



OFFICE OF THE
DISTRICT ATTORNEY
ORANGE COUNTY, CALIFORNIA
TODD SPITZER

July 25, 2023

Chief Ronald Lawrence
Costa Mesa Police Department
99 Fair Drive
Costa Mesa, California 92626

Re: Officer-Involved Shooting on July 13, 2022
Non-Fatal Incident involving Hugo Vargas
District Attorney Investigations Case # 22-002116
Costa Mesa Police Department Case # 22-011157 and 22-011166
Orange County Crime Laboratory Case # 22-47755

Dear Chief Lawrence,

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 Costa Mesa Police Department Sgt. Bang Le, Officer Jake Jacobi, and Officer Oscar Nicolas. Hugo Vargas, aged 35, sustained gunshot wounds in the July 13, 2022, incident, but survived his injuries.

OVERVIEW

This letter contains a description of the legal conclusions and scope of the OCDA's investigation of the July 13, 2022 non-fatal officer-involved shooting of Hugo Vargas. It also 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 Costa Mesa Police Department (CMPD) 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 July 13, 2022, Investigators from the OCDA Special Assignments Unit (OCDASAU) responded to this incident. During the course of this investigation, seven interviews were conducted and seventeen additional witnesses were contacted. OCDASAU Investigators also obtained and reviewed the following: Costa Mesa Police Department reports; radio traffic recordings; Orange County Crime Laboratory (OCCL) reports, including officer processing and firearms examination reports; crime scene investigation photographs; medical records and photographs related to the injuries sustained by Hugo Vargas; criminal history records related to Hugo Vargas; and other relevant reports and materials, including video surveillance footage and body worn camera (BWC) video.

REPLY TO: ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE

WEB PAGE: <http://orangecountyda.org/>

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

☐ NORTH OFFICE
1275 N. BERKELEY AVE.
FULLERTON, CA 92832
(714) 773-4480

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

☐ HARBOR OFFICE
4801 JAMBOREE RD.
NEWPORT BEACH, CA 92660
(949) 478-4850

☐ JUVENILE OFFICE
341 CITY DRIVE SOUTH
ORANGE, CA 92668
(714) 935-7824

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

The OCDA conducted an independent and thorough investigation of the facts and circumstances of this incident and has impartially reviewed all evidence and legal standards. The scope and findings of this review are expressly limited to determining whether any criminal conduct occurred, and if the use of force on the part of CMPD officers and personnel, specifically Sgt. Bang Le and Officers Jake Jacobi and Oscar Nicolas, was consistent with the law. The OCDA will not be addressing any possible issues of policy, training, tactics, or civil liability.

In a case where there is an officer-involved shooting incident and the OCDA files criminal charges against the individual shot by the police, it is the OCDA's policy not to release the final report regarding the officer involved shooting incident until after the issue of guilt is decided in the underlying filed criminal case. This policy is in place to ensure that OCDA is not releasing any information that may be viewed as prejudicing the right of a defendant to receive a fair trial while his or her case is still pending.

INVESTIGATIVE METHODOLOGY

Among other duties, the OCDASAU is responsible for investigating incidents 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 perform a variety of 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 consults with the Assistant District Attorney supervising the Special Prosecutions Unit of the OCDA, who will eventually review any legal conclusions and resulting memos. The case may often be reviewed by several experienced prosecutors and their supervisors. If necessary, the reviewing prosecutor will send the case back for further investigation. Ultimately, the District Attorney personally reviews and approves all officer involved shootings and custodial death letters.

An important part of investigating an incident such as this is attempting to obtain statements from the involved officers. Sgt. Bang Le and Officer Jake Jacobi gave voluntary statements to OCDA Investigators on August 18, 2022. Officer Oscar Nicolas gave a voluntary statement to OCDA Investigators on August 23, 2022.

DISCLOSURE OF OFFICER INVOLVED SHOOTING VIDEO & AUDIO EVIDENCE

The OCDA recognizes that releasing video and audio evidence of officer involved shootings 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 webpage at:

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

FACTUAL SUMMARY

On July 13, 2022, at approximately 5:15 a.m., CMPD dispatch received a phone call from ADT Security regarding a commercial burglary alarm activation at Advanced Marine Service, 2211 Newport Boulevard, Costa Mesa.

At approximately 5:18 a.m., CMPD Officers Daniel Bruno and Tyler Salem were dispatched to the location. Each officer wore a navy-blue department-issued CMPD uniform and drove a marked black-and-white CMPD patrol vehicle. Each vehicle was equipped with a stationary patrol video system (PVS), and both officers wore BWCs attached to the front of their uniforms. The BWCs were activated prior to the officers' arrival and recorded the incident.

At approximately 5:23 a.m., Officer Bruno arrived on the scene and was told by an area resident, "There is a crazy man with a hammer destroying the inside." Officer Bruno walked the business perimeter and discovered a broken front door window and glass on the ground. Officer Bruno radioed for additional units to respond "Code 3" (lights and sirens) and advised dispatch, "We got a 459 [burglary] in progress."

Officer Bruno scaled the locked security gate and took up a position approximately 15 to 20 feet from the front door, where he had an unobstructed view inside the business. Officer Bruno saw Vargas inside the business, rummaging through cabinets and drawers with one hand while holding an eight to ten inch long knife in the other hand.

Within three minutes of Officer Bruno's radio broadcast, Officers Oscar Nicolas, Jake Jacobi, Tuivasa Maloata, and Sgt. Bang Le arrived on the scene and met with Officer Bruno. Each of these officers were also equipped with BWCs. With the exception of Officer Nicolas, each officer's BWC was activated prior to arrival and recorded the incident.

At approximately 5:28 a.m., Officers Nicolas and Bruno approached the front doors with their handguns drawn and pointed in the low-ready position toward Vargas. They called out "Costa Mesa Police Department!" and ordered Vargas to drop the knife and exit the business. Vargas did not comply. Instead, he looked toward the officers and began repeatedly stabbing the front reception desk with the knife. Officer Bruno explained in his subsequent statement to investigators that Vargas's actions were becoming "increasingly aggressive" and that Vargas "was being non-compliant, not listening to CMPD officer's commands. Um, it just started to, um kinda' build, build a fear if you will that this man, you know, was irrational." Sgt. Le summarized in his statement to investigators that Vargas' conduct was "not normal behavior, number one for a suspect to still be on scene when we get there, and then when we give him commands...he's continuing on what he's doing and he's yelling profanities at us." Based on this, Sgt. Le concluded at the time of the incident, "this is not a normal person that we're dealing with."

During this time, Officer Maloata provided his fellow officers with a ballistic riot shield for protection and cover. Officer Maloata took up a position to the right of Officer Nicolas, his handgun drawn and pointed in the low-ready position towards Vargas.

Officers continued to order Vargas to drop the knife and surrender. Vargas refused and continued to ramble, curse, and destroy the business. Officer Bruno then holstered his handgun and drew his Taser, pointing it in the direction of Vargas.

At approximately 5:30 a.m., Officer Jacobi, armed with a 40mm less-lethal rubber-bullet launcher, took up a position behind Officer Nicolas. Officer Jacobi armed himself with the launcher and positioned himself behind Officer Nicolas in case Vargas "decided to act violently against us, that at least we had enough space to stop that threat with less lethal [force]."

Vargas continued walking erratically through the business and entered several different rooms, sometimes out of the officers' sight. At approximately 5:32 a.m., Officer Jacobi developed a plan for handling Vargas. Officer Jacobi designated Officers Nicolas and Maloata as lethal cover (handgun) and Officer Bruno as less lethal cover with a Taser. Officer Jacobi told the officers that if Vargas got within the threshold of the front doors with the knife, they would continue to give him commands to surrender. If he exited toward them with the knife, they would deploy their less-lethal options, and if that did not stop him, they would utilize deadly force. Sgt. Le was several feet behind the officers, next to the security gate, in communication with dispatch attempting to see if a surrounding agency had a K9 unit available.

At approximately 5:33 a.m., Vargas was observed walking inside the building from a southwest room and holding a rifle in his right hand. Officers Jacobi, Maloata, Nicolas, and Bruno all yelled, "gun, gun, gun!" and ordered Vargas to drop the gun. Still holding the rifle, Vargas walked directly toward the front doors of the business and the officers, raised the rifle, and pointed it through a broken windowpane, directly at them. Officers Nicolas, Jacobi, and Le, who each later told investigators they believed their lives or the lives of their fellow officers were in danger, simultaneously fired multiple rounds from their handguns at Vargas. Vargas fell onto his stomach inside the business, with his hands concealed under his body. In all, Officer Nicolas fired seven times, Officer Jacobi fired eleven times, and Sgt. Le fired eleven times.

The rifle Vargas had brandished was left partially hanging out of a broken windowpane. Officer Jacobi retrieved the rifle, which was found to be unloaded and later determined to belong to the owner of the business. Over the next four minutes, officers maintained their positions while Officer Nicolas ordered Vargas to throw the knife away from him; Vargas did not comply. At approximately 5:37 a.m., the officers forced entry into the business and removed Vargas. Once outside of the business, they handcuffed Vargas and began rendering aid.

BWC recordings also captured that during the following minutes, Vargas was yelling in pain and threatening the officers. Although much of what he said was incoherent, Vargas repeatedly accused the officers of shooting his wife, asked if his wife was okay, and threatened to "come back and kill all you mother fuckers." At one point, Vargas stated, "You mother fuckers are disease killing fucking innocent people mother fuckers, and, and, and invisible shit that's my technology," before repeating his threat to return and kill the officers. During another exchange, Vargas stated he recognized Officer Maloata "from the future."

At approximately 5:40 a.m., the Costa Mesa Fire Department (CMFD) arrived on scene. Paramedic John Glasgow was directed to the location of Vargas and the CMPD officers. Glasgow assessed Vargas and found him conscious, screaming curse words, and unable to answer questions. Vargas's vital signs were stable. Vargas's wounds were dressed, and he was prepared for transport.

At approximately 5:47 a.m., Vargas was transported Code 3 to the University of California, Irvine Medical Center (UCIMC). Paramedic Glasgow monitored Vargas's condition throughout the transportation. Paramedic Glasgow reported that Vargas remained conscious during transport but spoke incoherently with only brief periods of lucidity.

At approximately 6:04 a.m., Vargas arrived at UCIMC and was treated by Doctor Cristobal Barrios. Dr. Barrios determined that Vargas had sustained multiple gunshot wounds. Although the wounds were not life-threatening, Vargas was paralyzed on one side of his body.

Having been charged the following day with various violations of the Penal Code related to the shooting, Vargas was not interviewed as part of this investigation.

EVIDENCE COLLECTED

The following items of evidence were collected and examined:

- Remington Model 34 rifle
- Knife
- Multiple bullet jackets and jacket fragments
- Multiple bullet cores and core fragments
- Multiple cartridge cases
- Miscellaneous personal items
- US currency (\$40)
- Wood from the door
- Glass window panes
- Key
- Rubber mallet
- Black hat
- Bayer Aspirin bottle
- Sunglasses

EVIDENCE ANALYSIS

Firearms Examination

The officers' firearms were recovered and examined by the OCCL. Each of the firearms were Sig Sauer Model P320 pistols, chambered in 9mm. Each firearm was test fired and operated without malfunction. Recovered cartridge cases, bullet cores, and jacket fragments were determined to have been fired by the officers' firearms, with the exception of one bullet, which possessed insufficient markings to render a conclusive determination.

The rifle recovered from the scene was determined to be a bolt-action Remington model 34, chambered in .22 caliber. The rifle was test fired and operated without malfunction.

Toxicological Examination

A sample of Hugo Vargas's blood was not collected and a toxicological examination was not conducted.

HUGO VARGAS'S PRIOR CRIMINAL HISTORY

Hugo Vargas's criminal history was reviewed and considered. Hugo Vargas has a California criminal history that dates back to 2005. He has previously been arrested for the following charges:

- Kidnapping
- Robbery
- Grand theft from a person
- Assault on a peace officer
- Inflicting corporal injury on a spouse/cohabitant
- Driving under the influence of alcohol/drugs
- Being under the influence of a controlled substance
- Possession of a controlled substance
- Possession of unlawful paraphernalia
- Petty theft
- Trespassing

HUGO VARGAS' POST-INCIDENT CONVICTION

On July 14, 2022, OCDA filed criminal charges against Vargas in Orange County Superior Court case 22WF1885, consisting of unlawfully exhibiting a firearm in the presence of a peace officer in violation of California Penal Code section 417(c), a felony; second-degree burglary in violation of California Penal Code section 459-460(b), a felony; and possession of a firearm by a felon in violation of California Penal Code section 29800(a)(1), a felony. The complaint was amended on April 26, 2023, to add a charge of exhibiting a deadly weapon to resist arrest in violation of California Penal Code section 417.8, a felony. As part of a plea agreement with the Superior Court, Vargas pled guilty on May 16, 2023, to all 4 charges and was sentenced to 3 years in Orange County jail.¹ However, the jail sentence was suspended by the Court pending successful completion of three years of formal probation.

STANDARD LEGAL PRINCIPLES IN OFFICER-INVOLVED SHOOTING CASES

Possible criminal charges against an officer involved in a 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 is necessary to prove beyond a reasonable doubt that no legal justification existed for the officer's actions. (*People v. Adrian* (1982) 135 Cal.App.3d 335, 340-342.)

Penal Code section 196 provides that use of deadly force by a public officer is justifiable when done in compliance with Penal Code section 835a. 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.

Penal Code section 835a allows a police officer to use reasonable force when necessary in the defense of human life. The decision to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to the officer at the time, rather than with the benefit of hindsight. The totality of the circumstances shall be considered when officers are forced to make quick judgments about using force.

¹ OCDA did not extend any plea offers to Vargas.

Penal Code section 835a further states that a peace officer is justified in using deadly force when the officer reasonably believes that such force is necessary to defend against an imminent threat of death or serious bodily injury to the officer or another person. Deadly force may also be used to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believed that person would cause death or serious bodily injury if not immediately apprehended.

Consistent with existing law, Penal Code section 835a maintains the principle that a police officer, acting in compliance with this section, 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 objectively reasonable force to effect the arrest, prevent escape, or to overcome resistance.

Penal Code section 835a also requires that, prior to the use of deadly force, the officer 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 are to evaluate the circumstances of each situation independently, and use other available resources and techniques if reasonably safe and feasible to do so.

Additionally, Penal Code section 834a requires that if a person has knowledge, or by the exercise of reasonable care, should have knowledge that they are 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 themselves from attack if, as a reasonable person, they had grounds for believing and did believe that they or another person were about to suffer bodily injury. In doing so, a person may immediately use all force and means believed 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. John Doe 2* (1965) 233 Cal.App.2d 639, 641-642.)

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.) For instance 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 subsequently clarified by the United States Supreme Court in *Graham v. Connor* (1989) 490 U.S. 386, wherein the Supreme Court held 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 held 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 pp. 396–397.)

The United States Supreme Court's analysis and guidance in *Garner* and *Graham* are directly applicable to the interactions between Hugo Vargas and Costa Mesa Police Department Sgt. Le, Officer Jacobi, and Officer Nicolas.

LEGAL ANALYSIS

Our factual conclusions in this case have been determined by a review of the evidence in its entirety, including officers' statements to OCDA investigators, BWC footage, and other relevant materials.

The central issue in this matter is whether the conduct of CMPD Sgt. Le and Officers Jacobi and Nicolas on July 13, 2022, was criminally culpable and without legal justification. As stated above, in order to charge any of the officers with a criminal violation, the prosecution must be able to prove beyond a reasonable doubt that no legal justification existed for the officers' conduct. Thus, the prosecution must prove beyond a reasonable doubt that the officers did not act in lawful self-defense. If the actions of the officers were justifiable as lawful self-defense or defense of others, criminal charges will not be warranted.

As held by the California Court of Appeal, it is well settled that

"[u]nlike 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 effect 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 potentially dangerous emergency conditions or other exigent circumstances exist, the California Courts of Appeal have acknowledged 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."

(*Id.*, at p. 528.) Accordingly, Penal Code section 835a permits deadly force when the officer reasonably believes it is necessary, based upon a totality of the circumstances, to defend himself/herself or others against an imminent threat of death or serious bodily injury.

Based on our review of the evidence and application of the law, we find the use of force employed by Sgt. Le and Officers Jacobi and Nicolas was legally justified, as the officers acted on an objectively reasonable belief that Vargas posed a significant threat of death or serious physical injury to them and the other officers present. This conclusion is based on the totality of the circumstances, including the conduct of Vargas in the moments prior to the shooting as captured on the officers' body worn camera.

The officers were confronted with a subject who was aggressive, hostile, and unpredictable. Vargas's antagonistic behavior occurred inside an empty marine servicing business, which he entered by breaking a glass panel on the front door. As there was nothing to indicate the marine service business contained cash or items of significant value, his presence and means of entering the business were not consistent with the conduct of a rational person.

When first contacted, Vargas was rambling and cursing incoherently, while holding a knife in one hand and rummaging through the business with the other. Instead of complying with the officers' commands to drop the knife, Vargas began stabbing a desk in the front section of the business with it. He then left the front area of the office and went into adjoining rooms where he could not be seen.

There was nothing to explain why Vargas began stabbing the front desk with his knife, or why Vargas ignored the commands of the officers, who greatly outnumbered him. As such, the officers reasonably suspected they were confronting an armed and irrational subject who would act unpredictably. As Sgt. Le explained, they believed "this [was] not a normal person [they were] dealing with." The officers' concern that Vargas was not in a rational state of mind was confirmed by Vargas's statements to them after he was shot, including his accusation that they were "disease killing fucking innocent people mother fuckers, and, and, and invisible shit that's my technology."

While Vargas was inside the business, Sgt. Le and Officer Jacobi provided officers with clear, coherent directions, including planning and preparing both Tasers and rubber bullet launchers as less-than-lethal options for securing the scene. The officers developed contingency plans for use of their weapons, which included use of lethal force only as a last resort.

Ultimately, Vargas exited one of the rear rooms with a bolt-action rifle in his hands. He walked toward the officers while he raised the barrel of the rifle and pointed it directly at them. Officer Maloata later stated, "I thought I was gonna' get shot. Just looking down the barrel I thought...I thought he was gonna' shoot me." Based on their statements, each of the officers who fired their weapons reached the same conclusion: Vargas was going to kill or seriously injure them or their fellow officers. Under the circumstances of this encounter, the officers' belief that Vargas posed a threat of death or serious bodily injury was reasonable.

In order for any of the CMPD officers to be charged and convicted with a crime in this incident, it would be the OCDA's burden to prove beyond a reasonable doubt they did not act in self-defense or defense of others when they shot Vargas. Based on all available evidence as outlined in the analysis above, the prosecution would be unable to carry this burden. In fact, a jury analyzing these facts would foreseeably conclude that each of the officers acted on a reasonable belief that their lives and/or the lives of others were in danger. Simply stated, Sgt. Le and Officers Jacobi and Nicolas appear to have carried out their duties as peace officers in a reasonable and justifiable manner. As such, the evidence in this case cannot support criminal charges for the conduct of the officers and the shooting of Hugo Vargas.

CONCLUSION

Based upon a review of all of the evidence provided to and obtained by the OCDA, including the entirety of the facts contained in all available reports and interviews, there is substantial evidence that Sgt. Le, Officer Jacobi, and Officer Nicolas acted in a reasonable and legally-justified manner when they shot Hugo Vargas on July 13, 2022. Therefore, pursuant to the applicable legal principles, it is our opinion that there is insufficient evidence to prove criminal culpability on the part of any of the CMPD officers beyond a reasonable doubt.

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

Respectfully submitted,



STEPHEN CORNWELL
Senior Deputy District Attorney
TARGET/Gang Unit



READ AND REVIEWED BY BRETT BRIAN
Assistant District Attorney
Special Prosecutions Unit



READ AND APPROVED BY TODD SPITZER
District Attorney