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March 20, 2015

Chief Carlos Rojas
Santa Ana Police Department
60 Civic Center Plaza
Santa Ana, CA 92702

Re: Officer-Involved Shootings on March 15, 2013
Fatal and Non-Fatal Incidents involving Jason Hallstrom and Travis Mock
District Attorney Case # S.A. 13-004 and S.A. 13-006
Santa Ana Police Department Case # 13-07661
Orange County Crime Laboratory Case # FR 13-43957

Dear Chief Rojas,

Please accept this letter detailing the Orange County District Attorney's (OCDA) Office's investigation and legal conclusions in connection with the above-listed officer-involved shootings (collectively, "the incident") involving on-duty Santa Ana Police Department (SAPD) Officers Pete Picone and John Rodriguez. Jason Erling Hallstrom, 41, Santa Ana, died as a result of his injuries, while Travis Stewart Mock, 29 years old at the time of the incident, also of Santa Ana, survived his injuries. The incident occurred on March 15, 2013, in the City of Santa Ana.

OVERVIEW

This letter contains a description of the scope of and the legal conclusions resulting from the OCDA's investigation of the March 15, 2013, fatal and non-fatal, officer-involved shootings of Hallstrom and Mock, respectively. 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 March 15, 2013, Investigators from the OCDA Special Assignment Unit (OCDASAU) responded to this incident. OCDASAU Investigators interviewed 59 witnesses and obtained and reviewed the following: SAPD reports, audio recordings and dispatch and radio traffic recordings; Orange County Crime Laboratory (OCCL) reports including toxicology, forensic alcohol

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examination, latent print, officer processing and firearms examination reports; crime scene investigation photographs; medical records and photographs related to the injuries sustained by Hallstrom and Mock; records related to Hallstrom and Mock including prior criminal history records and prior incident reports; the personnel records of Officers Picone and Rodriguez; 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 impartially reviewed all evidence and legal standards available. The scope and findings of this review are expressly limited to determining whether any criminal conduct occurred on the part of SAPD officers or personnel, specifically Officers Picone and Rodriguez. The OCDA will not be addressing 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 investigative functions that include witness interviews, neighborhood canvass, crime scene processing and evidence collection, vehicle processing, and hospital investigative responsibilities as needed. The OCDASAU audio records all interviews, and the OCCL processes all physical evidence related to the investigation.

When the OCDASAU Investigator has concluded the investigation, the file is turned over to a veteran Deputy District Attorney for legal review. Deputy District Attorneys from the Homicide or Gang Units review fatal, officer-involved shootings and determine whether criminal charges are appropriate. Deputy District Attorneys assigned to the Special Prosecutions Unit review the non-fatal officer-involved shooting cases for possible criminal filings. Throughout the review process, the assigned prosecutor will be in consultation with his or her supervisor, and this Assistant District Attorney will eventually review and approve any legal conclusions and resulting memos. The case may often be reviewed by multiple veteran prosecutors, their supervisors, the Chief of Staff, and the District Attorney. If necessary, the reviewing prosecutor may send the case back for further investigation.

An important part of the investigation of an incident such as this is attempting to obtain a statement from the involved officers. Officers Picone and Rodriguez provided separate, voluntary statements to the OCDA on March 18, 2013.

FACTS

The following synopsis of the incident is based upon our analysis of the evidence, the primary sources of which are:

- statements of the various witnesses to the incident, including the officers;
- the forensic crime scene evidence; and
- the medical evidence concerning the injuries to Mock and Hallstrom.

The primary witnesses to the incident were Officers Picone and Rodriguez. A few civilian witnesses from the neighborhood also perceived at least some parts of the incident. As often occurs in human affairs, none of these witnesses' perceptions of the incident are completely identical. Nevertheless, after reviewing their statements and considering the other evidence, we believe that the facts set forth in this synopsis are well established.

Synopsis

On March 15, 2013, SAPD Officers Picone and Rodriguez, members of the SAPD's Special Weapons and Tactics (SWAT) team, were assigned to the "Strike Force" unit. That day, the two were to be engaged in gang suppression activities. The officers were assigned to a marked SAPD police car, equipped with emergency lighting inside the cabin but not on top of the car. The emergency lighting was mounted on the visor area of the vehicle's front windshield and was visible from outside the vehicle. Officer Picone was the driver and Officer Rodriguez was the passenger. Both officers were dressed in SAPD police uniforms.

At approximately 2:40 p.m., Officers Picone and Rodriguez were traveling south in their SAPD police car in the number two lane of Cabrillo Park Drive in Santa Ana. They approached a red traffic signal at 4th Street. As the officers waited for the signal to change, Officer Rodriguez observed a gray Nissan Sentra stopped in the number three lane, approximately one vehicle length behind their police car. The Nissan was occupied by two Caucasian males who were both heavily tattooed and, according to the officers, appeared to be from a white supremacist gang. Officer Rodriguez, aware that Nissan Sentras are among the most frequently stolen cars, alerted Officer Picone to the vehicle and its occupants.

The subjects in the Nissan, Mock, the driver, and Hallstrom noticed that the officers had seen them, which they indicated with surprised facial expressions. When the traffic signal changed to green, the police car remained stopped in the number two lane and allowed the Nissan to pass. When the vehicle passed, it immediately turned west onto 4th Street. Officers Picone and Rodriguez began following the vehicle and observed that its right rear brake light was inoperable, in violation of California Vehicle Code section 24603(e). They saw Mock and Hallstrom engage in conversation while Mock continuously checked his vehicle's side and rear view mirrors to keep an eye on the police car following them. Hallstrom also turned and looked back at the officers through the Nissan's rear window.

Officer Picone decided to initiate a traffic stop on the Nissan. Officer Picone told Officer Rodriguez that he wanted to stop the vehicle before it had an opportunity to merge onto the freeway. Officer Rodriguez agreed. As Officer Picone prepared to activate the police car's emergency lighting to initiate a traffic stop, the Nissan briefly illuminated its right turn signal and made an immediate right turn onto the Interstate 5 (I-5) North onramp, in violation of California Vehicle Code section 22108. Officer Picone followed the vehicle onto the onramp. Officer Picone illuminated the police car's emergency lighting, signaling to Mock and Hallstrom to pull their vehicle over. Mock continued to drive the vehicle along the freeway onramp while occasionally looking back at the police car in his side view mirror.

Several vehicles were stopped at the traffic control light located at the end of the onramp. Mock drove the Nissan onto the onramp shoulder around the right side of the stopped vehicles, violating California Vehicle Code section 21755(a), and continued onto the freeway. Officer Picone activated the police car's siren. Officer Rodriguez immediately advised SAPD dispatch that he and Officer Picone were in pursuit of Mock's vehicle and provided the dispatcher with the license plate of the vehicle. According to Officer Picone, Mock was hitting the vehicle's steering wheel with his hand. Mock frequently looked back at the police car.

The I-5 traffic was heavy and moving slowly. The Nissan continued to drive along the right shoulder and periodically swerved back and forth between the freeway divider on the right shoulder and the vehicles in the right lane, often veering very close to freeway traffic. As Officers Picone and Rodriguez pursued the vehicle, the Nissan would intermittently and abruptly brake. Officer Picone believed that Mock was attempting to cause the police car to ram into the rear of the Nissan. Officer Picone explained that he was familiar with this tactic – a suspect on the run will attempt to cause the police car to crash and deploy its airbags, leaving officers vulnerable to an ambush. Officer Picone also noticed Mock reaching with one hand towards the center console, which caused him to believe that Mock was attempting to arm himself with a gun.

Mock and Hallstrom continued traveling north on the freeway until they reached the Grand Avenue exit, which they took. Officers Picone and Rodriguez followed. As they pursued Mock and Hallstrom, the Nissan began to again brake abruptly. Officer Picone believed that Mock was again hoping the police car would collide with the Nissan and temporarily immobilize the officers. The Nissan continued to travel along Grand Avenue and veered toward the intersection of 14th Street and Grand Avenue. It appeared to be on a collision course with another car stopped at the intersection but narrowly swerved to avoid the car. As the vehicle continued north, Officer Rodriguez observed Hallstrom reach down under his seat. Officer Rodriguez assumed that Hallstrom was retrieving a firearm. As the Nissan approached the intersection of Grand Avenue and 15th Street, the vehicle began to brake abruptly once more and then accelerated toward the northeast corner of the intersection. According to Officer Picone, when the vehicle reached the northeast corner of the intersection, Mock intentionally drove the vehicle up onto the sidewalk and against some shrubbery. Officer Picone advised Officer Rodriguez that he thought Mock and Hallstrom would be exiting the vehicle very soon.

As the Nissan slowed to a stop, the driver's door and the front passenger's door of the vehicle opened. Officer Picone slowed the police car to a stop. Officers Picone and Rodriguez immediately opened the doors to their car. As they did so, Mock and Hallstrom emerged from the Nissan and began to flee. Officer Rodriguez pursued Hallstrom while Officer Picone simultaneously pursued Mock. A separate description of each Officer's pursuit is below.

Officer Rodriguez/Hallstrom Shooting Incident

Hallstrom ran to the east. Officer Rodriguez drew his firearm and began to chase Hallstrom. Hallstrom looked back at Officer Rodriguez and began to run from the sidewalk into the roadway toward the location of Officer Rodriguez. As Hallstrom ran in the direction of Officer Rodriguez's location, he brought his right hand down to his waistband. Fearing that Hallstrom was attempting to reach for a firearm from his waistband and knowing that they were in a residential area, Officer Rodriguez fired four rounds at Hallstrom who seemed unaffected by the gunfire and ran east down 15th Street. Before pursuing Hallstrom, Officer Rodriguez took a moment to glance at Officer Picone because he had heard gunshots coming from that direction. Officer Rodriguez observed Officer Picone standing upright on the opposite side of the police car, so he continued pursuing Hallstrom.

When Hallstrom reached two conjoining driveways on East 15th Street, located on the north side of the street, he entered the driveways and disappeared between the two residences. When Officer Rodriguez reached one of the residences on East 15th Street, he could not immediately see Hallstrom. He took a position behind the residence and observed Hallstrom standing between the residences next to a fence that separated the driveways from the rear yards of the residences. Officer Rodriguez took a position to the southeast corner of the home and held Hallstrom at gunpoint. He gave Hallstrom commands to lie face down on the driveway. Hallstrom told Officer Rodriguez that he had been shot and that he was having difficulty breathing. Officer Rodriguez told Hallstrom to comply with his commands, as he did not want to shoot Hallstrom again. Hallstrom complied with Officer Rodriguez and laid himself face-down on the driveway. Officer Rodriguez stood vigil over Hallstrom until additional SAPD officers arrived at the scene to assist him in arresting Hallstrom.

Three additional SAPD officers arrived on scene to assist Officer Rodriguez in taking Hallstrom into custody. No firearms were found during the officers' search of Hallstrom. Hallstrom was escorted to the curb and treated by paramedics.

The paramedic who treated Hallstrom observed that he was sweaty and appeared to have difficulty breathing. Hallstrom had apparent gunshot wounds on his right flank area and his upper back to the left of his spinal column. He also had an apparent bullet lodged under his skin near his left clavicle. Hallstrom was administered oxygen, had gauze placed on his wounds, and was connected to a heart monitor and intravenous line. He was secured to a backboard and cervical collar. At approximately 3:20 p.m., Hallstrom was transported by ambulance to Western Medical Center Santa Ana (WMCSA).

Approximately four minutes later, Hallstrom arrived at WMCSA and was admitted into the care of the emergency department personnel. According to his nurse clinician, Hallstrom was in shock but was awake, alert, and able to answer questions. Hallstrom said that he had been shot in the back but did not elaborate on the circumstances of the incident. The nurse clinician inserted an intravenous line into Hallstrom's wrist, collected his vital signs, and delivered Hallstrom to the operating room for surgery.

Hallstrom sustained a gunshot wound to his upper middle back. The bullet and some fragmentation tracked upward to his left shoulder and lodged near his left trapezius muscle. The bullet and fragments in his left shoulder were not removed. Another apparent gunshot wound was observed in the area of Hallstrom's right rib cage. The bullet entered his lower chest cavity, passed through his diaphragm into the liver, and lodged in his front abdominal wall. Hallstrom's surgeon extracted the bullet in the abdominal wall and gave it to the SAPD as evidence. Due to damage from the bullet, a large portion of Hallstrom's liver was removed during surgery. Two additional surgeries were performed on Hallstrom in an attempt to control bleeding and to install drainage tubes for fluid removal. Despite three surgeries, Hallstrom's lungs progressively worsened and continued to fill with fluid. Hallstrom was transported to the WMCSA Intensive Care Unit for continued care. He was also transferred from the custody of the SAPD into the custody of the Orange County Sheriff's Department (OCSD).

On March 23, 2013, at approximately 12:00 a.m., Hallstrom died as a result of his injuries.

Officer Picone/Mock Shooting Incident

Officer Picone exited the driver's door of the police car and observed Mock exit the driver's door of the Nissan. Officer Picone immediately drew his firearm. Mock briefly turned towards Officer Picone and ran to the northwest. Officer Picone paralleled Mock by running from his police car in

the same direction as Mock. As Mock ran, he looked over his left shoulder at Officer Picone. Officer Picone had a clear view of Mock's left side and back. Initially, Officer Picone could see Mock's right hand. However, once Mock looked over his left shoulder, Mock moved his right hand downward in front of him, towards what Officer Picone believed was Mock's waistband. Officer Picone believed that Mock was reaching for a firearm.

Expecting Mock to draw a firearm from his waistband, Officer Picone fired three rounds at Mock. Officer Picone was not sure if he had struck Mock. Mock immediately turned to the northeast and ran behind a nearby tree. As Mock ran toward the tree, Officer Picone could not see Mock's hands. Once Mock reached the north side of the tree, he collapsed face-down onto the ground. While standing on Grand Avenue west of the tree, Officer Picone continued to point his firearm at Mock and gave orders for Mock to show his hands. Mock had his hands pulled in close to his chest, buried in the dirt beneath him. Officer Picone continued to order Mock to show his hands. Mock refused to comply and continued to dig his hands into the dirt while swearing at Officer Picone, who radioed for assistance.

As Officer Picone waited for assistance, he noticed a metal object in the dirt that he initially believed to be a firearm but that turned out to be a large watch. As additional officers arrived on the scene, Mock was handcuffed. No firearms were found on Mock during a search. Paramedics arrived at the scene at approximately 3:00 p.m. and treated Mock. A paramedic observed two apparent gunshot wounds to Mock's upper back. He applied gauze to Mock's wounds, administered oxygen to him, secured Mock to a backboard, and started an intravenous line in Mock's arm. At approximately 3:06 p.m., Mock was transported by ambulance to WMCSA. Mock did not make any statements to the paramedics regarding the shooting.

At approximately 3:10 p.m., Mock arrived alert at WMCSA and was admitted into the care of emergency department personnel. Mock was treated for two apparent bullet wounds to the back. A chest X-ray revealed no additional injuries. The doctor who treated Mock described the bullet holes as "through and through" wounds caused by the same bullet.

On March 16, 2013, at approximately 11:15 p.m., Mock was discharged from WMCSA and transferred into the custody of the OCSD.

Voluntary and Consensual Statement of Officer Rodriguez

On March 18, 2013, Officer Rodriguez gave a voluntary, consensual statement to the OCDA. At the time of the incident, Officer Rodriguez had been a police officer with the City of Santa Ana for 23 years and had been assigned to the SWAT team for seven years. The day of the incident, Officer Rodriguez was armed with a Glock model 22 .40 caliber firearm loaded with one magazine. He had tested the firearm that day. Officer Rodriguez carried two additional magazines for the firearm along with a Taser that he did not deploy.

Officer Rodriguez stated that on March 15, 2013, he was riding in the front passenger seat of a patrol car driven by Officer Picone. The vehicle was not equipped with any video or audio recording device. Their patrol car was driving southbound in the number one lane on Cabrillo Park approaching 4th Street when they passed a light-colored Nissan Sentra in the number two lane. Officer Rodriguez was able to see that the driver and passenger of the Nissan were both heavily-tattooed, white males. Officer Rodriguez thought, based on his training and experience in the field of gangs, that the men might be associated with a gang. He also stated that he was reminded of a previous officer-involved shooting with gang members in which an AK47 was pulled on an officer.

Officer Rodriguez said that he told Officer Picone to run the license plate of the Nissan when possible. He described the men in the Nissan as having an "oh s****" look after realizing that the officers had seen them. Officer Rodriguez also noticed that the Nissan's right rear brake light was not functioning.

Officer Rodriguez stated that the Nissan approached a red light, and he was not sure if the car was going to continue straight or turn right onto the I-5 freeway. At the last minute, the Nissan turned onto the I-5 entrance ramp. At that point, Officer Rodriguez recalls Officer Picone activating the patrol car's emergency lights to effect a stop. The Nissan did not stop but instead rolled around the vehicles waiting on the freeway onramp and began to drive down the shoulder of the road while picking up speed. Officer Rodriguez stated that he then alerted dispatch that he and Officer Picone were in pursuit of the Nissan.

Officer Rodriguez described the Nissan attempting to merge into heavy I-5 traffic unsuccessfully and eventually exiting onto Grand Avenue. Officer Rodriguez thought the Nissan was going to collide with a vehicle waiting at a red light at the end of the off ramp, but the Nissan managed to make a wide right turn. As the patrol car was right on the Nissan's tail, the driver of the Nissan began braking in what Officer Rodriguez described as a purposeful and "slamming" manner in order to make the officers' car crash into the Nissan. Officer Rodriguez claimed he could see the driver and passenger of the Nissan talking during the entire pursuit. At one point, he believed he saw the passenger reaching down toward the seat floor.

Officer Rodriguez stated that once the Nissan approached Grand and 15th Street, the car lost control and either stopped or collided with the sidewalk. He watched the passenger in the Nissan open his door and run away from the Nissan. Officer Rodriguez thought there was a good chance that the passenger, later identified as Hallstrom, would be armed with a handgun or some type of weapon. He began to move laterally away from his vehicle. At some point, Officer Rodriguez saw Hallstrom look at him and make a movement toward his waistband. At this point, Officer Rodriguez stated that he believed that he and the public in the surrounding residential area were in danger. He remembered firing four to five rounds. Officer Rodriguez said that everything happened very fast once he left his vehicle, and the events were blurred in his memory.

Officer Rodriguez believed he had hit Hallstrom, but it did not appear that Hallstrom was injured. He then remembered hearing gunshots coming from the area surrounding Officer Picone, and he looked over to see that Officer Picone was standing upright and appeared uninjured. He turned back toward Hallstrom to see Hallstrom running eastbound on 15th Street. Officer Rodriguez pursued Hallstrom.

Hallstrom entered the driveway of a residence on East 15th Street. Officer Rodriguez stated that he lost sight of Hallstrom for a moment and then regained sight of him in front of a fence in the driveway. He began giving commands for Hallstrom to put his hands in the air. Hallstrom told Officer Rodriguez that he had been shot and stated, "I can't breathe." Officer Rodriguez recalled telling Hallstrom to lie down on his stomach, which Hallstrom did, and then giving dispatch his location. He kept Hallstrom at gunpoint until other officers arrived. Shortly thereafter, other officers arrived and handcuffed Hallstrom. As soon as Hallstrom was taken into custody, Officer Rodriguez said that he ran back to the patrol car to make sure that Officer Picone was okay.

Voluntary and Consensual Statement of Officer Picone

On March 18, 2013, Officer Picone gave a voluntary, consensual statement to the OCDA. At the time of the incident, Officer Picone had been a police officer with the City of Santa Ana for five and a half years and had been assigned to the SWAT team for his entire tenure. The day of the

incident, Officer Picone was armed with a Glock model 22 .40 caliber firearm that he had tested that day as well as a Taser that he did not deploy.

Officer Picone stated that on March 15, 2013, around 3:00 p.m. he was driving a patrol car unequipped with a video camera while Officer Rodriguez rode in the passenger seat. The officers were on gang patrol that day. As they were driving southbound on Cabrillo Park Drive nearing 4th Street, Officer Rodriguez pointed out a car several cars behind them in which two white men were "blasted out" with tattoos, a term Officer Picone said the team uses to mean covered in tattoos. Officer Picone stated that he did not get a good look at the men inside the car. As the light turned green, he waited for the car Officer Rodriguez had pointed out to pass him and saw the tattooed driver, later identified as Mock. Officer Picone stated that, upon seeing Mock, he immediately believed Mock to be a "white supremacist type."

Officer Picone stated that he then got behind Mock's car, and he and Officer Rodriguez noticed that a rear brake light was out, giving them probable cause to stop the car. As Officer Picone prepared to turn on his lights to pull over Mock's car, Mock made a last minute signal and an immediate turn onto the I-5. Officer Picone immediately turned on his overhead lights, after which he said Mock was "not even making an effort to pull over." He described Mock as having a "snarled look" on his face as he looked into the side view mirror and turned to talk to his passenger. He believed the passenger then turned to look back at the officers.

When Mock's car drove onto the onramp, Officer Picone stated that there was another car waiting for the green light to enter the I-5. When the light turned green, Mock sped around the waiting car, and Officer Picone started pursuing him down the freeway. Officer Picone described Mock driving down the shoulder of the freeway repeatedly turning his car wheel hard toward the wall along the freeway and then turning back out. Officer Picone thought Mock was "acting crazy" and probably causing other drivers on the freeway to worry about getting hit. Officer Picone also stated that he saw the passenger in Mock's vehicle bend down and that he was afraid the passenger would emerge with a rifle, similar to the last white supremacist officer-involved shooting he knew to have occurred in Santa Ana.

Officer Picone described Mock as accelerating and then braking, causing Officer Picone to believe that Mock was attempting to make the officers' car ram into his own. Officer Picone knew this tactic, sometimes used by drivers being pursued by police in an attempt to get a patrol car's airbags to deploy. Officer Picone also believed he saw Mock's hand go down, at which point he and Officer Rodriguez discussed the possibility that Mock and Hallstrom may have guns.

Mock then exited the I-5 at the Grand Avenue exit, and Officer Picone described Mock as again pumping the breaks. Officer Picone noticed that Mock was constantly looking in his side view mirror to keep an eye on where the police car was located, and Officer Picone stated that this caused him to believe Mock and Hallstrom were "formulating a plan." He described Mock as driving with "absolute disregard" for the welfare of anyone else and was afraid that Mock might kill someone with his reckless driving. As Mock and Officer Picone were driving down Grand Avenue, Officer Picone saw a car pull out onto 14th Street, which Officer Picone thought Mock was going to hit. Mock then swerved left around the car and continued north on Grand Avenue.

Mock approached 15th Street, a one-way, westbound street, and it appeared to Officer Picone that Mock was going to try to turn east down the one-way. Instead, Officer Picone stated that he saw Mock deliberately drive up onto the curb of Grand Avenue near 15th Street. At this point, Officer Picone told Officer Rodriguez that he believed the men were going to exit their vehicle. The doors of Mock's car were open as his car hit the curb. Officer Picone put the patrol car in park with

the lights still flashing. He then saw Mock and Hallstrom exit their car. Officer Picone stated that he knew Officer Rodriguez got out of the patrol car then, though he did not actually see Officer Rodriguez leave the car.

Officer Picone then exited the driver's door and drew his weapon, pointing it at Mock, who exited his vehicle at an angle and began running in a northwest direction. Officer Picone believed that when he got out of his patrol car, he yelled at Mock to "stop," though he could not remember exactly what he had yelled. Officer Picone said that he believed Mock would be armed. He was also taken aback by Mock's large size when he saw Mock exit his vehicle. Officer Picone stated that Mock looked back at him, and he believed Mock was "looking for his target" because, when Officer Picone had chased people in the past, they never looked back at him. Officer Picone saw Mock's hand moving toward his waistband, a location Officer Picone knew from experience is typically where most people carry firearms. Officer Picone stated that he was worried about his own safety and about the safety of the residents in the surrounding neighborhood. Officer Picone then fired his gun, at which time he simultaneously heard gunshots coming from somewhere else.

Officer Picone stated that he then saw Mock turn, go behind a tree, and get down on the ground. Officer Picone went over to Mock and told him to show his hands, but Mock was uncooperative and kept yelling, "F*** you." Officer Picone notified dispatch over his radio that he had been involved in a shooting. Officer Picone also stated that he could see Officer Rodriguez about five blocks down the street.

Post-Shooting, Voluntary Interviews with Civilian Witnesses in the Neighborhood

Civilian witnesses in the area of Grand Avenue and 15th Street at the time of incident gave voluntary interviews to the OCDA. Witness A, who was in his residence on 15th Street at the time of the incident, stated that he heard sirens and screeching. He watched from his front doorstep as a suspect, later identified as Hallstrom, ran eastbound on 15th Street followed by a police officer, later identified as Officer Rodriguez. The witness stated that he heard Officer Rodriguez yell at Hallstrom to "stop and get on the floor" and saw Hallstrom continue to run. He saw Officer Rodriguez fire his handgun two to three times at Hallstrom. Hallstrom continued to run, and Officer Rodriguez chased him. The witness went inside to check on his family. When he reemerged, he saw Officer Rodriguez standing behind a blue Toyota Camry parked in the driveway on East 15th Street with his gun pointed at Hallstrom, who was on the ground. Seconds later, Witness A saw other officers arrive at the location on East 15th Street. This witness believed that it took a while for the paramedics to arrive.

Witness A stated that he also saw another officer, later identified as Officer Picone, near the northeast corner of Grand Avenue and 15th Street attending to another suspect, later identified as Mock, who was lying on his stomach in the dirt near a tree. The witness believed he heard Officer Picone tell Mock to "be quiet" while Mock yelled at Officer Picone. The witness did not see Officer Picone shoot Mock, nor did he see any officer use force on Mock.

Witness B stated that she was walking north on Grand Avenue and had just crossed 15th Street when she heard police sirens followed by three gunshots. She saw an SAPD officer standing in the northbound lane of Grand Avenue pointing his firearm at a white male, who was lying below a tree. She told the OCDA that she heard the male say, "Why did you shoot me?" and the police officer responded, "Shut the f*** up." The witness did not see the officer make any physical contact with the white male. The witness believed paramedics arrived approximately three minutes later. The witness identified the white male as Hallstrom using a newspaper clipping she brought to her interview with the OCDA.

Attempted Interview of Mock

OCDA investigators attempted to interview Mock in the late afternoon on March 15, 2013, but he declined to speak with them. As OCDA investigators were in the process of informing Mock that the OCDA is investigating the conduct of the police officers and that we would like to get his side of what took place, Mock stated "I am not talking to anyone," and he refused to provide a statement.

The Nissan Sentra

The 1998 Nissan Sentra that Mock drove had been reported stolen to the La Palma Police Department on the morning of March 14, 2013, one day before the officer-involved shooting incident. The vehicle's owner reported that the Nissan had been stolen while it was parked in the parking lot of his apartment complex. It was also discovered that the Nissan's rear license plate had been replaced with a license plate stolen from another vehicle.

Neighborhood Canvass Interviews

A few people in the neighborhood perceived at least some part of the incident. Some saw either Mock or Hallstrom on the ground while being held at gunpoint. One saw just a few seconds of Hallstrom being chased. Others claim to have heard tires screeching followed by approximately four gunshots. No one actually saw the officers fire at Mock or Hallstrom.

EVIDENCE COLLECTED AT THE SCENE

There were two scenes involved in this incident, one at each location where a shooting took place. The first scene where the shooting of Mock took place and where Mock was taken into custody was at the northeast corner of North Grand Avenue and East 15th Street. The second scene where Hallstrom was taken into custody was between on the 1300 block of East 15th Street. The 1998 Nissan Sentra involved in the incident had been abandoned on the sidewalk with the vehicle in gear and the engine on. Examination of the Nissan revealed no evidence of the vehicle being struck by any of the projectiles. Visual examination of the interior of the vehicle revealed there were miscellaneous clothing and other personal items in the rear seat area. There were miscellaneous items in the driver's and right front passenger area of the vehicle. No blood or other physical evidence related to the shooting was observed in the interior or exterior of the vehicle. SAPD Unit # 621 was parked with the engine running, behind and to the southwest of the Nissan. The extension of the sidewalk and curb, on the southeast side of the intersection of North Grand Avenue and East 15th Street, was just south of and in line with the open right front passenger door of SAPD Unit #621.

Four "Winchester 40 S&W" cartridge casings were collected from the sidewalk and curb extension on the southwest corner of the intersection of North Grand Avenue and East 15th Street. In the improved parkway of North Grand Avenue, north of the Nissan, there was a utility pole. North of that utility pole stood a large tree. The tree was approximately halfway between the utility pole and the southern edge of a driveway on East 15th Street. At the east edge of the #2 northbound lane, north of the utility pole, was one "Winchester 40 S&W" cartridge casing. In the approximate center of the improved parkway, south of the base of the tree, there was another cartridge casing. In the east concrete gutter for North Grand Avenue was another cartridge casing.

In the middle of the improved parkway, north of the tree, there was medical debris. North of the medical debris were a gray and white checkered shirt, a pair of sunglasses, and a man's watch. The shirt had been cut and had what appeared to be blood on it. The dirt area under and around the shirt appeared to have been disturbed.

A bullet was found embedded in the southwest edge of a 4x4 support post near the front door of a residence on East 15th Street. There was an apparent bullet strike mark at the south edge of the top step of the porch of the residence on East 15th Street, just west of the east exterior wall of the residence. There was an apparent bullet strike on the east wall of the residence adjacent to and just above the southeast edge of the top step of the porch. There was a lead fragment in the middle of the porch, west of the east 4X4 support post. There was a lead fragment on the porch, west of another lead fragment that was found.

The residences where the incident occurred on 15th Street share a large common-access concrete driveway. The concrete driveway provides access to the front door and garage for each residence. The concrete driveway continues north between the two residences, providing an access way to the gate leading to the rear yard of the residences. The access way is wide enough to facilitate parking a vehicle between the residences, though there were no vehicles parked there at the time of the incident. On the north curb of East 15th Street, west of the driveway cutout, there was what appeared to be blood. Against the curb, in the gutter east of the apparent blood, there was a bag containing what appeared to be medical trash. South of the apparent blood, in the roadway at the south edge of the north concrete gutter, was a gray shirt. The shirt was cut, and there appeared to be blood and body tissue on it. On the concrete access way between the residences on East 15th Street, there was a gray baseball cap. Near the baseball cap there was what appeared to be blood and a blood trail leading from the area of the baseball cap to the gate that provides access to the rear yard of one of the homes on East 15th Street. There was a blood trail from the baseball cap to the north curb of East 15th Street.

In summation, in addition to impounding the vehicle driven by Mock and occupied by Hallstrom, the following items of evidence were collected by the OCCL under the following evidence marker (EM) numbers and letters.

From the vicinity of 1301 East 15th Street:

- EM#1 – One cartridge casing, head stamped “Winchester 40 S&W”
- EM#2 – One cartridge casing, head stamped “Winchester 40 S&W”
- EM#3 – One cartridge casing, head stamped “Winchester 40 S&W”
- EM#4 – One cartridge casing, head stamped “Winchester 40 S&W”
- EM#5 – One cartridge casing, head stamped “Winchester 40 S&W”
- EM#6 – One cartridge casing, head stamped “Winchester 40 S&W”
- EM#7 – One cartridge casing, head stamped “Winchester 40 S&W”
- EM#8 – One gray and white checkered shirt with blood on it, pair of sunglasses, men’s watch
- EM#9 – One lead fragment
- EM#10 – One lead fragment
- EM# A – One bullet

From the vicinity of 1319 East 15th Street:

- EM#11 – One gray shirt with blood and tissue on it
- EM#12 – One gray baseball cap

EVIDENCE ANALYSIS

Toxicological examination

No pre-admitting hospital blood was available for Hallstrom. A pre-admitting hospital blood sample was obtained from Mock. A sample of the blood was analyzed, and the following drugs were confirmed:

DRUG	MATRIX	RESULT
Amphetamine	Pre-admitting	140 ng/mL
Methamphetamine	Pre-admitting	2000 ng/mL
Morphine	Pre-admitting	400 ng/mL

Firearm examination

The firearms used by Officers Picone and Rodriguez were test fired and operated without malfunction.

AUTOPSY OF HALLSTROM

On March 27, 2013, at 9:00 a.m., an autopsy was conducted by Dr. Mark Fajardo, a forensic pathologist with the Orange County Sheriff-Coroner's Office. Dr. Fajardo located two gunshot entry wounds on Hallstrom's body. Dr. Fajardo determined that one of the bullets, which entered the right flank of Hallstrom's back, followed a trajectory that was low to high and sharply upward, as if Hallstrom were bent over. This bullet did not exit the body. The other bullet, which entered Hallstrom's right torso, had penetrated and damaged Hallstrom's liver. Dr. Fajardo removed one projectile and one projectile fragment from Hallstrom's left shoulder/trapezoid area. Dr. Fajardo determined Hallstrom's cause of death to be a gunshot wound to the torso.

HALLSTROM'S PRIOR CRIMINAL HISTORY

At the time of the incident, Hallstrom was on parole with the California Department of Corrections and Rehabilitation. An active warrant had been issued for his arrest because he had absconded from the program and was considered a parolee at large. Hallstrom's relevant criminal record, including an arrest for resisting and failing to obey the lawful orders of police officers, was reviewed and considered in this case.

MOCK'S PRIOR CRIMINAL HISTORY

At the time of the incident, Mock was assigned to the Riverside Probation Department's Post-Release Community Supervision Program. Mock's relevant criminal record, including an arrest for assault and battery offenses against a police officer, was reviewed and considered in this case. Mock was also involved in a non-fatal officer-involved shooting with the Anaheim Police Department on Feb. 27, 2011.

MOCK'S POST-INCIDENT CONVICTION

Mock was charged for his role in this case by the OCDA, Case #13CF0893. On March 2, 2015, Mock pleaded guilty to violations of Vehicle Code sections 10851 [Unlawful Taking of a Vehicle], 2800.2 [Reckless Driving/Evading a Peace Officer], Health and Safety Code section 11377 [Possession of a Controlled Substance], and Penal Code section 148(a)(1) [Resisting a Peace Officer]. In addition, Mock admitted four sentencing enhancements pursuant to Penal Code section 667.5(b) [Prior Commitment to State Prison]. Mock was sentenced to six years in state prison. In pleading guilty, Mock provided the following factual basis for his plea:

"In Orange County, California, on 3/15/15 I willfully and unlawfully drove w/ disregard for safety of persons and property and w/ intent to flee a pursuing officer's motor vehicle. I also unlawfully took a 1998 Nissan without the consent of the owner and with intent to deprive owner of possession of car, and also unlawfully possessed methamphetamine, a controlled substance. I also willfully and unlawfully delayed on officer who was attempting to discharge the duty of his office and employment. At the time of the commission of the above offenses, I was released from custody on bail in case# 13WF0363."

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 necessarily used in arresting persons who are "charged with a felony" and who are fleeing from justice or resisting such arrest. Section 196 applies both where the suspect in question is "charged with a felony" and where the officer has "reasonable cause" to believe that the person has committed a felony. (*Kortum v. Alkire* (1977) 69 Cal.App.3d 325, 332.) The felony must involve violence or the threat of violence. (*Id.* at 333.)

California Penal Code Section 197 provides that the use of deadly force by any person is justifiable when used in self-defense or in defense of others.

California Penal Code Section 835a allows any police officer who has reasonable cause to believe that a person to be arrested has committed a felony [public offense] to use reasonable force to effect the arrest, to prevent escape, or to overcome resistance. The section further provides that a police officer "who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance." The Court of Appeal in *Kortum* further held that deadly force against a fleeing felony suspect is justifiable only when the felony "is of the violent variety, *i.e.*, a forcible and atrocious one which threatens death or serious bodily harm, or there are other circumstances which reasonably create a fear of death or serious bodily harm to the officer or to another." (*Kortum v. Alkire, supra*, 69 Cal.App.3d at p. 333.)

In addition, Penal Code section 834a requires that if a person has knowledge, or by the exercise of reasonable care, should have knowledge, that he is being arrested by a peace officer, that person must refrain from using force or any weapon to resist such arrest.

Similarly, the relevant Criminal Jury Instruction as written by the Judicial Council of California and set forth in CALCRIM 3470 permits a person being assaulted to defend himself from attack if, as a reasonable person, he had grounds for believing and did believe that bodily injury was about to be inflicted upon him or upon another person. In doing so, such person may immediately use all force and means which he believes to be reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to defend against that danger and to prevent the injury which appears to be imminent.

The law as detailed in CALCRIM 3470 and in well-settled case law therefore permits a person, if confronted by the appearance of danger which arouses in his/her mind, as a reasonable person, an honest fear and conviction that he/she or another person is about to suffer bodily injury, to act in self-defense or defense of others upon such appearances, and from such fear and honest convictions. The person's right of self-defense is the same whether the danger is real or merely apparent. (*People v. Jackson* (1965) 233 Cal.App.2d 639, 641-642.)

Nevertheless, the above justifications must be interpreted in light of United States Supreme Court precedent that limits the right of a police officer to use deadly force. (*People v. Martin* (1985) 168 Cal.App.3d 1111, 1124.) Thus, in *Tennessee v. Garner* (1985) 471 U.S. 1, 3, the United States Supreme Court ruled that a police officer is entitled to use deadly force only when “the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.”

This limitation was, however, clarified subsequently by the United States Supreme Court in the seminal case of *Graham v. Connor* (1989) 490 U.S. 386, wherein the Supreme Court explained that an officer’s right to use force [*i.e.*, his/her weapon] is to be analyzed under the Fourth Amendment’s “objective reasonableness” standard. The Supreme Court further stated that the determination of the reasonableness of an officer’s use of force “must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation” (*Id.* at 396-397.)

LEGAL ANALYSIS

In order for Officer Picone or Officer Rodriguez to be justly and lawfully charged with and convicted of a crime in this incident, it would be the prosecution’s burden to prove beyond a reasonable doubt that the officers did not act in reasonable and justifiable self-defense or defense of others when they shot at Mock and Hallstrom. A review of the evidence shows that Officers Picone and Rodriguez faced analogous situations in their dealings with Mock and Hallstrom, so they will be addressed together.

As applicable to the facts in this case, the justification of self-defense or defense of others has several legal elements:

1. Officers Picone and Rodriguez actually believed themselves or others to be in imminent danger of being killed by Mock and Hallstrom;
2. Officers Picone and Rodriguez reasonably believed that the immediate use of force was necessary to defend themselves or others against Mock and Hallstrom; and
3. Officers Picone and Rodriguez used no more force than was reasonably necessary to defend themselves or others against the dangers posed by Mock and Hallstrom.

We will analyze these elements in turn.

1) Actual belief in necessity of self-defense

The question here concerns the state of mind of Officers Picone and Rodriguez – did they actually believe that Mock and Hallstrom posed a danger to them? Certainly, they claimed to have believed so: in their statements to investigators days after the shootings, both officers said that they shot at Mock and Hallstrom because they believed that Mock and Hallstrom were armed and were preparing to fire at them. Of course, a person’s statement about his own actions – especially after there has been time to reflect – could be the product of self-serving motives. Therefore, it is important to consider other sources of evidence to see whether they are consistent with the claims of Officers Picone and Rodriguez. Here, we find that there is sufficient evidence to corroborate their claims of self-defense.

Though no witnesses interviewed by the OCDA saw the actual moment when either Mock or Hallstrom reached toward their waistbands, witnesses corroborated much of the officers’ statements. Witnesses described hearing police sirens and seeing flashing lights outside the area of Grand Avenue and 15th Street, corroborating Officer Picone’s and Officer Rodriguez’s

statements that Mock refused to pull his car over when the officers attempted to stop his vehicle. One witness stated that he heard Officer Rodriguez tell Hallstrom to stop and get down, but Hallstrom continued running away in disobedience of Officer Rodriguez's orders.

Both officers stated that they saw Hallstrom bend over while he was still in the Nissan. They were both aware of a previous officer involved shooting in Santa Ana in which an AK47 had been used by gang members, and the tattoos on Mock's and Hallstrom's bodies indicated that they could be part of a white supremacist gang. Given their extensive experience with gang-related violence, it is reasonable to conclude that both Officer Picone and Officer Rodriguez actually believed that Mock and Hallstrom posed a threat to themselves as well as to the residents of the neighborhood around 15th Street and Grand Avenue.

2) Reasonableness of belief that Mock and Hallstrom posed imminent danger

The second requirement for establishing the justification of self-defense is proof that the beliefs held by Officers Picone and Rodriguez that Mock and Hallstrom posed an imminent danger were reasonable under the circumstances. In this case, when the officers attempted to pull the Nissan over, Mock sped away on the shoulder of the I-5. The Nissan almost collided with a car as it came down the Grand Avenue off-ramp, and Officer Rodriguez described the Nissan as being driven with absolute disregard for the safety of others on the road. Officer Rodriguez saw Hallstrom lean down to reach for something under the passenger seat, and he reasonably believed that Hallstrom was reaching for a gun while attempting to flee from the police. Moreover, when Officer Rodriguez began chasing Hallstrom down the street, he saw Hallstrom reach toward his waistband, a place where he knew suspects might hold firearms.

Officer Picone described Mock's driving as a serious danger to other drivers on the I-5 and on Grand Avenue as well as to pedestrians around Grand Avenue. He thought that Mock's incessant acceleration and breaking was an attempt to crash his car into the patrol car. When Mock deliberately pulled over onto the curb, Officer Picone reasonably believed that Mock intended to exit his vehicle and engage in gunfire with the officers. Likewise, when Mock was on foot looking back at Officer Picone and reaching toward his waistband, Officer Picone reasonably believed, based on his experience, that Mock was going to pull out a firearm and endanger his life or the life of others in the surrounding residential area.

Thus, there is sufficient evidence to support the reasonableness of Officer Picone's and Officer Rodriguez's beliefs that Mock and Hallstrom posed an imminent danger.

3) Reasonable force

The third element required to establish the justification of self-defense is that the force used is no greater than necessary to deal with the apparent danger. Here, the danger reasonably apparent to Officers Picone and Rodriguez was that Mock and Hallstrom, after driving erratically and unsafely in an effort to flee from police, made moves as though they were reaching for handguns. Under these circumstances, it was not disproportionate for Officers Picone and Rodriguez to respond with deadly force. Both officers were faced with an apparent deadly threat, and each responded with proportionate force. As the Court of Appeal held: "The test is highly deferential to the police officer's need to protect himself and others. . . In calculating whether the amount of force was excessive, a trier of fact must recognize that peace officers are often forced to make split-second judgments, in tense circumstances, concerning the amount of force required." (*Brown v. Ransweiler* (2009) 171 Cal.App.4th 516, 527.)

There is no evidence of express or implied malice on the part of any SAPD officer in this case. Accordingly, the only possible type of homicide to analyze in this situation is murder or manslaughter under the theory of failure to perform a legal duty. Although the SAPD owed Mock and Hallstrom a duty of care, the evidence does not support a finding that this duty was breached, either intentionally (as required for murder) or in a criminally negligent way (as required for involuntary manslaughter). On the contrary, all of the available evidence supports the finding that Hallstrom and Mock were appropriately treated by the officers at the scene and while at the hospital. Hallstrom's surgeon extracted the bullet in the abdominal wall through a surgical opening in Hallstrom's chest. During surgery, the damage to Hallstrom's diaphragm was repaired, and a drainage tube was inserted into Hallstrom's chest. Due to damage from the bullet, a large portion of Hallstrom's liver was removed during surgery. Two additional surgeries were performed upon on Hallstrom in an attempt to control bleeding and to install drainage tubes for fluid removal. Despite three surgeries, Hallstrom's lungs progressively worsened and continued to fill with fluid. Hallstrom was transported to the WMCSA Intensive Care Unit for continued care. On March 23, 2013, at approximately midnight, Hallstrom died as a result of his injuries. All of the evidence indicates that Mock was treated appropriately for his injuries and survived.

CONCLUSIONS

In order to justly charge and convict Officer Picone or Officer Rodriguez of any crime in connection with this incident, it would be the prosecution's burden to prove beyond a reasonable doubt that they did not act in self-defense or in the defense of others when they shot at Mock and Hallstrom. In accordance with the foregoing discussion, the prosecution would be unable to carry the burden of proof beyond a reasonable doubt in this case. A jury analyzing these facts would likely and justly find that it was reasonable for Officers Picone and Rodriguez to use the force that they did in this circumstance.

Therefore, based upon a review of all of the evidence provided to and obtained by the OCDA, and pursuant to the applicable legal principles, it is our legal opinion that the evidence does not support a finding of criminal culpability on the part of Officer Picone or Officer Rodriguez, and there is sufficient evidence showing that the officers' actions were reasonable and justified under the circumstances when they shot Mock and Hallstrom on March 15, 2013.

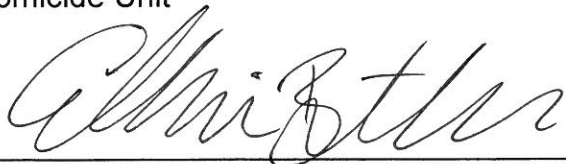
Accordingly, the OCDA is closing its inquiry into this incident.

Respectfully submitted,



MICHAEL MURRAY

Senior Deputy District Attorney
Homicide Unit



Read and Approved by **EBRAHIM BAYTIEH**

Assistant District Attorney
Supervising Head of Court – Special Prosecutions Unit