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DISTRICT ATTORNEY

ORANGE COUNTY, CALIFORNIA

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DIRECTOR
ADMINISTRATIVE SERVICES

SUSAN KANG SCHROEDER
CHIEF OF STAFF

May 19, 2014

Chief of Police Kevin Raney
Garden Grove Police Department
11222 Acacia Parkway
Garden Grove, California 92840

Re: Officer Involved Shooting on April 25, 2013
Fatal Incident Involving Chad Lee Hanchett
District Attorney Investigation Case # S.A. 13-008
Garden Grove Department DR # 13-5387
Orange County Crime Laboratory Case FR # 13-45910

Dear Chief Raney,

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 Garden Grove Police Department (GGPD) Sergeant Mike Martin. Chad Lee Hanchett, age 37, died as a result of his injuries sustained during an altercation with police. The incident occurred in the City of Garden Grove on April 25, 2013.

OVERVIEW

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the April 25, 2013, fatal officer-involved shooting of Hanchett. 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 GGPD officers 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 April 25, 2013, Investigators from the OCDA Special Assignment Unit (OCDASAU) responded to this incident. During the course of the investigation, nineteen interviews were conducted, and twenty-one additional witnesses were contacted during the supplemental canvass interviews. In addition, the OCDASAU Investigators obtained and reviewed the following: GGPD reports, audio recordings, 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 Hanchett; prior criminal history records related to Hanchett including prior incident reports; the personnel records of Sergeant Martin; 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 reviewed all available 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 GGPd officers or personnel, specifically Sergeant Martin. 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. 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 memoranda. 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. The only officer that fired his weapon, Sergeant Martin, voluntarily spoke to OCDA Investigators on April 26, 2013.

FACTS

On April 25, 2013, at approximately 4:00 p.m., GGPd conducted an Assembly Bill (AB) 109 probation compliance check detail. The purpose of the detail was to monitor subjects within the Post-Release Community Supervision (PRCS). PRCS is an early release program implemented by the California Department of Corrections and Rehabilitation to relieve prison overcrowding. In addition to the compliance checks, several GGPd officers were conducting surveillance looking for a "wanted" AB 109 probationer. The wanted probationer had a last known address of 7900 Garden Grove Boulevard in the City of Garden Grove.

The AB 109 detail was comprised of two teams, and each team was supervised by a sergeant. Both teams contained uniformed officers driving marked GGPd vehicles and plain-clothed officers driving unmarked surveillance vehicles.

That evening, between 5:00 and 6:00 p.m., Hanchett telephoned his wife to tell her he was going to "grab something to eat" before attending his Alcoholics Anonymous (AA) meeting. Hanchett voluntarily attended weekly men's AA meetings on Thursday nights from 6:30 to 8:00 p.m. The meetings were held at a location near Chapman Avenue in the City of Orange.

At approximately 8:00 p.m., GGPd Officers Josh Olivo, Dennis Wardle, and Erick Leyva were working in an undercover capacity. All three officers were in an unmarked vehicle, parked in a lot on the north side of 7900 Garden Grove Boulevard. The vehicle was parked facing south, toward Garden Grove Boulevard.

As Officers Olivo, Wardle, and Leyva sat in their vehicle, a red van pulled into the parking stall two spaces east of their undercover vehicle. The van was occupied by a single male subject, later identified as Hanchett. Upon observation, Officer Olivo believed that Hanchett, who remained in the driver's seat, was drinking an alcoholic beverage.

Officer Olivo requested one of the unmarked surveillance units drive by and obtain the license plate number of the van. GGPD Officers Evan Beresford and John Bankson drove by Officer Olivo's location in an unmarked vehicle and obtained a California license number from the van. A records search indicated that the van was registered in the City of Ladera Ranch, and that one of the registered owners, Hanchett, was on probation for assault and battery.

After observing Hanchett drink what Officer Olivo believed to be an alcoholic beverage for approximately 20 minutes, Officers Beresford and Olivo decided to make contact with Hanchett before he attempted to leave. Officer Beresford made a request over the radio for GGPD Officers Dave Lopez and Jason Johnson to respond to the location and initiate the contact with Hanchett.

Officers Lopez and Johnson arrived driving a marked black and white GGPD police vehicle. Officer Lopez parked his vehicle two parking spaces west of Hanchett's vehicle in approximately the center of the asphalt parking lot between the north and south curb lines. Simultaneously, GGPD Sergeant Martin and Officer Kevin Dinh arrived driving a white unmarked Ford Crown Victoria. Sergeant Martin parked his vehicle perpendicular to the parking stalls in two marked stalls facing eastbound. Sergeant Martin's vehicle was positioned approximately 10 to 12 feet northwest of the left rear bumper of Officer Lopez's vehicle. Neither of the police vehicles were blocking Hanchett's vehicle.

Sergeant Martin approached Hanchett's vehicle with Officers Lopez, Johnson and Dinh. Sergeant Martin and Officer Lopez approached the driver's side of Hanchett's vehicle while Officers Johnson and Dinh approached from the passenger side of the vehicle. The engine of Hanchett's vehicle was running as the officers approached.

The passenger side front window of Hanchett's vehicle was opened approximately half way, such that Officer Johnson was able to speak with Hanchett. Officer Johnson asked Hanchett, "What are you doing?" Hanchett replied, "I'm just sitting here." Officer Johnson continued to make small talk with Hanchett, and Hanchett complied with Officer Johnson's instruction to keep his hands visible.

Sergeant Martin was standing next to the driver's door of Hanchett's vehicle, and the driver's door window was closed. Officer Lopez was standing on rear of the driver's side. Sergeant Martin used his flashlight to tap on the driver's door window of Hanchett's vehicle, instructing Hanchett to open the door, while Officer Lopez illuminated the interior of Hanchett's vehicle with his flashlight. Hanchett appeared drunk, dazed and/or confused as he looked at the police officers, and he did not comply with any of their commands to open the door. Officer Lopez and Sergeant Martin were aware that the vehicle's engine was running.

Suddenly and without warning, Hanchett reached for the gear shift in his vehicle. Officer Johnson instructed Hanchett to "Turn the car off." Officer Lopez observed the same movement from Hanchett and started banging on the driver's side windows with his flashlight, instructing Hanchett to turn off his vehicle and open the driver's door window. Hanchett mumbled something in response and then shifted his vehicle into reverse. Officer Dinh, who was at the right rear of Hanchett's vehicle, observed a glow on his chest and realized that the van's reverse lights were illuminated. Officer Dinh believed that he was about to be "run over" by Hanchett, so he moved to his right to avoid the oncoming vehicle. Officer Johnson grabbed the vehicle's front passenger handle in an attempt to open the door. Officer Dinh instructed Officer Johnson to let go of the door handle.

Hanchett rapidly reversed his vehicle for approximately eight to 10 feet in a northwest direction toward the front of Officer Lopez's patrol vehicle. Officer Lopez paralleled Hanchett's vehicle for a few feet as the vehicle moved in reverse, banging on the driver's side window and commanding Hanchett to stop. Officer Lopez stopped paralleling Hanchett's vehicle just before Hanchett stopped reversing.

Due to Hanchett's maneuvering, Officer Lopez ended up in front of Hanchett's vehicle, which was now facing eastbound toward the Panda Home restaurant. Sergeant Martin was standing in the parking stalls approximately eight to 10 feet southeast of the right front bumper. Officers Dinh and Johnson were also positioned on the

passenger side of Hanchett's vehicle. Officer Dinh estimated that Officer Lopez was approximately one foot away from Hanchett's vehicle when it stopped.

In a continuous sequence of events, Hanchett stopped reversing, revved the engine, and spun the tires accelerating forward toward Officer Lopez. Fearing that Hanchett was trying to run him over, Officer Lopez transitioned from his flashlight to his handgun and pointed it toward Hanchett's vehicle. As Hanchett accelerated forward, Officer Lopez retreated backwards in an attempt to keep distance between him and the oncoming vehicle.

Fearing that Officer Lopez was going to be run over, Sergeant Martin fired one round from his service pistol at the front windshield of Hanchett's vehicle. As the Hanchett's vehicle proceeded eastbound, Sergeant Martin had a peripheral view of Officer Lopez, who was still in the path of Hanchett's vehicle. Sergeant Martin fired three more rounds toward the side of Hanchett's vehicle as it passed by him. Sergeant Martin observed Officer Lopez dive out of the way of Hanchett's vehicle, southbound toward the grass parking lot median. As Officer Lopez dove out of the way, Sergeant Martin fired one additional round as Hanchett's vehicle continued eastbound through the parking lot.

Hanchett's vehicle proceeded eastbound through the parking lot, veered slightly northeast and collided into an unoccupied silver Toyota minivan parked in front of the Panda Home Restaurant. The engine of Hanchett's vehicle continued to run, causing the left front wheel to spin and emit large plumes of smoke. The left front tire continued to spin until it eventually burst.

Sergeant Martin and Officers Leyva, Wardle and Dinh approached Hanchett's vehicle. Sergeant Martin reached in through the shattered driver's side window to turn off the engine. Officers Leyva, Wardle, and Dinh removed Hanchett from the driver's seat, placed him on the ground, and handcuffed him.

Officer Wardle observed that Hanchett was unconscious and, with assistance from Officer Leyva, began 2-person cardio pulmonary resuscitation (CPR). Officer Wardle provided chest compressions while Officer Leyva provided ventilations via an ambu-bag valve mask. After one round of 30 chest compressions, Officer Wardle was relieved by Officer Dinh, who continued with compressions until Garden Grove Fire Department (GGFD) paramedics arrived.

At approximately 8:17 p.m., GGFD Engine 5 was dispatched in response to an emergency medical services (EMS) request by the GGPd. At approximately 8:21 p.m., Engine 5 arrived on scene and was directed by GGPd officers to the parking lot of 7941 Garden Grove Boulevard. GGFD Firefighter/Paramedic Eric Thorson noted that Hanchett had a carotid pulse and his breathing was very shallow. Thorson inserted an intravenous line in Hanchett's left inner arm. Thorson also observed an apparent gunshot wound on Hanchett's right rear shoulder and a wound on his right cheek.

At approximately 8:25 p.m., Hanchett was transported by CARE Ambulance to University California Irvine - Medical Center (UCIMC). Upon arrival, Hanchett was unresponsive, not moving his extremities, not opening his eyes, and he appeared to take "agonal" breaths.

At approximately 8:40 p.m., Hanchett arrived at UCIMC. Doctor J.N. was the on-duty emergency room physician when Hanchett arrived. Hanchett was intubated and attached to a ventilator to assist with his breathing. Doctor J.N. inserted a tube in the right side of Hanchett's chest, and placed a cervical spine collar around his neck. Doctor J.N. placed a central line in Hanchett's right groin for blood products and fluids and an arterial line in Hanchett's left groin to monitor his blood pressure. Hanchett received the medications of Etomidate and Succinylcholine intravenously. Thereafter, Hanchett's blood pressure dropped. Doctor J.N. administered five units of blood and two units of fresh frozen plasma to prevent bleeding, and Hanchett's blood pressure stabilized.

After the medical intervention, Hanchett was determined to be stabilized but in critical condition. Hanchett remained hospitalized and was subsequently transferred to Kaiser Foundation Hospital. On Saturday, Nov. 23, 2013, medical staff contacted the Orange County Coroner to report Hanchett's death. Hanchett was pronounced deceased at the hospital at 7:44 p.m. Orange County Coroner Investigator Paul Hoag responded to Kaiser Foundation Hospital to

take custody of Hanchett's body and documented the death under Orange County Coroner #13-04640-HO. Hanchett's body was then transported to the Orange County Sheriff – Coroner Forensic Science Center, Located at 1071 West Santa Ana Boulevard, Santa Ana. Hanchett did not make any statements regarding the incident while receiving medical treatment, and was never in a condition to be interviewed by OCDA.

Voluntary Statement of Officer Olivo

GGPD Officer Olivo gave a voluntary, consensual statement to the OCDA on April 26, 2013. Officer Olivo has been a police officer for five years, and he was assigned to the Career Criminal Apprehension Team (CCAT) at the time of his statement.

On Thursday, April 25, 2013, at approximately 8:00 p.m., Officer Olivo was conducting surveillance for a wanted subject with GGPD Officers Wardle and Leyva. All three officers were dressed in civilian clothing and assigned to an unmarked vehicle. They were parked in a lot on the north side of 7900 Garden Grove Boulevard. Their vehicle was parked facing south toward Garden Grove Boulevard.

As the three officers sat in their vehicle, a light-colored van with a single male subject pulled into a parking stall two spaces east of the officers' vehicle. Officer Olivo believed that the subject driving the van was drinking an alcoholic beverage. The three officers could not see the van's license plate from their location, so Officer Olivo made a request over the police radio for another police vehicle to drive by the location and obtain the license plate.

GGPD Officer Beresford obtained the license plate and another officer conducted a record check on the van. Approximately 20 minutes passed and a decision was made to contact the driver of the van. A marked GGPD vehicle with Officers Lopez and Johnson arrived to initiate contact with the van. Officer Lopez walked toward the driver's side of the van while Officer Johnson approached the passenger's side. At the same time, GGPD Sergeant Martin and Officer Dinh arrived and approached the van with Officers Lopez and Johnson. Officer Olivo heard Officer Johnson give verbal commands to the driver of the van, but Officer Olivo was unable to decipher the content of the commands.

Approximately 30 seconds after the four officers made contact with the van, the rear lights of the vehicle illuminated. The van then accelerated in reverse, suddenly braked, and then accelerated in reverse a second time. Officer Olivo believed that the van was going to flee and he started his vehicle in the event a pursuit was initiated. The van stopped abruptly and Detective Olivo observed several officers around the van, including several who were standing in front of the van as a result of the vehicle's movement. The van then accelerated in an easterly direction toward Sergeant Martin and Officer Lopez, who were now standing directly in front of the van. As the van accelerated toward Sergeant Martin and Officer Lopez, Officer Olivo saw that Sergeant Martin had drawn his firearm. Officer Olivo lost sight of Officer Lopez.

Officer Olivo watched Sergeant Martin fire one round at the front of the van, which continued to accelerate directly at Officer Lopez and then past Sergeant Martin. Officer Olivo heard an additional three gunshots and he did not know if they were fired by the driver of the van or an officer. The van continued accelerating eastbound through the parking lot until it struck a parked car, halting its forward progress. The van continued to run with the tires spinning and a significant amount of smoke emanated from the vehicle. Officer Olivo heard a loud sound that he believed to be one of the tires popping.

Officer Olivo exited his vehicle and took a position of cover behind the van, which was now stopped in front of the Panda Home Restaurant. Officer Olivo watched several officers approach the driver's side of the van. During the contact by these officers, the van's engine stopped running and the tires stopped spinning. Officer Olivo did not see who turned the engine off or how they did so.

Officers Olivo and Wardle approached the driver's side of the van and removed the driver, later identified as Hanchett, and handcuffed him. Hanchett appeared to be unconscious, so Officers Dinh and Leyva began performing CPR until GGFD paramedics arrived and transported Hanchett to the hospital.

Voluntary Statement of Officer Wardle

GGPD Officer Wardle gave a voluntary, consensual statement to the OCDA on April 26, 2013. Officer Wardle was assigned to CCAT at the time of this incident.

On April 25, 2013, Officer Wardle was working a surveillance assignment with GGPD Officers Olivo and Leyva. All three officers were in an unmarked vehicle. Officer Olivo was seated in the driver's seat, Officer Leyva was in the front passenger seat, and Officer Wardle was in the rear passenger seat. Their vehicle was parked facing south in the parking lot at 7941 Garden Grove Boulevard.

At approximately 8:00 p.m., Officer Wardle noticed a burgundy van parked in the parking lot, two stalls east of their vehicle. The van was occupied by a single white male with a shaved head, later identified as Hanchett. Hanchett was reclined in the driver's seat listening to music and he appeared to be drinking a 40-ounce alcoholic beverage.

GGPD Officer Beresford drove by Hanchett's vehicle and obtained the license plate number. GGPD Officer Ryan Bustillos performed a record check on the license plate, which revealed that the registered owner was on probation, and a request was made for officers to make contact with Hanchett.

GGPD Sergeant Martin and Officer Dinh arrived in a white Crown Victoria, and GGPD Officers Lopez and Johnson arrived in a marked black and white police vehicle. Officer Wardle observed Sergeant Martin approach the driver's side of the van and Officer Johnson approach the passenger's side. Officer Wardle did not see where Officers Lopez and Dinh went. Officer Wardle heard Sergeant Martin instruct Hanchett to turn off his vehicle approximately three times.

As Sergeant Martin knocked on the driver's window, the tail lights of the van illuminated. The van quickly reversed until it faced eastbound in the parking lot. Officer Wardle heard all four officers yell at Hanchett to stop the van. Officer Wardle saw Sergeant Martin standing in front of the van toward the passenger's side. The van started accelerating forward rapidly, causing the tires to break traction. Officer Wardle stated that it appeared to him that the van was going to run over Sergeant Martin. Officer Wardle observed Sergeant Martin fire his sidearm four times in the direction of the van.

The van continued forward, colliding into a parked vehicle. It appeared that Hanchett had his foot on the accelerator pedal, as the wheels were spinning and the vehicle was smoking. Hanchett did not respond to Officer Wardle's commands to turn off the engine.

Officer Wardle observed Sergeant Martin reach inside the open driver's window of the van and turn off the ignition. Officer Wardle reached inside the van and removed the seatbelt from Hanchett. It appeared to Officer Wardle that Hanchett was unconscious. Officer Wardle removed Hanchett from the van and started CPR along with Officer Leyva. Officers continued performing CPR until they were relieved by GGFD personnel.

Voluntary Statement of Officer Beresford

GGPD Officer Beresford gave a voluntary, consensual statement to the OCDA on April 26, 2013. Officer Beresford has been a police officer for over seven and one-half years, and he was assigned to CCAT at the time of his statement.

On April 25, 2013, Officer Beresford was partnered with GGPD Officer Bankson. They were driving an undercover vehicle. During the evening, Officer Beresford monitored a radio broadcast from Officer Olivo, indicating that a beige or silver van, possibly a Ford Windstar, had parked next to Officer Olivo's undercover unit and the driver appeared to be drinking an alcoholic beverage. The driver of the van did not appear to be related to the investigation that CCAT was conducting. Officer Olivo requested for Officer Beresford to drive by the van and obtain the vehicle's license plate number.

Officer Beresford drove by Officer Olivo's location and saw a van parked two to three spaces east of Officer Olivo. Upon broadcasting the license plate number, Officer Beresford asked GGPD Officer Bustillos to use his vehicle computer to determine the registered owner(s) and any additional history.

Officer Bustillos informed Officer Beresford that the license plate was registered in the City of Ladera Ranch, the vehicle registration was expired, and the registered owner, with the last name of Hanchett, was on probation for assault and battery.

At approximately 8:15 p.m., Officer Bankson suggested that they check on the driver of the van because they were nearing the end of their shift. At that time, Officer Beresford requested a marked black and white police unit approach the van and contact the driver regarding his probation status, the expired vehicle registration, and possible consumption of alcohol in a vehicle.

Officers Beresford and Bankson were parked approximately 100 yards north of Hanchett and had a clear view of the van. Officers Beresford and Bankson watched as officers approached the van. Officer Beresford noticed that the van was moving, so he began driving forward toward the van. Officer Beresford saw two officers approach the van, but he was unable to identify them. One of the officers approached the driver side of the van and the other approached the passenger side. Officer Beresford did not see the officers' unit.

From approximately 50 yards away, Officer Beresford saw the van rapidly accelerate in reverse, but he could not see the officers. The van suddenly lunged forward and Officer Beresford heard four gunshots in quick succession. He did not see which officer fired the gunshots. The van sped off in a northeasterly direction, striking the Panda Home Restaurant at 7941 Garden Grove Boulevard. The van came to rest in front of the restaurant after striking several vehicles parked in front. The front wheels of the van continued to spin, creating a large amount of smoke.

After Hanchett was removed from the vehicle via the driver side door, Officer Beresford placed handcuffs on him.

Voluntary Statement of Officer Lopez

GGPD Officer Lopez gave a voluntary, consensual statement to the OCDA on April 26, 2013. Officer Lopez has been a police officer for over 17 years, and he was assigned to the Uniformed Patrol Division at the time of his statement.

On Thursday, April 25, 2013, Officer Lopez was assigned with GGPD Officer Johnson as a 2-officer enforcement unit. At approximately 8:20 p.m., Officers Olivo, Wardle, and Leyva requested that enforcement officers check an occupied red, Ford Windstar minivan, which had parked facing southbound, two parking stall east of the undercover vehicle at 7941 Garden Grove Boulevard. Officers Olivo, Wardle, and Leyva stated that the subject, later identified as Hanchett, may have been drinking an alcoholic beverage in his vehicle. Officer Lopez was aware that the area was known for prostitution, narcotics activity, and shootings. Officer Lopez, Sergeant Martin, and Officers Johnson and Dinh responded to the location in their vehicles.

Upon their arrival in the parking lot, Officer Lopez parked his vehicle facing southeast to the rear of the undercover vehicle, which was facing southbound in a parking stall. Sergeant Martin parked his white Ford Crown Victoria facing east in the parking lot, northwest of Officer Lopez's vehicle.

Officers Lopez and Johnson exited their vehicle, as did Sergeant Martin and Officer Dinh. Sergeant Martin approached the driver's side of the van and attempted contact with Hanchett. Officer Lopez approached the driver's side of the van holding his flashlight in his right hand, and he stood to the right of Sergeant Martin.

Officers Johnson and Dinh approached the passenger's side of the van. Sergeant Martin started tapping on the closed driver's window, telling Hanchett to open the door. Officer Lopez illuminated the interior of the vehicle with his

flashlight and observed Hanchett look back at the officers. Hanchett appeared drunk, dazed, or confused as he looked at them.

Hanchett refused to open the windows of the vehicle. Officer Lopez noticed that the van's engine was running and he informed Sergeant Martin. Officer Lopez started banging on the driver's side windows with his flashlight in order to convince Hanchett to turn off the vehicle and open the driver's window.

The van's brake lights illuminated, and then Hanchett put the van in reverse and backed up quickly toward the front of Officer Lopez's vehicle. Officer Lopez paralleled the vehicle and continued banging on the driver's side windows as the vehicle backed up. Hanchett looked at Officer Lopez as he was backing up the vehicle.

Due to Hanchett's maneuver, Officer Lopez was now in front of the van, which was facing eastbound. Hanchett revved the engine and accelerated toward Officer Lopez. Fearing that Hanchett was trying to run him over, Officer Lopez transitioned from his flashlight to his handgun. Officer Lopez pointed his handgun toward Hanchett, ran backwards, and jumped out of the way of the oncoming van. Officer Lopez fell backwards onto the grass parking lot median, just southeast of the vehicle, as it drove past him. As Officer Lopez jumped out of the way of the vehicle, he heard two to three gunshots.

Hanchett's vehicle turned slightly northeast and collided into the Panda Home Restaurant and a parked car. The van came to rest at the northwest corner of the Panda Home Restaurant. Officer Lopez ran toward Hanchett's vehicle and noticed that the engine was still revving. Sergeant Martin warned Officer Lopez that the vehicle's engine may explode and Officer Lopez ran behind a pillar for safety. Other GGPd officers arrived at the scene and eventually removed Hanchett from the vehicle.

After the incident, Officer Lopez checked his handgun and did a round count to make sure he had not fired his gun as he jumped out of the way of Hanchett's vehicle. Officer Lopez determined that he was not missing any bullets, and he was confident that he did not shoot his weapon during the incident.

During the interview, Officer Lopez stated that he was in fear for his life when Hanchett drove his vehicle toward him at a high rate of speed. Officer Lopez noted that Hanchett's vehicle came within approximately five feet of hitting him.

Voluntary Statement of Officer Johnson

GGPD Officer Johnson gave a voluntary, consensual statement to the OCDA on April 26, 2013. Officer Johnson has been a police officer for seven and one-half years, and he was assigned to the Uniformed Patrol Division at the time of his statement.

On Thursday, April 25, 2013, Officer Johnson was assigned with GGPd Officer Lopez as a 2-officer enforcement unit. Officers Johnson and Lopez were in the area of Village Center Drive and Garden Grove Boulevard. Officer Johnson monitored a radio broadcast from GGPd Officer Olivo, advising that an unknown subject, later identified as Hanchett, was in a van parked next to his undercover vehicle, and the driver appeared to be drinking an alcoholic beverage. Officer Olivo described the driver as a white male with a shaved head. Another undercover unit drove by the van and broadcast the license plate.

Officers Johnson and Lopez used the computer in their police unit to run the license plate through law enforcement databases. The van was identified as a 2000 Ford Windstar. It was registered to Hanchett in Ladera Ranch. Officer Johnson also learned that Hanchett was on informal probation for DUI and assault. The undercover units had discussed utilizing a marked black and white patrol unit to contact the driver after the van drove away. 30 to 40 minutes later the van had not left, so a decision was made to contact the driver.

Officers Johnson and Lopez arrived from the west, parking their marked black and white police unit to the north and west of the van. Sergeant Martin and Officer Dinh arrived simultaneously to assist. Sergeant Martin parked his unmarked white Ford Crown Victoria police unit north of, and next to, Officer Johnson's unit.

Officers Johnson and Dinh approached on the passenger's side of the van, while Sergeant Martin and Officer Lopez approached on the driver's side. The front passenger window of the van was down, although Officer Johnson did not recall how far. The van's passenger window was down far enough that Officer Johnson made verbal contact with Hanchett, who was the lone occupant. Officer Johnson asked Hanchett, "What are you doing?" Hanchett replied, "I'm just sitting here." Officer Johnson made small talk with Hanchett for 30 to 40 seconds. Hanchett kept his elbows near his sides and his hands in sight as Officer Johnson instructed.

Suddenly and without warning, Hanchett reached for the gear shift near the steering column. Officer Johnson instructed Hanchett to "Turn the car off." Hanchett mumbled something in response, and then shifted the van into reverse. Hanchett made no comment as the van accelerated. As Hanchett reversed, Officer Johnson heard a banging sound on the driver's side of the van, which he believed to be Sergeant Martin or Officer Lopez trying to get Hanchett to stop the van.

As the van reversed, Officer Johnson grabbed the passenger's side door handle, which was locked, in an effort to open the door. Officer Dinh was on Officer Johnson's left side and told him to "Let the car go." The van continued to reverse rapidly for approximately eight to 10 feet, and then Officer Johnson heard three "pops" that he recognized as the sound of gunshots. Officer Johnson also smelled gunpowder and heard the sound of glass breaking. After hearing the gunshots, Officer Johnson saw the van accelerate rapidly and drive across the parking lot in a northeasterly direction. Officer Johnson saw Officer Lopez on the grass area of the west side of the driveway. Officer Johnson was not sure whether Officer Lopez fell or if he had been struck by the van.

The van came to rest in front of the Panda Home Restaurant, located at 7941 Garden Grove Boulevard. Hanchett's van collided with a parked car in front of the Panda Home Restaurant. Officer Johnson retrieved a first aid kit from one of the units, but he did not have any physical contact with Hanchett.

Voluntary Statement of Officer Dinh

GGPD Officer Dinh gave a voluntary, consensual statement to the OCDA on April 26, 2013. Officer Dinh has been a police officer for over four years, and he was assigned to Patrol at the time of his statement.

On Thursday, April 25, 2013, Officer Dinh was working with Sergeant Martin. They were driving a white Crown Victoria city vehicle, and both were wearing blue polo police shirts, blue jeans, and duty gun belts.

Officer Dinh heard, via the police radio, one of the CCAT investigators request assistance from a patrol unit. The CCAT investigators were conducting a surveillance of the Garden Grove Inn, located at 7900 Garden Grove Boulevard, in the City of Garden Grove. The CCAT requested a patrol unit to check a suspicious van parked west of the Panda Home Restaurant, which was located at 7941 Garden Grove Boulevard, in the City of Garden Grove.

GGPD Officers Lopez and Johnson arrived at the requested location in their patrol unit, and Officer Dinh and Sergeant Martin followed. Both units parked facing in an eastbound direction, northwest of the van. Officer Dinh exited his vehicle, located the only van in the parking lot, and approached the passenger's rear side. The van was facing south and was parked in a designated parking stall. Officer Dinh used his flashlight to illuminate the van's interior and he observed a male, later identified as Hanchett, seated in the driver's seat and holding a cellular telephone. Officer Johnson approached the passenger's front door. Sergeant Martin approached the driver's door, and Officer Lopez remained at the driver's side rear.

Officer Dinh observed Officer Johnson and Hanchett conversing, and the front passenger's window was lowered half way. Hanchett grabbed the van's gear shift lever and moved it downward. Officer Dinh observed a glow on his chest

and realized the van's reverse lights were activated. Officer Dinh believed that he was about to be run over, so he moved westward.

The van began to move in reverse, "Somewhat slow," and Officer Johnson grabbed the van's front passenger door handle, as if trying to open the door, while the van moved in reverse. Officer Dinh heard someone yell, "Stop," and several loud banging sounds as if someone was banging on a window. The van was now facing eastbound and Officer Dinh told Officer Johnson to release his hold on the van.

Sergeant Martin and Officers Dinh and Johnson were now positioned on the van's passenger side, and Officer Lopez was directly in front of the van. Officer Johnson was standing by the van's rear passenger side, Officer Dinh was east of Officer Johnson, and Sergeant Martin was toward the front passenger side. Officer Dinh estimated that Officer Lopez was approximately one foot away from the van and that the officers on the passenger side were approximately one to two feet away from the van.

The van moved forward and Officer Dinh heard a "bang." Officer Dinh looked toward Sergeant Martin and observed Sergeant Martin fire three additional consecutive gunshots. Officer Dinh observed glass from the van shatter and fall to the ground. The van continued forward at approximately two to three miles per hour and collided with a parked vehicle, which was parked at the north side of the Panda Home Restaurant. The van's engine continued to rev, emitting a substantial amount of smoke.

Officer Dinh observed patrol units arrive and park on the west side of the Panda Home Restaurant, and officers entered the restaurant to approach the van's passenger side. Officer Dinh stood west of the van with other officers. Sergeant Martin approached the van's driver's door, followed by Officers Leyva and Dinh. Hanchett was unresponsive. An officer opened the driver's door and unfastened Hanchett's seat belt. Hanchett was removed from the van, placed on the ground, and handcuffed.

Hanchett was still unresponsive, so Officer Dinh advised the other officers to start CPR. GGPD Officer Wardle began compressions and Officer Olivo began ventilations. Officer Leyva used a pocket mask to continue ventilations. Officer Dinh assumed compressions because Officer Wardle was not wearing protective gloves. Officer Dinh continued CPR until GGFD paramedics arrived and assumed medical aid responsibilities. Officer Dinh removed Hanchett's handcuffs per the paramedic's request.

Voluntary Statement of Sergeant Martin

GGPD Sergeant Martin gave a voluntary statement to the OCDA on April 26, 2013. Sergeant Martin has been a police officer for approximately 28 years, and he was the Crimes Against Persons Supervisor at the time of his statement.

On April 25, 2013, Sergeant Martin was assigned with Officer Dinh as a 2-officer enforcement unit. They were driving a white Crown Victoria city vehicle, and both were wearing blue polo police shirts, blue jeans, and duty gun belts.

At approximately 8:00 p.m., Sergeant Martin and Officer Dinh received a call from Officer Olivo requesting a patrol unit to check a suspicious van parked west of the Panda Home Restaurant, located at 7941 Garden Grove Boulevard, in the City of Garden Grove. The plan was to stop the van when it became mobile. The van remained immobile for "quite a while," so Officers Lopez and Johnson decided to come to the location and make contact with the driver of the van. Sergeant Martin informed Officers Lopez and Johnson that he would follow them.

Sergeant Martin and Officer Lopez arrived at the requested location and parked their vehicles facing eastbound, north of both the van and Officer Olivo's vehicle. Sergeant Martin saw that Officers Lopez and Johnson were going to the passenger's side of the van, so he went around to the driver's side. As he approached the driver's side, he noticed that the van's engine was running. One of the officers on the passenger's side knocked on the window with a

flashlight and said, "Police!" The driver looked toward the officers on the passenger's side and did not notice Sergeant Martin.

The officers on the passenger's side instructed the driver to roll down his window, but he did not comply. They said, "We're cops. We want to talk to you." Sergeant Martin saw the driver place his hand over the gear shift and he hoped that the driver was going to turn off his van's engine. The driver placed the gear in reverse and accelerated rapidly. Sergeant Martin stepped away from the driver's door and hit the window with his flashlight. Sergeant Martin yelled, "Stop," and the driver did not acknowledge him. Sergeant Martin lost sight of Officers Johnson and Dinh.

The van continued to reverse until it faced east. Sergeant Martin, who was now in front of the van, moved south until he was approximately eight to 10 feet from the front right bumper. Other officers yelled, "Stop," and the driver stopped, momentarily.

Sergeant Martin saw that Officer Lopez was now eight to 10 feet in front of the van. Both Sergeant Martin and Officer Lopez drew their guns. The tires started "squealing," and then the van accelerated toward Officer Lopez. According to Sergeant Martin, there was ample room to drive north of Officer Lopez, but the driver intended to run him over. As the van approach Officer Lopez, Sergeant Martin fired approximately three or four rounds at the vehicle before losing sight of Officer Lopez. Sergeant Martin fired an additional shot as the van passed.

After the van passed Sergeant Martin, he saw Officer Lopez in the grass on the west side of the driveway. Sergeant Martin followed the car as it accelerated rapidly in an easterly direction before crashing into a parked car. The van's wheels continued to spin until the rubber popped, emitting a substantial amount of smoke. There was an orange flame from the sparks and Sergeant Martin feared that the van would explode.

Sergeant Martin and other officers approached the van and Sergeant Martin turned off the vehicle, and then other officers removed the driver. Officer Leyva requested medical assistance on the scene, and Sergeant Martin briefed Sergeant Robert Bowers when GGFD personnel arrived.

Evidence Collected from Sergeant Martin

- Glock, Model 21, .45 caliber, semi-automatic handgun, serial number CZF060, with a Surefire X300 flashlight mounted beneath the barrel.
- One cartridge in the chamber of the handgun;
- Eight cartridges in the magazine of the handgun (13 round capacity); and
- Two magazines in the pouch on Martin's duty belt, both loaded with 12 cartridges each (13 round capacity).

Evidence Collected at the Scene

- Three cartridge casings, one head stamp "FEDERAL 45 AUTO" and two head stamp "WIN 45 AUTO +P";
- Two cartridge casings head stamp "WIN 45 AUTO +P";
- One pair of handcuffs;
- Hanchett's clothing consisting of one brown "DICKIES" jacket, one black shirt (inside the jacket). Both items of clothing had what appeared to be blood on them; and
- One copper jacket.

Firearm Examination

- Sergeant Martin's handgun was test-fired and operated without malfunction.

Autopsy Findings

On Nov. 26, 2013, Dr. Etoi Davenport, a Forensic Pathologist with the Orange County Coroner's Office, conducted a post-mortem examination of Hanchett. Dr. Davenport noted scar tissue on the side of Hanchett's right shoulder, and a bullet against Hanchett's spinal cord on the upper right side of his spine. Upon completion of the autopsy, Dr.

Davenport concluded that Hanchett's cause of death was complications resulting from the penetrating gunshot wound in his right shoulder.

Toxicological Examination

Upon arrival at the hospital, samples of Hanchett's pre-transfusion blood were retained and ultimately sent to the OCCL for analysis. An average of the two tests performed on Hanchett's pre-transfusion blood revealed Hanchett had a final ethanol result of 0.22%.

A presumptive screening for illegal narcotics was also performed. The test did not reveal the presence of any illegal narcotics in the pre-transfusion blood.

STANDARD LEGAL PRINCIPLES IN OFFICER-INVOLVED SHOOTING CASES

Possible criminal charges against an officer involved in a fatal shooting include murder [Penal Code Section 187]; manslaughter [Penal Code Section 192]; assault with a deadly weapon [Penal Code Section 245]; and assault by a police officer [Penal Code Section 149]. In order to convict an officer of any of these charges, however, it would be necessary to prove beyond a reasonable doubt that no legal justifications existed for the officer's 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 [public offense] to use reasonable force to effect the arrest, to prevent escape, or to overcome resistance. The section further provides that a police officer "who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance." 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 Instructions 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 interactions of Sergeant Martin with Hanchett.

LEGAL ANALYSIS

The issue is whether Sergeant Martin's conduct was criminally culpable and without justification. As stated above, in order to charge Sergeant Martin 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 officer's conduct. If Sergeant Martin's actions were justifiable as lawful self-defense or defense of others, then criminal charges will not be warranted.

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 officer or others.

The facts in this case are determined based on the totality of the circumstances but largely by considering the shooting officer's statements to the OCDA Investigators, which were supplemented by other relevant material and the statements of the other witnessing officers.

Sergeant Martin indicated that officers made numerous requests for Hanchett to speak with them; however, Hanchett never complied. Hanchett was instructed to turn off his vehicle, but instead, he reversed his vehicle rapidly. Then, despite commands to stop, Hanchett accelerated directly at Officer Lopez. Sergeant Martin believed that Officer Lopez would have been run over if Hanchett was not detoured. Moreover, there is ample evidence that Sergeant Martin reasonably feared for Officer Lopez's safety because Officer Lopez was forced to dive onto a grass parking median in order to avoid being struck by Hanchett's vehicle.

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.)

It should also be noted that, in order for Sergeant Martin to be justly and lawfully charged and convicted with a crime in this incident – be it murder, voluntary manslaughter or involuntary manslaughter - it is the OCDA's burden to prove beyond a reasonable doubt that Sergeant Martin did not act in reasonable and justifiable self-defense or defense of another when he shot at Hanchett. As should be apparent from the above-described analysis, the prosecution would be unable to carry this burden in this case. A jury analyzing these facts would justly conclude that it was reasonable for Sergeant Martin to believe that Officer Lopez's life was in danger and that he was thus justified when he shot and killed Hanchett.

CONCLUSION

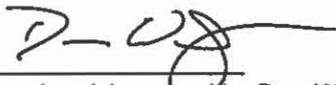
Based upon a review of all of the evidence provided to and obtained by the OCDA, and pursuant to the applicable legal principles, it is our legal opinion that the evidence does not support a finding of criminal culpability on the part of Sergeant Martin, and there is significant evidence that Sergeant Martin's actions were reasonable and justified under the circumstances when he shot Hanchett on April 25, 2013.

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

Respectfully submitted,



Ebrahim Baytieh
Senior Deputy District Attorney
Assistant Head of Court - Homicide Unit



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