Fatal Incident involving Rene Alvulez Garcia
District Attorney Investigations Case # S.A. 15-012
Anaheim Police Department Case # 15-87868
Orange County Crime Laboratory Case # FR 15-49058

Dear Chief Quezada,

Please accept this letter detailing the Orange County District Attorney's (OCDA) Office's investigation and legal conclusion in connection with the above-listed incident involving on-duty Anaheim Police Department (APD) Officers Steven Anderson and Yesenia Escobar. Rene Alvulez Garcia, 30, died as a result of his injuries. The incident occurred in the City of Anaheim on June 8, 2015.

OVERVIEW

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the June 8, 2015, fatal officer-involved shooting of Garcia. The letter includes an overview of the OCDA's 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 APD officers 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 June 8, 2015, Investigators from the OCDA Special Assignment Unit (OCDASAU) responded to this incident. During the course of this investigation, 11 interviews were conducted, and 30 additional witnesses were contacted during the supplemental canvass interviews. OCDASAU Investigators also obtained and reviewed the following: APD reports, body worn camera footage, audio dispatch and radio traffic recordings; Orange County Crime Laboratory (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 Garcia; criminal history records related to Garcia including prior incident reports; the personnel records of Officers Anderson and Escobar; and other relevant reports and materials including digital audio recordings of the conducted neighborhood canvass.

REPLY TO: ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE

WEB PAGE: www.OrangeCountyDA.com

MAIN OFFICE
401 CIVIC CENTER DR W
P.O. BOX 808
SANTA ANA, CA 92701
(714) 834-3600

NORTH OFFICE
1275 N. BERKELEY AVE.
FULLERTON, CA 92631
(714) 773-4480

WEST OFFICE
8141 13TH STREET
WESTMINSTER, CA 92683
(714) 896-7261

HARBOR OFFICE
4601 JAMBOREE RD.
NEWPORT BEACH, CA 92660
(949) 476-4650

JUVENILE OFFICE
341 CITY DRIVE SOUTH
ORANGE, CA 92668
(714) 935-7624

CENTRAL OFFICE
401 CIVIC CENTER DR. W
P.O. BOX 808
SANTA ANA, CA 92701
(714) 834-3952

The OCDA conducted an independent and thorough investigation of the facts and circumstances of this incident and has reviewed all evidence and legal standards impartially. 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 Officers Anderson and Escobar. The OCDA will not be addressing any possible issues relating to policy, training, tactics, or civil liability.

INVESTIGATIVE METHODOLOGY

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 an 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, neighborhood 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 veteran Deputy district attorney for legal review. Deputy district attorneys from the Homicide, TARGET, or Gangs Units review fatal, officer-involved shootings and custodial death cases and determine whether criminal charges are appropriate. Deputy district attorneys assigned to the Special Prosecutions Unit review the nonfatal officer-involved shooting cases for possible criminal filings. Throughout the review process, the assigned prosecutor will be in consultation with the supervising Assistant District Attorney in the Special Prosecutions Unit, who will eventually review and approve any legal conclusions and resulting memos. If necessary, the reviewing prosecutor may send the case back for further investigation.

An important part of the investigation of an incident such as this is attempting to obtain a statement from the involved officers. Officers Anderson and Escobar gave voluntary statements to OCDA Investigators on June 10, 2015.

FACTUAL SUMMARY

On June 8, 2015, at approximately 2:00 p.m., Rene Alvulez Garcia left his home in the City of Fullerton, driving his black, Ford F150 pickup truck. APD Motorcycle Officer Anderson was working traffic enforcement in the area of Wilhelmina Street and Harbor Boulevard in the City of Anaheim at that time. At approximately 2:40 p.m., Officer Anderson initiated a traffic enforcement stop on a brown colored Chevy Suburban that was travelling in excess of the posted speed limit. The driver of the Chevy Suburban stopped along the west curb of North Helena Street off of West La Palma Avenue in the City of Anaheim. Officer Anderson stopped and parked his motorcycle behind the Chevy Suburban and activated his Digital Audio Recorder (DAR). The windows of the Suburban were down because the air conditioning was not working. Officer Anderson observed that there were four individuals in the Suburban. John Doe was the driver, sitting in the front driver's seat of the vehicle. Jane Doe, John Doe's wife, was sitting in the front passenger seat. John and Jane Doe's two sons, ages 2 and 4, were sitting in the back seats of the vehicle. Officer Anderson retrieved John Doe's license and registration and returned to his motorcycle to write John Doe a traffic citation for the vehicle code violation.

As Officer Anderson was writing the traffic citation, a black Ford F150 pickup truck pulled up and stopped approximately three to four feet away east of his police motorcycle and was facing in a southeast direction. The truck was partially blocking the number two westbound lane of West La Palma Avenue at North Helena Street. Officer Anderson identified Garcia as the driver and only occupant of the truck. When Officer Anderson first noticed Garcia stopping his truck, he described Garcia's face as angry. Officer Anderson initially believed that Garcia had stopped to ask for directions but realized that Garcia's behavior was strange from his initial observations.

Garcia exited the driver door and walked around to the front of the truck. At this point, Garcia was approximately 15 feet away from Officer Anderson when he started yelling at the officer. Officer Anderson's DAR captured audio of this incident. As documented in the DAR, Garcia first yelled, "Mother fucker" at Officer Anderson. In response, Officer Anderson appeared confused and said, "Huh?" Then Garcia yelled, "Fuck cops!" In addition to what was captured on the DAR, John

Doe and Jane Doe both confirmed hearing Garcia yell obscenities at Officer Anderson while they remained in their Suburban with the windows down. Some of these obscenities included, "Fuck P.D., Fuck Cops!" John Doe saw Garcia hiding a large kitchen knife behind his back. Garcia pulled the concealed knife from behind his back and brandished it at Officer Anderson. The blade was facing up and outward in Garcia's right hand. The knife looked like a butcher knife and was approximately nine inches long. After yelling obscenities and brandishing the knife at Officer Anderson, Garcia then ran back to the open driver's side door of his truck and reached into the interior of the vehicle for a second or two. Officer Anderson initially thought Garcia was going to drive away, but Garcia never actually entered the truck. Officer Anderson believed Garcia was retrieving a gun or another weapon from inside the truck.

During this time, Officer Escobar was assisting the Homeless Enforcement Team at La Palma Park. Officer Escobar was in her APD police car, getting ready to leave La Palma Park to go to another location. Officer Escobar was parked in a driveway facing south toward La Palma Avenue to the west side of the baseball stadium. While waiting for traffic to clear so she could exit the driveway, Officer Escobar looked to the west and saw Officer Anderson making a vehicle enforcement stop.

After Garcia finished reaching into the driver's side door of his truck, Garcia ran south on North Helena Street towards Officer Anderson. Officer Escobar saw Garcia's truck, and saw Garcia running in a northwesterly direction around the rear of the pickup truck from her position at La Palma Park. Garcia had approximately the 8-inch-long fixed blade knife raised over his head with the blade pointing downward as he ran toward Officer Anderson. Garcia ran onto the lawn at the southwest corner of West La Palma Avenue and North Helena Street. Officer Escobar thought Garcia was attempting to flee the scene so she turned west onto West La Palma Avenue to check on Officer Anderson to see if he needed assistance. Garcia stopped running when he was on the lawn at the southwest corner of West La Palma Avenue and North Helena Street. Officer Escobar saw Officer Anderson pointing his handgun at Garcia, and thus activated the overhead lights on her police vehicle and drove west into the opposing eastbound traffic lanes of West La Palma Avenue east of North Helena Street toward the scene.

When Officer Anderson saw the large knife, he immediately grabbed his gun and pointed it at Garcia. Garcia was holding the knife pointed downward with the blade of the knife closer to Garcia's pinky in a ready stabbing position. On his DAR, immediately after Garcia yelled obscenities at Officer Anderson, Officer Anderson can be heard yelling commands at Garcia to drop the knife on at least four separate occasions within a short period of time. Jane Doe also confirmed that she heard Officer Anderson tell Garcia to drop the knife three times. Garcia ignored Officer Anderson's directives and continued running toward him with the knife still in his hand in the same attacking position. Officer Anderson started to backpedal away from Garcia in a southeasterly direction on North Helena Street. Garcia continued to advance toward Officer Anderson in what Officer Anderson described as a "dead run." Officer Anderson backpedaled away from Garcia as fast as Garcia was advancing toward him with the large knife in his hand. Officer Anderson believed Garcia would stab and kill him if he caught up to him. Officer Anderson stated that had he waited one or two seconds longer, Garcia would have been on top of him as the short distance between them at that point was between six and eight feet. Based on the circumstances, Officer Anderson stated that he ran out of options and fired his handgun at Garcia as he continued to backpedal in a northeasterly direction toward the front of Garcia's truck. Crime scene investigators subsequently recovered six expended 9mm casings from the scene of the shooting, and the OCCL determined that the six casings were fired from Officer Anderson's service firearm.

Officer Escobar saw Officer Anderson backpedaling towards the black Ford F150 pickup truck and Garcia advancing on him when she heard gunshots. According to Officer Escobar, Garcia was approximately six feet away from Officer Anderson when Officer Anderson fired his handgun at least six times.

After being shot, Garcia slowed, but continued moving forward at a fast pace and in an easterly direction across North Helena Street. Officer Anderson continued to point his handgun at Garcia, tracking him as he continued in an easterly direction toward Officer Escobar's police vehicle.

As Officer Escobar pulled up to the scene in her police vehicle, she focused her attention on Officer Anderson because he was backpedaling toward her vehicle. She was afraid she was going to hit Officer Anderson with her vehicle and had to firmly apply the brakes to avoid doing so causing her wheels to lock. As such, Officer Escobar had lost sight of Garcia as she stopped her vehicle at the northeast corner of West La Palma Avenue and North Helena Street, facing in a southwesterly direction in oncoming traffic. Officer Anderson, John Doe, and Jane Doe all saw Garcia run past Officer Anderson and toward Officer Escobar's police vehicle.

When Officer Escobar attempted to get out of the police vehicle, she was surprised to find Garcia at the front, driver's side door of her vehicle. Officer Escobar noticed Garcia was wielding a large kitchen knife. The knife was in Garcia's right hand at his shoulder level, with the blade facing downward. Officer Escobar also noticed Garcia had a blank stare, and appeared to be possibly under the influence of narcotics. Officer Escobar saw Garcia coming around the open driver's side door of her police vehicle. Jane Doe also observed Garcia holding the knife as he stood near Officer Escobar's driver's side door and making a jabbing motion toward the officer. To create distance between her and Garcia, Officer Escobar leaned back into the front passenger seat of the police vehicle and extended her leg outward so she would not get stabbed in the chest. Officer Escobar believed Garcia was going to stab her and was afraid for her life so she fired her gun twice at Garcia. The crime scene investigators subsequently recovered two expended 9mm shell casings that the crime lab determined were fired from Officer Escobar's service firearm.

After he was struck by gunshots near the open front driver's door of Officer Escobar's police vehicle, Garcia fell to the ground on his back, with his head facing north and legs facing south. Immediately after shooting at Garcia, Officer Escobar exited her patrol vehicle and knelt down next to Garcia. Officer Escobar did not see the knife and thus she re-holstered her gun. Officer Anderson came around the open driver's door of Officer Escobar's police vehicle to assist. Officer Escobar held Garcia's right arm and Officer Anderson held Garcia's left arm. Once Garcia was controlled, a third APD Officer responded to the scene with a medical first aid kit and began administering first aid on Garcia until the paramedics arrived. Investigators later recovered a large butcher knife near Officer Escobar's police vehicle which was consistent with the knife that Officer Escobar and Anderson observed Garcia brandishing.

Officer Anderson's DAR captured the initial traffic enforcement stop on John Doe as well as the contact with Garcia and the shooting. The shooting incident involving Garcia occurs within approximately one minute and 18 seconds of the beginning of the DAR. The shooting occurs over the span of approximately one minute of when Garcia is first heard on Officer Anderson's DAR.

At approximately 2:46 p.m., Fullerton Fire Department (FFD) personnel arrived at West La Palma Avenue and North Helena Street. FFD personnel saw Garcia lying next to a police car with multiple gunshot wounds to the torso and chest. FFD personnel also noticed Garcia already had a dressing placed on his chest, indicating someone had already administered first aid. FFD personnel took over Advanced Life Support (ALS) intervention with compressions and assisted with ventilation. A heart monitor was attached to Garcia and Garcia was under pulseless electrical activity. The FFD personnel continued ALS intervention and started an intravenous line (IV) to give Garcia fluids before transporting him to University of California, Irvine Medical Center (UCIMC). At 3:01 p.m., Garcia was transported by CARE Ambulance to UCIMC. During the transportation to UCIMC, FFD personnel continued to provide ALS interventions and oxygen to Garcia. Garcia was also given epinephrine during the transport to UCIMC. Garcia did not make any statements and did not regain consciousness during the transport.

At 3:12 p.m., Garcia arrived at UCIMC, and was transferred to the care of the on duty trauma personnel. Garcia was in full cardiac arrest and unresponsive. Lifesaving efforts were administered for approximately fifteen minutes and Garcia was given Epinephrine, and 301 ml of plasma. Garcia was put on an intubation tube and was given a secondary airway. Garcia was also given a right chest tube and IV in his left groin and arms. Garcia did not respond to the medical treatment and was pronounced deceased at 3:27 p.m.

After the incident and during witness interviews by OCDA Investigators, John Doe said it looked like Garcia was determined to stab someone and was going after Officers Anderson and Escobar. John Doe also said he was actually

afraid of Garcia for his own family's safety while witnessing the incident. It should also be noted that three other witnesses that were interviewed also stated that they believed Garcia was attempting to stab the police officers. One witness specifically observed Garcia holding the knife over his head while Officer Escobar was trapped in her police vehicle.

EVIDENCE COLLECTED

The following items of evidence were collected and examined:

- EM #1 – Two 9mm caliber cartridge casings; head stamped "WINCHESTER 9MM"
- EM #2 – One black/gray baseball cap
- EM #3 – One wallet, one camouflaged vest with hood, one green t-shirt, and one bullet
- EM #4 – One cartridge case head stamped "WINCHESTER 9MM"
- EM #5 – One knife (near Officer Escobar's police vehicle)
- EM #6 – One cartridge case head stamped "WINCHESTER 9MM"
- EM #7 – One cartridge case head stamped "WINCHESTER 9MM"
- EM #8 – One cartridge case head stamped "WINCHESTER 9MM"
- EM #9 – One cartridge case head stamped "WINCHESTER 9MM"
- EM #10 – One cartridge case head stamped "WINCHESTER 9MM"
- EM #11 – One cartridge case head stamped "WINCHESTER 9MM"
- EM #12 – One apparent bullet fragment (on ground near left rear tire of Officer Anderson's motorcycle)
- EM #13 – One apparent bullet fragment (on ground near left rear tire of Officer Anderson's motorcycle)
- EM #14 – One bullet (in Suburban belonging to John Doe)
- Bullet removed from the liver of Garcia during the autopsy
- Blood standard from Garcia

Additionally, several other apparent bullet strikes and holes were noted on John Doe's Suburban. There bullet strikes were found on the driver's side door panel, rear bumper, rear tailgate, and several other areas near the driver side running board.

EVIDENCE ANALYSIS

Firearms Examination

Officers Anderson and Escobar's Glock pistols were test fired at the OCCL and fired without malfunction. The three fired cartridge cases (EM4 and two at EM1) were determined to have been fired from Officer Escobar's Glock pistol. The six fired cartridge cases (EM6 to EM11) were determined to have been fired from Officer Anderson's Glock pistol.

Autopsy

On June 9, 2015, a post-mortem examination of Garcia was conducted by Orange County Sheriff-Coroner Forensic Pathologist Yong Son Kim. Dr. Kim identified five apparent gunshot entry wounds. Three of the apparent gunshot wounds penetrated the right lung, one penetrated the liver, and another traveled through the spine. Dr. Kim noted that the bullet that traveled through the spine caused a spinal fracture. Dr. Kim concluded that Garcia's cause of death was the result of multiple gunshot wounds to the torso resulting in heavy internal bleeding.

Toxicological Examination

A sample of Garcia's blood was collected for testing. An Orange County Sheriff's Department forensic scientist examined the blood sample for alcohol, prescription drugs, and common drugs of abuse. The following results were obtained:

DRUG	MATRIX	RESULTS & INTERPRETATIONS
Ethanol	Postmortem Blood	0.013 ± 0.003% (w/v)

GARCIA'S PRIOR CRIMINAL HISTORY

Garcia's criminal history was reviewed and considered. Garcia had a California Criminal History that dates back to the year 2000. Garcia was previously been arrested for the following charges:

- Obstructing/resisting a public officer
- Battery on a peace officer
- Possession of switch blade
- Burglary
- Possession of burglary tools
- Possession of stolen property
- Trespassing
- Vandalism
- Possession of a controlled substance
- Possession of nitrous oxide
- Possession of controlled substance paraphernalia
- Under the influence of a controlled substance
- Probation violation
- Driving without a license
- Driving with a suspended license

GARCIA'S BROTHER'S STATEMENT REGARDING MENTAL HEALTH

Garcia's brother (John Doe 2) contacted the Orange County District Attorney's Office in reference to Mr. Garcia's prior mental health history. John Doe 2 informed OCDA Investigators that Garcia had used crystal methamphetamine since the age of 14 or 16 years old. According to John Doe 2, Garcia began suffering from mental illnesses ever since and even after he had stopped using crystal methamphetamine; Garcia reported hearing voices and talking to himself. Garcia was prescribed medication for his symptoms but reportedly stopped taking medication and refused John Doe 2 and his family's suggestion that he seek mental health counseling.

John Doe 2 reported that approximately two or three weeks prior to this shooting, Garcia informed John Doe 2 and his other brother that he [Garcia] had been watching YouTube documentary videos about "suicide by cop" and mental illness. John Doe 2 also indicated that Garcia used marijuana to alleviate some of his mental illness; however, he still reported hallucinations while working at a construction job. Two or three weeks prior to the incident, Garcia stopped using marijuana and had continued hearing voices. On June 6, 2015, two days prior to the shooting, John Doe 2 and Garcia were at a family party where John Doe 2 heard Garcia talking to himself.

STANDARD LEGAL PRINCIPLES IN OFFICER-INVOLVED SHOOTING CASES

Possible criminal charges against an officer involved in a fatal shooting include murder [Penal Code Section 187]; manslaughter [Penal Code Section 192]; assault with a deadly weapon [Penal Code Section 245]; and assault by a police officer [Penal Code Section 149]. In order to convict an officer of any of these charges, however, it would be necessary to prove beyond a reasonable doubt that no legal justifications existed for the officer's actions. (*People v. Adrian* (1982) 135 Cal.App.3d 335, 340-342.) Several such justifications may apply in any given case and they are set forth in Penal Code Sections 196, 197 and 835a.

California Penal Code Section 196 provides that use of deadly force by a public officer is justifiable when necessarily used in arresting persons who are "charged with a felony" and who are fleeing from justice or resisting such arrest. Section 196 applies both where the suspect in question is "charged with a felony" and where the officer has "reasonable cause" to believe that the person has committed a felony. (*Kortum v. Alkire* (1977) 69 Cal.App.3d 325, 332.) The felony must involve violence or the threat of violence. (*Id.* at 333.) California Penal Code Section 197 provides that the use of deadly force by any person is justifiable when used in self-defense or in defense of others.

California Penal Code Section 835a allows any police officer who has reasonable cause to believe that a person to be arrested has committed a felony [public offense] to use reasonable force to effect the arrest, to prevent escape, or to overcome resistance. The section further provides that a police officer “who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.” The Court of Appeal in *Kortum* further held that deadly force against a fleeing felony suspect is justifiable only when the felony “is of the violent variety, *i.e.*, a forcible and atrocious one which threatens death or serious bodily harm, or there are other circumstances which reasonably create a fear of death or serious bodily harm to the officer or to another.” (*Kortum v. Alkire, supra*, 69 Cal.App.3d at p. 333.)

In addition, Penal Code section 834a requires that if a person has knowledge, or by the exercise of reasonable care should have knowledge, that he is being arrested by a peace officer, that person must refrain from using force or any weapon to resist such arrest.

Similarly, the relevant Criminal Jury Instruction as written by the Judicial Council of California and set forth in CALCRIM 3470 permits a person being assaulted to defend himself or herself from attack if, as a reasonable person, he/she had grounds for believing and did believe that bodily injury was about to be inflicted upon him/her or upon another person. In doing so, such person may immediately use all force and means which he/she believes to be reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to defend against that danger and to prevent the injury which appears to be imminent.

The law as detailed in CALCRIM 3470 and in well-settled case law therefore permits a person, if confronted by the appearance of danger which arouses in his/her mind, as a reasonable person, an honest fear and conviction that he/she or another person is about to suffer bodily injury, to act in self-defense or defense of others upon such appearances, and from such fear and honest convictions. The person’s right of self-defense is the same whether the danger is real or merely apparent. (*People v. Jackson* (1965) 233 Cal.App.2d 639, 641-642.)

Nevertheless, the above justifications must be interpreted in light of United States Supreme Court precedent that limits the right of a police officer to use deadly force. (*People v. Martin* (1985) 168 Cal.App.3d 1111, 1124.) Thus, in *Tennessee v. Garner* (1985) 471 U.S. 1, 3, the United States Supreme Court ruled that a police officer is entitled to use deadly force only when “the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.” This limitation was, however, clarified subsequently by the United States Supreme Court in the seminal case of *Graham v. Connor* (1989) 490 U.S. 386, wherein the Supreme Court explained that an officer’s right to use force [*i.e.*, his/her weapon] is to be analyzed under the Fourth Amendment’s “objective reasonableness” standard. The Supreme Court further stated that the determination of the reasonableness of an officer’s use of force “must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation” (*Id.* at 396-397.)

The United States Supreme Court’s analysis and teachings in *Graham* are very much applicable to the circumstances surrounding the interactions of Anaheim Police Department Officers Anderson and Escobar with Garcia.

LEGAL ANALYSIS

The facts in this case are determined by considering both Officers Anderson and Escobar’s statements to the OCDA investigators, which was supplemented by other relevant material and witnesses present at the incident.

The issue in this case is whether the conduct of Officers Anderson and Escobar on June 8, 2015, was criminally culpable and without justification. As stated above, in order to charge Officers Anderson and Escobar with a criminal violation, it is required that the prosecution be able to prove beyond a reasonable doubt that no legal justification existed for the police officers’ conduct. Therefore, in order to lawfully charge Officers Anderson and Escobar with a crime, the prosecution must prove beyond a reasonable doubt that they did not act in lawful self-defense. If the actions of Officers Anderson

and Escobar were justifiable as lawful self-defense or defense of others, then criminal charges will not be warranted. To be abundantly clear, all the evidence in this case shows that the officers did nothing more than defend themselves when confronted by an armed individual who was determined to attack the officers with a deadly weapon. Officers Anderson and Escobar did not commit any crimes when they were forced to deal with Garcia resulting in their actions of shooting him.

As the Court of Appeal held in a recent case, it is well settled that “unlike private citizens, police officers act under color of law to protect the public interest. They are charged with acting affirmatively and using force as part of their duties, because ‘the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effectuate it.’ Police officers are, in short, not similarly situated to the ordinary battery defendant and need not be treated the same. In these cases, then, the police officer is in the exercise of the privilege of protecting the public peace and order and he is entitled to the even greater use of force than might be in the same circumstances required for self-defense.” (*Brown v. Ransweiler* (2009) 171 Cal.App.4th 516, 527.)

Where potential dangerous, emergency conditions or other exigent circumstances exist, the California Courts of Appeal have noted that the United States Supreme Court's definition of reasonableness is comparatively generous to the police. The court in *Brown* noted that in effect, “the Supreme Court intends to surround the police who make these on-the-spot choices in dangerous situations with a fairly wide zone of protection in close cases. A police officer's use of deadly force is reasonable if the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others. Thus, an officer may reasonably use deadly force when he or she confronts an armed suspect in close proximity whose actions indicate an intent to attack.” (*Brown v. Ransweiler, supra*, 171 Cal.App.4th at p. 528.)

Officers Anderson and Escobar were clearly justified in believing that Garcia posed a significant threat of death or serious physical injury to them or/and others present at the scene of the shooting. This conclusion is based on the totality of the circumstances, but mainly based on the Garcia's behavior and conduct in the moments leading up to the shooting. Garcia, without provocation, stopped his vehicle in the middle of the roadway blocking traffic while demonstrating an angry look and shouting obscenities at Officer Anderson who was conducting a routine traffic enforcement stop. Officer Anderson observed Garcia's angry demeanor and saw him suddenly brandish a large kitchen knife. As a result of these observations, Officer Anderson immediately shouted orders for Garcia to drop the knife. Despite repeated orders to drop the knife, corroborated by several independent eyewitnesses and Officer Anderson's digital audio recording (DAR), Garcia charged at Officer Anderson with the knife raised in his hand, blade facing downward, which was capable of being used to stab. This is clearly a circumstance where Officer Anderson was facing an armed individual who was attacking him with a deadly weapon. It was Garcia's conduct in charging at Officer Anderson in a dead run closing the distance between them to approximately six to eight feet with the knife raised in a threatening and dangerous manner that caused Officer Anderson to shoot at Garcia. Based on these circumstances Officer Anderson reasonably and rightfully believed Garcia was on a mission to stab him. Officer Anderson believed his only option was to shoot Garcia to guarantee his safety. Officer Anderson feared he would have gotten stabbed or killed if he did not shoot Garcia. Based on the totality of the available evidence, it is clear that Officer Anderson would have been stabbed by Garcia if he did not shoot at him. Therefore, Officer Anderson's action in shooting Garcia was reasonable and justified.

Garcia then charged toward Officer Escobar's police vehicle, with the knife still raised in his hand. When Officer Escobar opened the driver's side door to exit her police car, Garcia was already at the driver's side door with the knife raised in his hand. Officer Escobar tried to put distance between herself and Garcia by leaning back into the front, passenger seat of the police vehicle and extending her leg outward so she would not get stabbed in the chest. Officer Escobar reasonably believed Garcia was going to stab her and was afraid for her life. Officer Escobar's fear was reasonable because this is exactly what Garcia was trying to do. Therefore, Officer Escobar's action in shooting Garcia was reasonable and justified.

It should also be noted that in order for Officers Anderson and Escobar to be justly and lawfully charged and convicted with a crime in this incident, it is the OCDA's burden to prove beyond a reasonable doubt that they did not act in reasonable and justifiable self-defense or defense of another when they shot Garcia. As should be apparent from the above-described

analysis, the prosecution would be unable to carry this burden in this case. A jury analyzing these facts would justly conclude that it was reasonable for Officers Anderson and Escobar to believe their lives and the lives of others were in danger. Therefore, Officers Anderson and Escobar were justified when they shot Garcia. Simply stated, Officers Anderson and Escobar did not commit a crime, to the contrary, they carried out their duties as peace officers in a reasonable, lawful and justifiable manner.

CONCLUSION

Based upon a review of all of the evidence provided to and obtained by the OCDA, and based on the entirety of the facts contained in all the available reports and interviews reviewed, and pursuant to the applicable legal principles, it is our legal opinion that there is no evidence of criminal culpability on the part of Officers Anderson and Escobar, and there is substantial evidence that their actions were reasonable and justified under the circumstances when they shot Garcia on June 8, 2015, casing his death.

Accordingly, the OCDA is closing its inquiry into this incident.



ISRAEL CLAUSTRO
DEPUTY DISTRICT ATTORNEY
TARGET/Gangs Unit



READ AND APPROVED BY **EBRAHIM BAYTIEH**
ASSISTANT DISTRICT ATTORNEY
SUPERVISING HEAD OF COURT – SPECIAL PROSECUTIONS UNIT