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DISTRICT ATTORNEY

ORANGE COUNTY, CALIFORNIA

TONY RACKAUCKAS, DISTRICT ATTORNEY

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BUREAU OF INVESTIGATION

LISA BOHAN - JOHNSTON
DIRECTOR
ADMINISTRATIVE SERVICES

SUSAN KANG SCHROEDER
CHIEF OF STAFF

December 10, 2013

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

Re: Officer Involved Shooting on September 27, 2012
Fatal Incident involving Jose Rodriguez
District Attorney Investigation Case # S.A. 12-024
Santa Ana Police Department DR # 12-28667
Orange County Crime Laboratory Case FR # 12-54594

Dear Interim Chief Rojas,

Please accept this letter detailing the Orange County District Attorney's (OCD A) Office's investigation and legal conclusion in connection with the above-listed incident involving on-duty Santa Ana Police Department (SAPD) Officers Gregory Stys and Robert Romero. Jose Rodriguez, 14, died as a result of his injuries. The incident occurred in the City of Santa Ana on Sept. 27, 2012.

OVERVIEW

This letter contains a description of the scope of and the legal conclusions resulting from the OCD A's investigation of the Sept. 27, 2012, fatal officer-involved shooting of Rodriguez. The letter includes an overview of the OCD A's investigative methodology and procedures employed, as well as a description of the relevant evidence examined, witnesses interviewed, factual findings, and legal principles applied in analyzing the incident and determining whether there was criminal culpability on the part of the SAPD officers involved in the shooting. The format of this document was developed by the OCD A, at the request of many Orange County police agencies, to foster greater accountability and transparency in law enforcement.

On Sept. 27, 2012, Investigators from the OCD A Special Assignment Unit (OCDASAU) responded to this incident. OCDASAU Investigators interviewed 37 witnesses and obtained and reviewed the following: SAPD reports, audio recordings and dispatch and radio traffic recordings; Orange County Fire Authority incident reports; Orange County Crime Laboratory (OCCL) reports including toxicology, forensic alcohol examination, latent print, officer processing and firearms examination reports; crime scene investigation photographs; medical records and photographs related to the injuries sustained by Rodriguez; prior criminal history records related to Rodriguez including prior incident reports; the personnel records of Officers Stys and Romero; and other relevant reports and materials including audio recordings of the conducted neighborhood canvass.

The OCD A conducted an independent and thorough investigation of the facts and circumstances of this incident and has impartially reviewed all evidence and legal standards available. The scope and findings of this review are expressly limited to determining whether any criminal conduct occurred on the part of SAPD officers or personnel,

specifically Officers Stys and Romero. The OCDA will not be addressing herein issues of 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 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. Prosecutors assigned to the Special Prosecutions Unit review the non-fatal officer-involved shooting cases for possible criminal filings. Throughout the review process, the assigned prosecutor will be in consultation with his or her supervisor, and this Assistant District Attorney will eventually review and approve any legal conclusions and resulting memos. The case may often be reviewed by multiple veteran prosecutors, their supervisors, the Chief of Staff, and the District Attorney. If necessary, the reviewing prosecutor may send the case back for further investigation.

An important part of the investigation of an incident such as this is attempting to obtain a statement from the involved officers. Officer Stys and Officer Romero provided voluntary statements to the OCDA on May 30, 2013.

FACTS

This section contains a factual overview of the events that led up to the fatal officer-involved shooting of Rodriguez on Sept. 27, 2012.

On Sept. 27, 2012, at about 8:15 p.m., Patricia Jaimes picked up her son, Jose Rodriguez, from a friend's house. While driving home, Jaimes noticed that her son acted "a little quiet." When they got home, Jaimes asked Rodriguez what was wrong and Rodriguez said that everything was going wrong and he did not want to discuss it.

A little later that night, Jaimes saw Rodriguez walking in the front yard of their home and talking on his cellphone. Around that same time, SAPD dispatch received a 911 call from a caller who identified himself as Rodriguez. This call was later determined to be from Rodriguez because the phone number of the caller was the same number as Rodriguez's cellphone. Rodriguez reported that he saw a man with a gun in the front yard of his residence on East Wisteria Place in Santa Ana.

Jaimes repeatedly asked Rodriguez to come back inside, but he refused. Jaimes saw that Rodriguez was holding what she thought was his BB gun. She asked Rodriguez what he was doing with the BB gun, but Rodriguez walked away from her. She yelled for her boyfriend, J.B. to come and help her with Rodriguez. When J.B. came outside to help, he saw Rodriguez standing in the street. He asked Rodriguez to come inside, but Rodriguez responded with, "I messed up." J.B. said Rodriguez's comments sounded "remorseful or sorry." J.B. got closer to Rodriguez and noticed that Rodriguez had a real, pump-style shotgun, not a BB gun. He told Rodriguez that it was a serious matter having the gun, that the cops were going to come, and that it was going to turn into a bad situation.

Not long after the 911 call was made, Officers Stys and Eric Majors were dispatched to the residence on East Wisteria Place. In addition to Officers Stys and Majors, Officers Romero, Pablo Sarabia, and Corporal Jesus De La Barcena responded to the call.

Officer Majors saw Rodriguez walking and holding a pistol-gripped shotgun in his right hand. He noticed Rodriguez was holding a cellphone and the forestock of the shotgun in his left hand. At this point, Officers Stys, Majors, and Romero had their guns drawn. The officers repeatedly yelled for Rodriguez to put the gun down. Rodriguez refused to comply and did not put the gun down. Rodriguez said something to the effect of, "Why does this always happen to me?"

J.B. said he heard one of the officers say to Rodriguez, "Let us help you." J.B. yelled, "Junior, drop the weapon – this is a mistake, don't make this mistake." Rodriguez did not comply. As the officers were yelling at Rodriguez to put the gun down, Officer Majors described Rodriguez as having a blank stare. Jaimes yelled to the officers that Rodriguez was only 14 and that the gun was not loaded. Jaimes thought the gun was a BB gun, and she knew that the BB gun would be unloaded because Rodriguez did not have any pellets for the BB gun. Officer Majors indicated that he did not know whether the gun was loaded.

The barrel of the shotgun at this point was pointed down. Officer Majors saw Rodriguez turn west toward Officer Stys and Corporal De La Barcena, who had taken cover behind a pick-up truck parked on the curb. Rodriguez was about 10 feet from Corporal De La Barcena, Officer Stys, J.B., and Jaimes. Corporal De La Barcena felt that their lives were in danger. Rodriguez then dropped the cellphone on the ground and re-gripped the forestock of the shotgun. As Rodriguez raised the shotgun, shots were fired from Officer Romero's location in the driveway and Officer Stys' location on the curb. Rodriguez sustained multiple gunshot wounds and died as a result of the shooting.

Voluntary Statement of Officer Stys

Officer Stys gave a voluntary statement to the OCDA on May 30, 2013. Officer Stys has been a police officer for over 21 years. On Sept. 27, 2012, Officer Stys was dispatched to a call regarding suspicious circumstances on East Wisteria Place, Santa Ana. Officer Stys reported to the location in his patrol vehicle. He was the first officer on the scene. Officer Stys waited for other SAPD officers to arrive. Within a few minutes, Officers Romero, Majors, and Corporal De La Barcena joined Officer Stys, and the four of them walked toward the residence. All four of the officers were dressed in police uniforms.

Officer Stys looked ahead and could see the silhouette of a person moving in the yard near the residence at East Wisteria Place. Officer Stys then saw the person cross the street. A few moments later he saw a second person cross the street, and shortly thereafter a third person, a female, crossed the street. The officers discussed this observation with one another. As officers watched the three individuals from a position of cover, they noted that the three were walking toward them along the north sidewalk of East Wisteria Place.

Officer Stys noted that the three individuals were now almost directly across from them and that the officers' position of cover had been compromised. Officer Stys then saw one of the three individuals, Rodriguez, step out into the light. He was holding a shotgun in his hand. The officers then acknowledged that the male was armed and they scattered to obtain cover.

Officer Stys moved toward some trees near the residence on East Wisteria Place in order to obtain cover. He saw the other officers move at the same time. He was not able to see all of their movements or locations. Officer Stys took cover behind a truck and pointed his gun at Rodriguez.

Officer Stys said he was approximately 25 feet away from Rodriguez, while the other officers appeared to be a little farther away. Officer Stys observed the other two subjects, later identified as J.B. and Jaimes, standing approximately 10 feet east of Rodriguez.

Officer Stys told OCDA Investigators that, based on his experience with shotguns, the gun that Rodriguez was holding appeared to be a real shotgun. He stated that he observed that the gun had a metal barrel and a wood stock. He saw Rodriguez had his left hand on the foregrip of the shotgun, his right hand was on the pistol grip, and his

fingers were on the trigger. Officer Stys noted that Rodriguez had the gun in a firing position, although it was being held in a "relaxed" position. Rodriguez appeared to look at every officer, acknowledging their locations. As Rodriguez was turning his body, the barrel of the gun was following his movement, and Officer Stys saw him move toward Officers Romero and Majors.

Officer Stys repeatedly yelled commands, in English and Spanish, asking Rodriguez to "Drop the gun". He also heard other officers yelling similar commands. Jaimes yelled, "That's my son," and "It's not loaded." J.B. was yelling at Rodriguez saying, "You're doing something really stupid right now, these guys aren't playing games." At that point, Officer Stys requested that Corporal De La Barcena, who was talking to dispatch, request an officer respond to the scene with a 40 millimeter, which is a less-lethal weapon.

Officer Stys saw Rodriguez take his right hand off the pistol grip of the gun and grab the middle area of the gun. He then saw Rodriguez scratch/rub his head. He looked upset, as if he was on the "verge of crying." He then returned his hand to the gun and placed it on the trigger. Officers were yelling at the other two people to "step back." Rodriguez looked toward the male and female, and it appeared to Officer Stys that he began to tear up. He then moved the gun, leveled it, and waived it in a deliberate manner. It was initially pointed at the male and female, but he moved the gun toward the direction of Officer Majors and Romero. Officer Stys feared that Rodriguez was going to shoot at them, so he shot at Rodriguez. Officer Stys believed he shot two to three rounds. He also heard the sound of gunshot coming from his right.

Officer Stys requested that another officer retrieve Officer Stys' shooting kit from his car in order to render aid to Rodriguez.

Voluntary Statement of Officer Romero

Officer Romero gave a voluntary statement to the OCDA on May 30, 2013. He has been a police officer at SAPD for 25 years. Officer Romero stated that on Sept. 27, 2012, he responded to a radio call involving a person with a gun on East Wisteria Place. Officer Stys and Majors were already there when he arrived.

Officer Stys told Officer Romero that he had observed some movement near the residence on East Wisteria Place. Officer Romero then saw three individuals cross the street. Officer Romero stood on the porch of the residence at East Wisteria to get a better view. He saw three people walking on the north sidewalk. It appeared Rodriguez was in the front, with J.B. and Jaimes trailing closely behind him. Officer Romero could hear voices but was unable to ascertain what was being said. He noted that J.B. was a black male who was wearing a white shirt. Officer Romero had previously responded to the residence on East Wisteria Place on a Welfare and Institutions Code section 5150 call where he had made contact with a black male. He noted that at that time, guns were removed from the residence. Officer Romero considered whether J.B. was the male that he had previously made contact with at the residence.

Officer Romero observed Rodriguez, Jaimes, and J.B. approach the area where the officers were positioned. He observed that Rodriguez was now standing in a lit area and appeared to be holding a black shotgun. Officer Romero took cover behind the engine block of a van that was parked along the curb. Officer Majors was also taking cover behind the same van. Officer Stys and Corporal De La Barcena assumed a position of cover to the west of Officer Romero.

Rodriguez came to a stop near the residence. He was standing approximately 15 yards away from Officer Romero. Officer Stys and Corporal De La Barcena yelled commands for Rodriguez to drop the gun. Officer Romero also yelled for Rodriguez to drop the weapon. Officer Romero observed Jaimes and J.B. approaching Rodriguez. Officer Romero told them to stand back. Jaimes and J.B. complied and stepped away. They were yelling, "Don't shoot him. The gun is not loaded." They were also yelling at Rodriguez to "drop the gun."

Rodriguez was looking at the officers individually and "muzzling" them with his shotgun. He was holding the gun at the "low ready" as he scanned the officers in front of him. He was ignoring the officers' commands to drop the weapon.

He looked like he was “frustrated and agitated.” Officer Romero thought that Rodriguez may have been on the cell phone at some point.

Rodriguez then turned toward Officer Stys, and the shotgun came up. Officer Romero heard one to two gunshots coming from the direction of Officer Stys and Corporal De La Barcena. He did not know who fired the weapon or from where the shots were coming. Officer Romero saw the shotgun get pointed toward the truck where Officer Stys and Corporal De La Barcena were standing. Officer Romero then fired his weapon two times. He told OCDA Investigators that he fired his weapon because the gun was no longer in the “low ready” position, and he feared that Rodriguez was going to shoot Officer Stys and Corporal De La Barcena. Officer Romero was still unsure whether J.B. was the man he had contacted on a prior occasion. After the shooting, he approached J.B. and made sure he was not armed.

Voluntary Statement of Officer Majors

Officer Majors gave a voluntary, consensual statement to the OCDA on Sept. 28, 2012. Officer Majors has worked as a police officer for over 22 years.

On Sept. 27, 2012, Officer Majors responded to a call regarding a person with a gun at Wisteria Place, Santa Ana. Officer Majors observed three individuals –Jaimes, J.B., and Rodriguez. Officer Majors noticed that Rodriguez was holding a pistol-gripped shotgun with his right hand on the grip. In his left hand, Rodriguez was holding the shotgun’s forestock and a cell phone.

Officer Majors drew his pistol. He turned on his gun-mounted flashlight to illuminate Rodriguez, and he yelled commands at him to put the weapon down. He yelled this about three or four times. Rodriguez did not respond. He estimated that Rodriguez was about 25 feet from him. He said that Rodriguez was about 15 to 20 feet from Officer Stys and Corporal De La Barcena.

Officer Majors continued to shout at Rodriguez to drop his weapon. Officers Stys and Romero and Corporal De La Barcena were also yelling similar commands. He heard Rodriguez say, “Why does this happen to me?” Rodriguez appeared to have a blank stare on his face. He was not sure who Rodriguez was addressing when he said this. He heard J.B. say, “Junior, drop the weapon – this is a mistake. Don’t make this mistake.” Rodriguez still did not comply. Officer Majors heard Jaimes yell to him and the other officers that Rodriguez was 14 and the gun was unloaded. At this point, the barrel of the shotgun was pointed down.

Officer Majors then saw Rodriguez drop his cellphone and re-grip the forestock of the shotgun. Officer Majors observed Rodriguez look at him. Rodriguez then turned and looked toward Officer Stys and Corporal De La Barcena as he began to raise his shotgun. As he raised the shotgun, Officer Majors heard gunfire from the area where Officer Romero was located and from where Officer Stys and Corporal De La Barcena were.

He estimated less than a minute had elapsed between his initial observations of Rodriguez holding the shotgun to the time shots were fired. Based on his observation of Rodriguez, including his repeated non-compliance with commands to put the gun down, Officer Majors thought the use of deadly force would have to be necessary to end the incident.

Voluntary Statement of Corporal De La Barcena

Corporal De La Barcena gave a voluntary, consensual statement to the OCDA on Sept. 28, 2012. Corporal De La Barcena has worked with SAPD for over 25 years.

On Sept. 27, 2012, after finishing a call, Corporal De La Barcena heard a dispatch for officers to respond to Wisteria Place regarding a report of a suspect with a gun. Corporal De La Barcena was with Officer Sarabia. They decided they would respond to the call.

When they arrived, they noticed that Officer Stys was there. Shortly thereafter, Officers Romero and Majors arrived. These officers were all located on one side of the street. Corporal De La Barcena entered his vehicle and began to

pull away to join Officer Sarabia at the other end of the street when the other officers yelled out that they observed a subject. Corporal De La Barcena observed Officers Stys, Majors, and Romero with their guns drawn. Corporal De La Barcena observed Rodriguez holding a pistol gripped shotgun with his right hand on the grip and his left hand on the forestock.

Corporal De La Barcena saw Officer Stys take cover, and he exited his vehicle and joined Officer Stys. Corporal De La Barcena also saw J.B. and Jaimes telling Rodriguez to put the gun down. Both Officer Stys and Corporal De La Barcena yelled for Rodriguez to put the gun down in both English and Spanish.

Corporal De La Barcena told dispatch that the officers were dealing with an armed suspect who would not comply with officers' commands. At this point, he requested a unit equipped with a 40-millimeter less-lethal weapon to respond to the scene with its lights and sirens on. He thought that at this time he wanted to consider other options to end the situation without life-threatening injuries. Corporal De La Barcena did not have his gun drawn at this point. He also saw that Rodriguez had a blank stare and would not respond to any commands given to him.

At first, the barrel of the shotgun was pointed downward at a 45 degree angle to the ground. As the incident unfolded, Rodriguez raised the barrel of the shotgun. Corporal De La Barcena noticed that Officers Romero and Majors, as well as J.B. and Jaimes, were all in danger from the shotgun. Corporal De La Barcena then observed that the barrel of the shotgun pointed toward him and Officer Stys. Rodriguez was only 10 feet from them. He feared that he and Officer Stys were now in danger. Before Corporal De La Barcena had an opportunity to draw his gun, he heard two or three shots and observed Rodriguez fall to the ground. He did not observe Rodriguez fire the shotgun.

Corporal De La Barcena stated that if he had been responsible for lethal force in this incident, based on Rodriguez's actions, he would have used lethal force because of the threat Rodriguez posed to officers as well as to J.B. and Jaimes. Moreover, in his opinion, less-than-lethal force would not have been proper in this situation because of the immediate threat posed by Rodriguez pointing the shotgun at the officers.

Evidence Collected at the Scene/During Autopsy

The evidence collected at the scene included:

- A Black Mossberg 500A 12-gauge shotgun, serial #K439242; There were no cartridges loaded in the shotgun.
- Seven Winchester 45-Auto cartridges cases;
- Officer Stys' Glock model 21 pistol with three magazines; and
- Officer Romero's Glock model 21 pistol with three magazines.

Firearm Examination

- Officer Stys' Glock pistol was test fired and operated without malfunction.
- Officer Romero's Glock pistol was test fired, but it experienced a problem feeding one of the cartridges from the magazine into the chamber. The cause of the malfunction was not determined.
- The shotgun was test fired and operated without malfunction.

Autopsy Findings

On Sept. 28, 2012 Dr. Aruna Singhania conducted a post-mortem examination of Rodriguez. Dr. Singhania determined that Rodriguez sustained six gunshot wounds to the front of his body. Upon completion of the autopsy, Dr. Singhania concluded that Rodriguez's cause of death was the result of a gunshot wound, specifically the bullet which entered Rodriguez's upper right chest and caused trauma to the right lung.

Toxicological Examination

A sample of Rodriguez's postmortem blood was removed for testing. No alcohol or controlled substances were detected during the examination

STANDARD LEGAL PRINCIPLES IN OFFICER-INVOLVED SHOOTING CASES

California Penal Code section 196 states 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. The law of self-defense, as summarized in California Criminal Jury Instruction 505, permits a person who reasonably believes that he/she was in imminent danger of being killed or suffering great bodily injury to use deadly force if he/she reasonably believes it was necessary to defend against death or great bodily injury. The individual cannot use more force than was reasonably necessary to defend against the danger. 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 above justifications must be interpreted in light of U.S. 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. The U.S. 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 bodily injury to the officer or others.” Tennessee v. Garner (1985) 471 U.S. 1, 3.

However, any determination about the reasonableness of force used by an officer “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.” Thus, “[t]he 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.” Graham v. Connor (1989) 490 U.S. 386, 396.

LEGAL ANALYSIS

The issue is whether Officers Stys and Romero’s conduct was criminally culpable and without justification. As stated above, in order to charge Officers Stys and Romero with a criminal violation, it is required that the prosecution be able to prove beyond a reasonable doubt that no legal justification existed for the police officers’ conduct. If Officers Stys and Romero’s actions were justifiable as lawful self-defense or defense of others, then criminal charges will not be sustained.

Self-defense justification in Penal Code section 197 provides, in part, that homicide is justifiable “when resisting any attempt to murder any person, or to commit a felony, or do some great bodily injury upon any person.” In Tennessee v. Garner, *supra*, the United States Supreme Court held that an officer is entitled to use deadly force when the officer has probable cause to believe that the suspect poses a significant threat of death or serious bodily harm to the officers or others.

Here, the facts indicate that Rodriguez was unresponsive to the police officers’ repeated requests to put the gun down. He refused to listen to his mother and his mother’s boyfriend’s requests that he drop his weapon. He repeated that he had “messed up,” but refused to accept the police officers’ offers to help him.

There is ample evidence that the police officers who were on scene were working toward reaching a peaceful resolution with an uncooperative Rodriguez. When Rodriguez dropped the cellphone, re-gripped the shotgun, and began to raise the barrel toward the officers, he was only 10 to 15 feet away from Corporal De La Barcena, Officer Stys, J.B., and Jaimes. Corporal De La Barcena stated that he felt they were all in danger of death or serious bodily harm based on their proximity to Rodriguez.

Officer Romero and Officer Stys both told OCDA investigators that they thought that Rodriguez was going to shoot at

the officers. They both referenced the manner that Rodriguez was holding the shotgun to conclude that the gun was being held in a "firing position." Officers Stys and Romero both noted that Rodriguez was looking at the direction of the officers, which Officer Romero referred to as "muzzling" them with his shotgun.

Corporal De La Barcena and Officer Stys told investigators that they considered non-lethal or less-lethal alternatives to resolve the situation, but the events unfolded quickly and deadly force became the only reasonable option under the circumstances. Corporal De La Barcena stated that, had he been responsible for the lethal force in this incident, based upon Rodriguez's actions, he too would have used lethal force due to the threat Rodriguez posed to the officers, J.B., and to Jaimes. He believed that he, Officers Stys, Romero, and Majors would have been killed had they not used deadly force. He also said that, in his opinion, less than lethal force would not have been proper in this situation due to the immediate threat posed by Rodriguez having pointed the gun at officers.

There is evidence that at some point during the incident but prior to the shooting, Jaimes told the officers that the gun her son was holding was unloaded. This statement was based on her belief that Rodriguez was holding his BB gun. However, the police officers could not take the chance that the shotgun was unloaded or act with that assumption. Both Officer Stys and Officer Romero are familiar with shotguns and observed the weapon in Rodriguez's hands to be a shotgun. Officer Stys even noted that the gun was made of "metal" and had a "wood stock."

Furthermore, the officers did not know Rodriguez's mental state, but he sounded "remorseful or sorry," as described by J.B., and continued to say that he "messed up." Both Officer Major and Corporal De La Barcena saw that Rodriguez had a "blank stare." What the officers did know about the situation was that they needed to proceed with caution because this was an individual who was clearly distraught.

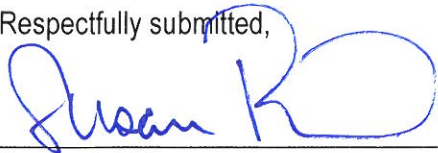
Rodriguez's repeated opportunities to put the gun down, his refusal to heed the officers' commands, and his repositioning his hold on the gun with both of his hands establish a clear basis for a reasonable person to believe that his life was in immediate threat of death or serious bodily harm. As such, Officers Stys and Romero were justified in shooting Rodriguez under the legal doctrine of self-defense and defense of others.

CONCLUSION

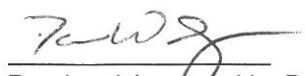
Based upon a review of all of the evidence provided to and obtained by the OCDA, and pursuant to the applicable legal principles, it is our legal opinion that the evidence does not support a finding of criminal culpability on the part of Officers Stys and Romero, and there is significant evidence that the officers' actions were reasonable and justified under the circumstances when they shot Rodriguez on Sept. 27, 2012.

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

Respectfully submitted,



Susan A. Price
Senior Deputy District Attorney



Read and Approved by **Dan Wagner**
Assistant District Attorney
Head of Homicide Unit