



OFFICE OF THE
DISTRICT ATTORNEY
ORANGE COUNTY, CALIFORNIA
TODD SPITZER

August 30, 2023

Chief of Police David Valentin
Santa Ana Police Department
60 Civic Center Plaza
Santa Ana, CA 92701

Re: Officer-Involved Shooting on November 16, 2022
Fatal Incident involving Alejandro Sanchez Montes, Jr.
District Attorney Investigations Case # SA 22-003506
Santa Ana Police Department Case # SAPD 22-25828
Orange County Crime Laboratory Case FR # 22-51943
Orange County Coroner's Office Case # 22-06716TA

Chief Valentin,

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 Santa Ana Police Department (SAPD) Officers Isaac Buan and Joshua Park. Alejandro Sanchez Montes, Jr., age 41, died as a result of his injuries. The incident occurred in the City of Santa Ana on November 16, 2022.

OVERVIEW

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the November 16, 2022, fatal, officer-involved shooting of Montes. 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 SAPD 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 November 16, 2022, investigators from the OCDA Special Assignments Unit (OCDASAU) responded to this incident. During the course of their investigation, nine interviews were conducted. OCDASAU Investigators also obtained and reviewed the following: SAPD reports, audio dispatch and radio traffic recordings; Orange County Crime Laboratory (OCCL) reports, including toxicology,

forensic alcohol examination, latent print, officer processing and firearms examination reports; crime scene investigation photographs; medical records and photographs related to the injuries sustained by Montes; criminal history records related to Montes including prior incident reports; and other relevant reports and materials including audio recordings of the conducted neighborhood canvass. In addition, Officers Buan and Park were wearing Body Worn Cameras (BWC) at the time of the incident. The cameras were activated and their recordings, which captured the events of November 16, 2022, were collected and reviewed.

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, and if the use of force by SAPD officers or personnel, specifically Officers Buan and Park, was consistent with the law. The OCDA will not be addressing any possible issues of 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 or killed 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 functions that include witness interviews, scene processing, evidence collection, and hospital investigative responsibilities as needed. The OCDASAU audio records all interviews and the OCCL processes all physical evidence related to the investigation.

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. Thus, when the OCDASAU investigator has concluded the investigation, the file is turned over to an experienced deputy district attorney for legal review. If necessary, the reviewing prosecutor will send the case back for further investigation.

Throughout the review process, the assigned prosecutor will consult with the Assistant District Attorney supervising the Special Prosecutions Unit of the OCDA, who will eventually review any legal conclusions and resulting correspondence. It is also common for the case to be reviewed by several other experienced prosecutors and their supervisors. Ultimately, the District Attorney personally reviews and approves all officer-involved shootings and custodial death letters.

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 and audio evidence in connection with this case. The relevant video and audio evidence is available on the OCDA webpage at:

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

FACTUAL SUMMARY

On Wednesday, November 16, 2022, at 2:00 p.m., SAPD Officers Buan and Park were driving a marked black and white SAPD police unit working Directed Enforcement Patrol around First Avenue and McClay Street in the City of Santa Ana. Officer Buan was driving the patrol unit and Officer Park was in the right front passenger's seat. The police unit was not equipped with a video recording system.

Both officers were dressed in SAPD polo uniform shirts with SAPD identification patches on both shoulders. The officers wore a black outer vest with clearly visible large, white "POLICE" patches on the front and back of the vests. Both officers had BWC clipped to their uniforms at mid-chest height. The BWC were activated and recorded continuously throughout this incident.

At 2:00:29 p.m., Officer Buan pulled over a black Mercedes Benz, California license plate 8YQZ992, being driven by John Doe 1. The stop occurred at 100 S. McClay Street, in front of the Department of Motor Vehicles (DMV). The officers stopped the Mercedes because it had expired registration tags.

The officers stopped their patrol unit approximately five feet behind the Mercedes. Both officers exited their vehicle and approached the car. Officer Park walked up to the passenger side area and stood on the sidewalk while Officer Buan contacted John Doe 1. Also seated inside the Mercedes Benz were front passenger Montes and right rear passenger John Doe 2.

Officer Buan advised John Doe 1 that he pulled him over due to the expired registration tags. John Doe 1 responded that he was on his way to the DMV to renew the vehicle registration before being pulled over.

At that time, Officer Buan asked all of the occupants if they were on probation or parole. John Doe 1 replied, "I'm on AB109." AB109 is a form of supervision which allows for certain offenders, after they are released from California State prison, to be supervised by local probation officers.

Montes and John Doe 2 did not respond. Montes, however, unbeknownst to the officers, had an outstanding warrant for his arrest for failing to appear in a pending Orange County Superior Court

case. The warrant had been issued 12 days prior to this stop. The charges he was facing included being a felon in possession of a firearm, possession of methamphetamine, felony evasion of a peace officer with an enhancement for being a "Third Strike" offender.

Upon hearing of John Doe 1's status, Officer Buan requested that he step out of the vehicle, which he did. Officer Buan then placed handcuffs on him and searched him for weapons. Officer Buan told John Doe 1, "We're just going to do a check real quick and make sure everything is on the up and up, and we'll get you on your way, okay?" Officer Buan then walked John Doe 1 to the patrol car and placed him in the backseat.

At 2:02:57 p.m., Officer Buan approached the right rear passenger side of the Mercedes Benz, where Officer Park was standing on the sidewalk, and took up a position observing Montes.

At 2:03:04 p.m., Officer Park then opened the rear passenger side door and told John Doe 2 to step out of the car. Officer Park told him that he was being detained and assisted him out of the vehicle.

At 2:03:07 p.m., Montes lifted a bag of food with his left hand from his lap and placed it on the center console. Montes then started texting on his cell phone.

Officer Park, meanwhile, walked John Doe 2 to the rear right side of the Mercedes Benz and searched him for weapons.

At 2:03:39 p.m., Officer Buan observed Montes reaching around with his hands out of plain view and told him, "Hey, brother, can you do me a favor, stop reaching around; just put your hands on the front dash, thank you." Montes, however, did not place his hands on the dash, instead he put them on his thighs.

At 2:04:04 p.m., Officer Buan told Montes, "Hey, boss, can you stop reaching around, just put your hands on the dash, put your hands on the dash, dude." Montes replied to Officer Buan unintelligibly, to which Officer Buan told him, "on the dash." Officer Buan told Montes, "Okay, well, stop tucking your hand into the side, okay." Montes did not comply with the order and instead again placed both of his hand's palms face down on his upper thighs.

At 2:04:20 p.m., Montes reached over his body with his left hand and pushed the door lock on the door frame down, locking the door.

At 2:04:23 p.m., Officer Buan told Montes, "Hey, stop reaching around, dude!" while unholstering his duty weapon and pointing it at Montes.

At 2:04:24 p.m., from Officer Buan's BWC, Montes was seen reaching down on his right side, lifting up a black semi-automatic handgun with his right hand, and quickly transitioning it to his left hand, where he gripped it.

At 2:04:26 p.m., Officer Park yelled out, "Hey, Hey, he's got a gun!"

At 2:04:27 p.m., Officer Buan fired six shots at Montes from his duty weapon.

Officer Park, who had just seated John Doe.2 on the curb behind the car, fired one shot from his duty weapon while backing away from the vehicle. After discharging their firearms, both officers maintained their position on the sidewalk with their weapons drawn at Montes.

At 2:04:44 p.m., Officer Buan notified SAPD dispatch notifying them that they were involved in an officer-involved shooting.

Officer Buan continued shouting, "Do not move, do not move!" to Montes as he and Officer Park retreated to the passenger side door of their unit. Within one minute of the radio broadcast, additional SAPD officers arrived on the scene to help.

SAPD officers positioned themselves behind the Mercedes Benz. They, however, were unable to ascertain Montes' status. Numerous commands to exit the vehicle were unheeded, but due to the presence of the gun and the uncertainty as to Montes' condition, the officers did not approach the car.

At approximately 2:09 p.m., K9 Officer Zack Esquerra arrived on scene. It was decided that the K9 would be sent to attempt to remove Montes from the vehicle. A follow-up team of SAPD officers would trail closely behind the dog to extract Montes, should he be unresponsive.

At 2:14:09 p.m., Officer Esquerra released his K9 into the Mercedes Benz in an effort to remove Montes. The K9 was unsuccessful, and Montes was unresponsive.

At 2:14:35 p.m., SAPD officers breached the car. Montes was found seated in the right front passenger seat, with his upper body slumped over into the driver's seat. A black semi-automatic handgun with an extended magazine inserted into the magazine well was observed laying on his left thigh. The muzzle of the gun was facing the front passenger door. SAPD Officer Justin Collins retrieved the firearm from Montes' lap. As he removed the gun from Montes' lap, the extended magazine fell out of the magazine well. Officer Collins handed the gun to SAPD Officer Steven Gonzales. Officer Gonzales left the magazine on the ground and rendered the gun safe by locking the slide to the rear. During this process, he observed that there was no round loaded in the chamber. He then secured the handgun in the trunk of an SAPD police unit prior to being booked into evidence. The magazine, found to be loaded with 27 rounds, was later booked in to evidence by the OCCL (Evidence Marker #7).

At 2:15:20 p.m., SAPD officers removed Montes from the passenger side of the Mercedes Benz and placed him on the sidewalk, where he was handcuffed. SAPD officers then provided medical aid by applying a tourniquet on his right arm, occlusive dressings, and numerous chest seals on his upper torso. Following Montes' removal from the vehicle and during the course of being treated, a second extended magazine was located containing 31 rounds.

At 2:18:30 p.m., OCFA Engine 75 arrived on the scene. An OCFA Paramedic evaluated Montes and found him handcuffed, unconscious, unresponsive, and not breathing. Montes had multiple gunshot

wounds to the chest, back, and neck and a dog bite to the neck. He was treated for his wounds and prepared him for transport. Montes was given high-flow oxygen via a bag-valve-mask (BVM). In addition, an intraosseous line (IO) was established and fluids were administered.

Before loading Montes into the ambulance, he went into cardiac arrest. Chest compressions were initiated, while fluids and oxygen continued to be administered. This treatment continued until the ambulance arrived at Orange County Global Medical Center (OCGMC) at 2:40:00 p.m.

Upon arrival, Montes' care was transferred to OCGMC trauma team personnel.

Montes was found to have sustained gunshot wounds to his posterior neck, right elbow, right bicep, right side of the chest, left lateral side of the chest and mid back. Montes also had three dog bites to his neck and a fractured right arm.

Advanced Life Support measures were performed, however, Montes succumbed to his wounds and was pronounced deceased at 3:02 p.m.

EVIDENCE COLLECTED

OCCL personnel collected the following evidence under the following Evidence Marker (EM) numbers:

- EM#1 – one (1) bullet
- EM#2 – one (1) black ball cap
- EM#3 – three (3) cartridges head stamped "Hornady 9mm Luger" and one (1) pistol magazine spring
- EM#4 – one (1) black metal pistol magazine sole plate
- EM#5 – Miscellaneous personal property
- EM#6 – one (1) black bandana
- EM#7 – one (1) black high-capacity 33-round pistol magazine with 27 cartridges
- EM#8 – two (2) cartridges head stamped "20 TRN 9x19mm" and one (1) bullet
- EM#9 – one (1) bullet
- EM#10 – two (2) cartridge cases head stamped "Winchester 45 Auto"
- EM#11 – one (1) bullet
- EM#12 – one (1) cartridge case head stamped "Hornady 9mm Luger"
- EM#13 – one (1) pair of beige shorts with apparent blood, one (1) white tank top with apparent blood, one (1) cartridge head stamped "S&B 9x19 21", one (1) Apple iPhone, one (1) digital scale, one (1) cartridge case head stamped "Winchester 45 Auto," one (1) black wallet containing \$388.00 in US currency, one (1) quarter, \$45.00 in US currency, one (1) black plastic bag containing several small clear plastic baggies of white crystalline substance, one (1) e-cigarette and one (1) cartridge case head stamped "Winchester 45 Auto"
- EM#14- one (1) disposable light, one (1) black high-capacity, 33-round pistol magazine with 31 cartridges, one (1) cartridge case head stamped "Winchester 45 Auto"

- EM#15 – one (1) grey jacket, one (1) T-Mobile cell phone, one (1) black shirt, and one (1) clear plastic baggie containing a white crystalline substance
- EM#16 – two (2) cartridge cases head stamped “Winchester 45 Auto”
- EM#17 – one (1) bullet

In addition, OCCL personnel took 230 color digital photographs documenting the scene under FR#22-51943. A FARO scanner was used to produce a 3D scan of the scene.

AUTOPSY

On Tuesday, November 22, 2022, at approximately 9:05 a.m., OCCO Forensic Pathologist Young-Son Kim conducted the post-mortem examination of Montes at the Orange County Sheriff- Coroner Forensic Science Center, 1071 West Santa Ana Boulevard, Santa Ana. The autopsy was documented under OCCO case number 22-06716-TA.

During the course of the autopsy, OCCL personnel took 74 digital color photographs and collected the following evidence:

- Bullet – left upper chest.
- Muscle standard.

Dr. Kim concluded that Montes had sustained the following six gunshot wounds:

- Penetrating gunshot wound through the back of the neck.
- Penetrating gunshot wound through the right shoulder.
- Penetrating gunshot wound through the back.
- Two penetrating gunshot wounds through the right arm.
- Grazing gunshot to the right upper shoulder.

The internal injuries associated with the gunshot wounds included injuries to both carotid arteries, ribs, abdomen and lung.

Dr. Kim determined the cause of death to be multiple gunshot wounds. The manner of death was homicide.

FIREARMS EXAMINATION

OCCL personnel examined the following firearms:

- Glock Model 17 Gen5 pistol, 9mm Luger caliber, S/N BKZH728 (Officer Park’s duty weapon)
- Glock Model 17 Gen5 pistol, .45 Auto caliber, S/N YRU960 (Officer Buan’s duty weapon)
- Polymer80 model PF940SC, 9mm Luger caliber, no S/N (recovered from Montes’ lap)

RESULTS and INTERPRETATIONS:

The two Glock pistols were test fired and operated without malfunction. The Polymer80 pistol fired all of the cartridges during test fire; however, the slide stop lever locked the slide back after each

shot. The slide had to be manually released to chamber the next cartridge. Additionally, the trigger spring was installed upside down and the trigger did not properly reset. In that condition, the pistol does not function as a semiautomatic.

TOXICOLOGICAL EXAMINATION

Samples of Montes's post-mortem and ante-mortem blood were collected and examined for the presence of drugs and alcohol. The following results were obtained:

DRUG	MATRIX	RESULTS & INTERPRETATIONS
Fentanyl	Post-mortem Blood	0.0008 ± 0.0001 mg/L
Amphetamine	Post-mortem Blood	0.138 ± 0.011 mg/L
Methamphetamine	Post-mortem Blood	2.13 ± 0.16 mg/L

MONTES'S PRIOR CRIMINAL HISTORY

Montes had a State of California Criminal History record that revealed arrests for the following violations:

- Assault with a deadly weapon
- Burglary
- Willful cruelty to a child
- Possession of marijuana for sales
- Receiving known stolen property
- Possession of drug paraphernalia
- Possession of a controlled substance
- Being under the influence of a controlled substance
- Possession of a controlled substance for sale
- Possession of hypodermic needle
- Resisting/obstructing a public officer
- Participating in a criminal street gang
- Robbery
- Second-degree robbery
- Causing harm or death to an elder adult dependent
- Evading police
- Felon in possession of a firearm
- Possession of a controlled substance while armed

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 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 done in compliance with California 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.

California 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 taken into account when officers are forced to make quick judgments about using force.

California 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 will 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 under 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 or to 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 shall evaluate the circumstances of each situation independently and use other available resources and techniques if reasonably safe and feasible to do so.

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 Officers Buan and Park with Montes.

LEGAL ANALYSIS

The facts in this case are determined by the relevant evidence collected and witnesses present at the incident.

The issue is whether the conduct of Officers Buan and Park on November 16, 2022, was criminally culpable and without justification. As stated above, in order to charge Officers Buan and Park 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 Buan and Park with a crime, the prosecution must prove beyond a reasonable doubt that they did not act in lawful self-defense or defense of others. If the actions that day of the officers 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:

“[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 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 potentially dangerous, emergency conditions or other exigent circumstances exist, the California Courts of Appeal have noted that the United States Supreme Court’s definition of reasonableness is comparatively generous to the police. The court in *Brown* noted that in effect:

“the Supreme Court intends to surround the police who make these on-the-spot choices in dangerous situations with a fairly wide zone of protection in close cases. A police officer’s use of deadly force is reasonable if the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others. Thus, an officer may reasonably use deadly force when he or she confronts an armed suspect in close proximity whose actions indicate an intent to attack.”

(*Brown v. Ransweiler, supra*, 171 Cal.App.4th at p. 528.)

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.

Officers Buan and Park were justified in believing that Montes posed a significant threat of death or serious physical injury to themselves and others. This conclusion is based on the totality of the circumstances, but mainly based on Montes’ conduct in the moments leading up to the shooting. Prior to the shooting, Montes was repeatedly non-compliant when instructed to stop reaching around and to keep his hands on the dashboard. He then locked his door, reached down, lifted up a handgun with his right hand and quickly transferred it to his left hand, which had a better angle for shooting at the officers. This took less than three seconds. The brandishing of the firearm reasonably, under these circumstances, would lead the officers to believe that Montes’ intent was to kill.

Based on their experience and the circumstances, the evidence supports the conclusion that Officers Buan and Park exercised reasonable judgment when they decided it was necessary to use deadly force against Montes.

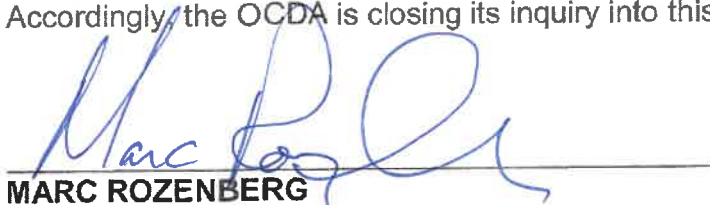
The officers almost simultaneously fired at Montes in order to protect the lives of one another. Therefore, the evidence supports the conclusion that the officers reasonably believed that Montes posed an imminent threat of death or serious bodily harm to the officers.

In order for Officers Buan and Park 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 the officers did not act in reasonable and justifiable self-defense or defense of another when they shot at Montes. 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 the officers to believe that their lives and the lives of others were in danger. Therefore, Officers Buan and Park were justified when they shot at Montes and carried out their duties as peace officers 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 to prove criminal culpability on the part of Officers Buan and Park, and there is substantial evidence that their actions were reasonable and justified under the circumstances when they shot Montes on November 16, 2022.

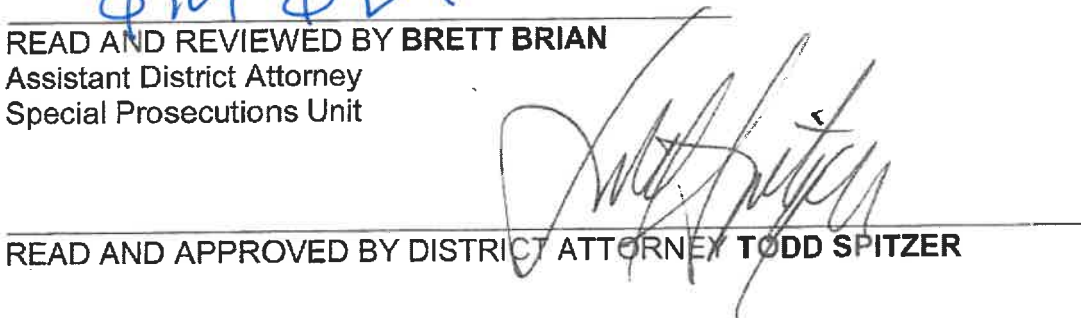
Accordingly, the OCDA is closing its inquiry into this incident.



MARC ROZENBERG
Senior Deputy District Attorney
Special Prosecutions Unit



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



READ AND APPROVED BY DISTRICT ATTORNEY TODD SPITZER