



OFFICE OF THE
DISTRICT ATTORNEY
ORANGE COUNTY, CALIFORNIA
TODD SPITZER

January 8, 2024

Chief Stuart Greenberg
Tustin Police Department
300 Centennial Way
Tustin, CA 92780

Re: Officer-Involved Shooting on January 8, 2023
Fatal Incident involving Clemente De Garay Mejia
District Attorney Investigations Case # SA 23-000059
Tustin Police Department Case # TPD 23-25828
Orange County Crime Laboratory Case FR # 23-40194
Orange County Coroner's Office Case # 23-00170-BB

Dear Chief Greenberg,

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 Tustin Police Department (TPD) Officers Hayden Newman and Joseph Sanchez. Clemente De Garay Mejia, age 52, died as a result of his injuries. The incident occurred in the City of Tustin on January 8, 2023.

OVERVIEW

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the January 8, 2023, fatal, officer-involved shooting of Mejia. 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 TPD 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 January 8, 2023, investigators from the OCDA Special Assignments Unit (OCDASAU) responded to this incident. During the course of their investigation, six interviews were conducted. OCDASAU Investigators also obtained and reviewed the following: TPD and Santa Ana Police Department (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 Mejia; criminal history records related to Mejia including prior incident reports; and other relevant reports and materials including audio recordings of the conducted neighborhood canvass. In addition, Officers Newman and Sanchez were wearing Body Worn Cameras (BWC) at the time of the incident. The cameras were activated and their recordings, which captured the events of January 8, 2023, 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 TPD personnel, specifically Officers Newman and Sanchez, 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.

An important part of the investigation of an incident such as this is attempting to obtain a statement from the involved officers. Officers Newman and Sanchez gave voluntary statements to OCDA Investigators on January 12, 2023.

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

FACTUAL SUMMARY

On Sunday, January 8, 2023, at approximately 7:32 a.m., the SAPD received a 9-1-1 call of a suspicious subject at 902 West Edinger Avenue, Santa Ana. The subject, later identified as Mejia, was reportedly walking down the street with a large butcher knife in his hand. The Reporting Party (RP) indicated the subject was bleeding from his hand.

At approximately 7:35 a.m., SAPD received a second 9-1-1 call from RP 2 providing similar information. RP 2 further indicated that he took a picture of Mejia.

At approximately 7:37 a.m., SAPD Officers Sean Anthis and Matthew Winchester located Mejia at St. Andrew Place and Birch Street, Santa Ana. They broadcast "Subject walking with a knife in hand, both hands cut."

At approximately 7:41 a.m., Officers Anthis and Winchester contacted RP 2. Both officers were wearing activated BWC. Video footage from the BWCs is limited, however, as the officers never exited their patrol car. The audio does capture some of their interaction. When the officers contacted RP 2, he pointed out Mejia's location and showed them the photograph he had taken of Mejia.

At approximately 7:44 a.m., Officers Anthis and Winchester contacted Mejia through the driver's side window of their patrol car. Mejia was asked if he wanted medical assistance and if he would drop the knife. He refused both.

Officers Anthis and Winchester did no further follow-up investigation and cleared the call, broadcasting, "Subject refused ambulance, and refused to put knife down. No crime at this time."

Mejia then walked approximately four miles, later confirmed by a trail of blood drops, to Warner Avenue and Red Hill Avenue in the city of Tustin.

At approximately 8:37 a.m., TPD received a call from RP 3 regarding a male Hispanic walking westbound on Warner Avenue at Red Hill Avenue carrying a large nine-inch chef's knife in his bloody hands.

After receiving the call, TPD dispatch broadcast the information to TPD patrol units. TPD Officer Newman received the information via radio and computer and was designated as the handling officer. Officers Sanchez and Eduardo Diaz were also dispatched to the location as back-up officers.

All the TPD officers were wearing standard TPD blue uniforms with BWCs clipped to their uniforms at chest height. They drove black and white patrol units equipped with emergency lighting equipment, spotlights and patrol video systems (PVS). All the officers activated their BWC and PVS upon arriving at the location. Officer Sanchez's PVS, however, delayed in turning on and did not activate until after the incident.

At approximately 8:46 a.m., Officers Newman and Sanchez located Mejia walking southbound on the east sidewalk of Warner Avenue. Mejia had a large knife in his left hand. Mejia also had apparent blood on his hands and clothing.

At approximately 8:47:00 a.m., Officer Newman parked along the east curb of Warner Avenue north of Compass Avenue and exited the driver seat of his patrol car. Officer Sanchez parked behind Officer Newman's vehicle and exited his patrol car. Both officers drew their service handguns.

At approximately 8:47:01 a.m., Officer Newman tells Mejia, "Hey, man. Have a seat."

Officers Newman and Sanchez then walked northwest into the #1 and #2 lanes of northbound Warner Avenue with their handguns drawn and pointed toward Mejia.

At approximately 8:47:08 a.m., Officer Newman instructed Mejia to "have a seat" as Mejia began to walk in a southwest direction onto the northbound lanes of Warner Avenue.

At approximately 8:47:08 a.m., Officer Diaz arrived, parked in the southbound #1 lane of Warner Avenue, and was assigned less lethal coverage. Officer Diaz, however, initially drew his service handgun as Mejia, at the time, began walking southbound across traffic lanes in Officer Diaz's direction. Mejia, however, stopped walking in Officer Diaz's direction and again began to walk toward Officers Newman and Sanchez. At that time, Officer Diaz holstered his weapon and drew his Taser. He began walking parallel to Mejia at a distance of approximately 30 feet.

At approximately 8:47:10 a.m., Officers Newman, Sanchez and Diaz started to give the following commands to Mejia:

Officer Newman:	"Hey, man. Have a seat. Have a seat, Dude".
Officer Sanchez:	"Take a seat, Dude."
Officer Newman:	"Drop the knife."
Officer Sanchez:	"Drop the knife."
Officer Newman:	"Right now. Drop the knife. Drop the knife."
Officer Sanchez:	"Drop the knife, man. Drop the knife."
Officer Newman:	"Drop it. Drop the knife."
Officer Sanchez:	"Don't come towards us. Don't come towards us."
Officer Newman:	"Back up, back up, back up."
Officer Diaz:	"Drop the knife, Dude, drop the knife."
Officer Sanchez:	"Don't come towards us."

At approximately 8:47:20 a.m., following Officer Sanchez' last command, Mejia looked over his right shoulder toward Officer Diaz and then began to run toward Officer Sanchez from approximately 32 feet away. Officer Sanchez stood in the #1 lane of northbound Warner Avenue, next to the raised center median. Officer Newman was also in the #1 lane, approximately 10 feet behind and to the east of Officer Sanchez. Mejia advanced several feet while Officer Sanchez backed away. Officer Diaz was moving toward Mejia and attempted to deploy his Taser against Mejia; however, he was unable to do so due to Mejia suddenly charging at Officers Newman and Sanchez.

At approximately 8:47:21 a.m., Officers Newman and Sanchez both fired their handguns toward Mejia. Mejia was approximately 28 feet from Officer Sanchez. Officer Newman fired three gunshots, and Officer Sanchez fired seven gunshots in approximately 1.57 seconds. Mejia fell to the asphalt in the #1 lane of northbound Warner Avenue with the knife still held in his left hand.

In an interview with OCDA investigators, Officer Newman stated that he thought, "Either this guy just committed a crime, or um, is actively cutting himself." He was concerned that Mejia was closing the distance between Officer Sanchez and himself, and he could stab Officer Sanchez even if lethal force was used. He indicated he thought Mejia was going to stab one of them.

In an interview with OCDA investigators, Officer Sanchez stated, "Um, so at this point, I don't know what his mindset was or if he'd killed someone or if he was, uh, you know, suicidal or homicidal, but, um, he immediately just started running towards me." "I thought he was, I mean, the way he was running at me with the knife; I thought he was going to stab me or kill me."

In an interview with OCDA investigators, Officer Diaz stated that due to all the blood on Mejia and the knife in his hand, Officer Diaz thought Mejia had just stabbed or killed someone. Officer Diaz saw Mejia run toward Officer Newman and Officer Sanchez. It appeared Mejia was going to "attack the officers." He stated he heard five to eight gunshots and was under the assumption that both Officer Newman and Officer Sanchez fired their handguns. He saw Mejia fall to the street, still holding the knife.

At approximately 8:47:44 a.m., Officer Diaz removed the knife from Mejia's hand.

At approximately 8:47:50 a.m., Officers Diaz and Newman searched Mejia, assessed his injuries, and began to render medical aid. Mejia had several gunshot wounds to the torso and one in the head. He was in cardiac arrest.

At approximately 8:48:39 a.m., Officer Diaz initiated Cardiopulmonary Resuscitation (CPR).

At approximately 8:53:28 a.m., the Orange County Fire Authority (OCFA) arrived, and paramedics assumed patient care of Mejia.

At approximately 9:16 a.m., OCFA discontinued CPR and life-saving measures due to obvious signs of death.

At approximately 11:32 a.m., SAPD officers conducted a welfare check at Mejia's residence located at 1114 W. Santa Ana Blvd #27, Santa Ana, CA 92703. This welfare check was to ensure that Mejia had not injured anyone at that residence since he was found carrying a large knife covered in blood. A search of the residence revealed no injured parties.

TPD Detective Gregory Schaller later responded to the residence to interview the occupants.

John Doe 1, one of Mejia's roommates, told Detective Schaller that Mejia was speaking on the phone the night prior to the shooting. This conversation was apparently between Mejia and his daughter who lives in El Salvador. John Doe 1 overheard Mejia asking his daughter for "forgiveness for what he did" and that he was going to turn himself into the police. Mejia also seemed to be acting paranoid by stating people were after him and accused his roommates of trying to kill his daughters.

Another roommate, John Doe 2, stated that approximately two months prior to the shooting Mejia had cut his wrist. Mejia was transported to a hospital where he stayed for almost three weeks.

On February 15, 2021, Mejia attempted suicide by driving his car into a pole. College Hospital Costa Mesa medical records indicated a history of suicidal thoughts and self-injurious behavior. As a result, Mejia was placed on a mental health hold for several days.

EVIDENCE COLLECTED

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

OCCL personnel collected the following items of evidence under the listed evidence markers:

- EM 1 through 10 - Ten (10) cartridge cases head stamped "WIN 9MM LUGER."
- EM 11 - One (1) black baseball cap containing a bullet.
- EM 12 - One (1) large kitchen knife with a white handle covered in apparent blood.
- EM 13 - One (1) bullet from Mejia's jacket.

OCCL personnel collected the following additional items of evidence:

- One (1) Grey jacket with apparent blood.
- One (1) black T-shirt with apparent blood.
- One (1) pair of black jeans with apparent blood and a brown leather belt.
- One (1) pair of black/red shoes.
- One (1) pair of white socks.
- One (1) pair of grey underwear.

OCCL personnel took 208 color digital photographs of the scene and Mejia's body.

AUTOPSY

On Wednesday, January 11, 2023, at approximately 9:14 a.m., OCCO Forensic Pathologist Doctor Etol Davenport conducted the post-mortem examination of Mejia at the Orange County Sheriff-Coroner Forensic Science Center, 1071 West Santa Ana Boulevard, Santa Ana. The autopsy was documented under OCCO case number 23-00170-BB.

OCCL Forensic Specialist Hilary Velardo took digital color photographs. OCCL Forensic Scientist Linda Welsh collected the following evidence:

- Jacketed bullet projectile with the jacket from the back.
- Jacketed bullet projectile from the left side of the torso.
- Jacketed bullet projectile with the jacket from the right side of the torso.
- Jacketed bullet projectile with the jacket from the left buttock.
- Bullet core, jacket, and core fragments from the right arm.
- Bullet core from the right chest.
- Bullet jacket fragment from the head.
- Bloodstain standard.

Dr. Davenport concluded that Mejia had sustained the following nine (9) gunshot wounds:

- Gunshot wound to the head.
- Penetrating gunshot wound of the right abdomen.
- Perforating gunshot wound of the anterior left thigh.
- Penetrating gunshot wound of the right back.
- Penetrating gunshot wound of the right chest.
- Penetrating gunshot wound of the left abdomen.
- Perforating gunshot wound of the left arm.
- Gunshot wound of the left arm.
- Penetrating gunshot wound of the right arm.

Dr. Davenport found Mejia had superficial incised wounds on the bilateral wrists. He also had abrasions and contusions to the back, buttock and left leg.

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

FIREARMS EXAMINATION

OCCL personnel examined the following firearms:

- Glock Model 17 Gen4 pistol, 9mm Luger caliber, S/N BGUC859 (Officer Newman's duty weapon)
- Glock Model 17 Gen5 pistol, 9mm Luger caliber, S/N BPFW321 (Officer Sanchez's duty weapon)

RESULTS and INTERPRETATIONS:

The two Glock pistols were test fired and operated without malfunction.

The Glock 17 Gen4 pistol, serial number BGUC859, assigned to Officer Newman, was determined to have fired three cartridge cases from the scene - EM 1, EM 2 and EM 3.

The markings of the test-fired bullets from the Glock 17 Gen4 pistol serial number BGUC859 did not reproduce well. The pistol shared the same class characteristics as the bullet recovered from Mejia's left buttock and the bullet jacket fragments from the right arm of Mejia. Still, due to inconsistencies with the reproducibility of the markings on the test-fired bullets, the test fires were unsuitable for bullet comparisons. Additionally, the Glock 17 Gen4 pistol was eliminated from firing the bullet fragment identified as EM 11.

The Glock 17 Gen5 pistol, serial number BPFW321 assigned to Officer Sanchez, was eliminated from having fired the bullet from the left buttock and the jacket fragments from the right arm of Mejia due to differences in class characteristics.

The Glock 17 Gen5 pistol, serial number BPFW321 assigned to Officer Sanchez, was determined to have fired seven cartridge cases from the scene - EM 4, EM 5, EM 6, EM 7, EM 8, EM 9, and EM 10, and the bullet from Mejia's jacket at the scene - EM 13. This Glock was determined to have fired the bullets removed from Mejia's back, the left side of the torso, the right side of the torso, and the fragment from the head recovered at the autopsy.

Based on differences in class characteristics, the Glock 17 Gen5 pistol, was eliminated from having fired the bullet that struck Mejia in the left buttock and the fragments recovered from Mejia's right arm.

The bullet fragment from EM 11 was unsuitable for comparison; however, it shared class characteristics with the test-fired bullets from the Glock 17 Gen5 pistol.

TOXICOLOGICAL EXAMINATION

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

Drug	Postmortem Blood
Hydroxyzine	0.0270 ± 0.0033 mg/L
Cetirizine	Detected

MEJIA'S PRIOR CRIMINAL HISTORY

Mejia had had no Federal or State of California criminal history records

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 and 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 Newman and Sanchez with Mejia.

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 Newman and Sanchez on January 8, 2023, was criminally culpable and without justification. As stated above, in order to charge Officers Newman and Sanchez 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 Newman and Sanchez 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 Newman and Sanchez were justified in believing that Mejia 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 Mejia's conduct in the moments leading up to the shooting.

Prior to the shooting, Mejia was walking with a bloody nine-inch knife in his hand and with blood on his hands and arms. This led to the police receiving three 9-1-1 calls. Based on these facts, alone, when Officers Newman and Sanchez first contacted Mejia, it was reasonable for them to believe that he may have committed a violent crime. His subsequent actions escalated the situation.

Mejia refused to follow multiple commands to sit down and not approach the officers. He also refused to put down the knife. Instead, as Officer Sanchez was retreating, Mejia began running at the officers with the knife in hand. Mejia's actions, under these circumstances, would reasonably lead the officers to believe that Mejia's intent was to attack them with deadly force. Furthermore, given Mejia's prior suicide attempt and more recent self-inflicted injury, it is reasonable to conclude that he was trying to provoke the officers into shooting him.

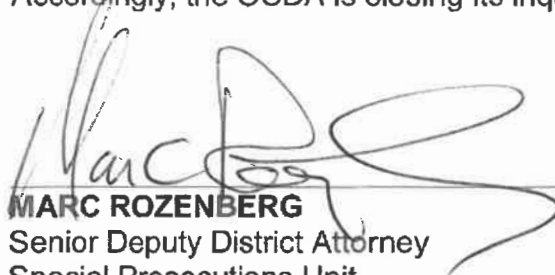
Based on their experience and the circumstances surrounding this incident, the evidence supports the conclusion that Officers Newman and Sanchez exercised reasonable judgment when they decided it was necessary to use deadly force against Mejia.

In order for Officers Newman and Sanchez 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 Mejia. 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 their fellow officers were in danger. Therefore, Officers Newman and Sanchez were justified when they shot at Mejia and carried out their duties as a peace officer in a reasonable and justifiable manner.

CONCLUSION

Based upon a review of all of the evidence provided to and obtained by the OCDA, and based on the entirety of the facts contained in all the available reports and interviews reviewed, and pursuant to the applicable legal principles, it is our legal opinion that there is no evidence to prove criminal culpability on the part of Officers Newman and Sanchez, and there is substantial evidence that their actions were reasonable and justified under the circumstances when they shot Mejia on January 8, 2023.

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