



OFFICE OF THE

DISTRICT ATTORNEY

ORANGE COUNTY, CALIFORNIA

TONY RACKAUCKAS, DISTRICT ATTORNEY

September 20, 2017

Commissioner Joseph Farrow
California Highway Patrol
601 North 7th Street
Sacramento, CA 95811

Re: Officer-Involved Shooting on October 10, 2016
Fatal Incident involving Mauricio Andre Barron
District Attorney Investigations Case # 16-031
California Highway Patrol Case # 2016-02070
Irvine Police Department Case # 16-15534
Orange County Crime Laboratory Case # 16-56532

Dear Commissioner Farrow,

Please accept this letter detailing the Orange County District Attorney's (OCDA's) Office's investigation and legal conclusions in connection with the above-listed incident involving on-duty California Highway Patrol (CHP) Officer Daniel Agee. Mauricio Andre Barron, 27, died as a result of his injuries. The incident occurred in the city of Irvine on Oct. 10, 2016.

OVERVIEW

This letter contains a description of the scope and the legal conclusions reached in the OCDA's investigation of the fatal officer-involved shooting of Barron on Oct. 10, 2016. 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 evaluating whether CHP Officer Agee bears criminal culpability for 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 practices.

On Oct. 10, 2016, Investigators from the OCDA Special Assignment Unit (OCDASAU) responded to the scene of this shooting incident. During the course of this investigation, 10 interviews were conducted and recorded. OCDASAU Investigators also obtained and reviewed the following: CHP reports, photographs, audio dispatch and radio traffic recordings; Irvine Police Department (IPD) reports, photographs, audio dispatch and radio traffic recordings; Orange County Crime Laboratory (OCCL) reports, including toxicological examination, forensic alcohol examination, DNA typing, latent print examination, firearms examination reports, officer processing photographs, freeway scene photographs, hospital photographs and autopsy photographs; crime scene investigation photographs; criminal history records for Mauricio Barron; Orange County Coroner Investigator's photographs; Orange County Coroner's autopsy report with coroner investigator notes; and the Orange County Fire Authority (OCFA) incident report.

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) 834-3800

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

☐ WEST OFFICE
8141 13TH STREET
WESTMINSTER, CA 92683
(714) 696-7261

☐ 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

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 CHP officers or personnel, specifically Officer Agee. The OCDA will not be addressing any possible issues relating to policy, training, tactics, or civil liability.

INVESTIGATIVE METHODOLOGY

Among other duties, the OCDASAU is responsible for investigating officer-involved shootings within Orange County when someone is injured because 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, as well as 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 of an incident such as this is attempting to obtain a statement from the involved officers. Officer Agee gave a voluntary statement to OCDA Investigators on Oct. 11, 2016.

FACTUAL SUMMARY

On Wednesday, Oct. 5, 2016, Barron went to Duke's Bar in the city of Riverside. Barron told others he met a male subject by the name of "AK" and conversed with him throughout the night. Barron claimed they left Duke's Bar and went to La Michoacan Bar in the city of Highgrove. During the following days, Barron began acting paranoid, and he believed he was being followed and expressed concern that people were out to kill him. No further evidence was discovered to indicate whether or not Barron ever actually met anyone named "AK."

On Friday, Oct. 7, 2016, Barron went to work at Simpson Sand Blasting and Special Coatings as a painter. Two of his co-workers later stated Barron had been acting peculiar on that day. While Barron had generally been reliable and hardworking, on that day he appeared to be unfocused and listless. When asked if he was well, Barron replied that he was there but his mind was not. At the end of the day, Barron and his co-workers returned to their respective homes in Riverside, with Barron driving. At approximately 7:00 p.m., for unknown reasons Barron left two voice messages on Riverside Police Department (RPD) Sergeant A. Levesque's voicemail. In both messages, Barron identified himself and requested a return call. Sergeant Levesque was not on duty at the time and did not retrieve the messages until he returned to work on Tuesday, Oct. 11, 2016.

Barron spent that Friday night at his sister's house in Riverside. On Saturday, Oct. 8, 2016, at 1:02 a.m., Barron again contacted RPD to report he was being followed and advised that he was hearing suspicious noises coming from a vacant house nearby. Two officers responded to the call. The officers checked the vacant house but were unable to detect any noises or see anyone inside. The officers described Barron's demeanor as "off" or "paranoid," but they did not believe he presented a danger to himself or others.

Later on Saturday, Oct. 8, 2016, Barron accompanied his girlfriend, Jane Doe 1, to Long Beach, where Jane Doe 1 was to participate in a marathon the following day. That night they stayed together in a hotel but Barron did not sleep. Instead, he checked the windows throughout the night out of an apparent concern that there were people outside.

On Sunday, Oct. 9, 2016, while Jane Doe 1 was running in the marathon, Barron called her every hour to make sure she was safe. After the race, as they went to the parking garage, Barron expressed concern that people were going to block them in. Jane Doe 1 stated that Barron would have moments of calmness but would regress into a fearful, paranoid state. Out of concern for Barron, Jane Doe 1 called two of his friends, who picked him up in Long Beach and drove him to a mental health facility in Riverside. While waiting to see a doctor, Barron called his stepbrother, John Doe 1, saying he needed to be picked up and that it was a life or death situation.

John Doe 1 arrived and took Barron to John Doe 1's Riverside residence. During the drive and after arriving at John Doe 1's residence, Barron described his encounter with "AK" the previous Wednesday night. Barron described AK as a strange man who talked about ISIS, guns, bombs, and bullet proof vests. Barron also told John Doe 1 that people had been following him, the mafia had a contract on his head, and that people were communicating threatening messages to him through a look in their eyes or a nod of their heads. Thereafter, John Doe 1's brother, John Doe 2, picked Barron up and brought him to his residence in the city of Crestline, where John Doe 2 and his father, John Doe 3, resided. John Doe 3 later advised the police that Barron seemed fine when he first arrived but then started recounting his encounter with "AK," at which time he began acting very strange and indicated to John Doe 3 that he was in a really bad place. John Doe 3 became so concerned about Barron's behavior that when he went to bed that night he borrowed one of his son's handguns and locked the bedroom door. John Doe 3 kept the handgun on the night stand next to his bed because he was afraid Barron might "go off" and he wanted to be able to protect himself if Barron kicked down the door. That evening, Barron contacted his co-workers to let them know he would not be coming into work on Monday because he had to take care of some personal issues.

On Monday, Oct. 10, 2016 at approximately 5:00 a.m., John Doe 2 drove Barron to his sister's house. When they arrived, Barron was acting strange and asking for his mother, who came over to the house as well. Barron's paranoid conduct escalated. When he began making incoherent claims about debts he owed and threats to his safety, his mother called 911 in an effort to get him psychiatric treatment. During this phone call, John Doe 1 called the house to see how Barron was doing. John Doe 1 spoke to Barron and offered to go with him to the hospital. Although he was resistant at first, Barron eventually agreed to go to the hospital with John Doe 1. At approximately 11:15 a.m., John Doe 1 picked Barron up and left with him for Loma Linda Hospital, taking California SR-91 eastbound. John Doe 1 stated that he tried to talk to Barron but Barron was staring off into space and did not respond to him. After the two men left the house, Barron's mother discovered that a knife was missing from the kitchen and determined Barron had taken it.

While John Doe 1 was driving Barron to the hospital, Barron seemed apprehensive and nervous and then suddenly became very quiet. Barron then began to ask questions about John Doe 1's firearms. Barron continued asking about the firearms while John Doe 1 tried to calm him down and get to the hospital. Barron again became quiet and then produced a large kitchen knife, which he held above his head with the tip of the blade pointed toward John Doe 1. John Doe 1 perceived this as a threat and feared for his life. John Doe 1 slowed down, pulled to the center divider of the freeway and stopped. Barron continued asking John Doe 1 about the location of his firearms. As a ruse, John Doe 1 told Barron his guns were in the back of the vehicle. When Barron turned toward the back of the vehicle, John Doe 1 jumped out of the driver's door and ran to the back of the vehicle. When John Doe 1 reached the back of the vehicle, Barron was exiting the driver's side door as well. John Doe 1 avoided oncoming vehicles and ran across the freeway to the shoulder. Barron returned to the vehicle and drove away. At 11:43 a.m., CHP began receiving calls about a man with a knife chasing another man on the 91 freeway. CHP responded to the scene and located John Doe 1. John Doe 1 reported what had happened and the CHP documented the incident as a carjacking. The vehicle was found approximately two hours later by IPD Officer Gebert. The vehicle was stopped along the north curb of Alton Parkway in the city of Irvine, approximately .4 miles east of the intersection of Alton Parkway and the I-5 freeway. The vehicle was abandoned and the keys were still in the ignition. There was a tan plastic grocery bag on the floor board containing five or six empty beer bottles.

Officer Gebert spoke with Barron's mother, Jane Doe 2, several times over the following two hours. Jane Doe 2 related that Barron had been up for five days and that he was "not in his right mind." She recommended officers take caution when looking for Barron because she believed he was "a danger to himself and others right now" and was "not himself at all." Jane Doe 2 advised that family and friends had attempted to help Barron but he had been too belligerent. She believed that if officers had arrived while Barron was acting belligerent he would have fought them, and "everything would have been bad." She emphasized several times that Barron needed to be located.

At approximately 2:30 p.m., a civilian witness observed a subject later determined to be Barron sitting on a utility box at the southeast corner of the Barranca Parkway overcrossing at the I-5 freeway, less than one mile from where John Doe 1's vehicle had been abandoned. On the sidewalk next to the utility box, IPD officers located a red circle approximately two feet wide with an "X" painted inside, all of which appeared to be painted in blood. Near this location, officers also discovered a large kitchen knife, a jacket, a bloody Home Depot receipt, and several large red smears on a nearby wall. DNA analysis indicated the red circle and smears were created with Barron's blood.

At approximately 6:54 p.m., CHP dispatch personnel received numerous calls about a subject later determined to be Barron on the shoulder of the northbound I-5 freeway near Barranca Parkway. Some calls reported Barron standing near traffic lanes waving his arms in the air, appearing as if he was going to run into traffic. Other calls reported him walking into traffic with his eyes closed and his hands held out in front of him. At approximately 7:00 p.m., CHP Officers Townley and Gerber were dispatched to the area. They arrived at approximately 7:09 p.m. and began driving northbound on the I-5 freeway. The officers initiated a traffic break by activating their lights and siren. At this time, they observed Barron in the middle lanes of the northbound I-5 freeway. Barron looked in their direction and appeared to acknowledge their presence. Barron then ran westward across traffic toward the center of the freeway, and he then climbed over the concrete k-rail dividing the freeway and entered the southbound lanes of traffic.

Witnesses traveling on the southbound side of the freeway reported seeing Barron staggering between the high speed lane and carpool lane of the I-5 freeway, facing traffic and walking with his arms out to his side like an airplane. One motorist was traveling approximately 70 miles per hour when she observed Barron "walking out of the darkness ... toward my car." The motorist slowed to approximately 25 miles per hour when Barron lunged toward the front of her vehicle and was struck. The motorist later reported, "I am 100% positive that he was trying to get hit by my car."

Officer Townley, who witnessed the collision, observed that Barron remained on his feet and walked westward across the remaining lanes of southbound traffic until he reached the dividing line between the number four and number five lanes of traffic. By this time, traffic had slowed considerably. Barron continued to flail his arms as he walked in a southerly direction along the lane line. Witnesses stated they believed Barron was trying to walk in front of vehicles. At one point, in an apparent effort to get hit, Barron stood in front of a semi-truck waving his hands. The semi-truck slowed to a stop and, for a time, appeared to protect Barron from passing vehicles. Shortly thereafter, CHP Motorcycle Officer Agee responded to the scene. In response to reports that Barron had been hit and was running in the southbound traffic lanes, Officer Agee proceeded southbound toward Barron, past the traffic break that had been established by Officers Townley and Gerber. Officer Agee approached with his rear motorcycle lights on and observed Barron on the right shoulder of the freeway, approximately 50 feet south of the Barranca Parkway overcrossing, waving his hands in the air. When he was approximately 200 feet away from Barron, Officer Agee turned on the motorcycle's front emergency lighting equipment. Officer Agee also activated the police horn on his motorcycle in an effort to alert Barron that he was a law enforcement officer. Barron continued to jump around and throw his hands into the air.

Officer Agee unholstered his Taser and came to a stop with the motorcycle's headlight illuminating Barron. The lighting was dim, with a small amount of overhead light coming from the Barranca overpass. Officer Agee dismounted his motorcycle and immediately began giving Barron commands to stop moving. Barron ignored the commands and began walking at a fast pace toward Officer Agee, keeping his right hand concealed behind his back. Officer Agee drew his handgun and continued yelling at Barron, "Stop, stop, stop."

Barron walked quickly to within thirty feet of Officer Agee, whereupon Barron began yelling that he had a gun and was going to shoot. Barron continued approaching and announcing that he had a gun and was going to kill Officer Agee. Fearing that he would be shot, Officer Agee crouched behind his motorcycle, using the radio box on the back of his motorcycle as cover. Barron walked out of the light from the motorcycle's headlight and onto the dirt shoulder of the freeway. At this time, Officer Agee could only see Barron's silhouette. Barron continued to ignore Officer Agee's commands, refused to take his hand out from behind his back and turned his body, concealing his right side.

Officer Agee later stated that Barron appeared to be on a mission and seemed to have made up his mind that he was coming to get him. Ignoring repeated commands to stop, Barron continued approaching to within eight feet of Officer Agee. Due to Barron's path of travel, Officer Agee believed Barron was attempting to flank him and intended to shoot him. At this point, Barron "punched his arms out and locked out his elbows as if he had a firearm." Officer Agee indicated that at that moment he believed his life was in danger and that Barron was going to shoot him. Officer Agee fired three rounds at Barron, and Barron fell to the ground. Officer Agee remained crouched behind his motorcycle watching Barron for ten to fifteen seconds, waiting to see if he was going to get up.

Hearing the gunshots, Officers Townley and Gerber drove up to the location, notified CHP Dispatch of the officer-involved shooting, and requested additional police units and paramedics. Officer Gerber drew his handgun and provided cover as Officer Agee approached Barron. At this time, Barron was breathing but not moving. Officer Agee checked for a pulse and vital signs and began cardiopulmonary resuscitation (CPR) while Officer Townley retrieved a first aid bag. Barron was handcuffed as CHP officers provided medical assistance.

At approximately 7:20 p.m., OCFA personnel arrived. Barron's handcuffs were removed, and OCFA took over Barron's medical attention. Barron had a gunshot wound to his forehead and his breathing was labored. The emergency personnel also observed a number of deep lacerations on Barron's left wrist. At approximately 7:34 p.m., Barron was placed into a CARE Ambulance and he continued to receive medical treatment as the ambulance drove to Orange County Global Medical Center (OCGMC). At approximately 7:46 p.m., the CARE Ambulance arrived at OCGMC and Barron's care was transferred to the hospital's trauma personnel. Barron did not have a heartbeat when he arrived at the hospital. Trauma personnel took Barron into a trauma room, and hospital personnel began advanced life-saving measures. At 8:14 p.m., Barron was pronounced deceased by the attending physician.

EVIDENCE COLLECTED

The following items of evidence were collected from the scene and examined:

- One cartridge case head stamp "WIN, 40, S&W"
- One cartridge case head stamp "S/W, 40, R-P"
- One cartridge case head stamp "WIN, 40, S&W"
- One bloodstained white t-shirt with surgical cuts
- DNA swabs
 - Steering wheel and gear shift of Ford Bronco
 - Blood circle with "X" inside
 - Four swabs of concrete wall
 - Collar of blue denim jacket
 - Blood on knife blade
 - Blood on knife handle
- Blue denim jacket
- Receipt with blood
- Knife with blood
- 63 digital color photographs documenting the scene
- 76 digital color photographs documenting the scene on Oct. 11, 2016

The following items of evidence were collected from the hospital and examined:

- Green lighter
- Two fireworks
- Cut blue jeans with apparent blood
- Black boxer underwear with apparent blood
- Black boots with apparent blood

The following items of evidence were collected following the autopsy and examined:

- Bags from Barron's hands
- Fingernail swabs
- Deep muscle standard
- Bullet and fragments

Video footage of the freeway from Mazda North American Operations and Headquarters was collected but was later determined to have no evidentiary value.

AUTOPSY

On Oct. 13, 2016, Forensic Pathologist Dr. Yong-son Kim from the Orange County Coroner's Office conducted an autopsy on the body of Barron. Dr. Kim determined the cause of Barron's death to be a penetrating gunshot wound to the left forehead. Dr. Kim's report also noted the presence of multiple incisions on Barron's left inner lower arm, the most extensive of which measured 4 inches in length and 1 inch in width. The wounds are consistent with the slicing motion of a knife.

EVIDENCE ANALYSIS

Firearms and Projectile Examination

Officer Agee's .40 caliber Smith and Wesson pistol was test fired at the Orange County Crime Lab (OCCL) and fired without malfunction. The three fired cartridge cases found at the scene were scientifically determined to have been fired from Officer Agee's pistol. The projectile removed from Barron's head during the autopsy was an expanded and impact-damaged .40 caliber Winchester T-Series jacketed hollow point bullet. This bullet was determined to have been fired from Officer Agee's pistol.

Toxicological Examination

A sample of Barron's postmortem blood was collected by the OCCL. An Orange County Sheriff's Department forensic scientist examined the blood sample for alcohol, prescription drugs, and common drugs of abuse. The following results were obtained:

- Negative for the presence of drugs and alcohol.
- Negative for the presence of synthetic cannabinoids and psychoactive substances.
- Negative for the presence of LSD and Psilocybin.

BARRON'S PRIOR CRIMINAL HISTORY

Barron had no California Criminal History, and he had not previously been arrested for any crime.

STANDARD LEGAL PRINCIPLES IN OFFICER-INVOLVED SHOOTING CASES

Possible criminal charges against an officer involved in an on-duty 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, the prosecution must prove beyond a reasonable doubt that no legal justification existed for the officer's actions. (*People v. Adrian* (1982) 135 Cal.App.3d 335, 340-342). Such justifications are set forth in Penal Code sections 196, 197 and 835a, as outlined below.

California Penal Code section 196 provides that use of deadly force by a public officer is justifiable when necessary in the arrest of persons who are charged with a felony and who are fleeing from justice or resisting arrest. The felony must involve violence or the threat of violence. (*Kortum v. Alkire* (1977) 69 Cal.App.3d 325, 332.)

California Penal Code section 197 provides that the use of deadly force by any person is justifiable when resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person.

California Penal Code section 835a provides that any police officer who has reasonable cause to believe that a person to be arrested has committed a felony may use reasonable force to effect an arrest, to prevent escape, or to overcome resistance. Use of 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.)

As set forth in CALCRIM 3470, a person's use of force is justifiable if, as a reasonable person, he/she had grounds for believing and did believe that bodily injury was about to be inflicted upon him/her or upon another person. In doing so, such person may immediately use all force and means which he/she 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 therefore permits a person confronted by the appearance of danger that reasonably arouses in his/her mind 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. Whether a perceived danger is real or merely apparent, a person is entitled to self-defense if he/she "acted from reasonable and honest convictions." (*People v. Jackson* (1965) 233 Cal.App.2d 639, 641-642, citing *People v. Dawson* (1948) 88 Cal.App.2d 85.)

In *Tennessee v. Garner* (1985) 471 U.S. 1, the United States Supreme Court held that a police officer is entitled to use deadly force to prevent the escape of an apparently unarmed suspected felon only when it is necessary to prevent the escape and "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." (*Id.* at 3.) Claims regarding an officer's alleged excessive use of force in the course of an arrest, investigatory stop or other "seizure" of a person are to be analyzed under the Fourth Amendment's "objective reasonableness" standard. The calculus of reasonableness "must embody an 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." (*Graham v. Conner* (1989) 490 U.S. 386, 396-397.)

LEGAL ANALYSIS

Factual conclusions in this analysis have been reached after evaluation of Officer Agee's statements to OCDA investigators, witness interviews, forensic evaluation, physical evidence and other relevant material.

The main issue addressed in this letter is whether Officer Agee's conduct on Oct. 10, 2016, was lawfully justified or if he committed a crime. As stated above, if the actions of Officer Agee were justifiable as lawful self-defense or defense of others, criminal charges will not be warranted.

Officer Agee confronted Barron on the I-5 freeway knowing only that Barron had been acting in an erratic, unpredictable, and dangerous manner. Once Officer Agee made contact with Barron, it was very clear that Barron refused to obey commands to stop and aggressively approached Officer Agee, stating he had a gun and intended to shoot. Despite continued commands to stop, Barron approached to within eight feet of Officer Agee, who was taking cover behind his motorcycle. Barron then punched his hands out in front of him. Officer Agee stated that at that point he believed he would be shot and feared for his life. This belief on Officer Agee's part is clearly reasonable in light of all the circumstances. Barron's repeated claims that he had a gun, threats that he would use it to shoot Officer Agee, and his aggressive approach toward Officer Agee, coupled with his "punching" his hands in front of him created a reasonable belief in Officer

Agee that Barron posed a significant threat of death or serious physical injury. Officer Agee's belief that it was necessary to employ deadly force to stop this threat was therefore reasonable under the circumstances.

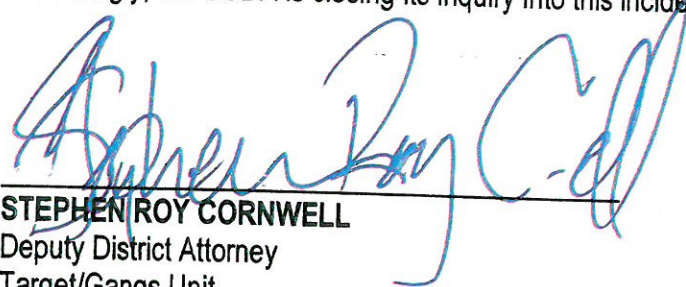
Barron's irrational conduct with Officer Agee was consistent with and corroborated by witness statements that describe Barron running onto the freeway and lunging in front of rapidly moving cars, as well as evidence that Barron cut himself a short time earlier and used his own blood to paint on the sidewalk. This is all further consistent with and corroborated by evidence that Barron was struggling with a significant mental illness of some kind in the days prior to his death. During that time, different members of Barron's family called the police multiple times, expressing concern for both Barron's safety and their own.

In order for Officer Agee to be justly and lawfully charged and convicted of any crime based on this incident, it is the OCDA's burden to prove beyond a reasonable doubt that Officer Agee did not act in reasonable and justifiable self-defense when he shot Barron. As is apparent from the above-described analysis, the prosecution would be unable to carry such a burden in this case. A jury analyzing these facts would justly conclude that it was reasonable for Officer Agee to believe that his life was in imminent danger. Therefore, Officer Agee was justified when he shot Barron. Simply stated, Officer Agee did not commit a crime, to the contrary, he carried out his duties as a peace officer in a reasonable and justifiable manner.

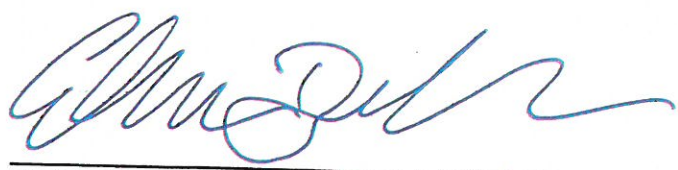
CONCLUSION

Based upon a review of all of the evidence provided to and obtained by the OCDA, and based on the entirety of the facts contained in all the available reports and interviews reviewed, and pursuant to the applicable legal principles, it is our legal opinion that there is no evidence of criminal culpability on the part of Officer Agee, and there is substantial evidence that his actions were reasonable and justified under the circumstances when he shot and killed Barron on Oct. 10, 2016.

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


STEPHEN ROY CORNWELL

Deputy District Attorney
Target/Gangs Unit


READ AND APPROVED BY EBRAHIM BAYTIEH

Assistant District Attorney
Supervising Head of Court – Special Prosecutions Unit