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August 19, 2014

Chief David L. Maggard, Jr.
Irvine Police Department
1 Civic Center Plaza
Irvine, CA 92606-5207

Re: Officer-Involved Shooting on September 3, 2013
Non-Fatal Incident involving Ronald Van Williams
District Attorney Investigations Case # S.A. 13-022
Irvine Police Department Case # 13-11432 and 13-11524
Crime Laboratory Case FR # 13-52385

Dear Chief Maggard,

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 Irvine Police Department (IPD) Detective Sean-Paul Crawford. Ronald Van Williams, age 35, survived his injuries. The incident occurred in the City of Irvine on Sept. 3, 2013.

OVERVIEW

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the Sept. 3, 2013, non-fatal, officer-involved shooting of Williams. 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 IPD 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 Sept. 3, 2013, Investigators from the OCDA Special Assignment Unit (OCDASAU) responded to this incident. During the course of this investigation, 13 interviews were conducted, and 48 additional witnesses were contacted during the supplemental canvass interviews. OCDASAU Investigators also obtained and reviewed the following: IPD reports, audio dispatch and radio traffic recordings; Orange County Crime Laboratory (OCCL) reports, including toxicology, forensic alcohol examination, latent print, officer processing and firearms examination reports; crime scene investigation photographs; medical records and photographs related to the injuries sustained by Williams; criminal history records related to Williams including prior incident reports; the personnel records of Detective Crawford; and other relevant reports and materials including audio recordings of the conducted neighborhood canvass.

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The OCDA conducted an independent and thorough investigation of the facts and circumstances of this incident and has reviewed all evidence and legal standards impartially. The scope and findings of this review are expressly limited to determining whether any criminal conduct occurred on the part of IPD officers or personnel, specifically Detective Crawford. The OCDA will not be addressing 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. Deputy District Attorneys assigned to the Special Prosecutions Unit review the non-fatal officer-involved shooting cases for possible criminal filings. Throughout the review process, the assigned prosecutor will be in consultation with his or her supervisor, and this Assistant District Attorney will eventually review and approve any legal conclusions and resulting memos. The case may often be reviewed by multiple veteran prosecutors, their supervisors, the Chief of Staff, and the District Attorney. If necessary, the reviewing prosecutor may send the case back for further investigation.

An important part of the investigation of an incident such as this is attempting to obtain a statement from the involved officers. Detective Crawford provided a voluntary statement on Sept. 6, 2013.

FACTS

Background

Williams' California and Colorado criminal record is relevant in this inquiry. In the year prior to this incident, Williams told his girlfriend, Jane Doe 1, approximately 10 times that he would not go back to jail. Williams stated, "If I ever go back, I'm just going to end it . . . I'm going to kill myself."

On Aug. 31, 2013, IPD investigated a sexual assault upon a minor that occurred during the summer of 2013. The victim, 15-year-old Jane Doe 2, had been sexually assaulted by her art and tattoo instructor, identified as Williams. Jane Doe 2 stated that she exchanged nude photos with Williams and orally copulated him twice. The sexual acts occurred in Williams' vehicle and at his residence in Irvine. The victim was also sexually battered by Williams on Aug. 30, 2013, when Williams touched her over her clothing on her vagina and breast region.

During the interview with Jane Doe 2, IPD detectives learned that she was with Williams in his vehicle when he fired his revolver in an open field, located in Irvine. Jane Doe 2 observed Williams store the revolver in a "Hello Kitty CD Case" inside his vehicle. She had seen two additional weapons in his apartment and knew he always carried a weapon in his vehicle. IPD detectives identified Williams' vehicle as a white 2013 Hyundai.

In addition to these incidents, Jane Doe 2 advised IPD detectives that on Aug. 29, 2013, Williams provided her with marijuana and they had smoked together on several prior occasions. As a result of this investigation, a search warrant was obtained by IPD Detective John Sanders to search Williams' residence and vehicle.

Summary

On Sept. 3, 2013, at approximately 6:00 a.m., IPD Detectives Sanders, Crawford, Brian Smith, Daniel Hall, David Tran, and Scott Grange attended a briefing with IPD Sergeant John Sabino and IPD Officer Nicole Frantz to discuss serving a search warrant at Williams' residence and arresting him for sexual assault. Detective Sanders briefed the officers on the operation, reviewed the facts of the case, and provided the officers with a photograph of Williams. Detective Sanders advised the officers that Williams had a criminal history, including aggravated robbery and possession of firearms.

At approximately 7:45 a.m., IPD officers went to Williams' residence to conduct surveillance. Williams' residence was located in a multi-unit and multi-story apartment complex with a leasing office, playground and pool in the middle of the premises. Detectives Crawford, Smith, and Grange teamed up with Officer Frantz in a Honda van for the surveillance. Detectives Crawford, Smith and Grange were dressed in plain clothes with "raid" vests over their shirts. The word "POLICE" was printed in white bold letters on the front of their vests, an IPD badge was affixed to the upper chest area of the vests, and the rear of the vests had the word "POLICE" printed in white bold letters. Officer Frantz was dressed in plain clothes with her IPD badge on the right side of her belt, next to her firearm.

Officer Frantz parked the van on the west side of 1131 Crested Bird, facing northbound toward the parking lot. Due to Williams' history of firearm possession, Detective Grange carried an AR-15 rifle. Sergeant Sabino, and Detectives Hall and Tran each drove separate vehicles. Sergeant Sabino and Detective Hall were positioned on the north side of the parking lot and Detective Tran was positioned to the south.

During the surveillance, the officers learned that Williams was not at his residence and his vehicle was not parked in the lot. Sergeant Sabino and Detective Hall went to the leasing office and had the apartment manager call Williams' apartment to request he meet her in the leasing office. Williams's girlfriend, Jane Doe 1, answered the phone and stated that Williams was not there, but would return in 20 minutes.

At approximately 10:30 a.m., Detective Hall notified the other officers that Williams had arrived. Officers observed Williams drive a 2013 Hyundai southbound through the parking lot and turn left into a stall between two other vehicles. Jane Doe 3, an acquaintance of Williams, was in the front passenger seat.

Officer Frantz drove northbound and parked slightly south of the right rear passenger bumper of Williams' vehicle. Detective Grange and Officer Frantz exited the van, drew their weapons, and approached the driver's side of Williams' vehicle. Detective Grange immediately recognized the driver as Williams. At the same time, Detectives Crawford and Smith exited the van, drew their weapons, and approached the front passenger side of Williams' vehicle.

As Detective Crawford approached the vehicle he knocked on the back passenger window, and stated, "Police, put your hands on the wheel." Both occupants looked to their right, directly at him. Detective Crawford observed a "sense of panic on Mr. Williams' face," as Williams mouthed the words, "Oh, f***." During this time, the officers pointed their weapons toward Williams' vehicle, identified themselves as "Irvine Police Department," and yelled several times, "Police, get your hands up." Williams refused to comply with the officers' commands and began revving the engine of his vehicle.

Within seconds of the initial contact, Williams put the vehicle in reverse and accelerated rapidly. Detective Crawford and Officer Frantz moved out of the way to avoid being struck by Williams' vehicle. Williams' vehicle nearly cleared the parking stall before stopping abruptly. At that point, the police van was blocking his exit. Detective Crawford was now standing in the stall approximately five to six feet east of the front passenger side of Williams' vehicle. He could see Williams' face clearly. He observed that Williams appeared frantic and desperate. Williams revved the engine and Detective Grange attempted to breach the driver's window with his AR-15 rifle barrel to distract Williams and force him to stop. Detective Grange was unsuccessful in breaching the window, and he repositioned himself to avoid being struck by Williams' vehicle.

Williams then accelerated forward into the same parking stall, striking a vehicle parked in an adjacent stall, before driving across the sidewalk, and crashing into the northwest corner of the playground fence. Williams again attempted to drive forward, but his vehicle was immobilized. He continued to rev his engine and the wheels of his vehicle continued to spin. IPD officers repeatedly yelled commands at Williams to stop and make his hands visible. Williams did not comply with their commands.

Detective Grange and Officer Frantz moved to positions of cover on the driver's side of a nearby vehicle. Detective Crawford moved to the sidewalk, approximately seven to nine feet south of Williams' vehicle. Detective Smith moved to the passenger side, rear quarter panel of Williams' vehicle.

IPD officers continued to give Williams numerous commands to show them his hands and turn off the vehicle, but he was not responsive. The front passenger door opened and Jane Doe 3 then leapt from the front passenger seat screaming and lied prone on the ground to the west of Detective Crawford. She continued to scream unintelligibly. The front passenger door remained open and Detective Crawford side-stepped to his right to gain an unobstructed view of Williams in the driver's seat.

Williams looked directly at Detective Crawford as he reached into his center waistband with both of his hands. Williams was "frantically ripping his shirt up with one hand" and "rapidly placing his left or right hand in the center of his waistband." Detective Crawford stated that Williams had "a crazed look on his face," as though he "was under the influence of something." Detective Crawford feared for his life and was certain that Williams was retrieving a gun to shoot him, so Detective Crawford fired three rounds at Williams, striking him once in the chest.

Detective Grange stated that immediately before Detective Crawford fired his weapon at Williams, he [Detective Grange] saw Williams move his hands toward his waist.

After Williams was shot, he continued to move his hands about within the vehicle. IPD officers continued to give Williams commands "to get out of the car, turn the car off, throw the keys out, show us your hands," but Williams refused to comply. Williams kept yelling that he wanted to talk to his girlfriend and did not want to spend the rest of his life in prison. The verbal exchange lasted for several minutes as IPD officers tried to convince Williams to exit the vehicle.

Williams eventually began to go in and out of consciousness, and Detective Tran, who had come up alongside Detective Crawford, was able to handcuff Williams by reaching into the passenger compartment through the front passenger side door. Other officers removed Williams from the vehicle, placed him on the cement, and requested medical assistance. As Williams was removed from the vehicle, Detective Grange observed what was later determined to be a replica firearm in the driver's side door pocket. Detective Grange further observed a gunshot wound on Williams' upper right chest, and applied pressure to Williams' wound while waiting for paramedics.

At approximately 10:51 a.m., Orange County Fire Authority (OCFA) arrived. OCFA Paramedic Daniel Steele observed Williams lying supine on the sidewalk. Williams' eyes were open, he was breathing on his own, he moved all four extremities, and he was handcuffed. Paramedic Steele and OCFA Firefighter Tom Hobbs cut Williams' clothes and Paramedic Steele observed drug paraphernalia fall from Williams' left shirt sleeve. Firefighter Hobbs confirmed that Williams' vitals were stable. Paramedic Steele placed gauze over the gunshot wound to control bleeding, and connected Williams to an echocardiogram to monitor his heart rate and rhythm.

Several minutes later, OCFA Engine 27 arrived on scene and Captain Dale Hayes took over medical treatment of Williams. As paramedics moved Williams to the gurney, Detective Grange observed a brown .22 caliber Mossberg Brownie & Sons firearm (Serial #17570), with black electrical tape wrapped around the grip, fall from Williams' rear pants onto the ground. Detective Grange also observed a lighter in Williams' left flannel shirt pocket and a small clear plastic vial of apparent marijuana.

At approximately 11:01 a.m., Doctor's Ambulance #97 transported Williams to Western Medical Center – Santa Ana (WMCSA). Captain Hayes inserted an Intravenous line in the middle of Williams' right arm, and administered saline intravenously. Paramedic Steele performed a needle thoracotomy in Williams' chest to relieve pressure and facilitate breathing.

At approximately 11:13 a.m., Williams arrived at WMASA Emergency Room (ER) and he was released to WMCSA ER personnel. A WMCSA attending trauma surgeon observed Williams was awake and alert upon his arrival at WMCSA. To evaluate Williams' alertness, the surgeon asked him, "Did you shoot yourself?" Williams replied, "I don't remember that."

Williams' injuries consisted of an apparent gunshot wound to his right upper chest. A Computed Tomography scan revealed that the bullet travelled from the right to the left side of Williams' chest. The bullet shattered Williams' sternum and lodged in his left armpit. As a result, Williams had blood in the right side of his chest.

Williams was sedated and attached to a ventilator. A chest tube was inserted to drain the blood from the right side of his chest. The attending surgeon did not anticipate Williams would require any surgical intervention to treat his injuries.

Post-Shooting, Voluntary Interview with Jane Doe 3

Jane Doe 3 gave a voluntary, consensual statement to IPD Detective Jason Renshaw and Officer Leticia Hernandez on Sept. 3, 2013. Her statement was consistent with the facts stated above.

According to Jane Doe 3, Williams was pulling into a marked parking stall near his apartment building when she saw what she believed to be a camera or microphone appear near the driver's side window. She later realized that it was the muzzle of an officer's gun. Jane Doe 3 also heard an unknown individual giving her and Williams orders to get out of the car with their hands up. Jane Doe 3 observed several subjects, whom she identified as police officers, around Williams' vehicle. She was able to determine that the subjects around the vehicle were police officers because they looked like "ATF officers." According to Jane Doe 3, "They all looked uniform," and reminded her of "something out of Top Cops." Jane Doe 3 "had no idea" why the police wanted to speak with Williams, and he did not say anything to her. Jane Doe 3 said Williams did not comply with the orders given by the officers, and she did not know why he attempted to flee.

EVIDENCE COLLECTED

The following items were collected from Detective Crawford:

- Sig Sauer, Model P220, .45 caliber semi-automatic pistol, serial #G346861
- One Federal, .45 Auto +P cartridge from the chamber of the pistol
- One 8-cartridge magazine containing five Federal, .45 Auto +P cartridges
- Additional 10-cartridge magazine loaded to capacity with Federal, .45 Auto +P cartridges

The following items were collected from the scene:

- Two cartridge cases, Head stamp "FEDERAL 45 AUTO +P"
- Shirt with apparent blood
- Mossberg Brownie & Sons .22 caliber pistol, Serial #17570
- Ji Guan Dang Apparent Cigarette Lighter (Replica Pistol)

EVIDENCE ANALYSIS

Firearms Examination

An OCCL forensic specialist examined the relevant firearms and projectiles involved in this case. Detective Crawford's Sig Sauer Model P220, .45 caliber was tested and operated without malfunction. Williams' Mossberg, Model Brownie, .22 caliber was tested and misfired four times.

WILLIAMS' POST-INCIDENT FELONY CONVICTION

On Jan. 3, 2014, Williams pleaded guilty to the following crimes and was sentenced to five years in state prison (Orange County Superior Court Case # 13HF2703):

- California Penal Code 288(c)(1) - Lewd act upon a child age 14 or 15 (5 Counts)
- California Health and Safety Code 11361(b) - Furnishing marijuana to a minor over 14
- California Penal Code 29800 (a)(1) - Possession of firearm by a felon
- California Penal Code 25850(a)/(c)(1) - Carrying loaded firearm in public
- California Penal Code 148(a)(1) - Resisting public or peace officer

STANDARD LEGAL PRINCIPLES IN OFFICER-INVOLVED SHOOTING CASES

Possible criminal charges against an officer involved in a non-fatal shooting include attempted murder [Penal Code Section 664/187]; assault with a deadly weapon [Penal Code Section 245]; and assault by a police officer [Penal Code Section 149]. In order to convict an officer of any of these charges, however, it would be necessary to prove beyond a reasonable doubt that no legal justifications existed for the officers' actions. *People v. Banks* (1977) 67 Cal. App. 3d 379, 383-84. Several such justifications may apply in any given case and they are set forth in Penal Code Sections 196, 197 and 835a.

California Penal Code Section 196 provides that use of deadly force by a public officer is justifiable when necessarily used in arresting persons who are "charged with a felony" and who are fleeing from justice or resisting such arrest. Section 196 applies both where the suspect in question is "charged with a felony" and where the officer has "reasonable cause" to believe that the person has committed a felony. *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 the use of deadly force by any person is justifiable when used in self-defense or in defense of others.

California Penal Code Section 835a allows any police officer who has reasonable cause to believe that a person to be arrested has committed a felony 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 court in *Kortum* further held that deadly force against a fleeing felony suspect is justifiable only when the felony "is of the violent variety, i.e., a forcible and atrocious one which threatens death or serious bodily harm, or there are other circumstances which reasonably create a fear of death or serious bodily harm to the officer or to another." *Kortum v. Alkire, supra*, 69 Cal. App. 3d at 333.

In addition, Penal Code section 834a requires that if a person has knowledge, or by the exercise of reasonable care, should have knowledge, that he is being arrested by a peace officer, that person must refrain from using force or any weapon to resist such arrest.

Similarly, the relevant Criminal Jury Instruction as written by the Judicial Council of California and set forth in CALCRIM 3470 permits a person being assaulted to defend himself from attack if, as a reasonable person, he had grounds for believing and did believe that bodily injury was about to be inflicted upon him or upon another person. In doing so, such person may immediately use all force and means which he believes to be reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to defend against that danger and to prevent the injury which appears to be imminent.

The law as detailed in CALCRIM 3470 and in well-settled case law therefore permits a person, if confronted by the appearance of danger which arouses in his 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.

Nevertheless, the above justifications must be interpreted in light of United States Supreme Court precedent that limits the right of a police officer to use deadly force. *People v. Martin* (1985) 168 Cal. App. 3d 1111, 1124. Thus, in *Tennessee v. Garner* (1985) 471 U.S. 1, 3, the United States Supreme Court ruled that a police officer is entitled to use deadly force only when "the officer has probable cause to believe that the suspect poses a significant threat of death or serious bodily injury to the officer or others."

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 United States Supreme Court's analysis and teachings in *Graham, supra*, are very much applicable to the circumstances surrounding the interaction of Detective Crawford with Williams.

LEGAL ANALYSIS

The facts in this case are determined largely by considering Detective Crawford's statements to OCDA Investigators, which were supplemented and completely corroborated by other relevant material and witnesses present at the incident, including civilian witness Jane Doe 3.

Detective Crawford and his fellow IPD officers were aware that Williams had a criminal history, including robbery and possession of firearms. As officers approached Williams' vehicle to arrest him for sexual assault, Detective Crawford knocked on the front passenger window and observed a "sense of panic on Mr. Williams' face," and Williams mouthed, "Oh, f***." IPD officers pointed their weapons at Williams' vehicle, identified themselves as "Irvine Police Department," and yelled several times, "Police, get your hands up." Williams refused to comply with the officers' commands and reversed his vehicle rapidly. He then accelerated forward, crashing into a fence. Williams ignored repeated requests to show his hands and turn off his vehicle; instead, he looked at Detective Crawford and proceeded to reach into his waistband with both of his hands. According to Detective Crawford, Williams "frantically ripp[ed] his shirt up with one hand," and "rapidly plac[ed] his left or right hand in the center of his waistband." Detective Crawford stated that Williams had "a crazed look on his face," as though he "was under the influence of something." Fearing that Williams was going to shoot him, Detective Crawford fired three rounds at Williams.

Detective Crawford was justified in fearing for his life and the lives of the other officers based on the totality of the circumstances. This justification is further strengthened by the fact that Williams turned out to be armed, just as Detective Crawford feared.

Where potential dangerous, emergency conditions or other exigent circumstances exist, the Supreme Court's definition of reasonableness is comparatively generous to the police. In effect, "the Supreme Court intends to surround the police who make these on-the-spot choices in dangerous situations with a fairly wide zone of protection in close cases. A police officer's use of deadly force is reasonable if the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others. Thus, an officer may reasonably use deadly force when he or she confronts an armed suspect in close proximity whose actions indicate an intent to attack." *Brown v. Ransweiler* (2009) 171 Cal. App. 4th 516, 528.

Detective Crawford was also justified in believing that Williams posed a significant threat of death or serious physical injury to himself and the other officers present. This conclusion is based on the totality of the circumstances but mainly based on the conduct of Williams in the seconds leading up to the shooting. By refusing to comply with the multiple commands given to him, and by making the movements he made as detailed in this letter, he presented a clear danger, which reasonably aroused in the mind of Detective Crawford an honest fear and conviction that he was about to suffer death or serious physical injury.

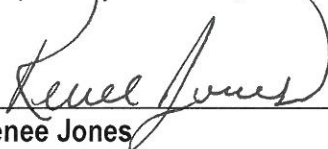
It should also be noted that, in order for Detective Crawford to be justly and lawfully charged and convicted with a crime in this incident, it is the OCDA's burden to prove beyond a reasonable doubt that Detective Crawford did not act in reasonable and justifiable self-defense or defense of another when he shot at Williams. As should be apparent from the above-described analysis, the prosecution would be unable to carry this burden in this case. A jury analyzing these facts would justly conclude that it was reasonable for Detective Crawford to believe that his life was in danger. Therefore, he was justified when he shot at Williams. Simply stated, Detective Crawford did not commit a crime, on 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 Detective Crawford, and there is substantial evidence that his actions were reasonable and justified under the circumstances in the shooting of Williams on Sept. 3, 2013. Detective Crawford did not commit a crime. Detective Crawford acted reasonably and justifiably.

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

Respectfully submitted,



Renee Jones
Deputy District Attorney
Special Prosecutions Unit



Read, Revised and Approved by **Ebrahim Baytieh**
Acting Assistant District Attorney
Head of Court – Special Prosecutions Unit