



OFFICE OF THE

DISTRICT ATTORNEY

ORANGE COUNTY, CALIFORNIA

TONY RACKAUCKAS, DISTRICT ATTORNEY

October 12, 2016

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

Re: Officer-Involved Shooting on Feb. 18, 2016
Fatal Incident involving Oscar Reyes and Jose Quintanilla
District Attorney Investigations Case #SA 16-010
Santa Ana Police Department Case #16-04643
Orange County Crime Laboratory Case #FR 16-42849

Dear Chief Rojas,

Please accept this letter detailing the Orange County District Attorney's Office's (OCDA) investigation and legal conclusion in connection with the above-listed incident involving on-duty Santa Ana Police Department (SAPD) Officer Britain Speakman. Oscar Reyes, 34, and Jose Quintanilla, 30, died as a result of their injuries. The incident occurred in the City of Santa Ana on Feb. 18, 2016.

OVERVIEW

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the Feb. 18, 2016, fatal officer-involved shooting of Reyes and Quintanilla. The letter includes an overview of the OCDA's investigative methodology and procedures employed, as well as a description of the relevant evidence examined, witnesses interviewed, factual findings, and legal principles applied in analyzing the incident and determining whether there was criminal culpability on the part of the SAPD officer involved in the shooting. The format of this document was developed by the OCDA, at the request of many Orange County police agencies, to foster greater accountability and transparency in law enforcement.

On Feb. 18, 2016, Investigators from the OCDA Special Assignment Unit (OCDASAU) responded to this incident. During the course of this investigation, seven interviews were conducted, and 31 additional witnesses were contacted during the supplemental canvass interviews. OCDASAU Investigators also obtained and reviewed the following: SAPD reports, audio dispatch and radio traffic recordings; Orange County Crime Laboratory (OCCL) reports, including toxicology, forensic alcohol examination, officer processing and firearms examination reports; crime scene investigation photographs; medical records and photographs related to the injuries sustained by Reyes and Quintanilla, criminal history records related to Reyes and Quintanilla, 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 SAPD officers or personnel, specifically Officer Speakman. The OCDA will not be addressing any possible issues relating to policy, training, tactics, or civil liability.

INVESTIGATIVE METHODOLOGY

Among other duties, the OCDASAU is responsible for investigating officer-involved shootings within Orange County when someone has been injured or dies 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, TARGET/Gang, and Special Prosecutions Units review fatal, as well as non-fatal, officer-involved shootings and custodial death cases and determine whether criminal charges are appropriate. Throughout the review process, the assigned prosecutor will be in consultation with the assistant district attorney supervising the Special Prosecutions Unit, who will eventually review and approve any legal conclusions and resulting memos. The case may often be reviewed by multiple veteran prosecutors, their supervisors, the Chief of Staff, and the District Attorney. If necessary, the reviewing prosecutor may send the case back for further investigation.

An important part of the investigation of an incident such as this is attempting to obtain a statement from the involved officers. Officer Armando Aparicio gave a voluntary statement to OCDA Investigators on Feb. 18, 2016. Officer Speakman did not provide a statement.

FACTUAL SUMMARY

On Feb. 18, 2016, at approximately 5:08 p.m., John Doe called 911 and reported a burglary in progress at 1000 block of East 4th Street in Santa Ana. John Doe reported that the suspects were seen by a neighbor breaking into trailers parked in the east parking lot of the business. John Doe described the two suspects as male, Hispanics in their late 20s or early 30s.

At approximately 5:20 p.m., SAPD Officers Aparicio and Speakman were dispatched to the location regarding the reported burglary in progress. At approximately 5:23 p.m., Officer Aparicio arrived at the location wearing a standard dark blue SAPD patrol uniform that had department shoulder patches and his badge attached. Officer Aparicio initially requested, via his police radio, that John Doe exit the business and contact him out front; however, he was told by the SAPD dispatcher that John Doe had locked himself inside the business and was afraid to come out because the suspects were still on the property and he did not want them to know he had called the police. Officer Aparicio subsequently entered the business and contacted John Doe.

John Doe told Officer Aparicio that his manager had received a telephone call from a neighbor advising her that two suspects were breaking into a trailer at the business location. The neighbor did not want to speak to the police directly because they feared retaliation and had been threatened when reporting burglary suspects on the property in the past. According to John Doe, the trailers at the business had recently been burglarized and he suspected the same suspects were involved. John Doe further believed the suspects were "gang members." At approximately 5:30 p.m., SAPD Officer Speakman arrived at the location and located Officer Aparicio and John Doe inside the business. Officer Speakman was also wearing a standard dark blue SAPD patrol uniform that had department shoulder patches and his badge attached.

John Doe escorted Officer Aparicio and Officer Speakman through the business and out to the parking lot. John Doe directed the officers to the north end of the parking lot where there was a row of metal storage containers and several semi-truck trailers parked side by side with very little room in-between them. John Doe told Officer Aparicio and Officer Speakman that the suspects were in an area to the rear of the trailers.

Officers Aparicio and Speakman walked down a narrow pathway to the rear of the trailers. Officer Aparicio observed a male at the end of the pathway. The pathway transitioned into a much larger area, estimated to be approximately 14' by 16' square. The majority of this area was secluded from public view. There was a red chair and beige couch on the north side of the storage containers and a piece of carpet on the ground in front of the couch. There were multiple miscellaneous items in the area including the following: hypodermic syringes/needles, metal foils, narcotic paraphernalia, bikes, chairs, a table, a radio, and a backpack.

When the officers arrived at the end of the path and from a position at the northwest corner of a semi-truck trailer, they observed four subjects inside the square area. John Doe 2 was standing in the northwest corner of the area. Reyes was sitting on the east end of the couch facing north. Quintanilla was sitting on the west end of the couch next to Reyes and was facing north. John Doe 3 was sitting on the ground immediately to the left of Officer Speakman and near the northwest corner of the semi-truck trailer. Several of the subjects were holding hypodermic syringes and narcotic paraphernalia commonly used to inject illegal narcotics. One of the subjects had a glass pipe, commonly used to smoke methamphetamine.

Both Officer Aparicio and Officer Speakman simultaneously began giving the subjects commands; to put their hands on top of their heads and to turn around and face the wall. John Doe 2 and John Doe 3 immediately complied; John Doe 2 stood up from a seated position and was immediately handcuffed by Officer Speakman. John Doe 2 was then placed into a seated position on the ground. John Doe 3 was standing, but not yet handcuffed. Reyes and Quintanilla were slow to comply. Reyes and Quintanilla appeared to be looking for an avenue of escape. Initially, Reyes stood up from the couch and turned south toward the couch and the metal storage container behind him. Reyes had one hand up in the air as he stepped on the couch and attempted to climb over the top of the storage container. His body movements were slow and lethargic. Quintanilla remained seated on the couch. As Officers Aparicio and Speakman continued yelling commands at Reyes to get down off the couch and to place his hands on his head, Reyes looked back over his shoulder in their direction, with a "look of concern on his face."

Officer Speakman, who was positioned between Officer Aparicio and Reyes, grabbed Reyes from behind and attempted to pull him to the ground. Reyes resisted and Officer Speakman was unable to gain control of him. During the struggle, Officer Speakman struck Reyes in the face with a closed fist. The strike had no effect and Reyes continued to resist. Officer Aparicio re-holstered his firearm and attempted to assist Officer Speakman with gaining control of Reyes. Reyes continued to fight and resist being taken to the ground.

Officer Aparicio then used his baton to strike Reyes approximately four to five times on his side and back while Officer Speakman continued to try to pull Reyes to the ground. Reyes continued to ignore their commands to get down on the ground. At some point during the struggle, Officer Aparicio heard Reyes say that he had a gun. Officer Speakman yelled out that Reyes was "reaching or grabbing for something." Officer Aparicio threw his baton onto the ground behind him and re-drew his firearm. Reyes was bent over at the waist as Officer Speakman continued saying "he's reaching or grabbing for something." Reyes pulled away from Officer Speakman. Reyes was bent over at the waist with his back toward the couch. Reyes reached behind his back with his right hand and grabbed an object concealed under his t-shirt.

Officer Speakman was retreating backwards away from Reyes and stating, "He's grabbing something, he's grabbing something." Reyes stated that he "had a gun" and to let him put it down, or something to that effect. Officer Speakman told Reyes, "Don't pull it out, don't pull it out." Reyes did not comply with Officer Speakman's directions and continued to pull the object out of his waistband.

Officer Speakman continued backing away from Reyes. Reyes had a dark object in his right hand. Officer Speakman yelled, "Gun, gun, gun!" before firing four shots. Reyes stumbled backwards toward the couch where he fell into a seated position on the east end of the couch. Reyes slumped onto the couch and his head went backward. Reyes said, "I'm not gonna, I'm not gonna like reach for the gun," and, "I'm gonna leave it there." There was a black revolver on the couch next to Reyes. At the same time, Quintanilla, who had been sitting on the couch, grimaced in pain and fell forward onto the ground. Quintanilla started bleeding from a bullet wound in the lower, left portion of his back.

At approximately 5:36 p.m., Officer Aparicio communicated that there had been an officer involved shooting on his police radio and advised that there were four subjects and two of them had been shot. Officer Aparicio requested paramedics and additional police officers to their location and held the scene until additional officers arrived. At approximately 5:38 p.m., SAPD Sergeant Jim Armstrong arrived at the location and took charge of the scene. Assisting officers then arrived and made contact with John Doe 2, placing him into handcuffs and removing him from the scene.

Reyes was still on the couch, un-handcuffed with the gun next to his left hand. Quintanilla was on the ground un-handcuffed in front of the couch and John Doe 3 was lying in the prone position, un-handcuffed on the ground in the northwest corner. Officer Aparicio and SAPD Officer Michael Gibbons contacted Reyes and pulled him forward off of the couch and onto the ground and away from the gun. Reyes was face down on the ground, unresponsive, with blood coming out of his mouth. SAPD Officer Ed Gutierrez took possession of Reyes' loaded handgun, a black metal, .45 caliber, Ruger new model Blackhawk revolver, which he secured in the trunk of his police vehicle. SAPD Officer Cameron Price handcuffed Quintanilla. SAPD Officer Otilio Sanchez handcuffed John Doe 3 and removed him from the scene.

At approximately 5:43 p.m., Orange County Fire Authority (OCFA) Engine/Paramedics from stations #72 and #76 arrived on scene. At approximately 5:44 p.m., OCFA entered the scene. Personnel from both fire stations were directed by SAPD officers to Reyes and Quintanilla who were on the ground, handcuffed with apparent gunshot wounds to their bodies. During the initial assessment of Quintanilla, paramedics observed that Quintanilla was unconscious, not breathing, had no pulse and was bleeding from at least two bullet wounds to his body. An Electrocardiogram (EKG) showed that Quintanilla was in asystole with no electrical activity in his heart. The paramedic completed a limited visual examination of Quintanilla's body and observed apparent bullet wounds to his right back and buttock. Quintanilla displayed no signs of life. At approximately 5:50 p.m., paramedics pronounced Quintanilla deceased.

Upon the paramedics' initial contact with Reyes, they observed that Reyes had sustained two bullet wounds but he was alive, had a "viable (Heart) rhythm" with "agonal breathing" at which time they began providing medical intervention to him; however, Reyes's heart and breathing had stopped. Paramedics initiated Cardiopulmonary Resuscitation (CPR) on Reyes and used a "Bag Valve Mask" (BVM) to ventilate him. Additionally, paramedics initiated an "intraosseous" intravenous line into Reyes' "right tibia bone and twice administered "1 milligram of Epinephrine." Paramedics conferred, via radio with the on duty nurse and doctor at Orange County Global Medical Center in Santa Ana. Paramedics provided the hospital staff with pertinent information related to Reyes' medical condition and the intervention provided him. At approximately 5:55 p.m., after no change in Reyes' medical condition, all medical intervention was stopped and Reyes was pronounced deceased.

Voluntary Statement of Officer Aparicio Regarding the Incident

Officer Aparicio gave a voluntary, consensual statement to the OCDA on Feb. 18, 2016. The following is a summary of Officer Aparicio's statement.

According to Officer Aparicio, it was a very tense situation for everyone because it was a very small area, both he and Officer Speakman had their guns drawn, but Reyes was not complying with their commands. During the struggle, Officer Aparicio heard Reyes say that he had a gun. Officer Speakman started yelling that Reyes was reaching or grabbing for something and Officer Aparicio dropped his baton and re-drew his firearm.

According to Officer Aparicio, Officer Speakman gave several commands to Reyes to stop reaching towards his waistband, but he did not obey those commands. Officer Aparicio observed Reyes reach behind his back and pull out a "dark object." He heard Officer Speakman yelling, "gun, gun, gun" before firing four shots. At the time, Officer Aparicio was also pointing his gun at Reyes, but he didn't fire because he didn't have a clear shot. Officer Speakman was at the opening of the pathway and staggered backwards. Officer Aparicio was concerned about firing his weapon because of their positioning and the possibility of hitting Officer Speakman. Officer Aparicio said, "But, if I would have had a clear shot, I would have also taken that shot, for sure."

Moments before Officer Speakman fired his gun, Officer Aparicio thought to himself; "I'm about to get in a shooting." Officer Aparicio feared for his safety and the safety of Officer Speakman because they were outnumbered and in a tight space. Furthermore, Officer Aparicio was concerned because Reyes was bigger than them and had a gun.

EVIDENCE COLLECTED

The following items of evidence were collected and examined:

- "Ruger," revolver .45 Caliber New Model "Blackhawk," serial number 46-63146, loaded with 6 cartridges, Head stamp "AP 45 Colt." [Reyes' gun]
- Four casings and apparent bullet fragments from scene
- Apparent bullet jacket from Reyes' pants
- EMA test strip from apparent bullet strike
- Knife
- Black jacket
- Clothing from Reyes
- Clothing from Quintanilla
- Swabs from "Ruger" revolver and six cartridges
- Three cell phones
- Three syringes
- One glass pipe
- One set of bolt cutters

AUTOPSY

On Feb. 19, 2016, Forensic Pathologist Dr. Aruna Singhania of the Orange County Coroner's Office conducted an autopsy on the body of Reyes. Dr. Singhania documented a bullet entrance wound (through and through) on the exterior side of the left arm and a bullet exit wound on the inside of the left arm. Bullet fragments were also located and removed. An additional bullet entrance wound was located in the lower left back area. The bullet from this wound was later located and recovered inside the right chest cavity. Dr. Singhania stated that the cause of death was consistent with the gunshot wound to the lower left back, in which the fatal round traveled on a path through the aorta, left lung, and liver.

On Feb. 22, 2016, Dr. Singhania conducted an autopsy of the body of Quintanilla. Dr. Singhania documented a bullet entrance wound to the right side above the right hip and another bullet entrance wound to the left buttock. Dr. Singhania later located and removed a bullet core from Quintanilla's left buttock. A second bullet core was located and removed from the area behind Quintanilla's heart. Dr. Singhania stated that the cause of death was consistent with the gunshot wound to the right side above the right hip, in which the fatal round traveled on a path up and through the liver and heart.

EVIDENCE ANALYSIS

Firearms and Projectile Examination

Officer Speakman's Glock pistol was test fired at the OCCL and fired without malfunction. The four fired cartridges from the scene were determined to have been fired from Officer Speakman's Glock pistol.

DNA EVIDENCE

The gun possessed by Reyes was examined for DNA. Reyes' DNA was detected in the swab from the cylinder/cylinder release of the gun. Reyes' DNA was also detected on the grip of the gun. The DNA of Quintanilla was not a match to any DNA found on the gun.

Toxicological Examination

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

DRUG	MATRIX	RESULTS & INTERPRETATIONS
Amphetamine	Postmortem Blood	0.0953 + 0.0059 mg/L
Methamphetamine	Postmortem Blood	0.747 + 0.049 mg/L
Morphine	Postmortem Blood	0.332 + 0.033 mg/L
Codeine	Postmortem Blood	0.0265 + 0.0029 mg/L

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

DRUG	MATRIX	RESULTS & INTERPRETATIONS
Morphine	Postmortem Blood	0.121 + 0.012 mg/L
Methamphetamine	Postmortem Blood	0.152 + 0.009 mg/L
Ephedrine	Postmortem Blood	Detected

PRIOR CRIMINAL HISTORY

Reyes' criminal history was reviewed and considered. Reyes had a California Criminal History that dates back to 1990. Reyes had two outstanding warrants for his arrest at the time of the shooting incident. Reyes has previously been arrested for the following crimes:

- Stalking
- Vandalism
- Prevent/dissuade a witness
- Terrorist threats
- Gang member in possession of a firearm
- Concealed firearm in vehicle
- Probation violation
- Parole violation
- Possession of narcotic paraphernalia
- Possession of controlled substance
- Assault with a deadly weapon other than a firearm
- Driving under the influence of alcohol/drugs
- Under the influence of a controlled substance
- Possession of hypodermic syringe/needle
- Evading a police officer

Quintanilla's criminal history was reviewed and considered. Quintanilla had a California Criminal History that dates back to 2002. In 2009, Quintanilla was a controlled substance registrant. Quintanilla has previously been arrested for the following crimes:

- Possession of a firearm in a public place/school
- Possession of controlled substance

- Possession of narcotic paraphernalia
- Receiving/possessing stolen property
- Burglary
- Possession of burglary tools
- Violation of parole
- Transportation of controlled substance

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 justly charge and convict an officer of any of these charges, however, it would be necessary to be able to prove beyond a reasonable doubt that no legal justifications existed for the officer's actions. (*People v. Adrian* (1982) 135 Cal.App.3d 335, 340-342.) 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. (*Kortum v. Alkire* (1977) 69 Cal.App.3d 325, 332.) The felony must involve violence or the threat of violence. (*Id.* at 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." The Court of Appeal 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 p. 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/her mind, as a reasonable person, an honest fear and conviction that he/she or another person is about to suffer bodily injury, to act in self-defense or defense of others upon such appearances, and from such fear and honest convictions. 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 physical injury to the officer or others."

This limitation was, however, clarified subsequently by the United States Supreme Court in the seminal case of *Graham v. Connor* (1989) 490 U.S. 386, wherein the Supreme Court explained that an officer's right to use force [*i.e.*, his/her 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 rapidly evolving—about the amount of force that is necessary in a particular situation" (*Id.* at 396-397.)

The United States Supreme Court's analysis and teachings in *Graham* are very much applicable to the circumstances surrounding the interactions of SAPD Officer Speakman with Reyes and Quintanilla.

LEGAL ANALYSIS

The facts in this case are determined by the OCDA investigators from the interview with Officer Aparicio, which was supplemented by other relevant material and witnesses present at the scene of the incident.

The issue in this case is whether the conduct of Officer Speakman on Feb. 18, 2016, was criminally culpable and without justification. As stated above, in order to charge Officer Speakman 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. Therefore, in order to lawfully charge Officer Speakman with a crime, the prosecution must prove beyond a reasonable doubt that he did not act in lawful self-defense or defense of others. If the actions that day of Officer Speakman were justifiable as lawful self-defense or defense of others, then criminal charges will not be warranted.

As the Court of Appeal held in a recent case, it is well settled that "unlike private citizens, police officers act under color of law to protect the public interest. They are charged with acting affirmatively and using force as part of their duties, because 'the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effectuate it.'" Police officers are, in short, not similarly situated to the ordinary battery defendant and need not be treated the same. In these cases, then, "the police officer is in the exercise of the privilege of protecting the public peace and order and he is entitled to the even greater use of force than might be in the same circumstances required for self-defense." (*Brown v. Ransweiler* (2009) 171 Cal.App.4th 516, 527.)

Where potential dangerous, emergency conditions or other exigent circumstances exist, the California Courts of Appeal have noted that the United States Supreme Court's definition of reasonableness is comparatively generous to the police. The court in *Brown* noted that 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*, *supra*, 171 Cal.App.4th at p. 528.)

Based on the totality of all the available evidence, it is apparent that Officer Speakman was justified in believing that Reyes posed a significant threat of death or serious physical injury to himself and Officer Aparicio. This conclusion is based on the totality of the circumstances, but mainly based on the conduct of Reyes in the moments leading up to the shooting.

Officers Speakman and Aparicio responded to a reported burglary in progress in the parking lot of a business with several large storage containers and semi-trailers. Upon their arrival, John Doe directed them to the north end of the parking lot behind several storage containers. Officers Aparicio and Speakman followed a narrow pathway between the storage containers to a small open space in the corner of the parking lot. As they entered the small area, they encountered Reyes, Quintanilla, and two other individuals holding hypodermic syringes and glass pipes used for narcotics.

John Doe 2 and John Doe 3 immediately complied with Officer Aparicio and Officer Speakman's commands. Reyes and Quintanilla appeared as if they were planning on attempting to escape and Reyes appeared to be under the influence of a controlled substance. As Reyes turned around and started climbing over the couch, Officer Speakman grabbed him and attempted to pull him to the ground. Officer Speakman struck Reyes with a closed fist, but he continued to resist. Officer Aparicio struck Reyes with his baton several times, but was still unable to gain control of him. At some point during the struggle, Reyes said that he had a gun, separated from Officer Speakman, and started reaching behind his back towards his waistband. Reyes pulled a black gun out of his waistband despite Officer Speakman's repeated commands to stop reaching. Based on Reyes attempts at fleeing, failure to obey Officer Speakman's commands, and the act of pulling out a gun after being told not to do so, Officer Speakman's act of shooting Reyes was objectively reasonable under these circumstances and therefore we will not be able to prove beyond a reasonable doubt that Officer Speakman did not act in justifiable self-defense.

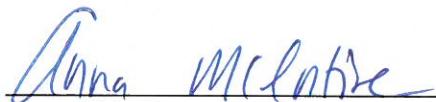
As a result of his positioning near Reyes, Quintanilla was also struck two times when Officer Speakman fired in self-defense. Even though Quintanilla did not pose a threat, Officer Speakman's actions were reasonable and justifiable and there is no indication that Officer Speakman intentionally shot Quintanilla. The law clearly states that, "the doctrine of self-defense is available to insulate one from criminal responsibility where his act, justifiably in self-defense, inadvertently results in the injury of an innocent bystander." (*People v. Mathews* (1979) 91 Cal.App.3d 1018, 1024; see also *People v. Curtis* (1994) 30 Cal.App.4th 1337, 1357.) Therefore, Officer Speakman cannot be held criminally responsible for Quintanilla's tragic death.

As stated above, in order for Officer Speakman 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 Officer Speakman did not act in reasonable and justifiable self-defense or defense of another when he shot at Reyes. As should be apparent from the above-listed facts and 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 Officer Speakman to believe that his life and Officer Aparicio's life was in danger. Therefore, Officer Speakman was justified when he shot at Reyes causing Reyes' death as well as the tragic death of Quintanilla.

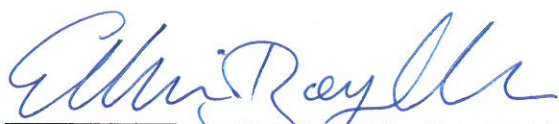
CONCLUSION

Based upon a review of all of the evidence provided to and obtained by the OCDA, and based on the entirety of the facts contained in all the available reports and interviews reviewed, and pursuant to the applicable legal principles, it is our legal opinion that there is no evidence of criminal culpability on the part of Officer Speakman and there is substantial evidence that his actions were reasonable and justified under the circumstances when he shot at Reyes causing the deaths of Reyes and Quintanilla on Feb. 18, 2016.

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



Anna McIntire
Deputy District Attorney
Target/Gangs Unit



Read and approved by **Ebrahim Baytieh**
Assistant District Attorney
Supervising Head of Court – Special Prosecutions Unit