



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

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October 20, 2023

Chief Jeff Calvert  
Laguna Beach Police Department  
505 Forest Avenue  
Laguna Beach, CA 92651

Re: Officer-Involved Shooting on March 11, 2021  
Non-Fatal Incident involving Tobiah Paul Steinmetz  
District Attorney Investigations Case #21-000835  
Laguna Beach Police Department Case #21-00667  
Orange County Crime Laboratory Case #21-43094

Dear Chief Calvert,

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 Laguna Beach Police Department Officer Ryan Radel and Tobiah Paul Steinmetz. The incident occurred in the City of Laguna Beach on March 11, 2021.

**OVERVIEW**

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the March 11, 2021, non-fatal, officer-involved shooting of Steinmetz. 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 Laguna Beach Police officer 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 March 11, 2021, Investigators from the OCDA Special Assignment Unit (OCDASAU) responded to this incident. During the course of this investigation, seven (7) interviews were conducted. No additional witnesses, outside of those mentioned in the police reports, were contacted during the supplemental canvass interviews because the shooting took place in an area of the highway that was not visible to residences. OCDASAU Investigators also obtained and reviewed the following: Laguna Beach Police Department reports, body worn camera recordings (BWC), patrol vehicle video recordings, 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 Steinmetz; criminal history records related to Steinmetz including prior incident reports; and other relevant reports and materials including audio recordings of the conducted neighborhood canvass.

The OCDA conducted an independent and thorough investigation of the facts and circumstances of this incident and has reviewed all evidence and legal standards impartially. The scope and findings of this review are expressly limited to determining whether any criminal conduct occurred, and if the use of force was consistent with the law, on the part of Laguna Beach Police Department officers or personnel, specifically Officer Radel. 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 officer-involved shootings within Orange County when someone has been injured as a result of police gunfire. An OCDASAU Investigator is assigned as a case agent and is supported by other OCDASAU Investigators, as well as investigators from other OCDA units.

Six investigators are assigned to the OCDASAU on a full-time basis. There are additional OCDA Investigators assigned to other units in the office trained to assist when needed. On average, eight investigators respond to an incident within an hour of being called. The investigators assigned to respond to an incident perform a variety of 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 all officer involved shootings and custodial death letters.

An important part of the investigation of an incident such as this is attempting to obtain a statement from the involved officers. Officer Radel gave a voluntary statement to OCDA Investigators on March 23, 2021.

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

The OCDA recognizes that releasing video and audio evidence of officer-involved shooting and custodial death incidents can assist the public in understanding how and why these incidents occur, increase accountability, and build public trust in law enforcement. Consistent with the OCDA's written policy in connection with the release of video and audio evidence relating to

officer-involved shooting and custodial death incidents where it is legally appropriate to do so, the OCDA is releasing to the public video/audio evidence in connection with this case. The relevant video/audio evidence is available on the OCDA webpage

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

### **FACTUAL SUMMARY**

On March 11, 2021, at approximately 5:54 p.m., Steinmetz is seen on video surveillance footage entering the Balboa Bay Resort parking garage. In that footage, Steinmetz entered and drove away in a white Mercedes Sedan at 5:55 p.m. Around 6:15 p.m., the owner of the Mercedes called Newport Beach police to report it stolen.

Approximately 6:18 p.m., Laguna Beach Police Department Officer Ryan Radel was driving down Pacific Coast Highway in his marked police unit when he observed the Mercedes driven by Steinmetz traveling southbound at a high rate of speed. Officer Radel attempted to pace Steinmetz in the Mercedes by driving at a similar speed, but Steinmetz's speed was erratic and Steinmetz veered on to the shoulder a number of times. Based on his observations, Officer Radel stated he believed that the driver of the Mercedes was potentially impaired.

Officer Radel continued to follow Steinmetz in the Mercedes, waiting for a safe place to conduct a traffic stop. Steinmetz continued to drive unpredictably. Officer Radel then broadcast over the radio that he was going to conduct a traffic stop and requested immediate backup at 6:19 p.m. Steinmetz pulled the Mercedes over on the shoulder of Pacific Coast Highway, and Officer Radel exited his police unit to approach Steinmetz on the driver side. As Officer Radel approached, Steinmetz suddenly made a hard-left turn and quickly accelerated his vehicle away from Officer Radel.

As Officer Radel raced back to his unit to give chase, Steinmetz collided with multiple cars. This collision caused one vehicle to veer off the road and another to flip and ultimately end on its side. Officer Radel observed the immediate aftermath of the collision. Officer Radel got into his car, dispatched medical care to the scene of the collision and immediately pursued Steinmetz with his lights and sirens activated. At this point, Steinmetz had not yet been identified. Officer Radel was joined by other Laguna Beach Police Officers in marked police vehicles, all with lights and sirens activated. Shortly after the pursuit began, an Orange County Sheriff helicopter joined the chase and was able to give officers on the ground detailed information regarding Steinmetz's location and driving pattern.

Steinmetz continued eastbound on Newport Coast Drive from Pacific Coast Highway. During the pursuit, Steinmetz swerved in and out of oncoming traffic while driving on the wrong side of the road. At one point during the pursuit, Steinmetz's vehicle reached speeds of almost 90 miles per hour. Eventually, Steinmetz made his way back to Pacific Coast Highway in Laguna Beach, traveling southbound. Officer Radel stated that he was worried about the high volume of people that would be in the area.

Fearing the safety of the public, Laguna Beach police officers successfully deployed a spike strip which caused severe damage to the tires of the Mercedes.

Officer Radel stated that when a spike strip is successfully deployed and damages a vehicle's tires, cars will typically slow to a stop. However, Steinmetz continued to flee from police in the damaged Mercedes as three of the four tires fell off the rims. Despite driving on rims, Steinmetz

continued to evade police. Steinmetz appeared to struggle to keep any control of the Mercedes. The vehicle was seen fish-tailing dramatically during the pursuit, and Steinmetz appeared unable to drive the vehicle in a straight line. Despite the lack of control, Steinmetz continued to evade police and refused to stop the vehicle.

Eventually, Corporal James Gramer successfully performed a pursuit intervention technique (PIT) maneuver by tapping the rear of the Mercedes with the front of his police vehicle, causing the Mercedes to spin and eventually stop. When the Mercedes came to a stop in the southbound lane of Pacific Coast Highway, it was facing north toward the Laguna Beach Police Department units of Officer Radel, Officer Mathew Meyer, and Sergeant William Downing. All three units were approximately 15 feet away from the front of the Mercedes with Officer Meyer's car to the left, Officer Radel's in the middle, and Sergeant Downing's car to the right. All of the officers had their takedown lights and their spotlights pointed at Steinmetz in order to see him clearly.

Once stopped, Steinmetz could be seen looking down and moving around in the driver's seat of the Mercedes. The dashboard of the Mercedes obstructed the officers' view of Steinmetz's hands. Officer Radel stated that he believed Steinmetz could be looking for a weapon or might attempt to ram the police vehicles. At 6:38:54 p.m., less than 15 seconds after the Mercedes came to a stop, Steinmetz quickly exited his vehicle. Upon exiting, Steinmetz immediately stepped backward and made a distinct movement to put both hands to his right hip. This was indicative of someone attempting to grab or hide something at the right hip. Officer Radel stated that most people who do carry a gun keep it in their waistband. Furthermore, Steinmetz was facing the officers in a way that was consistent with eyeing his targets. He kept sight of the officers, but turned his right hip back and out of a line of sight for them.

Officer Radel stated he believed based on Steinmetz's movements, Steinmetz could be armed with a firearm. Therefore, Officer Radel commanded Steinmetz to get on the ground. Officer Radel stated he chose this command to avoid Steinmetz's ability to pull a gun out. The Orange County Sheriff's Department helicopter was overhead and broadcast to the officers that Steinmetz was reaching for his waistband. Steinmetz continued to keep his hands at his waistband then suddenly walked forward, almost jumping or lunging, toward the officers. As Steinmetz moved rapidly toward the officers, Steinmetz quickly raised both hands chest high from his right hip. He simultaneously pressed his palms together, extended his finger and arms outward directly at Officer Radel. From the body worn camera ("BWC") footage, it is clear that Steinmetz purposefully simulated having a gun by making this gesture and doing so in a quick movement. Officer Radel stated he believed that Steinmetz was armed with a gun and was going to shoot the officers. Due to this perceived threat, Officer Radel fired six rounds in 1.6 seconds at approximately 6:38:59 p.m.

Despite the shots fired, Steinmetz appeared unfazed and continued to move forward towards the officers. Steinmetz never fell to the ground from the shots. At this point, Officer Radel stated he ceased the use of his firearm and stated that after the first shots, he could see that Steinmetz was not holding a firearm. The BWC footage is consistent with this statement as once the shots are fired, Steinmetz drops his hands and it is visible he is not holding a weapon. Officers continued to command Steinmetz to get on the ground, but he did not comply.

Steinmetz continued charging toward the officers, moving between Officer Radel and Sergeant Downing's vehicles. Per the officer's statements and video, the only indications that Steinmetz had been hit by Officer Radel's gunfire were two apparent blood spots on his T-shirt; his behavior had not changed. The officers then retreated backward as Steinmetz pressed forward toward the

officers. Steinmetz yelled, "Fuck you guys!" while moving toward Sergeant Downing. While Steinmetz was moving toward Sergeant Downing, Steinmetz continued to simulate having a gun.

Officers repeatedly yelled for Steinmetz to get on the ground, but he refused to comply and continued to move past the police vehicle towards the officers as they backed up. Steinmetz yelled, "I fucking hate this crap!" while continuing to move slowly toward the officers. When all three officers and Steinmetz had cleared the back of the vehicles, Steinmetz continued to move toward Sergeant Downing. Officer Meyer announced, "Taser!" and then discharged his Taser. At this point, officers indicated it was clear Steinmetz was not holding a firearm, therefore non-lethal force was used. The Taser successfully incapacitated Steinmetz, and he fell to the ground.

At 6:39:23 p.m., Sergeant Downing broadcasted over the radio that shots were fired and a Taser was deployed. Officer Radel and Officer Meyer placed Steinmetz in handcuffs. Officer Radel then retrieved a first aid kit and provided it to the officers who immediately began rendering aid. Officer Meyer can be heard stating that he was searching Steinmetz for a weapon because he was "reaching and acting like he had a gun."

At approximately 6:48 p.m., the Laguna Beach Fire Department arrived and assumed care of Steinmetz. Steinmetz was transported to Mission Hospital Mission Viejo at approximately 6:54 p.m. On the ambulance ride, Steinmetz admitted to either having been depressed or having clinical depression. Steinmetz arrived at the hospital 7:09 p.m. and eventually underwent surgery. Steinmetz was deemed to have sustained three gunshot wounds: one to his upper left chest, one to his lower right abdomen, and one to his lower left forearm. He ultimately survived his injuries.

### **EVIDENCE COLLECTED**

The following items of evidence were collected and examined:

- One (1) Black Taser X26 and one (1) black Taser cartridge (EM 1)
- One (1) Black Sweatshirt (EM 2)
- One (1) Taser Probe with Wire Connected (EM 3)
- One (1) Blue RBX Tennis Shoe (EM 4)
- One (1) Light Blue T-shirt (EM 5)
- Two (2) Green Taser Doors (EM 6 and 7)
- Two (2) Clear Taser Doors (EM 8 and 9)
- One (1) Cartridge Case (EM 10)
- Three (3) Cartridge Casings (EM 11)
- Two (2) Cartridge Casings (EM 12)
- 172 Scene Photographs

### **EVIDENCE ANALYSIS**

#### **Firearms Examination**

Officer Radel's Glock Model 17 Gen5 pistol was test fired at the Orange County Crime Lab and fired without malfunction. Officer Radel's Glock was determined to have fired six (6) rounds and the cartridge cases were recovered at the scene (EM 10, 11, and 12).

#### **Toxicological Examination**

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



| DRUG          | MATRIX         | RESULTS & INTERPRETATIONS |
|---------------|----------------|---------------------------|
| Ethanol (w/v) | Blood Specimen | 0.021 ± 0.005             |
| Sevoflurane   | Blood Specimen | Detected                  |

### **STEINMETZ'S PRIOR CRIMINAL HISTORY**

Steinmetz's criminal history was reviewed and considered. Steinmetz has a Criminal History in New Jersey, Florida, and Georgia that dates back to 2009. He has previously been arrested for the following charges:

- Criminal Mischief
- Trespass
- Theft
- Simple Assault
- Criminal Damage To Property
- Domestic Battery By Strangulation

### **STEINMETZ'S POST-INCIDENT CONVICTION**

On March 15, 2021, OCDA filed criminal charges against Steinmetz in Orange County Superior Court case 21F01909. Steinmetz was ultimately charged with the felony of an unlawful taking of a vehicle, a violation of California Vehicle Code section 10851; felony evading while driving recklessly, in violation of California Vehicle Code section 2800.2; felony evading a peace officer and driving against traffic, in violation of California Vehicle Code section 2800.4; misdemeanor resisting a peace officer in the performance of his/her duties in violation of Penal Code section 148(a)(1); and two counts of misdemeanor hit and run with property damage, in violation of 20002 (a) of the California Vehicle Code. On July 18, 2023, Steinmetz accepted a plea offer from the Court and admitted guilt as to all charges. In exchange for his admissions, Steinmetz was sentenced to 2 years and 8 months in Orange County Jail that was stayed pending successful completion of 3 years of formal probation and the Veterans Treatment Court program.

### **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 pp. 396-397.)

The United States Supreme Court's analysis and teachings in *Graham* are very much applicable to the circumstances surrounding the interactions of Laguna Beach Officer Radel with Steinmetz.

### **LEGAL ANALYSIS**

The facts in this case are determined by considering both Officer Radel's statements to the OCDA investigators, which was supplemented by other relevant material, evidence collected, and witnesses present at the incident.

The issue is whether the conduct of Officer Radel on March 11, 2021, was legally without justification resulting in criminal culpability. As stated above, in order to charge Officer Radel 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 officer's conduct. Therefore, in order to lawfully charge Officer Radel with a crime, the prosecution must prove beyond a reasonable doubt that he did not act in lawful self-defense or defense of others. If the actions that day of Officer Radel were justifiable as lawful self-defense or defense of others, then criminal charges will not be warranted. After careful review, criminal charges against Officer Radel are not 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 potential dangerous, emergency conditions or other exigent circumstances exist, the California Courts of Appeal have noted that the United States Supreme Court's definition of reasonableness is comparatively generous to the police. The court in *Brown* noted that in effect, "the Supreme Court intends to surround the police who make these on-the-spot choices in dangerous situations with a fairly wide zone of protection in close cases. A police officer's use of deadly force is reasonable if the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others. Thus, an officer may reasonably use deadly force when he or she confronts an armed suspect in close proximity whose actions indicate an intent to attack." (*Brown v. Ransweiler, supra*, 171 Cal.App.4th at p. 528.) 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.

Officer Radel agreed to be interviewed by the OCDA investigation team and answered all questions asked. Officer Radel stated that he believed Steinmetz posed a deadly threat to Officer Radel and his fellow officers, as well as to the public. After looking at the totality of the



circumstances, the evidence strongly supports Officer Radel's belief that Steinmetz posed a significant threat of death or serious physical injury to himself and others.

Steinmetz attempted to evade the police for almost 20 minutes. During the evasion, Steinmetz put many lives at risk by his driving alone. At the outset of the evasion, Steinmetz caused a collision that left one car flipped on its side and another seriously damaged. Steinmetz was unfazed by this and continued driving with a reckless disregard for human life. Steinmetz proceeded to drive at high speeds, reaching almost 90 mph. He drove on the wrong side of the road, towards oncoming traffic. He drove through red lights without any indication of concern for the safety of the public. Steinmetz drove until the tires fell off of the car he was driving. Despite driving on the rims without tires and seemingly with no control of the vehicle, Steinmetz was undeterred. The only thing that stopped Steinmetz was the PIT maneuver done by Laguna Beach officers. Officer Radel stated the driving exhibited by Steinmetz showed him that Steinmetz was willing to risk the lives of others to escape apprehension. Such a belief by Officer Radel is supported by the evidence. Almost all of the reckless driving by Steinmetz was captured on either a BWC or patrol car video and is consistent with Officer Radel's statement. This conduct would be factored in when analyzing the threat posed by Steinmetz when he subsequently exited the vehicle.

Once stopped, Officer Radel stated he saw Steinmetz reach around inside the vehicle. Officer Radel stated he feared Steinmetz was possibly searching for a weapon. This action by Steinmetz can be seen on multiple videos collected as evidence. Just after the Mercedes is stopped, Steinmetz appears to be looking for something inside the vehicle. Shortly thereafter and without warning, Steinmetz exited the vehicle. When Steinmetz exited the Mercedes, he erratically moved backward, with his hands immediately at his waistband. It is important to note that from review of the videos, the movement by Steinmetz is not casual. His hand is not merely to the side of his body. Instead it appears that both his hands go decisively and directly to his side as if he purposefully attempted to mimic that a gun was on his hip.

While Steinmetz was ultimately found to be unarmed, the conduct of his movement would have suggested otherwise to the officers and to any potential juror judging the conduct of the officers. To complicate matters for the officers, Steinmetz turned his right hip away from the officers thereby obstructing a clean view of what he may or may not have at his side. Again, this led officers, and would have led any reasonable person, to fear that he was armed. Finally, despite the three officers pointing weapons at him and giving him commands to get down on the ground, Steinmetz moved toward the officers. He did so in a quick movement, almost lunging at them. Simultaneously, Steinmetz drew his arms up, hands together and pointed directly at the officers. Officer Radel stated it was at this moment he fired due to fear that Steinmetz was going to fire a weapon at Officer Radel or his partners. This fear would also be justified due to the movement by Steinmetz. Again, the movement appeared to be a deliberate attempt to simulate having a gun by moving his hands up to his chest height with the palms squeezed together and pointing at the officers. This action by M. Steinmetz took approximately .3 seconds. Such a distinct movement in such a short amount of time would reasonably lead Officer Radel to the assumption that Steinmetz was going to shoot the officers.

Because Steinmetz's actions were consistent with a person who had a gun and was going to fire it, Officer Radel held the reasonable belief that Steinmetz was such a person and therefore posed an imminent threat of harm. Officer Radel fired six shots in quick succession, and Steinmetz still did not demonstrate any signs of slowing down. However, once Officer Radel observed that Steinmetz did not actually have a gun in his hands, Officer Radel stopped firing his weapon. Once

it was clear Steinmetz did not have a gun in his hands, the officers adjusted their policing methods accordingly. This too would likely show a juror a constant assessment by the officers of the threat posed to them. Still, it should be noted, that Officer Meyer specifically searched Steinmetz for a gun after the shooting because he too believed the actions of Steinmetz were consistent with a suspect being armed.

It should also be noted that, in order for Officer Radel 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 Officer Radel did not act in reasonable and justifiable self-defense or defense of another when he shot at Steinmetz. As should be apparent from the above-described analysis, the prosecution would be unable to carry this burden in this case. A jury analyzing these facts would likely conclude that it was reasonable for Officer Radel to believe that his life and the lives of others were in danger.

### **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 Officer Radel, and there is substantial evidence that his actions were reasonable and justified under the circumstances when he shot Tobiah Steinmetz on March 11, 2021.

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

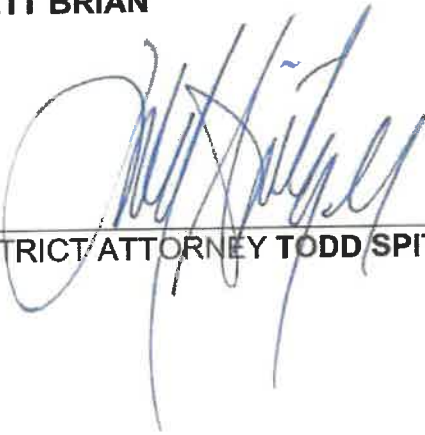
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**BRADLEY SCHOENLEBEN**  
Senior Deputy District Attorney  
Gangs/Target Unit

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

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