



OFFICE OF THE  
**DISTRICT ATTORNEY**  
ORANGE COUNTY, CALIFORNIA  

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TODD SPITZER

June 8, 2020

Chief Corey S. Sianez  
Buena Park Police Department  
6640 Beach Blvd  
Buena Park, CA 90622

Re: Officer-Involved Shooting on August 19, 2019  
Fatal Incident involving David Patrick Sullivan  
District Attorney Investigations Case # SA 19-017  
Buena Park Police Department Case # 19-33927  
Fullerton Police Department Case # 19-50575  
Anaheim Police Department Case # 19-121596  
Orange County Crime Laboratory Case # 19-50984

Dear Chief Sianez,

Please accept this letter detailing the Orange County District Attorney's Office's (OCDA) investigation and legal conclusion in connection with the above-listed incident involving on-duty Buena Park Police Department (BPPD) Officers Bobby Colon and Jennifer Tran. David Patrick Sullivan, 18, died as a result of his injuries. The incident occurred in the City of Fullerton on August 19, 2019.

**OVERVIEW**

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the August 19, 2019, fatal, officer-involved shooting of Sullivan. 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 BPPD 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 August 19, 2019, Investigators from the OCDA Special Assignment Unit (OCDASAU) responded to this incident. During the course of this investigation, nine (9) interviews were conducted, and four (4) additional witnesses were contacted during the supplemental canvass interviews. OCDASAU Investigators also obtained and reviewed the following: police reports; body worn camera (BWC) footage; patrol vehicle surveillance (PVS) footage; audio dispatch and radio traffic recordings; Orange County Crime Laboratory (OCCL) reports, including toxicology, forensic alcohol

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examination, latent print, officer processing and firearms examination reports; crime scene investigation photographs; medical records and photographs related to the injuries sustained by Sullivan; criminal history records related to Sullivan including prior incident reports; and other relevant reports and materials including audio recordings of the conducted neighborhood canvass.

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 BPPD officers or personnel, specifically Officers Colon and Tran. 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 an experienced deputy district attorney for legal review. Deputy district attorneys from the Homicide, TARGET/Gangs, and Special Prosecutions Units review fatal and non-fatal officer-involved shootings and custodial death cases, and determine whether criminal charges are appropriate. Throughout the review process, the assigned prosecutor will be in consultation with the Senior Assistant District Attorney supervising the Operations IV Division of the OCDA, who will eventually review and approve any legal conclusions and resulting memos. The case may often be reviewed by several experienced prosecutors and their supervisors. The District Attorney reviews and approves all officer involved shootings and custodial death letters. 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 Colon and Tram gave voluntary statements to OCDA Investigators on August 28, 2019.

### **DISCLOSURE OF OFFICER-INVOLVED SHOOTING VIDEO & AUDIO EVIDENCE**

The OCDA recognizes that releasing video and audio evidence of officer-involved shooting and custodial death incidents can assist the public in understanding how and why these incidents occur, increase accountability, and build public trust in law enforcement. Consistent with the OCDA's written policy in connection with the release of video and audio evidence relating to officer-involved shooting and custodial death incidents where it is legally appropriate to do so, the OCDA is releasing to the public video/audio evidence in connection with this case. The relevant video/audio evidence is available on the OCDA website:

<http://orangecountyda.org/reports/videoandaudio/default.asp>.

## **FACTUAL SUMMARY**

On Monday, August 19, 2019, early in the morning, David Patrick Sullivan ("Sullivan") arrived at the Shell gas station where he worked. At approximately 5:20 a.m., Sullivan stole about \$1,000 in cash and loaded more than one thousand dollars-worth of store merchandise (cigarettes, pastries, lighters, energy shots, water and a gas can) into the back seat of a customer's 2011, black, Range Rover ("Range Rover"). Sullivan then put gas in the Range Rover and left. The vehicle was reported stolen a few hours later. At approximately 11:35 a.m., BPPD Officers Colon and Tran were on patrol in a marked patrol car, traveling eastbound on Artesia Street, when Officer Colon noticed the registration tag on the Range Rover Sullivan was driving was expired. Officer Colon, who was riding in the passenger seat of the marked patrol car, directed Officer Tran to conduct a traffic stop. Officer Tran began following the Range Rover as Sullivan travelled eastbound on Artesia Street, then northbound on N. Gilbert Street. Officer Tran activated the overhead lights and ran the license plate. The license plate inquiry showed the registration expired in June of 2018.

At that time, Sullivan was travelling northbound on N. Gilbert Street in the number one (1) lane, turned left into the driveway of American Promotional Events, Inc., located at 555 N. Gilbert Street in Fullerton. At this location, there are only two (2) handicap spaces available. Sullivan entered the handicap space closest to N. Gilbert Street and parked with the front of the Range Rover facing in a southbound direction. Officer Colon activated his Body Worn Camera ("BWC"), exited the patrol car with an electronic ticket book in his right hand, and approached on the driver's side of the Range Rover. Officer Tran remained in the patrol car. Sullivan remained in the driver's seat and lowered the driver's side front window as Officer Colon approached. Through the open window, Officer Colon contacted Sullivan and asked for Sullivan's driver's license, registration and proof of insurance. Sullivan politely told Officer Colon that he did not have a driver's license and that the car belonged to his cousin. Sullivan then handed Officer Colon his California Identification Card. Sullivan was calm and cooperative.

At approximately 11:37 a.m., while standing outside of the Range Rover, Officer Colon notified BPPD dispatch of the car stop and reported the Range Rover's license plate number. After confirming that the registration was expired, Officer Colon told Sullivan to "Hang on" and then returned to the patrol car. Officer Colon informed Officer Tran that Sullivan told him the vehicle belonged to his cousin. Officer Tran asked if Sullivan was being cooperative, to which Officer Colon answered "Yeah." BPPD dispatch then advised that the vehicle was stolen and that two (2) additional patrol units were dispatched to assist. Officers Colon and Tran, knowing that this was now a felony car stop involving a stolen car, decided that the best approach to avoid "escalating" the situation and increasing the chances of a violent confrontation with Sullivan, who continued to remain calm and cooperative, would be to keep their handguns holstered while they approached Sullivan and asked him to exit the vehicle.

Officers Colon and Tran have both received law enforcement training in the tactics used in conducting felony car stops involving an occupied stolen vehicle. Both officers reported felony car stop tactics included exiting their patrol car and drawing their weapons; taking cover behind their car door, pointing their weapon at the occupant(s) in the vehicle and holding their position until additional officers arrived. Once additional officers arrived, they would order the occupant out of the car and handcuff them. However, based on Sullivan's initial calm and cooperative demeanor, Officer Colon reasonably believed there was a possibility that Sullivan did not know the vehicle was stolen and that he and Officer Tran could successfully get Sullivan to comply with their commands.

Officers Colon and Tran approached on the driver's side of the vehicle with their weapons holstered. Officer Colon opened the driver's door and instructed Sullivan to exit the vehicle. Without warning, Sullivan suddenly grabbed the steering wheel with his left hand and started the engine with his right hand. Officer Colon yelled, "Step out of the car!" as he grabbed Sullivan's left arm and attempted to pull him out of the vehicle. Officer Colon ordered Sullivan three (3) times to exit the vehicle. Sullivan, ignoring each of the exit commands, pulled his left arm free, put the Range Rover into reverse and, with the driver's door wide open, reversed at a high rate of speed forcing Officer Colon to jump back in order to avoid being hit by the open car door. Sullivan reversed at a high rate of speed across the driveway onto the front greenbelt. Officer Colon withdrew his handgun and began running in the direction of Sullivan's vehicle. Officer Colon did not see Officer Tran at this time and later said he thought that she might have been stuck by the Range Rover because the Range Rover struck the front of the patrol car in the area where Officers Colon and Tran had been standing while contacting Sullivan.

Sullivan reversed across the driveway onto the greenbelt where he ran over a traffic sign and then collided with a large palm tree. After striking the palm tree, the Range Rover ricocheted off the palm tree and stuck a civilian vehicle traveling southbound on N. Gilbert Street in the number two (2) lane. The rear end of the Range Rover violently struck the passenger side of the civilian vehicle. Seeing what a significant threat Sullivan posed to both his and the public's safety, and seeing firsthand that Sullivan was willing to do anything to escape, Officer Colon continued advancing towards the now disabled Range Rover. Sullivan, still inside the Range Rover, raised his left hand with his middle finger extended toward Officer Colon. Officer Colon ordered Sullivan to, "Get out of the car!" Sullivan quickly exited the Range Rover and angrily yelled back, "F\*\*\* you!" Sullivan, who had a tall and thick build, was wearing white tennis shoes, black pants, and an untucked, oversized black t-shirt, that covered his waistband. With his hands clenched to his side, Sullivan took a single step away from the vehicle and again loudly yelled, "F\*\*\* you!" and charged directly at Officer Colon. As Sullivan quickly advanced toward Officer Colon, Sullivan's left hand went behind his back and out of Officer Colon's sight. Officer Colon backed up as Sullivan continued to charge at him, quickly closing the distance. Officer Colon fired one round at Sullivan, who was within about six (6) feet of Officer Colon at that time.

Sullivan veered slightly to his right, took two (2) to three (3) more strides, and continued to angrily yell profanities at Officer Colon. Officer Colon fired a second shot while Sullivan was still within five (5) to seven (7) feet of him. Sullivan, who did not physically react to any of the shots, changed his direction, and continued running. Seeing no physical reaction from Sullivan, Officer Colon fired a third shot. Sullivan changed direction and began running toward the back of the parking lot. Sullivan abruptly stopped, turned around and began charging at Officers Colon and Tran a second time. Officer Tran was now only a couple of feet away from Officer Colon. Officer Colon continued to fire and Officer Tran fired two (2) shots at this time. Officer Colon looked to his left and saw Officer Tran for the first time since Sullivan had suddenly reversed in the Range Rover. Sullivan then let out a loud scream and dropped to his knees as the officers yelled at Sullivan to "Get on the ground!" Witness John Doe #1, who was standing across the street and witnessed the incident, described Sullivan's action: "He had full intention of doing some form of physical harm or damage to the officers by his attack."

Officer Tran requested paramedics respond to their location and both officers approached Sullivan and placed him in handcuffs. By the time paramedics arrived, Sullivan was deceased. From the moment Officer Colon asked Sullivan to exit the vehicle to when Sullivan collapsed on the driveway was approximately twenty-five (25) seconds. From the time Officer Colon fired his first shot to the time of the last shot, it was approximately ten (10) seconds.

After the incident, investigators found an apparent suicide note in Sullivan’s wallet. The note appeared to have been written on cash register receipt paper. The note was addressed to Sullivan’s mother, brother, sister, and grandmother. The note closed with, “I truly love you all. David.”

**EVIDENCE COLLECTED**

The following items of evidence were collected and examined:

- One (1) cartridge case headstamped “WIN 40 S&W.”
- One (1) cartridge case headstamped “WIN 40 S&W.”
- Two (2) cartridge cases headstamped “WIN 40 S&W.”
- Two (2) cartridge cases headstamped “WIN 40 S&W.”
- One (1) cartridge case headstamped “WIN 40 S&W.”
- One (1) projectile.

**AUTOPSY**

On August 22, 2019, Forensic Pathologist Dr. Etoi Davenport of Orange County Sheriff – Coroner Forensic Science Center, conducted an autopsy on the body of Sullivan. Dr. Davenport concluded Sullivan had sustained seven (7) gunshot wounds – four (4) entry, two (2) exit, and one “atypical reentry wound”. It was Dr. Davenport’s opinion, one round struck Sullivan’s left forearm, exited the forearm, entered the left side of his back and lodged near his right buttocks. Dr. Davenport concluded the cause of death was a gunshot that entered Sullivan’s right chest cavity, struck both lungs, heart, and exited the left chest cavity.

**EVIDENCE ANALYSIS**

**Firearms Examination**

Officer Colon’s Glock 22 pistol was test fired at the Orange County Crime Lab and fired without malfunction. Officer Colon’s Glock 22 pistol was determined to have fired five (5) cartridge cases recovered from the scene.

Officer Tran’s Glock 22 pistol was test fired at the Orange County Crime Lab and fired without malfunction. Officer Tran’s Glock 22 pistol was determined to have fired two (2) cartridge cases recovered from the scene.

**Toxicological Examination**

A sample of Sullivan’s postmortem 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:

<b>DRUG</b>	<b>MATRIX</b>	<b>RESULTS &amp; INTERPRETATIONS</b>
THC	Postmortem Blood	0.0062 + 0.0008 mg/L
Carboxy - THC	Postmortem Blood	0.0344 + 0.0042 mg/L
Hydroxy - THC	Postmortem Blood	0.0019 + 0.0003 mg/L
Ethanol/Volatiles	Postmortem Blood	Not Detected
Barbiturates	Postmortem Blood	Negative
Methamphetamine and Related	Postmortem Blood	Negative

## **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.)

Recent amendments to Penal Code Sections 196 and 835a allow an officer to use deadly force only when the officer reasonably believes it is necessary, based upon a totality of the circumstances, to defend themselves or others against an imminent threat of death or serious bodily injury. This also applies to apprehension of a fleeing person whom the officer reasonably believes will cause death or serious bodily injury to another unless immediately apprehended. Penal Code Section 835a requires that, prior to the use of deadly force, the officer shall make reasonable efforts to identify themselves and warn that deadly force may be used, when feasible, unless the officer reasonably believes the person is already aware of those facts. In determining whether deadly force is necessary, officers shall evaluate the circumstances of each situation independently, and use other available resources and techniques if reasonably safe and feasible to do so. When officers may be forced to make quick judgments about using force, the decision is evaluated based upon the perspective of a reasonable officer in that same situation, taking into account all circumstances known to the officer at the time.

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/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 Buena Park Police Department Officers Colon and Tran with Sullivan.

## **LEGAL ANALYSIS**

The facts in this case are determined by considering both Officers Colon and Tran's statements to the OCDA investigators, which was supplemented by other relevant material and witnesses present at the incident including the BWC video recording.

The issue in this case is whether the conduct of Officers Colon and Tran on August 19, 2019 were criminally culpable and without justification. As stated above, in order to charge Officers Colon and Tran 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 Colon and Tran with a crime, the prosecution must prove beyond a reasonable doubt that they did not act in lawful self-defense. If the actions that day of Officers Colon and Tran were justifiable as lawful self-defense or defense of others, then criminal charges will not be warranted.

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/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.) Additional analysis, pursuant to California Penal Code section 835a, permits deadly force when the officer reasonably believes it is necessary, based upon a totality of the circumstances, to defend themselves or others against an imminent threat of death or serious bodily injury.

Based on the totality of all the available evidence, it is apparent that Officers Colon and Tran were reasonably justified in believing that Sullivan posed a significant threat of death or serious physical injury to themselves, and nearby civilians. This conclusion is based primarily on the totality of the circumstances, but in addition based on the conduct of Sullivan in the moments leading up to the shooting. After accelerating backward at a high rate of speed in the Range Rover, Sullivan exited the vehicle screaming, “F\*\*\* you!” to Officer Colon and began to charge at him. Officer Colon, fearing for his life, recalled that it looked as if Sullivan was reaching with his left hand back toward his waistband and, “Seeing this, this big guy coming at me with this look of anger.” Officer Tran, who was behind Officer Colon at this time, was unable to see Sullivan’s hands, but said, “His face [was] full of anger.” Sullivan was clearly acting erratic and was blatantly disobeying Officer Colon’s commands to give himself up.

Based on the statement to OCDA investigators, Officer Colon thought, “I can’t see his left, left hand and I’m thinking... he’s going to pull a gun on me.” Officer Colon backed away as Sullivan charged. Officer Colon now saw Sullivan’s hands were empty, but feared Sullivan was going to attack him, disarm him, and use his gun against him or his partner, Officer Tran. Officer Colon thought, “I’m not going to let that happen,” “I’m not gonna let this guy do this to my partner.” Officer Colon believed immediate action was required in order to keep himself, his partner, and innocent bystanders safe. Officer Colon then fired the first round. Based on Officer Colon’s training and experience, it is reasonable for him to conclude that suspects typically conceal weapons in their waistband and even though Officer Colon could not see a firearm, he reasonably believed Sullivan was going to pull one out of his waistband, since Sullivan kept reaching backward with his left hand. After Officer Colon fired multiple rounds, he did not notice any discernable impact on Sullivan from the shots.

As Sullivan changed direction, Officer Colon indicated that he continued to fire for the fear that Sullivan was going to run into the commercial business to his rear and injure innocent civilians. Sullivan then changed course and began to charge Officer Colon for a second time, once again reaching back with his left hand. Officer Colon stated, “he’s once again reaching towards his back with his left hand and I’m thinking now he’s gonna pull out this gun.” Officer Tran believed Sullivan

still had the ability and the intention to do harm and fired two shots at Sullivan. Sullivan's actions put not only the officers' lives in danger, but also those around him. This was a reasonable belief on the part of Officer Tran based on the totality of all the circumstances.

It should also be noted that, in order for Officers Colon and Tran 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 Officers Colon and Tran did not act in reasonable and justifiable self-defense for each use of deadly force against Sullivan. Based on these facts, 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 Colon and Tran to believe that their lives and the lives of others were in danger. Therefore, there is a lack of sufficient evidence to prove beyond a reasonable doubt that Officers Colon and Tran were not legally justified when they shot at Sullivan.

### **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 a lack of sufficient evidence to prove beyond a reasonable doubt any criminal culpability on the part of Officers Colon and Tran, and there is substantial evidence that their actions were reasonable and justified under the circumstances when they shot and killed Sullivan on August 19, 2019.

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



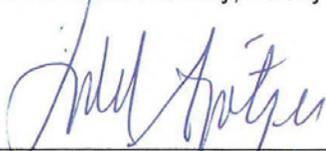
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**DAVID PORTER**  
SENIOR DEPUTY DISTRICT ATTORNEY  
GANGS UNIT



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READ AND APPROVED BY **EBRAHIM BAYTIEH**  
Senior Assistant District Attorney, Felony Operations IV



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READ AND APPROVED BY DISTRICT ATTORNEY **TODD SPITZER**