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December 2, 2016

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

Re: Officer-Involved Shooting on March 6, 2016
Non-Fatal Incident involving Joseph Edward De La Riva
District Attorney Investigations Case # S.A. 16-012
Anaheim Police Department Case #16-36811
Orange County Crime Laboratory Case #16-43747

Dear Chief Quezada,

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 Anaheim Police Department (APD) Sergeant Daniel Gonzalez. Joseph Edward De La Riva, age 33, survived his injuries. The incident occurred in the City of Anaheim on March 6, 2016.

OVERVIEW

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the March 6, 2016, non-fatal, officer-involved shooting of De La Riva. 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 March 6, 2016, Investigators from the OCDA Special Assignment Unit (OCDASAU) responded to this incident. During the course of this investigation, 14 interviews were conducted, and 18 additional witnesses were contacted during the supplemental canvass interviews. OCDASAU Investigators also obtained and reviewed the following: APD reports, Tustin Police Department (TPD) reports, APD body-worn camera video recordings, APD Air Unit video recording, surveillance video, audio dispatch and radio traffic recordings; Orange County Crime Laboratory (OCCL) reports, including officer processing and firearms examination reports; crime scene investigation photographs; photographs related to the injuries sustained by De La Riva, criminal history records related to De La Riva, including prior incident reports; cell phone video recording, and other relevant reports and materials including audio recordings of the conducted neighborhood canvass.

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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 Sergeant Gonzalez. The OCDA will not be addressing any possible issues relating to 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 the OCDA does not release any information that may be viewed as prejudicial to the defendant's right to receive a fair trial while his case is 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, 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. Throughout the review process, the assigned prosecutor will be in consultation with the Assistant District Attorney supervising the Special Prosecutions Unit, who 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 is attempting to obtain a statement from the involved officer. Sergeant Gonzalez gave a voluntary statement to OCDA Investigators on March 10, 2016.

FACTUAL SUMMARY

In the evening of March 5, 2016, an officer from the TPD made contact with De La Riva. Based upon De La Riva's behavior and objective symptoms, he was arrested for being under the influence of a controlled substance and transported to the Orange County Jail (OCJ). De La Riva was placed in a temporary holding area for several hours before being released the next morning. After his release on March 6, 2016, De La Riva called his uncle, John Doe. De La Riva told Doe he did not know what was going to happen to him because APD, TPD, and gang members were following him and wanted to kill him.

At approximately 2:00 p.m. on March 6, 2016, De La Riva entered the Subway sandwich shop located at 1131 West Lincoln Avenue in Anaheim. Four separate surveillance cameras recorded the incident in the store. Subway employees Jane Doe 1 and Jane Doe 2, 18 years old and 17 years old, respectively, were working in the store that afternoon. Jane Doe 1 greeted De La Riva as he walked inside and asked if she could help him. De La Riva did not reply, turned around, and walked out of the store. Jane Doe 1 and Jane Doe 2 walked to the back office area and observed the front area through a two-way mirror. Both women thought De La Riva's behavior was strange and joked that he was planning to rob them.

Five minutes later, De La Riva walked back into the Subway store. He walked directly to the cashier counter and jumped over it. De La Riva grabbed two large kitchen knives from under the counter and walked to the back office area where Jane Doe 1 and Jane Doe 2 were standing. De La Riva confronted Jane Doe 1 and Jane Doe 2 with a knife in each hand. De La Riva raised his hand and made a stabbing motion towards them. De La Riva said, "I'm sorry, but I have to do this." De La Riva ordered both Jane Doe 1 and Jane Doe 2 to move toward the freezer area. De La Riva walked back towards the front of the store to check the area before grabbing a large stainless-steel bowl from the sink.

While the women were in the back, a male customer entered the Subway and waited near the counter. Initially, De La Riva stayed in the back office area, pacing back and forth, talking to himself. De La Riva then opened the door to the walk-in freezer and grabbed a large metal baking sheet. De La Riva walked behind the cashier counter and remained there for approximately one minute. The male customer continued looking at his cell phone, then left the store two minutes later. De La Riva walked back into the office area, out of sight from Jane Doe 1 and Jane Doe 2. Believing that De La Riva was gone, Jane Doe 2 walked toward the front of the store. De La Riva startled Jane Doe 2 when she saw him on the opposite side of the walk-in freezer. Jane Doe 2 put her purse on the counter and told De La Riva to take the money, if that is what he wanted. De La Riva said that he needed a car. Jane Doe 1 explained that neither of them drove a car.

When Jane Doe 2 asked De La Riva what was wrong, De La Riva told her, "They're going to kill me." De La Riva did not say to whom he was referring. De La Riva asked Jane Doe 2 for her cell phone and she handed it to him. De La Riva called his uncle, John Doe. Jane Doe 2 explained to De La Riva that he had to place the phone on speaker for it to work properly. De La Riva placed the phone on speaker and began speaking to his uncle, John Doe. De La Riva told his uncle, "I'm at Subway by the house. I have two girls and a knife to their throats. I'm going to die; they're going to kill me. I don't care if I die."

At 2:11 p.m., Jane Doe 2 dialed 9-1-1 on her cell phone without De La Riva's knowledge. Jane Doe 2 whispered to the dispatcher, "I need help," but the dispatcher was unable to understand her. Jane Doe 2 continued to whisper and the dispatcher repeated that she could not understand her. A few minutes into the call, the dispatcher understood that Jane Doe 2 was at Subway, but could not get any additional details from Jane Doe 2. Jane Doe 2 placed her cell phone in her pants pocket and left the phone line open. Most of the conversation heard on Jane Doe 2's cell phone was unintelligible; however, at one point De La Riva could be heard saying, "I'm at Subway by the house. I have a knife to these two girls' throats."

At 2:13 p.m., APD Officer Cory Reinmiller was dispatched to Subway for unknown trouble. Five minutes after being dispatched, Officer Reinmiller looked inside the Subway and saw De La Riva standing next to Jane Doe 1 and Jane Doe 2 with a knife in his hand. De La Riva looked in Officer Reinmiller's direction and pushed Jane Doe 1 and Jane Doe 2 toward the rear office area and out of sight. Officer Reinmiller advised over his police radio that there was a robbery in progress and additional officers were dispatched. Within minutes, several officers arrived on scene and cleared the area of bystanders. A team was assembled from police officers on scene in anticipation of having to rescue Jane Doe 1 and Jane Doe 2, and the Anaheim Fire Department (AFD) was requested.

At 2:23 p.m., De La Riva stood behind Jane Doe 1 and grabbed her shirt with his left hand while holding a knife in his right hand. Jane Doe 1 and Jane Doe 2 held hands with each other as De La Riva moved them, at knife point, toward the front counter. Then, De La Riva let go of Jane Doe 1's shirt, stepped away from her, and raised the knife to his chest. De La Riva walked towards Jane Doe 1 and Jane Doe 2 and forced them to slowly retreat toward the west end of the counter where there was no exit. De La Riva walked past Jane Doe 1 and Jane Doe 2 and looked over the counter. De La Riva started pointing towards the front door and pacing back and forth. At one point, De La Riva extended his right arm over the counter, swung the knife downward in a stabbing motion, and then pointed it toward the front door. As he was standing behind the counter, De La Riva grabbed a piece of bread off of the rack and started eating it.

Five minutes later, De La Riva moved Jane Doe 1 and Jane Doe 2 to the back area again. De La Riva walked next to Jane Doe 1 while holding a knife in his right hand near his chest with the blade pointed down. De La Riva held Jane

Doe 1's right forearm with his left hand while he forced them to the back. While they were standing in the back area, Jane Doe 1's manager called several times. Each time, Jane Doe 1 answered the phone and handed it to De La Riva. De La Riva told the manager he was busy and hung up the phone.

At 2:31 p.m., Jane Doe 1 told De La Riva that he should talk to the police and he agreed to do so. Jane Doe 1 dialed 9-1-1 and handed the phone to De La Riva. De La Riva spoke to an APD Officer and said he was at Subway and needed the police to come in and talk to him. At this time, De La Riva ordered Jane Doe 1 and Jane Doe 2, at knife point, to move away from the exit. When asked if he had weapons, De La Riva stated he had, "knives." When asked if De La Riva would drop the knives and talk to the officers, De La Riva said he, "can't, because I need them to shoot me in the head." The officer told De La Riva the officers did not want to do that and "we can work this out." De La Riva said, "I got to go, you guys aren't listening to me," and hung up the phone. De La Riva then stood in front of Jane Doe 1 and Jane Doe 2, blocking the front exit of the Subway shop. De La Riva handed Jane Doe 1 and Jane Doe 2 baking pans, which they used to shield themselves from De La Riva.

Outside the Subway, Officer Reinmiller used his patrol car public address system to communicate with De La Riva. Officer Reinmiller directed De La Riva to put his hands up, drop the knife, and come outside. Officer Reinmiller told De La Riva that he would not be hurt if he cooperated. Both Jane Does heard the commands, but De La Riva refused to comply. The other officers were nearby and assembling a team to enter the building. At 2:37 p.m., De La Riva, Jane Doe 1, and Jane Doe 2 walked through the door that leads from the back office to the dining area. All three of them held baking pans in front of them. Jane Doe 1 and Jane Doe 2 held each other's hands. De La Riva stood behind Jane Doe 1 and placed his left forearm across her throat and his right hand, with the knife, near her throat. Jane Doe 2 let go of the baking pan and grabbed De La Riva's right forearm with both hands. She attempted to push De La Riva's right arm away from her body. De La Riva overpowered Jane Doe 1 and brought the knife back towards her throat. During the struggle, Jane Doe 1 bit De La Riva on the right forearm. At the same time, Jane Doe 2 grabbed a hold of De La Riva's right arm. De La Riva let go of Jane Doe 1 and pulled Jane Doe 2 towards him by her right arm. De La Riva positioned himself behind Jane Doe 2 and placed his left arm across her throat. Both of the women struggled with De La Riva over control of the knife in his right hand.

At 2:39 p.m., Jane Doe 1 and 2 began to yell and scream frantically as they fought with De La Riva. The officers standing outside the building heard the screaming and decided to enter immediately. Sergeant Gonzalez was toward the front of the team and approached the front door of the Subway. Sergeant Gonzalez saw De La Riva holding a knife at Jane Doe 2. Another officer yelled at De La Riva to drop the knife. Sergeant Gonzalez, armed with an AR-15 rifle, opened the door and entered the Subway store and was approximately three to five feet from De La Riva, Jane Doe 1, and Jane Doe 2. When Sergeant Gonzalez entered the store, De La Riva still had the knife in his right hand, near Jane Doe 2's throat. Sergeant Gonzalez fired one shot at De La Riva. After the first shot, De La Riva did not immediately react. Sergeant Gonzalez fired another shot and De La Riva collapsed to the floor. Officers held De La Riva at gunpoint while Jane Doe 1 and Jane Doe 2 were taken outside to safety. De La Riva was trying to reach a knife next to him on the ground until an officer kicked it away. De La Riva was handcuffed and officers began administering first aid.

AFD transported De La Riva to the University of California, Irvine Medical Center (UCIMC) for medical care. During transport, De La Riva became combative and had to be restrained. De La Riva was treated for multiple gunshot wounds and was expected to recover.

VOLUNTARY STATEMENT OF SERGEANT GONZALEZ

Sergeant Gonzalez has been a sworn police officer for sixteen years. He has been a member of the SWAT team, and has received specialized training in hostage and rescue situations. On March 6, 2016, Sergeant Gonzalez was en route to the police station to provide training for other officers when he heard a radio call of a possible robbery in progress with a suspect armed with a knife and two employees. Sergeant Gonzalez was informed by dispatch that the suspect, later identified as De La Riva, had a knife and was using one of the women as a shield. Sergeant Gonzalez responded to the location to supervise and manage the incident.

When he arrived, Sergeant Gonzalez directed the other officers to take tactical positions best suited to protect the hostages. Sergeant Gonzalez was aware that De La Riva called 911, informing the dispatcher that he was armed and the police were going to have to shoot him. Sergeant Gonzalez was afraid that De La Riva would harm the hostages so the police would shoot him. It was difficult to see De La Riva and the women because of their changing locations in the store and the glare of the windows. Sergeant Gonzalez did not want to enter the store and preferred that De La Riva come out and peacefully surrender. To try and get De La Riva out of the store, an officer was making announcements on his vehicle's public announcement system, asking De La Riva to drop the knife and come out with his hands up, telling De La Riva if he came out, he would not get hurt. There was no response from De La Riva.

Sergeant Gonzalez heard a "horrible scream" coming from inside the Subway. Sergeant Gonzalez heard his Lieutenant yelling, "Go in," and thought that his Lieutenant might have seen De La Riva stabbing one of the women. Sergeant Gonzalez was afraid because he believed De La Riva was killing the hostages. When Sergeant Gonzalez opened the door, he described the scene as "complete chaos." Sergeant Gonzalez saw that De La Riva had a knife and the women were right in front of him, screaming and struggling to get away from De La Riva. De La Riva was very close to Sergeant Gonzalez, which placed him in a vulnerable position. Sergeant Gonzalez was in fear for his life and the lives of the hostages and officers coming in behind him. Sergeant Gonzalez saw an opportunity to fire a shot at De La Riva and fired a single shot. Sergeant Gonzalez believed the initial shot was ineffective because De La Riva was still holding the knife and both of the women were within stabbing distance. When Sergeant Gonzalez saw De La Riva's arm moving, he fired another shot. At this time, the hostages were able to separate from De La Riva and more officers came in through the door behind Sergeant Gonzalez. Sergeant Gonzalez believed the second shot was successful because De La Riva was on the ground and he did not need to fire a third time. After the shots, other officers were trying to restrain De La Riva. Sergeant Gonzalez saw De La Riva reaching for a knife on the ground and kicked it away.

EVIDENCE COLLECTED

The following items of evidence were collected and examined:

- Two cartridge cases head stamped "WCC 08"
- One knife with a blue handle
- One knife with a yellow handle
- One knife with a black handle
- Lead fragments

EVIDENCE ANALYSIS

Firearms and Projectile Examinations

Sergeant Gonzalez's Bushmaster rifle was test fired at the Orange County Crime Lab and fired without malfunction. The fired cartridge cases collected from Subway were determined to have been fired from Sergeant Gonzalez's rifle.

TOXICOLOGICAL EXAMINATION

A sample of De La Riva's blood was not collected for forensic testing.

DE LA RIVA'S PRIOR CRIMINAL HISTORY

De La Riva's criminal history was reviewed and considered. De La Riva has a California Criminal History that dates back to 1999. He has been arrested for burglary, being under the influence of a controlled substance, assault, battery, and violation of probation.

DE LA RIVA'S POST-INCIDENT CONVICTION

On March 8, 2016, the OCDA filed criminal charges against De La Riva in Orange County Superior Court case 16NF0735, consisting of two counts of felony kidnapping, in violation of California Penal Code section 207; two counts of felony aggravated assault, in violation of California Penal Code section 245(a)(1); and an enhancement for personal use of a deadly weapon, in violation of California Penal Code section 12022(b)(1). On December 1, 2016, De La Riva pleaded guilty to all the charges filed against him admitting that he kidnapped the victims and assaulted them with a deadly weapon. De La Riva was sentenced to eight years in state prison.

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 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 Anaheim Police Department Sergeant Gonzalez with Joseph De La Riva.

LEGAL ANALYSIS

The issue is whether the conduct of Sergeant Gonzalez, on March 6, 2016 was criminally culpable and without justification. As stated above, in order to charge Sergeant Gonzalez with a criminal violation, it is required that the prosecution have a good faith belief in the ability to prove, beyond a reasonable doubt, that no legal justification existed for his conduct and he did not act in lawful self-defense. If Sergeant Gonzalez's actions were justifiable as lawful self-defense or defense of others, then criminal charges will not be warranted.

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.)

In this case, and based on the totality of the circumstances, it is clear that Sergeant Gonzalez was justified in believing that De La Riva posed a significant threat of death or serious physical injury to Jane Doe 1 and Jane Doe 2, as well as to Sergeant Gonzalez and the other responding police officers. De La Riva held Jane Doe 1 and Jane Doe 2 hostage at knifepoint for close to 30 minutes. De La Riva called 911 and informed the police dispatcher that he had a knife, was holding the women hostage, and the officers needed to shoot him in the head. Sergeant Gonzalez was aware of De La Riva's declaration of intent and was afraid De La Riva would harm the women in addition to himself. Before he arrived on scene, Sergeant Gonzalez knew that an officer observed De La Riva with a knife, holding it up to the women and using the women as a shield.

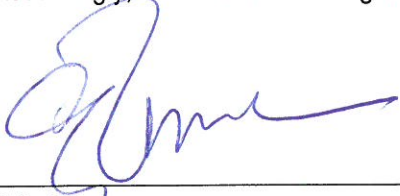
When Sergeant Gonzalez arrived, the hostages were still being held inside the store. De La Riva had ample time to surrender and ignored repeated public commands to drop the knife and let the women go. De La Riva continued to direct them around the store at knifepoint. Once he was near the front entrance, De La Riva held Jane Doe 1 and Jane Doe 2 by the neck while holding a knife to their throats. As the women struggled to break away from De La Riva, they began screaming. Sergeant Gonzalez heard the screaming coming from inside the store and believed De La Riva was harming the two women. This belief was objectively reasonable based on the totality of the circumstances. Sergeant Gonzalez, with his assembled team, proceeded through the front door with his AR-15 rifle pointed at De La Riva. As soon as he entered, Sergeant Gonzalez was in fear for the lives of Jane Doe 1 and Jane Doe 2 as he saw De La Riva still had the knife and was struggling with the women. Sergeant Gonzalez was within five feet of De La Riva when he fired the first shot. After the first shot, De La Riva was still holding the knife. Sergeant Gonzalez fired one more shot before De La Riva collapsed on the floor and the hostages were safely evacuated. It is clear that Sergeant Gonzalez acted lawfully and justifiably.

In order for Sergeant Gonzalez 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 Sergeant Gonzalez did not act in reasonable and justifiable self-defense, or defense of another, when he shot at De La Riva. As should be apparent from the above-described analysis, the prosecution would be unable to carry this burden in this case. A jury analyzing these facts would justly conclude that it was reasonable for Sergeant Gonzalez to believe that the lives of two innocent young women and his own life were in danger. Based on De La Riva's statements to the 911 dispatcher and his use of a knife to hold the women hostage, Sergeant Gonzalez's belief that their lives were in danger was justified, as was his use of deadly force when he shot De La Riva. Sergeant Gonzalez carried out his duties as a peace officer in a reasonable and justifiable manner; he did not commit a crime, but instead placed himself in danger to rescue the hostages from a significant and credible threat of serious injury or death.

CONCLUSION

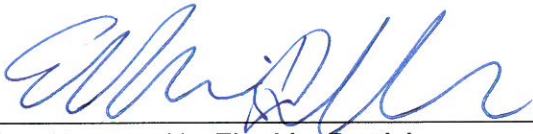
Based upon a review of all of the evidence provided to and obtained by the OCDA, and based on the entirety of the facts contained in all the available reports and interviews reviewed, and pursuant to the applicable legal principles, it is our legal opinion that there is no evidence of criminal culpability on the part of Sergeant Gonzalez, and there is overwhelming evidence that his actions were reasonable and justified under the circumstances when he shot De La Riva on March 6, 2016.

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



Erin Rowe

Deputy District Attorney
Special Prosecutions Unit



Read and Approved by **Ebrahim Baytieh**

Assistant District Attorney
Supervising Head of Court – Special Prosecutions Unit