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July 16, 2014

Chief of Police Carlos Rojas
Santa Ana Police Department
20 Civic Center Plaza
Santa Ana, CA 92701

Re: Officer Involved Shooting on December 15, 2012
Non-Fatal Incident involving Ignacio Leon, Jr.
District Attorney Case # 12-031
Santa Ana Police Department DR # 12-36993
Orange County Crime Laboratory Case # 12-58683

Dear Chief Rojas,

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 Santa Ana Police Department (SAPD) Officer David Garcia. Ignacio Leon, Jr., Santa Ana, age 27 at the time, survived his injuries. The incident occurred in the City of Santa Ana on Dec. 15, 2012.

OVERVIEW

This letter contains a description of the scope of and the legal conclusions resulting from the OCDA's investigation of the Dec. 15, 2012, non-fatal officer-involved shooting of Leon. The letter includes an overview of the OCDA's investigative methodology and procedures employed, as well as a description of the relevant evidence examined, witnesses interviewed, factual findings, and legal principles applied in analyzing the incident and determining whether there was criminal culpability on the part of the SAPD 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 Dec. 16, 2012, Investigators from the OCDA Special Assignment Unit (OCDASAU) responded to this incident. OCDASAU Investigators interviewed 58 witnesses and obtained and reviewed the following: SAPD reports, audio recordings-dispatch and radio traffic recordings; Orange County Crime Laboratory (OCCL) reports, including firearms examination reports; crime scene investigation photographs; medical records and photographs related to the injuries sustained by Leon; criminal history records related to Leon, including prior criminal history records; and other relevant reports and materials including audio recordings of the conducted neighborhood canvass.

The OCDA conducted an independent and thorough investigation of the facts and circumstances of this incident and has impartially reviewed all evidence and legal standards available. The scope and findings of this review are expressly limited to determining whether any criminal conduct occurred on the part of SAPD officers or personnel, specifically Officer Garcia. The OCDA will not be addressing herein issues of policy, training, tactics or civil liability.

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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 statements from the involved officers. Officers Garcia and Daniel Alcala both provided separate, voluntary statements to the OCDA shortly after the incident.

FACTS

On Dec. 15, 2012, at approximately 11:00 p.m., Leon arrived at his mother's apartment on East Washington Avenue in Santa Ana. Leon was inebriated and began fighting with his girlfriend. The fight escalated until Leon's mother asked her two roommates to escort Leon out of the apartment. The roommates used physical force to bring Leon down the stairs and out of the apartment, and Leon's mother locked the door so he could not get back inside.

Around 11:43 p.m., a neighbor on East Washington Avenue heard a male and female arguing outside of her home. The neighbor also heard a crying child with the adults, and she called the SAPD to report the incident.

Leon returned to his mother's apartment. When he could not enter the building, he broke a window next to the door and fled northbound up the driveway toward his car. Another neighbor witnessed Leon walk toward his car with a black object larger than a cellphone in his right hand. Leon lifted up his t-shirt and placed the black object in his waistband. The neighbor then saw Leon turn and run southbound into the backyard behind his mother's apartment building.

At approximately 11:46 p.m., SAPD Officers Garcia and Alcala arrived at the residence on East Washington Avenue in response to the neighbor's report that a fight had occurred in front of her home. The Officers talked with a man and his wife inside the apartment building and determined the disturbance was not in the front house.

Upon exiting the building, Officer Garcia saw Leon suddenly run southbound on the driveway. Believing Leon may be related to the incident they were investigating, Officer Garcia yelled, "We have a runner!" Both officers ran after Leon into the backyard. When they arrived in the backyard, neither officer could see Leon, but they heard footsteps hitting the ground as though someone had jumped off a wall. They believed Leon jumped over the backyard wall in an attempt to escape. Officer Garcia maintained a position at the south wall of the backyard while Officer Alcala ran back to the street and west toward Lacy Street in an effort to cut off Leon's escape route.

Officer Garcia then heard movement on the other side of a wooden fence at the southwest corner of the yard. He climbed on top of a white table to see over the south wall but was unable to locate Leon. He then climbed on top of a washer/dryer unit in the southwest corner of the yard that was covered with plastic sheet, providing an unstable surface for Officer Garcia. Officer Garcia held his gun in his right hand and his flashlight in his left hand. Officer Garcia had his gun out because he did not know why Leon ran from the police or if Leon was involved in the disturbance they were investigating.

As Officer Garcia stood atop the washer/dryer and looked west, he saw Leon crouched down approximately four feet away from the fence. Leon had a dark jacket covering him, and his right hand was concealed in his front waistband. Officer Garcia shouted to Leon, "Let me see your hands. Santa Ana Police. Don't move." Leon did not acknowledge Officer Garcia's command but instead looked up and yelled, "F*** you, I'm going to kill you!"

Leon quickly advanced toward Officer Garcia and tugged at his [Leon's] front waistband with his right hand. Officer Garcia told Leon not to move and to show his hands several times. Officer Garcia saw Officer Alcala on North Lacy Street and yelled loudly so Officer Alcala could identify their location. Officer Alcala stated he could see Leon advance on Officer Garcia until Leon was within arms' reach of Officer Garcia.

Leon continuously disobeyed Officer Garcia's commands and repeatedly stated, "F*** you, I'm going to kill you." Officer Garcia continued to point his gun at Leon, and he stated he believed Leon was going to try and take his gun away from him. He saw Leon pulling on his waistband with his right hand. Leon then reached with his left hand toward Officer Garcia's gun, and Garcia told Leon once more not to move and then fired one round into Leon's chest.

Leon continued to advance on Officer Garcia, so Officer Garcia fired two more rounds. Leon then fell over the wall, into the adjacent parking lot on East Washington Avenue. The officers took Leon into custody in the parking lot and provided Leon with medical aid until Orange County Fire Authority (OCFA) arrived. No weapons were found in Leon's possession. OCFA personnel were instructed to wait until the scene was clear and treated Leon approximately two minutes after their arrival. Medical personnel determined that Leon was suffering from a gunshot wound to his right upper chest and another to his right upper abdominal area. Leon was immediately transferred to Western Medical Center – Santa Ana (WMC-SA), where he underwent surgery.

Leon was conscious and able to answer questions about his medical history, but he made no statements to medical personnel regarding the shooting incident.

Voluntary, Consensual Statement of Officer Garcia

Officer Garcia gave a voluntary, consensual statement to the OCDA on Jan. 7, 2013. At the time of the incident, Officer Garcia had been a police officer with the City of Santa Ana for approximately three years. The incident occurred during his regular work hours while Officer Garcia was armed with a .40 caliber Glock 22 pistol, three magazines, and a Taser.

Officer Garcia recalled being dispatched the night of Dec. 15, 2012, in response to an anonymous female caller saying she had heard an argument on East Washington Avenue. He arrived on the scene one to two minutes after being dispatched and saw a man at the entrance of the building. His partner, Officer Alcala, arrived shortly thereafter.

The officers knocked on the door of a residence on East Washington and were greeted by the man they had seen at the entrance. They asked him if he had seen anything regarding the phone call they had received, and the man said he heard fighting from either the street or the above apartment. He told the officers they could come inside. As he was about to step into the building, Officer Garcia recalled hearing someone crash or hit something against a vehicle. He turned around to see a man with a shaved head and dark clothing running southbound through the driveway. Officer Garcia saw the man, later identified as Leon, grabbing at his waistband. He believed Leon to be the person involved in the incident he was investigating.

Officer Garcia told Officer Alcala they "got a runner," and the officers began to chase Leon south through the backyard. Officer Garcia recalled seeing a different man walking in the area and another man smoking in the backyard, neither of whom he believed to be involved in the incident.

Officer Garcia heard somebody "kicking off," a sound he knew from training to be someone running away. He told Officer Alcala he believed Leon was running. Officer Garcia remembered turning to the smoking man, who indicated with a down/up movement that someone had jumped over the fence. Officer Garcia recalled telling Officer Alcala that Leon must be running west and that he would stay in the backyard while Officer Alcala moved toward Lacy Street.

When Officer Alcala headed toward Lacy Street, Officer Garcia stopped hearing noises. He moved to a table in the yard and climbed on it to get a view over the wall of the yard. He peered into the open parking lot and did not see Leon. He then stepped up onto a washer and began peering toward the easternmost part of the opposite side of the wall. He believed that within milliseconds he saw Leon squatting down about four feet away from where he was standing, on the opposite side of the wall. Officer Garcia stated that the washer was un-steady due to a plastic sheet covering it, and he could have fallen about four feet had he made a bad step in any direction. Officer Garcia described Leon as being covered with a dark jacket and having his hand tucked underneath the jacket. He thought Leon had a stare "like deer in the headlight." Officer Garcia told Leon he was a Santa Ana police officer and Leon needed to show his hands. Officer Garcia again said, "Show me your hands." He then thought that "it clicked" with Leon that the police were there, and Leon then shouted, "F*** you, I'm going to kill you!"

Officer Garcia stated that many times in his career he has had people tell him they were going to kill him. He continued to tell Leon to show his hands. He then saw Leon climb up the wall toward him. Officer Garcia stated that Leon was continuously tugging on his waistband, and he believed that Leon might have a gun or a knife. Officer Garcia also stated that Leon could have jumped over the wall easily and tried to flee, but he chose to advance. Officer Garcia stated that, because Leon insisted on advancing, there was "no doubt in [Officer Garcia's] mind that" Leon meant what he was saying - that he was going to kill Officer Garcia.

Officer Garcia recalled that Leon's body turned to a black silhouette as he climbed up the wall, due to a streetlight behind Leon. The last recollection Officer Garcia had of Leon was him saying, "F*** you, I'm going to kill you!" while pulling on his waistband and reaching his left hand toward Officer Garcia's gun. Officer Garcia believed his gun was about a foot and a half away from Leon at this point. He once more told Leon not to move, but Leon continued moving toward him. Officer Garcia then fired his gun once at Leon's chest.

When Leon continued to approach Officer Garcia, Officer Garcia fired two more rounds. Officer Garcia stated he was trained that if a suspect is going after an officer's gun, he is committed to killing; moreover, he learned that a suspect who has been shot can still advance and harm an officer. Officer Garcia recalled Leon shouting, "You got me," and jumping over the fence. Officer Garcia got on his radio and jumped over the wall to find Officer Alcala already there.

Voluntary, Consensual Statement of Officer Alcala

Officer Alcala gave a voluntary, consensual statement to the OCDA on Dec. 19, 2012. At the time of the incident, Officer Alcala had been a police officer with the City of Santa Ana for approximately two years and nine months. Prior to becoming an SAPD officer, Officer Alcala had been a deputy sheriff with the Los Angeles County Sheriff's Department for eight months. The incident occurred during his regular work hours. Officer Alcala recalled being dispatched on the evening of Dec. 15, 2012, around 11:45 p.m. to assist Officer Garcia in responding to an unknown trouble call. Dispatch had advised him that a male and female had been heard arguing while a child was crying on East Washington Avenue.

Officer Alcala and Officer Garcia arrived at the location simultaneously in different patrol cars. The officers approached the residence together and contacted a male resident. Based on the nature of the call, Officer Alcala was investigating possible domestic violence, and the officers entered the residence to speak to the resident's wife. The male resident told the officers he heard arguing coming from outside the house and a loud noise, and that several residents lived in the rear of the house.

Officer Alcala stated that as the officers exited the residence, they saw a male, later identified as Leon, run suddenly southbound toward the backyard. The officers chased him, not knowing if he was related to the dispatched call. Officer Alcala did not catch Leon, but saw two other men, one smoking and one in a red shirt. Officer Alcala then heard footsteps hitting the ground as though someone had jumped off a wall. He ran back to the front yard and west down Washington Avenue while Officer Garcia stayed in the backyard.

Officer Alcala reached Lacy Street and lost visual contact with Officer Garcia. He began checking underneath the cars on Lacy Street, in search of Leon. As Officer Alcala progressed southbound, he heard Officer Garcia yell, "Let me see your hands." He could see Officer Garcia shining his flashlight at someone in the alcove area of a garage structure on North Lacy Street. Officer Garcia was standing on something that elevated him over the fence of the backyard. Officer Alcala stated that he initially did not know to whom Officer Garcia was speaking. He moved toward Officer Garcia and suddenly saw Leon. Officer Alcala saw the back of Leon's head rising, then his torso and waist, as he quickly elevated himself toward Officer Garcia. He recalled that Leon was not responding to any of Officer Garcia's commands to stop moving and show his hands. Officer Alcala believed he saw Leon get within three feet of Officer Garcia, close enough to touch Officer Garcia. Officer Alcala stated he feared for Officer Garcia's safety but did not shoot at Leon because Officer Garcia was directly in his line of fire. He then heard Officer Garcia fire three shots at Leon. After the shots were fired, he saw Leon either jump or fall over the wall into the parking lot below.

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

Residents of the area East Washington Avenue provided the OCDA with voluntary statements regarding the shooting incident.

One resident on East Washington Avenue stated that Leon had been causing problems that night and that he had to escort Leon out of Leon's mother's residence. Leon broke the window next to the front door when he was escorted out. He watched Leon walk northbound toward his car, as if he were going to leave. As he turned to go upstairs, he saw Leon run into the backyard and heard him yell, "F***** cops." He saw Leon jump the back wall seconds before two police officers entered the backyard. The officers pointed a flashlight at the resident and determined that he was not the subject they were looking for. The resident then saw one officer leave the yard while another stayed. The resident again turned to walk upstairs to his apartment. When he was about three-quarters of the way up the staircase, the resident heard an officer yell, "Get out with your hands up," and turned to see Leon in the alcove next door. The resident stated that he saw Leon somehow climb on top of the block wall. Leon took two to three steps and yelled, "F*** you mother f*****!" at which point the officer shot Leon three times. The resident stated that Leon had consumed one large bottle of beer that night and left another inside the apartment.

Another resident on East Washington Avenue stated that Leon had been belligerent the night of Dec. 15, 2012, and that he and another resident had to physically force Leon out of the apartment. After getting Leon downstairs, this resident went to smoke a cigarette in the backyard. He heard Leon break a window while he was in the backyard. Approximately two to three minutes later, the resident saw Leon run through the backyard and heard Leon yell something about the police. He saw Leon jump over the backyard's south wall. The resident began to walk back to the stairs leading to his apartment when he saw two officers enter the yard holding flashlights. He did not see either officer holding a gun. One officer went out toward the street. Soon thereafter, the resident heard an officer yell, "Stop!" and heard two to three gunshots seconds later. He did not see who fired the shots.

A neighbor saw Leon and his girlfriend arguing outside from her bedroom window around 11:00 p.m. She saw Leon carrying a small child during the argument. Shortly afterward, she heard two loud "bang, bang" sounds that she believed were gunshots. She then saw Leon walk toward his car on Washington Avenue while holding a black object that was larger than a cell phone. As he neared the vehicle, he stopped, lifted his shirt, and placed the object in his waistband. She then saw Leon run southbound into a backyard on East Washington Avenue. She described Leon as looking surprised before he began to run. She described seeing two officers cautiously follow Leon into the backyard. Soon after she lost sight of the officers, she heard three gunshots. She stated that she feared Leon had shot the officers based on his earlier behavior.

Leon's Statements of Events

OCDA Investigators attempted to interview Leon regarding the shooting incident on Dec. 19, 2012, but he declined to be interviewed.

EVIDENCE COLLECTED AT THE SCENE

Forensic scientists employed by OCCL collected the following evidence:

In the backyard on East Washington Avenue:

- Three cartridge cases

In the parking lot on East Washington Avenue:

- Piece of torn black t-shirt
- Jacketed bullet fragment with apparent blood
- Torn black t-shirt with apparent blood
- Leon's work identification card and California state benefits card
- Medical marijuana card with picture of a Hispanic male

From WMC-SA:

- Bullet fragments removed from Leon during surgery

EVIDENCE ANALYSIS

Firearms and Cartridge Case Examinations

A forensic scientist employed by the Orange County Sheriff's Department examined the .40 caliber Glock Model 22 pistol used by Officer Garcia in this incident. The pistol was test fired and operated without malfunction. Three cartridge cases from the scene were determined to have been fired from Officer Garcia's firearm.

Gunshot Distance Estimation

The gunpowder particles and patterns as well as the bullet hole in Leon's t-shirt were examined. It was determined that Officer Garcia's pistol was fired at a distance of approximately 24 to 36 inches from Leon.

LEON'S PRIOR CRIMINAL HISTORY

Leon's prior criminal history includes convictions for grand theft, possession of explosive device in public, disturbing the peace, driving on a suspended license, carjacking, robbery, and assault with a deadly weapon.

LEON'S MEDICAL CONDITION

Upon arrival at WMC-SA, Leon was admitted for two gunshot wounds. One was a through-and-through wound to his right chest area, while the second was a wound to his right abdomen. After an X-ray and CAT scan, it was determined that Leon's chest did not need treatment. Leon underwent surgery for his abdominal wound, during which his gall bladder and part of his colon were removed. A projectile remained in Leon's back that the attending surgeon expected to be removed during a future surgery.

LEGAL PRINCIPLES AND ANALYSIS

Possible criminal charges against an officer involved in a shooting include attempted murder (PC 664/187), assault with a deadly weapon (PC 245), and assault by a police officer (PC 149). However, in order to lawfully charge and convict an officer of any of these offenses, it would be necessary to prove beyond a reasonable doubt that no legal justifications applied to the officer's actions. *People v. Banks* (1977) 67 Cal.App.3d 379, 383-84. Several 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. *People v. Kilvington* (1894) 104 Cal. 86, 89. The felony must involve violence or the threat of violence. *Kortum v. Alkire* (1977) 69 Cal. App. 3d 325, 333.

California Penal Code section 197 provides that 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 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." As with Penal Code Section 196, Section 835a only allows use of deadly force by the police officer when the suspect's felony involves violence or the threat of violence. *Kortum v. Alkire* (1977) 69 Cal.App.3d 325, 333. The *Kortum* court 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 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.

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.

This limitation was, however, subsequently clarified by the United States Supreme Court in the seminal case of *Graham v. Conner* (1989) 490 U.S. 386, wherein the Supreme Court explained that an officer's right to use force [i.e., his 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 evolving." *Id.* at 397. Thus, the Court cautioned that the "reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." *Id.* at 396.

The law as detailed in CALCRIM 3470 and in well-settled case law furthermore permits a person, if confronted by the appearance of danger which arouses in his mind, as a reasonable person, an honest fear and conviction that he 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.

The United States Supreme Court's analysis and teachings in *Graham, supra*, apply to the circumstances surrounding the interactions between Officer Garcia and Leon.

LEGAL ANALYSIS

In order for Officer Garcia to be justly and lawfully charged and convicted of a crime in this incident, it is the prosecution's burden to prove beyond a reasonable doubt that he did not act in reasonable and justifiable self-defense when he shot at Leon.

Officer Garcia's belief that Leon posed an imminent danger was reasonable under the circumstances. Officer Garcia saw Leon run after seeing the police. After finding Leon hiding on the other side of the fence, Officer Garcia repeatedly told Leon he was a police officer and that Leon needed to stop moving and put his hands up. Officer Garcia stated he feared for his life, given Leon's blatant disregard of his commands to stop, and because Leon advanced toward him, saying, "F*** you, I'm going to kill you." Officer Garcia saw Leon reach toward his waistband with his right hand. Officer Garcia was afraid Leon was reaching for a gun or a knife to use against him. Leon also reached out his left hand toward Officer Garcia's gun. Officer Garcia was trained that when someone is going after an officer's gun, they are committed to killing. When Leon came within two to three feet of Officer Garcia and told Officer Garcia he was going to kill him, Officer Garcia fired his weapon.

Officer Garcia's statements are corroborated by the statements of civilian witnesses. The civilian witnesses' statements indicate that they heard Officer Garcia tell Leon to show his hands and stop moving, and saw Leon continue to approach Officer Garcia after he had been told to stop. Officer Alcala's statements are also consistent with Officer Garcia's. Officer Alcala saw Leon get within three feet of Officer Garcia, close enough to reach out and touch him. From Officer Alcala's viewpoint, Leon's hands were in front of him. Officer Alcala believed Leon to be a danger and would have shot Leon if Officer Garcia had not been in his line of fire. Evidence analysis of Leon's t-shirt showed that Leon came within 24 to 36 inches of Officer Garcia, close enough to touch Officer Garcia or attempt to take the gun out of his hand.

Under these circumstances, Officer Garcia used reasonable force in self-defense. As the Court of Appeal held: "The test is highly deferential to the police officer's need to protect himself and others. . . In calculating whether the amount of force was excessive, a trier of fact must recognize that peace officers are often forced to make split-second judgments, in tense circumstances, concerning the amount of force required." *Brown v. Ransweiler* (2009) 171 Cal.App.4th 516, 527.

Despite Officer Garcia's commands to stop, Leon was rapidly approaching him, reaching for his waistband with one hand and Officer Garcia's gun with the other, while threatening to kill Officer Garcia. Under these circumstances, and based on Officer Garcia's training and experience, it was reasonable for Officer Garcia to fear for his life and respond with deadly force.

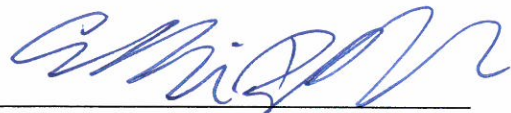
CONCLUSION

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, 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 Garcia, and there is substantial credible evidence that Officer Garcia's actions were reasonable and justified under the circumstances when he shot Leon on Dec. 15, 2012.

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



ERIN ROWE
DEPUTY DISTRICT ATTORNEY
Special Prosecutions Unit



Read and Approved by **EBRAHIM BAYTIEH**
Acting Assistant District Attorney
Head of Court - Special Prosecutions Unit