



OFFICE OF THE

DISTRICT ATTORNEY

ORANGE COUNTY, CALIFORNIA

TONY RACKAUCKAS, DISTRICT ATTORNEY

March 3, 2015

Chief Raul Quezada
Anaheim Police Department
425 S. Harbor Blvd.
Anaheim, CA 92805

Re: Officer-Involved Shooting on July 12, 2014
Non-Fatal Incident Involving Jose Luis Segura Jr.
District Attorney Case # SA 14-011
Anaheim Police Department Case # 14-98620
Orange County Crime Laboratory Case # FR 14-49321

JIM TANIZAKI
SENIOR ASSISTANT D.A.
VERTICAL PROSECUTIONS/
VIOLENT CRIMES

JOSEPH D'AGOSTINO
SENIOR ASSISTANT D.A.
GENERAL FELONIES/
ECONOMIC CRIMES

MICHAEL LUBINSKI
SENIOR ASSISTANT D.A.
SPECIAL PROJECTS

JAIME COULTER
SENIOR ASSISTANT D.A.
BRANCH COURT OPERATIONS

CRAIG HUNTER
CHIEF
BUREAU OF INVESTIGATION

LISA BOHAN - JOHNSTON
DIRECTOR
ADMINISTRATIVE SERVICES

SUSAN KANG SCHROEDER
CHIEF OF STAFF

Dear Chief Quezada,

Please accept this letter detailing the Orange County District Attorney's (OCDA) Office's investigation and legal conclusion in connection with the above-listed incident involving on-duty Anaheim Police Department (APD) Officer Jonathan McClintock. Jose Luis Segura Jr., 20, survived his injuries. The incident occurred in the City of Anaheim on July 12, 2014.

OVERVIEW

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the July 12, 2014, non-fatal, officer-involved shooting of Segura. 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 APD 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 July 12, 2014, Investigators from the OCDA Special Assignment Unit (OCDASAU) responded to this incident. During the course of this investigation, six interviews were conducted, and 62 additional witnesses were contacted during the supplemental canvass interviews. OCDASAU Investigators also obtained and reviewed the following: APD 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 Segura; criminal history records related to Segura, 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 on the part of APD officers or personnel, specifically Officer McClintock. The OCDA will not be addressing issues of policy, training, tactics, or civil liability.

REPLY TO: ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE

WEB PAGE: www.OrangeCountyDA.com

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

☐ ☐ ☐ NORTH OFFICE
1275 N. BERKELEY AVE.
FULLERTON, CA 92631
(714) 773-4480

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

☐ ☐ ☐ HARBOR OFFICE
4601 JAMBOREE RD.
NEWPORT BEACH, CA 92660
(949) 476-4650

☐ ☐ ☐ JUVENILE OFFICE
341 CITY DRIVE SOUTH
ORANGE, CA 92668
(714) 835-7624

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

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 custodial death cases 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. Officer McClintock gave a voluntary statement to OCDA Investigators on July 15, 2014.

FACTUAL SUMMARY

In the weeks leading up to the incident, there had been several gang-related shootings in an Anaheim area known to be a claimed territory of a Hispanic criminal street gang (Gang A). The victim of one of the shootings told an APD detective that on July 7, 2014, at approximately 11:00 p.m., he witnessed a shooting in the alley near 859 South Olive Street. The victim was sitting outside his residence when he saw a silver Chrysler 4-door sedan drive past his residence with the lights turned off. The vehicle's windows were rolled down, and the victim observed four to five males inside the vehicle. The victim also observed two of the males' arms outside of the vehicle, holding handguns. One of the occupants fired a round into the air and another occupant yelled, "Travelers," referring to another Anaheim Hispanic criminal street gang (Gang B). Gang A and Gang B are rival gangs, and during the years preceding the incident, there has been an increase in graffiti from each gang in the other's claimed territory.

On July 10, 2014, as gang investigators were securing an address for a search warrant within Gang B claimed territory in an unrelated case, APD Investigator Ryan Killeen saw a vehicle matching the description of the vehicle involved in the July 7, 2014, shooting drive past his location. Investigator Killeen checked the license plate on the vehicle and determined that it was a silver 2004 Chrysler Sebring 4-door sedan registered to John Doe 1, a documented Gang B gang member who, at the time of this incident, was out of custody on bail for possession of a loaded firearm with gang charges and enhancements.

On the following night, July 11, 2014, at approximately 11:30 p.m., APD gang unit investigators were in the area of John Doe 1's residence in an attempt to locate his vehicle. While APD Investigator Jamie Pietras patrolled the area east of John Doe 1's residence, Investigator Pietras observed a gray 1995 Honda Civic 4-door sedan double-parked on East Haven Drive. Investigator Pietras recognized this vehicle as belonging to John Doe 2, a documented Gang B gang member. John Doe 2 drove the vehicle out of the residential area and stopped at a convenience store before continuing to the area of East Mills Street and North Claudina Street in the City of Anaheim.

APD gang investigators followed the vehicle and saw John Doe 2 and another male, later identified as Segura, exit the vehicle. John Doe 2 and Segura walked to the area near the rear of either 201 or 207 East Mills Street. Investigator Pietras believed they might have been walking to the rear of 920 North Claudina Street, a known Gang B meeting location. As APD gang investigators began to set up surveillance, Investigator Trang Pham observed that John Doe 2 had parked his vehicle in front of John Doe 1's vehicle.

Approximately one hour later, on July 12, 2014, Investigator Pietras observed the lights of John Doe 1's vehicle turn on and off, as if someone had used a remote key fob to unlock the vehicle. John Doe 1 and John Doe 2 approached John Doe 1's vehicle from the area of 201 and 207 East Mills Street. John Doe 1 opened the driver's door to his vehicle and reached inside as if he was placing or removing something. He then closed his driver's door and walked over to the passenger side of John Doe 2's vehicle. John Doe 1 stood there for a few seconds and then walked back to the front passenger door of his vehicle. John Doe 1 opened the front passenger door and leaned inside as if he was placing or removing something from the vehicle. He then walked back to the passenger side of John Doe 2's vehicle. John Doe 1 stood there for a few seconds before he returned to his vehicle and entered the driver's seat area.

John Doe 2 drove away and made a U-turn, heading north on Claudina Street. Shortly thereafter, John Doe 1 drove his vehicle eastbound on East Mills Street. APD gang investigators followed John Doe 1 and directed APD Patrol Officers Jonathan McClintock and Brian Snowden to conduct a traffic stop on John Doe 2. Investigator Pietras further advised that John Doe 2 was on probation with search and seizure terms.

Officer McClintock observed John Doe 2 driving westbound with Segura in the front passenger seat. Officer McClintock recognized John Doe 2 from a prior encounter in which he had lied about his probation status, and Officer McClintock knew that John Doe 2 was an active Gang B gang member. When John Doe 2 stopped at the red light at Anaheim Boulevard, he failed to keep his vehicle behind the limit line, in violation of Vehicle Code Section 21453(a). Officer McClintock broadcast on the police radio that he was conducting a traffic stop and requested immediate assistance. Officer Snowden, who was on patrol at La Palma Avenue and North Claudina Street, assisted Officer McClintock. As they turned southbound on North Clementine Street, Officer McClintock activated his emergency lights and siren to conduct the stop.

John Doe 2 did not pull over immediately, and instead continued to slowly drive southbound on North Clementine Street, appearing to Officer McClintock as if he was looking for a place to run from his vehicle. John Doe 2 passed West La Verne Street and pulled to the west curb of North Clementine and stopped his vehicle. Officer McClintock parked his patrol vehicle approximately five to six feet behind John Doe 2's vehicle, and Officer Snowden parked his patrol vehicle behind Officer McClintock's vehicle. Both officers kept their vehicles' headlights illuminated to maximize visibility.

Officer McClintock walked to the driver's door of John Doe 2's vehicle while Officer Snowden walked to the front passenger door. John Doe 2 identified himself to the officers, but denied his probationary status. Officer McClintock instructed John Doe 2 to exit the vehicle, where he was handcuffed and escorted to the curb. Officer McClintock stood directly behind John Doe 2 and told Officer Snowden to have Segura exit the vehicle.

Segura exited the vehicle wearing a baggy T-shirt and baggy jeans. Officer Snowden asked Segura for permission to search his person for anything illegal, such as weapons or drugs, and Segura refused. Officer Snowden advised Segura that he was going to conduct a pat-down search for weapons because the vehicle may have been involved in a shooting. Officer Snowden had Segura stand on the grass area of the sidewalk, approximately four feet west of the front passenger door of John Doe 2's vehicle, and approximately six to eight feet southeast of Officer McClintock. Officer Snowden grabbed Segura's hands to control him during the search. When Officer Snowden slid his hand across the middle of Segura's front waistband, he felt a hard metal object which he immediately recognized as a handgun.

Officer McClintock observed Officer Snowden pause during the search, and based on his training and experience, Officer McClintock knew that the front waistband is a common place to conceal weapons. Accordingly, Officer

McClintock began walking south on the sidewalk towards Segura, and Officer Snowden lifted Segura's shirt approximately six inches above his waistband. Officer McClintock observed a black semi-automatic handgun secured in Segura's front waistband.

Officer Snowden yelled, "Gun, gun!" and Officer McClintock ran towards Officer Snowden. Segura freed his hands and spun into Officer Snowden. It appeared as if Segura was reaching toward the handgun in his waistband. Officer Snowden grabbed Segura's arms to prevent him from retrieving the weapon. Officer McClintock could not see Segura's hands while they were in his waistband, and he believed that Segura's only intention was to shoot the officers because Segura never stated that he had a weapon, he turned into Officer Snowden instead of turning away, and he continually pushed his body into Officer Snowden while reaching for his waistband.

Officer Snowden continued to struggle with Segura while moving from the sidewalk to the street, southeast of John Doe 2's vehicle. Officer McClintock un-holstered his department-issued handgun as he neared Officer Snowden but Officer Snowden was between Officer McClintock and Segura, thus preventing Officer McClintock from having a clear shot. Shortly thereafter, Officer Snowden and Segura fell to the ground and continued to struggle with one another. Eventually, Officer Snowden distanced himself from Segura enough to create a clear shot. Fearing that he and Officer Snowden were in imminent danger, Officer McClintock fired one round at Segura's mid-thigh to mid-torso area. After Segura was shot, Officer McClintock handcuffed Segura and Officer Snowden retrieved Segura's loaded handgun from the ground.

Officer Snowden broadcast the incident on the police radio while Officer McClintock observed John Doe 2 stand up. Officer McClintock believed that John Doe 2 was going to run towards them, so he grabbed John Doe 2 and placed him in the rear seat of his patrol vehicle. Officer McClintock requested paramedics to respond to the scene. Shortly thereafter, APD Police Officer Kenneth Johnson arrived on the scene and provided medical treatment to Segura.

During the struggle between Officer Snowden and Segura, Officer Snowden was injured and suffered abrasions and swelling on both knees, and a hematoma on the right side of his forehead.

Anaheim Fire Department (AFD) Engine 1 arrived on scene. AFD paramedics cut Segura's clothing off and did a preliminary assessment of Segura's injuries. Segura had an apparent gunshot wound on his right buttocks and an apparent gunshot wound on his left hip area. A cervical collar was fastened around Segura's neck and he was placed on a backboard with his head immobilized to prevent spinal injury. The paramedics treated and bandaged Segura's gunshot wounds. Segura was transported by ambulance to UC Irvine Medical Center (UCIMC) in the City of Orange where he was released to UCIMC Emergency Room personnel.

The attending trauma surgeon at UCIMC observed that Segura was conscious, breathing on his own, communicating with medical personnel, in stable condition, and experiencing abdominal pain. The surgeon further observed blood in Segura's rectum, indicating the bullet had entered his gastrointestinal (GI) tract, which required surgery. Segura had two gunshot wounds on his back; one next to the left hip bone and one next to the right hip bone. The surgeon concluded that the two gunshot wounds were from a single bullet, but he could not determine which wound was the entrance wound and which was the exit wound.

Segura was subsequently transferred to the operating room for surgery. During surgery, the surgeon located one gunshot wound eight centimeters above the anus. After surgery, Segura was transferred to the recovery department, where he received antibiotic treatment. Segura's condition remained stable and his prognosis was "good." No bullet or bullet fragments were recovered during the surgery.

On July 17, 2014, Segura was discharged from UCIMC and was transported by a Care Ambulance to the Orange County Sheriff's Department medical ward and was booked into custody for numerous crimes, including carrying a loaded firearm, street terrorism, and resisting a peace officer.

Segura refused to provide statements to law enforcement regarding the shooting incident.

EVIDENCE COLLECTED

The following items of evidence were collected from the scene:

- One cartridge casing, head stamp "WIN 9mm LUGER"
- One pair Levi's brand blue jeans
- One Mauser .25 caliber pistol. Serial #249035
- One brown wallet
- Possible marijuana from pant pocket

The following items of evidence were collected from Officer McClintock:

- Glock, Model 17, 9 mm semi-automatic pistol, serial #FBX416, with a Streamlight TLR-1 gun light, serial #C4-275909, mounted under the barrel
- One Win Luger 9mm cartridge from the chamber
- One 17-cartridge capacity magazine from the pistol containing 16 Win Luger 9mm cartridges
- Two 17-cartridge capacity magazines loaded to capacity with Win Luger 9mm cartridges

EVIDENCE ANALYSIS

Firearms Examination

Officer McClintock's Glock Model 17, 9mm Luger caliber pistol was test-fired at the Orange County Crime Lab and operated without malfunction. Similarly, Segura's Mauser M1910, .25 caliber handgun was test-fired and operated without malfunction.

Cartridge Casings Examination

The single cartridge case collected from the scene was determined to have been fired from Officer McClintock's firearm.

Toxicological Examination

A sample of Segura's pre-transfusion blood collected and examined at UCIMC. The results of the toxicology screening came back negative for alcohol and drugs.

SEGURA'S PRIOR CRIMINAL HISTORY

Segura has a California Criminal History that dates back to 2012. Segura was previously arrested and convicted of a Domestic Violence related charge and Obstructing a public officer.

SEGURA'S POST-INCIDENT CONVICTION

On July 15, 2014, OCDA filed criminal charges against Segura in Orange County Superior Court case 14NF2935, charging him with the following felonies:

- Count 1: Penal Code section 69 – Resisting an deterring a peace officer
- Count 2: Penal Code section 25850(a)/(c)(6) – Carrying a loaded unregistered firearm in public
- Count 3: Penal Code section 25400(a)(2)/(c)(3) – Active gang member possessing a concealed firearm
- Count 4: Penal Code section 25400(a)(3)/(c)(6) – Causing a concealed firearm to be in a vehicle
- Count 5: Penal Code section 186.22(a) – Street Terrorism
- Counts 2-4: Penal Code section 186.22(b)(1) – Enhancement for criminal street gang activity

On Oct. 7, 2014, Segura pleaded guilty to Counts 1 and 5, and was sentenced to 365 days in jail and three years of formal probation.

STANDARD LEGAL PRINCIPLES IN OFFICER-INVOLVED SHOOTING CASES

Possible criminal charges against an officer involved in a non-fatal shooting include attempted murder [Penal Code Section 664/187]; 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's 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 APD Officer McClintock with Segura.

LEGAL ANALYSIS

The facts in this case are determined by considering both Officers McClintock and Snowden’s statements to the OCDA investigators, as well as other relevant material gathered during the investigation.

The issue in this case is whether the conduct of Officer McClintock on July 12, 2014, was criminal and without justification. As stated above, in order to charge Officer McClintock 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 McClintock 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 Officer McClintock’s actions 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 somewhat recent case, it is well settled that “unlike 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.)

Officer McClintock was justified in believing that Segura posed a significant threat of death or serious physical injury to Officer Snowden and him. This conclusion is based on the totality of the circumstances, including the conduct of Segura in the moments leading up to the shooting. Officer McClintock observed Officer Snowden pause while searching Segura’s waistband, and based on Officer McClintock’s training and experience, he knew that the front waistband is a common place to conceal weapons. While Officer McClintock approached Segura, Officer Snowden lifted Segura’s shirt approximately six inches above his waistband, revealing a handgun secured in Segura’s front waistband. Officer McClintock also heard Officer Snowden yell, “Gun, gun!” A struggle ensued between Segura and Officer Snowden, and at one point, both Officer Snowden and Segura fell onto the ground and continued struggling with one another. Officer McClintock believed that Segura intended to shoot them and feared that both he and Officer Snowden were in imminent danger because Segura was not compliant, never declared he had a weapon, struggled with Officer Snowden and continued to push his body into Officer Snowden, not away, while reaching for his waistband, which was where the gun was located. To minimize the threat, Officer McClintock waited for a clear shot to become available, and then he fired one single round at Segura’s mid-thigh to mid-torso area in order for him to eliminate the

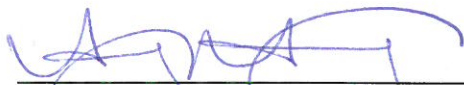
danger presented by Segura, who was armed and combative towards the officers. It will be unreasonable to conclude that Officer McClintock was not justified in acting in such a manner under the totality of the circumstances.

It should also be noted that, in order for Officer McClintock 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 McClintock did not act in reasonable and justifiable self-defense or defense of another when he shot at Segura. As should be apparent from the above-described analysis, the prosecution will be unable to carry this burden in this case. A jury analyzing these facts would justly conclude that it was reasonable for Officer McClintock to believe that his life and Officer Snowden's life were in danger. Therefore, Officer McClintock was justified when he shot at Segura. Simply stated, Officer McClintock did not commit a crime when he shot Segura.

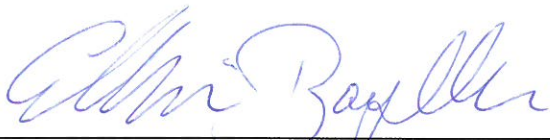
CONCLUSION

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 McClintock, and there is substantial evidence that his actions were reasonable and justified under the circumstances, when he shot Segura on July 12, 2014.

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



ANGELA HONG
DEPUTY DISTRICT ATTORNEY
SPECIAL PROSECUTIONS UNIT



READ AND APPROVED BY **EBRAHIM BAYTIEH**
ASSISTANT DISTRICT ATTORNEY
SUPERVISING HEAD OF COURT – SPECIAL PROSECUTIONS UNIT