



OFFICE OF THE
DISTRICT ATTORNEY
ORANGE COUNTY, CALIFORNIA

TODD SPITZER

February 7, 2022

Sheriff Don Barnes
Orange County Sheriff's Department
550 N. Flower Street
Santa Ana, CA 92701

Re: Deputy Involved Shooting on 9/23/2020
Fatal Incident Involving Kurt Reinhold
OCDA Investigation Case # S.A. 20-024
OSCD DR # 20-031866
Orange County Crime Lab FR # 20-51262

Dear Sheriff Barnes,

Please accept this letter detailing the Orange County District Attorney's Office (OCDA) investigation and legal conclusion in connection with the above listed incident involving Deputy Eduardo Duran. The incident occurred in the City of San Clemente on September 23, 2020 and Kurt Andreas Reinhold, 42, died as the result of his injuries.

OVERVIEW

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the September 23, 2020, fatal, officer-involved shooting of Kurt Andreas Reinhold. 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 Orange County Sheriff Deputy 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 September 23, 2020, Investigators from the OCDA Special Assignment Unit (OCDASAU) responded to El Camino Real in the city of San Clemente to investigate an officer involved shooting. During the course of this investigation, 23 interviews were conducted, OCDASAU Investigators also obtained and reviewed the following: Orange County Sheriff's reports, audio dispatch and radio traffic recordings; Orange County Crime Laboratory (OCCL) reports, including toxicology, DNA; Deputy processing and firearms examination reports; Orange County Sheriff-Coroner's Office (OCCO) reports; Orange County Fire Authority (OCFA) reports, crimes scene investigation and subject photographs; video surveillance, civilian video footage; criminal history records relating to Kurt Andreas Reinhold; and other reports and materials, including audio recordings of witnesses interviewed and 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 Orange County Sheriff's Deputies, specifically Deputy Eduardo Duran.

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 law enforcement 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/Gangs, and Special Prosecutions Units review fatal, as well as non-fatal, officer-involved shootings and custodial death cases and determine whether criminal charges are appropriate. The case may often be reviewed by multiple veteran prosecutors and their supervisors. The District Attorney personally reviews and approves all officer-involved shooting and custodial death cases. If necessary, the reviewing prosecutor may send the case back for further investigation.

An important part of the investigation is to attempt to obtain a statement from the involved deputies. Both Deputy Eduardo Duran and, his partner, Deputy Jonathan Israel gave voluntary statements to OCDA Investigators on September 29, 2020.

FACTUAL SUMMARY

Deputy Eduardo Duran has worked for the OCSD since 2007. Since 2018, he had been assigned to the San Clemente substation as a patrol deputy and for the past year had been working as a Homeless Liaison Officer (HLO).

Deputy Jonathan Israel had been working as an Orange County Sheriff's Deputy for the past eight years. For the past year and a half, Dep. Israel had been working as a Homeless Liaison Officer for the Sheriff's Department.

In an attempt to better deal with the increased homeless population in Orange County, the Sheriff's Department created the assignment of a HLO. These Deputies have been trained in outreach, crisis avoidance, dealing with individuals with mental health issues and drug issues. The main goal of the HLO is outreach and getting homeless individuals services verses arrest. Both Deputy Israel and Deputy Duran had successfully completed Anaheim Police Department's 40 hour crisis intervention training. Included in this training at the Anaheim Police Department is 60 minute session on dealing with the homeless population. At the Anaheim PD's training, course presenters discussed the importance of trying to "de-escalate" situations with homeless people in the field. These tactics include but are not limited to using non-threatening language,

providing space between the officers and the homeless person, not using foul language, offering services and having a single officer try and gain a rapport with the individual.

Along with this training, OCSD has an eight-page policy manual on HOMELESS OUTREACH & LIAISON that deputies are required to review. The policy manual speaks to the primary goals that focus on outreach; not enforcing any law criminalizing a homeless subject for illegal camping or loitering in public; offering services where they are available; and working relationships with individuals they repeatedly encounter.

DATE OF OFFICER INVOLVED SHOOTING

On September 23, 2020, starting at approximately 12 p.m. Deputy Eduardo Duran and Deputy Jonathan Israel starting working a two-person patrol shift in the city of San Clemente. Both Deputies wore OCSD issued green uniforms with bullet-proof vests and gun belts. The front of the vest has numerous pockets that contain a department issued radio, mace canister and other items. On the back of the vest, in large yellow letters, is the word: SHERIFF. On the front of the vest an embroidered OCSD Sheriff's badge is on the left chest area as well as OCSD Sheriff's badges on both the right and left shoulders.

Prior to their patrolling the streets, Deputy Duran told Deputy Israel about his last few days of work and about an incident with a homeless person, later identified as Reinhold, on the night before at the Ole Hanson Pool Center off PCH in the city of San Clemente.

On September 22, 2020 at approximately 9 p.m., Deputy Duran was at the Sheriff's Annex (located at San Clemente City Hall) when he observed video surveillance of Reinhold, trespassing on the Ole Hanson Pool Center property. After watching Reinhold on the video, Deputy Duran drove to the Ole Hanson location with fellow Deputy Mike Harris and Deputy Luis Perez. Deputy Mike Harris recognized the man, Reinhold, on the video surveillance, as a person who had been in the city of San Clemente for approximately one month.

The three deputies arrived to Ole Hanson at approximately 10 p.m. When the deputies tried to engage Reinhold in conversation, he would not respond to their questions. When told that the owners of Ole Hanson usually do not allow people permission to sleep there and asked him who gave him permission to sleep there, Reinhold's response was "*God told me I can be here.*" They proceeded to offer Mr. Reinhold services or any resources. Reinhold completely ignored the deputies. Realizing they did not have an active "no trespassing letter" from the owner all the deputies concluded they had no enforceable action they could take. The entire incident took approximately five (5) minutes.

The next day, at 1:32 p.m. on September 23, 2021 Deputies Jonathan Israel and Eduardo Duran were in their marked OCSD Ford Explorer driving south bound on El Camino Real. This location is part of the two deputies assigned area with San Clemente. Deputy Israel was the driver and Deputy Duran was in the front passenger seat typing a report on his on board computer based upon on prior service call earlier that day. While traveling southbound, Deputy Israel visually observed Reinhold traveling northbound on El Camino Real. Deputy Israel believed Reinhold was homeless, based upon his appearance, proceeded to make a U-turn and parked at a 7-11 parking lot on El Camino Real in the city of San Clemente.

While sitting in the driver's seat of his patrol vehicle, Deputy Israel visually observed Reinhold walk across the street against a solid red hand signal, in violation of Vehicle Code Section 21456(c) [walking against a red hand for pedestrian traffic]. Upon seeing this violation, Deputy Israel activated his forward red light and drove the marked Ford Explorer Southbound to contact Reinhold. Deputy Duran did not observe the actions of Reinhold as he was typing on his keyboard. As Deputy Israel was driving the patrol car, Deputy Duran told him "*don't make case law.*" This comment was made by Deputy Duran because he personally did not see the actions of Reinhold and wanted to make sure Deputy Israel had probable cause to initiate a stop.

Deputy Israel drove past Reinhold and upon parking his Explorer southbound on El Camino Real, he and Deputy Duran exited the vehicle and told Reinhold “*Hey stop.*” Reinhold ignored these commands and kept walking away from the Deputies.

Deputy Israel took the lead in attempting to contact Reinhold and Deputy Duran was acted as his back up. When Deputy Israel told Reinhold he was “*detained,*” Reinhold asked “*For what?*” Deputy Israel told Reinhold it was for “*jaywalking*”¹.

Reinhold disagreed with the Deputy and continued walking away from the Deputy in violation of Penal Code Section 148(a) [Willfully resisting, delaying or obstructing a police officer in the discharging of his duties].

Reinhold walked away from the Deputies into the middle of the street in violation Vehicle Code Section 21954(a) [Pedestrian upon a roadway other than a marked crosswalk]. Deputy Israel entered the street (El Camino Real) and attempted to direct traffic and direct Reinhold back to the sidewalk. At no point did either of the deputies raise their voice, swear or attempt to instigate Reinhold. Keeping their voices controlled and trying to direct him out of the street were their attempts at de-escalation. While directing Reinhold back to the sidewalk with his arms, Reinhold slapped Deputy Israel’s hand away in violation of Penal Code Section PC 243(b) [Battery against a peace officer]. Reinhold hit Deputy Israel’s hand and arm three additional times during a period that lasted approximately one minute and thirty seconds.

A civilian witness, John Doe #1, who was on El Camino real, observed some of the interaction between the Sheriff Deputies and Reinhold. He stated the officers were “*trying to be nice,*” and the man (Reinhold) pulled away then hit and pushed the deputy. John Doe #2, a Marine from Camp Pendleton, was also on the north side of El Camino Real directly across from the Miramar hotel observed the interaction between the deputies and Reinhold. John Doe #2 heard the deputies tell Reinhold “*to stop*” approximately five (5) times. He heard Reinhold respond “*get off me I did nothing wrong.*” John Doe #2 indicated, at this point, the deputies were not physically on top of Reinhold. John Doe #2 observed Reinhold walking “*illegally*” and in the middle of the street.

After travelling approximately 300 yards, Deputy Israel and Deputy Duran were able to direct Reinhold back to the westbound sidewalk on El Camino Real, directly in front of the Miramar Hotel. Reinhold attempted to walk back into the street; however, Deputy Israel blocked his path and Reinhold tried to shove him out of the way. It was at that moment Deputy Duran grabbed Reinhold by his backpack and took him to the ground.

As Deputy Duran took Reinhold to the ground, Reinhold grabbed and landed on top of Deputy Israel. The three men were on a grass area between the sidewalk and the street. Deputy Duran was on top of Reinhold’s lower half. Deputy Israel’s back was on the ground and Reinhold’s left shoulder was on top of his chest. While on the ground, Reinhold continued resisting by attempting to get up in violation of Penal Code Section 69 (Resisting arrest by force).

While Reinhold was on top of him and within seconds, Deputy Israel felt his gun belt being pulled and then heard the rattling of his gun in its holster (service weapon was on the right side of his body). Deputy Israel released his right hand from his grip on Reinhold and proceeded to attempt to secure his gun. It was at this point he felt Reinhold’s left hand on the grip of his pistol and was pulling it. Deputy Israel immediately

¹ It should be noted that while walking against a solid red hand signal is a violation of the California Vehicle Code, it is technically not “jaywalking”... Vehicle Code Section 21955 Crossing between controlled intersections (aka Jaywalking) is defined: Between adjacent intersections controlled by traffic control signal devices, pedestrians shall not cross the roadway at any place except in a crosswalk. The lawfulness of detaining Reinhold will be discussed in the LEGAL ANALYSIS of this letter.

shouted to Deputy Duran, "*He's got my gun!*" Deputy Israel yelled this to Deputy Duran a few times and then both deputies heard Reinhold say "*I'm gonna get it.*"

While Deputy Duran was holding onto Reinhold's legs he heard Deputy Israel "*frantically scream*" he's got my gun at least three (3) times. Upon hearing this, Deputy Duran fearing for the life of his partner and himself, Deputy Duran took out his gun and pressed it into ribs of Reinhold.

Two separate times Deputy Duran told Reinhold "*Drop it or I'll shoot.*" Reinhold continued to resist. Deputy Israel was still screaming "*He's got my gun!*" Deputy Duran then took his gun and angled so it would not hit himself or his partner and fired. After firing the first gun shot, Deputy Duran felt Reinhold continuing to resist and heard Deputy Israel say, "*He's still got my gun, shoot him again!*" Upon feeling Reinhold continuing to resist and hearing his partner, Deputy Duran shot a second round into the upper portion of Reinhold's chest. After this Reinhold's body went limp.

Deputy Israel immediately put out on the radio "*shots fired.*" Deputy Duran then rolled Reinhold on his back, and Deputy Israel and Deputy Duran began chest compressions until paramedics arrived.

Video surveillance from the Miramar Hotel captured the Deputies involvement right before taking Reinhold to the ground and the actually shooting of Reinhold by Deputy Duran. The video clearly showed Reinhold not only reaching for Deputy Israel's gun, but eventually grabbing ahold of Deputy Israel's gun.

EVIDENCE COLLECTED

The following items of evidence were collected:

A sample of REINHOLD's postmortem blood was collected for toxicology and DNA testing (OCCL Item 12). The blood was examined for the presence of drugs and alcohol. No alcohol or illicit drugs were detected.

Deputy Eduardo Duran's firearm, a Glock 17 Gen5, 9mm semi-automatic pistol, serial #BMB.

Deputy Jonathan Israel's firearm, SIG Sauer, Model P226, 9mm semi-automatic pistol, serial #47A201063, (OCCL Item 6)

The two (2) cartridge cases from the scene (EM2) and (EM3).

Buccal Swabs from Deputy Jonathan Israel (OCCL Item #7)

EVIDENCE ANALYSIS

FIREARMS EXAMINATION

The firearm of Deputy Duran, a Glock 17 Gen5, 9mm semi-automatic pistol, serial #BMB was examined by the Orange County Crime Lab.

The Glock pistol was test fired and operated without malfunction. The two (2) cartridge cases from the scene (EM2) and (EM3) were both fired from Duran's Glock pistol. The two (2) bullets recovered at the autopsy were both determined to have been fired from Duran's Glock Pistol.

EVIDENCE EXAMINATION AND DNA TYPING

The following evidence items were examined by the OCCL:

- OCCL Item 6 – Deputy Israel’s SIG Sauer, Model P226, 9mm semi-automatic pistol, serial #47A201063 with (1) cartridge from chamber, magazine with (20) cartridges and (3) fully loaded back-up magazines.
- OCCL Item 7 – Buccal swabs from Deputy Israel.
- OCCL Item 8 – (4) swabs for DNA from scene: pistol grip and holster (2), knife handle and holder (1), and backing of plastic holster (1).
- OCCL Item 9 – Swabs from hands of Kurt Andreas Reinhold
- OCCL Item 12 – Bloodstain standard from Kurt Andreas Reinhold

DNA ANALYSIS

The Orange County Sheriff’s Department Crime Lab is an accredited forensic crime lab. DNA Examination and analysis revealed that Kurt Andreas Reinhold was the major contributor to the DNA mixture obtained from Deputy ISRAEL’s pistol handgrip and holster sample.

Examination and analysis revealed that Kurt Andreas Reinhold is the major contributor to the DNA mixture obtained from Deputy Israel’s knife and holster sample.

Additional DNA Testing & Confirmation

Along with the DNA analysis conducted by the Orange County Sheriff’s Department’s Crime Lab, additional DNA testing was conducted in this case by a second crime lab.

BODE Technology is an accredited forensic crime lab. DNA extract remaining from OCCL’s examination of the pistol grip and holster swab was sent to BODE Technology for analysis. BODE also concluded that Kurt Andreas Reinhold was as a major contributor to the DNA mixture obtained from the DNA extract of Deputy Israel’s pistol grips.

TOXICOLOGY ANALYSIS

The sample of Reinhold’s postmortem blood was examined for the presence of drugs and alcohol. No alcohol or illicit drugs were detected

AUTOPSY

On September 26, 2020, Dr. Scott Luzi conducted a forensic autopsy on Kurt Andreas Reinhold. Dr. Luzi confirmed that Reinhold had sustained two (2) gunshot wounds to the right upper torso. One (1) bullet was recovered from the soft tissues of the left side of the chest. A second bullet was recovered from the third thoracic vertebra. The cause of death was multiple gunshot wounds.

CRIMINAL HISTORY OF KURT ANDREAS REINHOLD

Since 2019, Mr. Reinhold has had several encounters and arrests by law enforcement.

In October of 2019, in Culver City, Reinhold was reported to be on a homeowner's front porch. When the owner was on the phone with 911 to report the trespass, Reinhold was heard trying to open the front door.

In January of 2020, Reinhold was arrested for trespassing by the San Francisco Airport Police Department. Airport employees observed Reinhold open an emergency exit door; when told by airport personnel to "stay here," Reinhold ignored their request and opened another emergency exit.

In March of 2020, Reinhold was arrested for PC 148(a) while being questioned by Butte Police Officers surrounding a trespass/ and an attempt car burglary investigation. During the questioning by police, Reinhold refused to follow police commands and then physically resisted the police. While on the ground, Reinhold attempted to force his way up and repeatedly tucked his arms underneath his body.

In August of 2020, Reinhold was arrested for PC 148 during an assault and battery investigation in the city of Irvine. The victim claimed that Reinhold approached him in the street, asked if he was a "Christian" and proceeded to punch and kick him. When Irvine Police attempted to ask Reinhold questions, he refused to follow commands and additional officers were needed to take Reinhold to the ground. While on the ground Reinhold refused to allow the police to handcuff him, by keeping his hands underneath his body.

The case was submitted to the Orange County District Attorney's Office and filed on September 28, 2020 (Case# 20HM09358). The complaint alleged charges of PC 240 (assault), PC 242 (battery), and PC 148a (resisting arrest).

STANDARD LEGAL PRINCIPLES IN OFFICER-INVOLVED SHOOTING CASES

Possible criminal charges against an officer involved in an on-duty shooting incident 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 the 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 from attack if, as a reasonable person, he had grounds for believing and did believe that bodily injury was about to be inflicted upon him or upon another person. In doing so, such person may immediately use all force and means which he 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 OCSD Deputies Israel and Durant.

LEGAL ANALYSIS

The issue in this case is whether the conduct of Deputy Duran on September 23, 2020 was criminally culpable and without justification. As stated above, in order to charge Deputy Duran with a criminal violation, it is required that the prosecution have the good faith belief in the ability to prove, beyond a reasonable doubt, that no legal justification existed for the police officer’s conduct. If Deputy Duran’s actions were justifiable as lawful self-defense or defense of others, criminal charges will not be warranted.

Based on the totality of all the available evidence, it is clear that Deputy Duran was justified in believing Reinhold posed a significant threat of death or serious physical injury to his partner, himself and the surrounding civilians.

The contact that the Deputies made with Reinhold was justified because he had violated a vehicle code section (crossing against a red light). This violation allowed the Deputies to initiate contact with Reinhold. The fact that Deputy Israel indicated to Reinhold he was being stopped for “jaywalking” does not negate the deputy’s lawful authority to stop Reinhold for his violation of walking against a red hand for pedestrian traffic.

Technically, Reinhold was correct that he did not violate VC 21955 “Jay-Walking;” however, Reinhold was not free to leave because he had violated Vehicle Code Section 21456(c) [walking against a red hand for pedestrian traffic]. Deputy Israel was within his legal authority to detain Reinhold.

The California Supreme Court in *People v. Silveria and Travis*, 10 Cal. 5th 195 stated: *To determine whether an officer had probable cause to arrest an individual, a court examines the events leading up to the arrest, and then decides whether these historical facts, viewed from the standpoint of an objectively reasonable police officer, amount to probable cause. An arrest remains lawful under the Fourth Amendment, U.S. Const., 4th Amend., even when the criminal offense for which there is probable cause to arrest is different from the offense stated by the arresting officer at the time of arrest.*

Reinhold further committed multiple violations immediately after failing to comply with the Deputy’s legal detention of him. These additional violations included: PC 148 (resisting arrest); Vehicle Code Section 21954(a) [Pedestrian upon a roadway other than a marked crosswalk]; PC 243(b) [Battery on a peace officer] and PC 69 [obstructing a police officer in the performance of their duties with force]. It is important to note that both Deputy Israel and Deputy Duran were in their clearly identifiable Sheriff’s uniforms and exited from their clearly marked, black and white Orange County Sheriff’s Department vehicle as it relates to the violations of PC 148(a); PC 243(b) and PC 69.

When contacted about the vehicle code violation, Reinhold refused to follow direction and walked away from the Deputies after being requested to stop multiple times. Deputy Israel who was legally justified in stopping Reinhold made numerous unsuccessful attempts to obtain compliance. Civilian witnesses observed these attempts by law enforcement and further stated Reinhold’s non-compliance. Not only did Reinhold walk away from the Deputies in legal performance of their duties, but Reinhold put other motorists and the Deputies in danger when he walked in the middle of the busy street (El Camino Real).

After a few minutes, Deputies were eventually able to get Reinhold out of the street and back on the sidewalk. It was only when Reinhold attempted to go back towards the street and through Deputy Israel was when Deputy Duran attempted to gain control of Reinhold.

When Deputy Israel and Deputy Duran attempted to arrest Reinhold, he physically resisted. While on the ground, Reinhold continued to struggle. Both Deputies described Reinhold as having a muscular build. Deputy Israel, as he was on top of Reinhold, initially felt his gun belt move and then felt Reinhold grabbing for his gun. Video surveillance from the Miramar Hotel clearly shows that Reinhold was grabbing for Deputy Israel’s weapon and then actually pulling on the gun grip of Deputy Israel’s service pistol. DNA analysis on Deputy Israel’s pistol established Reinhold’s DNA was located on the gun grip of the pistol. Deputy Israel was justifiably and reasonably afraid Reinhold would get his gun and either shoot himself, his partner Deputy Duran, or any one of the numerous civilians in the area, so he yelled to Deputy Duran, “He’s got my gun!” Upon hearing the frantic screams of his partner, Deputy Duran removed his service weapon and placed it against the chest of Reinhold. The sole purpose of Deputy Duran removing his service weapon was for the protection of Deputy Israel, himself and the community.

Prior to the firing of any shots Deputy Duran yelled at Reinhold “Drop it or I’ll shoot! Drop it or I’ll shoot!” When Reinhold continued to fight with the Deputies and upon hearing Deputy Israel again tell Deputy Duran, “He’s got my gun!” Deputy Duran fired a first shot into Reinhold’s chest. After this first shot, Deputy Duran

felt Reinhold continue to resist and fight. Deputy Israel, after the first shot, still felt Reinhold resist and continue his attempts at getting his gun. Deputy Israel yelled at Deputy Duran "*He's still got my gun, Shoot him again!*" Deputy Duran then shot a second round into the chest of Reinhold. Despite the Deputies life-saving attempts on Reinhold, this second shot ended his life.

Both Deputies gave voluntary statements during the course of this investigation. Their statements are corroborated by not only the surveillance video, statements of civilian witnesses but also by the forensic evidence analyzed. Both Deputy Israel and Deputy Duran believed deadly force was needed in this situation to protect their lives and that of any civilians in that location.

In order for Deputy Duran to be justly and lawfully charged and convicted with a crime, it is the OCDA's burden to prove beyond a reasonable doubt that Deputy Duran did not act in reasonable and justifiable self-defense or defense of another when he shot Reinhold. As should be apparent from the above-described facts and 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 Deputy Duran to believe his life and the lives of others were in danger. It is clear from the evidence in this case that Deputy Duran did not commit a crime, and that he was justified when he shot Reinhold and carried out his duties as a peace officer in a reasonable and justifiable manner.

CONCLUSION

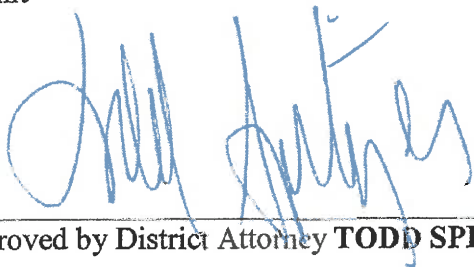
Based upon a review of all of the evidence provided to and obtained by the OCDA, and based on the entirety of the facts contained in all the available reports and interviews reviewed, and pursuant to the applicable legal principles, it is our legal opinion that there is no evidence of criminal culpability on the part of Deputy Eduardo Duran, and there is substantial evidence that his actions were reasonable and justified under the circumstances when he shot and killed Reinhold on September 23, 2020.

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

Dated: Feb. 7th 2022



STEPHEN J. MCGREEVY
Assistant District Attorney
Homicide Unit



Read and approved by District Attorney **TODD SPITZER**