



OFFICE OF THE
DISTRICT ATTORNEY
ORANGE COUNTY, CALIFORNIA
TODD SPITZER

May 27, 2021

Chief Tom DaRe
Garden Grove Police Department
11301 Acacia Parkway
Garden Grove, CA 92840

Re: Officer-Involved Shooting on February 26, 2020
Fatal Incident involving James Salazar
District Attorney Investigations Case # S.A. 20-006
Garden Grove Police Department Case # 20-010237
Orange County Crime Laboratory Case # 20-42724
Orange County Coroner's Office Case #20-01018-TA

Dear Chief DaRe,

The following letter details the investigation by, and the legal conclusions of, the Orange County District Attorney's Office (hereinafter the "OCDA") specific to the above-listed incident involving on-duty Garden Grove Police Department Officer Jorge Mazon. The incident occurred in the City of Garden Grove on February 26, 2020. James Salazar, age 31, died as a result of injuries sustained during the encounter.

OVERVIEW

This letter contains a description of the scope and legal conclusions resulting from the OCDA's investigation of the fatal, officer-involved shooting of James Salazar that occurred on February 26, 2020. 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 to determine whether Officer Jorge Mazon is criminally culpable for Mr. Salazar's death. 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 February 26, 2020, investigators from the OCDA Special Assignment Unit (OCDASAU) responded to this incident. During the course of this investigation, six (6) interviews of significance were conducted. OCDASAU investigators also obtained and reviewed the following: Garden Grove Police Department reports, audio dispatch and radio traffic recordings, body-worn camera footage, and patrol vehicle camera footage; Orange County Crime Laboratory (OCCL) reports, including toxicology, officer processing and firearms examination reports; crime scene investigation photographs; medical records and photographs related to the injuries sustained by James Salazar; and criminal history records related to James Salazar.

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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 Officer Jorge Mazon. The OCDA does not address 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 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 (6) investigators are assigned to the OCDASAU on a full-time basis. There are additional OCDA investigators assigned to other OCDA units, and these investigators are trained to assist OCDASAU when needed. On average, eight (8) investigators respond to an incident within an hour of being called. Assigned investigators 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 an experienced deputy district attorney for legal review. Deputy district attorneys from the Homicide, Gangs, and Special Prosecutions Units review fatal and 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 Senior Assistant District Attorney supervising the Operations IV Division of the OCDA, who will eventually review and approve any legal conclusions and resulting memos. The case may often be reviewed by several experienced prosecutors and their supervisors. The District Attorney personally reviews and approves all officer involved shootings and custodial death letters. 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 Jorge Mazon gave a voluntary statement to OCDA investigators on March 9, 2020.

DISCLOSURE OF OFFICER-INVOLVED SHOOTING VIDEO & AUDIO EVIDENCE

The OCDA recognizes that releasing video and audio evidence of officer-involved shooting and custodial death incidents can assist the public in understanding how and why these incidents occur, increase accountability, and build public trust in law enforcement. Consistent with the OCDA's written policy in connection with the release of video and audio evidence relating to officer-involved shooting and custodial death incidents where it is legally appropriate to do so, the OCDA is releasing to the public video/audio evidence in connection with this case. The relevant video/audio evidence is available on the OCDA webpage:

<http://orangecountyda.org/reports/videoandaudio/default.asp>.

FACTUAL SUMMARY

On Wednesday, February 26, 2020, at approximately 01:20 hours, video surveillance from the AutoMax HB car dealership at 925 North Harbor Boulevard (Santa Ana) showed Salazar enter the car lot, run to a grey 2017 Dodge Challenger and enter the vehicle. Approximately two (2) minutes later, Salazar drove the vehicle off the lot, escaping undetected with the stolen vehicle (hereinafter the "Challenger"). At approximately 01:23 hours – within minutes of Salazar stealing the Challenger – Garden Grove Police Department Officer Jorge Mazon drove westbound on Trask Avenue approaching Harbor Boulevard. The intersection of Trask Avenue (hereinafter "Trask") and Harbor Boulevard (hereinafter "Harbor") lies one mile north of the AutoMax HB car dealership.

Officer Mazon was driving a marked black and white patrol vehicle. Officer Mazon was alone, wearing a traditional blue uniform, adorned with Garden Grove Police Department (GGPD) patches on each shoulder, a name plate above the right breast pocket, and a metal police badge above the left breast pocket. Officer Mazon's patrol vehicle was equipped with Mobile Audio/Video (hereinafter the "MAV") and his body-worn camera (hereinafter the "BWC") was still activated from a previous call. Accordingly, both the MAV and BWC were functioning during the ensuing incident, as follows: the BWC *video* and the MAV *audio* and *video* were operational.

Officer Mazon – having just finished a nearby (unrelated) investigation – was driving back to the GGPD station. As he neared Harbor heading westbound on Trask, Officer Mazon saw the Challenger "flying down Harbor" northbound toward Trask. Officer Mazon witnessed the Challenger collide with a raised center median pole and the center median running along Trask (just east of Harbor). The collision occurred directly in front of Officer Mazon as he approached the intersection. The severity of the collision, as described by Officer Mazon, was corroborated by the MAV footage. That footage shows the collision itself, including the portion wherein the front of the Challenger strikes the median, momentarily lifts into the air, and then settles to rest in the middle of the westbound lanes of Trask (just east of the intersection).

Officer Mazon stopped his patrol vehicle approximately ten (10) to fifteen (15) yards from the Challenger. He positioned the patrol vehicle in the lane nearest the Trask sidewalk. Officer Mazon's patrol vehicle came to rest with the front wheels facing at an angle slightly toward the Challenger, which lay ahead, mostly in the next-interior lane. Based on the severity of the crash, Officer Mazon believed the driver of the Challenger was likely seriously injured. At the time, Officer Mazon was not aware that the Challenger was stolen from the AutoMax HB dealership just moments ago. According to Officer Mazon, he exited his patrol vehicle because "I want to help this person out ... I'm thinking this person is either dead or severely injured because I saw how hard he crashed."

Within seconds of the collision, Officer Mazon notified dispatch of the crash. Officer Mazon exited his patrol vehicle just as Salazar – the sole occupant of the Challenger – began to exit the driver's side of the Challenger. Officer Mazon left the engine running in his patrol vehicle and the driver's door partially open as he approached Salazar. Salazar walked directly towards Officer Mazon. Officer Mazon directed Salazar to the curb. Salazar continued walking towards Officer Mazon and pushed Officer Mazon with his right arm. Officer Mazon did not retaliate. Instead, Officer Mazon re-directed Salazar to sit on the curb and to "sit down ... sit down." Salazar then walked to the curb, but failed to comply with Officer Mazon's repeated commands to sit down.

Salazar was holding a cell phone in one hand and what appeared to be a glass object in the other. This caused Officer Mazon to place his hand on his duty weapon because he thought Salazar could use the glass object to hurt him. Salazar dropped the object, which turned out to be a set of

car keys. According to Officer Mazon, Salazar had a “thousand yard stare” as if he were under the influence of methamphetamine or mentally ill. Salazar was mumbling to himself. Salazar’s demeanor and uncooperative behavior, in context with the time of night and collision, led Officer Mazon to believe Salazar was under the influence of methamphetamine.

Salazar began manipulating a cell phone he was holding. As depicted in the MAV footage, Salazar ignored Officer Mazon’s directives. He then walked off the curb, across the front of the patrol vehicle, and entered the driver’s seat of Officer Mazon’s patrol vehicle. Officer Mazon was still the lone officer on scene at this time. Approximately forty-five (45) seconds elapsed between the moment Salazar exited the Challenger and the moment Salazar entered the still-running patrol vehicle. Officer Mazon gave Salazar multiple commands to exit the patrol vehicle. A struggle ensued whereby Officer Mazon attempted to get Salazar out of the patrol vehicle. Officer Mazon broadcasted a request to expedite his backup. GGPD Officer Omar Perez, who was dispatched to assist Officer Mazon, heard the sense of urgency in Officer Mazon’s voice and believed he was struggling. Officer Perez activated his emergency lights and siren as he responded.

Officer Mazon attempted to pull Salazar out of the patrol vehicle. Salazar said “[w]hat are you doing ... why are you playing like that?” As Officer Mazon struggled to remove Salazar, Salazar said “I [unintelligible] kill myself ... I don’t want to kill myself ... I don’t want to do this ... stop this ... I can’t get myself arrested.” Officer Mazon repeatedly ordered Salazar to “stop ... stop”. Salazar responded “alright ... alright ... I’ll do it.” Officer Mazon repeated “get out ... get out ... get out ... get out ... get out ... get out ... get out ... get out ... hey ... do me a favor ... just get out.” Salazar responded “no.” Officer Mazon then repeated “just get out.” Salazar did not comply; instead, Salazar responded “why?” Officer Mazon repeated “just get out ... get out.” As Salazar honked the horn, he stated “I can’t go ... he’s stronger than me ... you have to sh ... [unintelligible] have to die.”

Officer Mazon was unable to pull Salazar out of the patrol vehicle. He described Salazar as having an enormous amount of strength. He tried several techniques to remove Salazar. All were unsuccessful. He tried grabbing Salazar’s wrists, shoulders, and shirt. He attempted to apply a wristlock. Salazar continued to physically resist and refused to follow Officer Mazon’s verbal commands. At one point in the struggle, Officer Mazon saw Salazar reach down with his right hand. Officer Mazon’s backup firearm was in an open canvas bag on the front passenger seat. As Officer Mazon watched Salazar reach down with his right hand, he feared Salazar was reaching for his backup weapon or was trying to find the shotgun release located on the lights and siren controller. The backup firearm was a Glock, model 19, Gen 5, 9MM semi-automatic pistol. It was loaded with fourteen (14) cartridges, including one in the chamber.

The available evidence support the conclusion that Salazar reached for the gearshift and tried to put the patrol vehicle into gear. Officer Mazon used both hands in an attempt to stop him. Ultimately, Salazar overpowered Officer Mazon and put the patrol vehicle into drive and pulled forward toward the Challenger. Contemporaneously, Officer Perez – responding as backup – arrived at the intersection, having come from the opposite direction (eastbound on Trask). He witnessed Officer Mazon’s upper body inside (Officer Mazon’s) patrol vehicle doorframe and “could hear the transmission like someone’s putting ... pushing on the gas.” Officer Perez, from approximately thirty (30) yards away, saw Officer Mazon struggling with someone (Salazar) in the driver’s seat of Officer Mazon’s patrol vehicle. Officer Perez saw the patrol vehicle begin to move with Officer Mazon in the doorway. Officer Perez feared that if Officer Mazon did not disengage, he would be dragged or fall underneath the patrol vehicle.

As confirmed by the MAVs footage of Officer Mazon's patrol vehicle, approximately forty (40) seconds elapsed between the moment Salazar entered that patrol vehicle and the moment when Salazar accelerated forward. It should be noted, when Salazar began to drive forward, Officer Perez's marked patrol vehicle lay directly in front of Salazar's field of vision. Apparent from the MAV footage of Officer Mazon's vehicle, Officer Perez's patrol car was displaying flashing red and blue lights and his siren was clearly audible. With that view, Salazar announced: "Damn it ... damn you guys ... I don't want to have to kill a cop ... I don't want to f***ing kill a cop."

Footage from the MAV of Officer Mazon's patrol vehicle corroborated that, as he began uttering the above-described statements, Salazar drove the patrol vehicle forward at approximately 5-10 miles per hour and in the direction of the Challenger. According to Officer Mazon, he recognized the patrol vehicle was about to collide with the Challenger. He believed he was trapped between the driver's door and the patrol vehicle with no avenue of escape. Officer Mazon indicated that he feared he would be crushed when the door of the police unit impacted the Challenger. Officer Mazon indicated that he believed "worst case scenario is I'm about to die right now ... best case scenario I'm going to get paralyzed."

Just before the patrol vehicle collided with the Challenger, Officer Mazon was able to maneuver the steering wheel and turn the patrol vehicle to the right. According to Officer Mazon, that action minimized the impact of the patrol vehicle with the Challenger. But, he felt pain in his left knee, which he believed was struck by the driver's door (of the patrol vehicle). As a result of that injury, Officer Mazon began to lose balance and feared that, if he fell, Salazar would run him over with the rear wheels of the patrol vehicle. Upon passing the Challenger, Salazar drove the patrol vehicle toward the northbound Harbor lanes – where there were no police vehicles in his path.

Officer Mazon indicated that he believed Salazar had just tried to kill him and "had no regard for human life based on his actions." Officer Mazon stated that he feared Salazar may arm himself with the shotgun, AR15, or 9MM pistol that was inside the patrol unit. Additionally, Officer Mazon knew other officers were responding and indicated that he believed Salazar was "probably going to try and kill them too to get away." Officer Mazon made the decision to "eliminate the threat." He drew his duty weapon and fired two (2) of the available fourteen (14) cartridges in his duty weapon. Officer Mazon saw Salazar slump over, so he stopped firing.

Officer Mazon stated that he believed that "[a]fter he (Salazar) tried to pin me against his car, had ... had I not fired I would've fell ... I know my ... my knee was about to give out ... um ... he would ... he was going to run me over ... he already tried to kill me once ... he showed no intentions of stopping." Officer Mazon believed that if he shot Salazar, the patrol vehicle would stop and he would not be run over. After the second shot, Officer Mazon kept his weapon pointed at Salazar and continued alongside the police unit as it rolled northbound. The patrol vehicle careened over the east curb (of northbound Harbor), collided with a palm tree, and came to a stop.

GGPD Officers Gleason and Perez arrived at the scene at 1:25:05 AM. Officer Gleason was westbound on Trask approaching Harbor when he saw Officer Mazon leaning into the police unit and the police unit moving forward. Initially the unit was moving to the left, then moved right before it began a northbound turn onto Harbor Boulevard. As the police unit made the northbound turn, Officer Gleason heard two (2) gun shots. Officer Perez stated that when he saw the vehicle turn north onto Harbor Boulevard, he watched Officer Mazon step back from the vehicle, unholster and fire two (2) shots. Both Officers Perez and Gleason recalled seeing Officer Mazon limping and appeared to be in pain as he continued to cover Salazar.

A civilian witness – a transient sleeping nearby – reported being awoken to the sound of the (initial) crash involving the Challenger. He observed a police officer (Mazon) immediately on scene to interact with the driver of the Challenger (Salazar). The witness reported seeing Salazar resisting in the moments prior to the shooting, and that a struggle (with Officer Mazon) ultimately ensued. Specifically, “[h]e (Salazar) wasn’t complying with ‘get down’ ... ‘stay down’ ... wasn’t complying with orders whatsoever.” The witness reiterated that “he (Salazar) wasn’t complying with orders whatsoever ... and then there became a scuffle ...” The civilian witness momentarily turned his back to urinate. When he next looked back, he saw the officer (Mazon) pointing his firearm toward the patrol vehicle. From the witness’ perspective, “it looked like he (Salazar) tried to take the police car ...” The witness was not watching during the timeframe where Salazar entered the patrol vehicle. The witness reported hearing two (2) gunshots.

When Officer Mazon’s patrol vehicle came to rest, Officer Gleason advised Officer Mazon to take cover as officers formed a shield plan for officer safety because they did not know Salazar’s status. Once the vehicle was secured, officers approached the patrol vehicle and pulled Salazar from the driver’s seat. He was placed on the ground and handcuffed. Officers began to administer medical aid to Salazar. Shortly thereafter officers determined Salazar was not breathing and no longer had a pulse.

The Orange County Fire Authority (OCFA) Engine 83 arrived on scene. Paramedics found Salazar had a through and through gunshot wound to the neck. He was unconscious, unresponsive, and not breathing. An electrocardiogram (EKG) was placed on Salazar, which showed he was in pulseless electric activity (PEA). Paramedics began cardio pulmonary resuscitation (CPR) and transported him to UCIMC for further treatment. USIMC Emergency Room medical staff continued to administer CPR and attempted to intubate Salazar. Salazar remained in PEA and was determined to have no cardiac activity. Lifesaving efforts proved unsuccessful. An attending physician pronounced Salazar deceased at approximately 2:02 AM.

Investigators later located and reviewed surveillance video from AutoMax HB and interviewed the vehicle owner, and thereby confirmed the vehicle theft.

EVIDENCE COLLECTED

The following items of evidence were collected and examined:

- Projectile fragment
- Two (2) cartridge cases, head stamped “WIN 45 AUTO +P”
- Sleeveless Hoodie and tank top
- Butane lighter, sock, key and a U.S. dollar bill
- One (1) bullet collected at the scene
- Lead fragment
- One (1) Glock, Model 21, semi-automatic pistol, with a frame mounted Streamlight TLR-1 flashlight
- One (1) Glock thirteen (13) cartridge capacity magazine containing twelve (12) cartridges with a headstamp of “WIN 45 AUTO +P”
- Two (2) Glock thirteen (13) cartridge capacity magazines. The first magazine contained thirteen (13) cartridges with headstamp “WIN 45 AUTO +P.” The second magazine contained twelve (12) cartridges with headstamp “WIN 45 AUTO +P”
- One (1) swab of Officer Mazon’s duty belt
- One (1) buccal swab from Officer Mazon
- One (1) long sleeve uniform shirt worn by Officer Mazon

AUTOPSY

On February 27, 2020, Forensic Pathologist Dr. Aruna Singhania of the Orange County Sheriff's Department Coroner Division conducted an autopsy on the body of James Salazar. Dr. Singhania concluded that James Salazar sustained one (1) through and through gunshot wound, which entered through Salazar's left cheek and exited the right side of his neck. Dr. Singhania determined the cause of death was due to asphyxia and exsanguination as a result of the single gunshot wound.

EVIDENCE ANALYSIS

Firearms & Projectile Examinations

Officer Mazon's Glock Model 21 pistol was test fired at the Orange County Crime Lab and fired without malfunction. The two (2) cartridge cases, the bullet and the jacket were determined to have been fired from that Glock pistol.

Toxicological Examination

A sample of Salazar's blood was collected at the Orange County Coroner Division Facility. 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	0.47 ± 0.035 mg/L
Methamphetamine	Postmortem Blood	1.75 ± 0.13 mg/L

SALAZAR'S PRIOR CRIMINAL HISTORY

Salazar's criminal history was reviewed and considered. Salazar had a California Criminal History that dates back to 2009. He has previously been arrested for the following charges:

- DUI – Alcohol/Drugs
- Robbery
- Annoying/Molesting Child Under 18
- Battery
- Hit and Run
- Vandalism
- Petty Theft
- Driving With a Suspended License

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]. To convict an officer of any of these charges, it would be necessary to prove beyond a reasonable doubt that no legal justification 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 done in compliance with California Penal Code section 835a. 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 a police officer to use reasonable force when necessary in the defense of human life. The decision to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to the officer at the time, rather than with the benefit of hindsight. The totality of the circumstances shall be taken into account when officers are forced to make quick judgments about using force.

California Penal Code Section 835a further states that a peace officer is justified in using deadly force when the officer reasonably believes that such force is necessary to defend against an imminent threat of death or serious bodily injury to the officer or another person. Deadly force may also be used to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believed that person will cause death or serious bodily injury if not immediately apprehended.

Consistent with existing law, Penal Code section 835a maintains the principle that a police officer, acting in compliance under this section, 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 objectively reasonable force to effect the arrest or to prevent escape or to overcome resistance.

Penal Code Section 835a also requires that, prior to the use of deadly force, the officer make reasonable efforts to identify themselves and warn that deadly force may be used, when feasible, unless the officer reasonably believes the person is already aware of those facts. In determining whether deadly force is necessary, officers shall evaluate the circumstances of each situation independently, and use other available resources and techniques if reasonably safe and feasible to do so.

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/she 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/herself from attack if, as a reasonable person, he/she had grounds for believing and did believe that bodily injury was about to be inflicted upon him/her or upon another person. In doing so, such person may immediately use all force and means which he/she 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 authority, 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 in *Graham* is applicable to the circumstances surrounding the February 26, 2020 interaction of Officer Mazon and Salazar.

LEGAL ANALYSIS

The facts in this case are determined by considering all evidence available to the OCDA, including statements by law enforcement officers, video, witness statements, forensic evidence, and all other relevant material.

The sole issue presented is whether the February 26, 2020 conduct of Officer Mazon was criminal. As outlined above, to charge Officer Mazon with a crime, the prosecution is required to prove beyond a reasonable doubt that no legal justification existed for his conduct. In context, this means: to lawfully charge Officer Mazon with a crime, the prosecution must prove beyond a reasonable doubt that Officer Mazon did not act in lawful self-defense or defense of others. If the actions of Officer Mazon were legally justified – within the meaning of California law governing lawful self-defense / defense of others – then criminal charges are unwarranted. Put simply, a homicide committed in self-defense or defense of others is *legally justified*; a homicide that is *legally justified* is not a crime.

The Court of Appeal notes it is well settled that "[u]nlike 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 potentially dangerous, emergency conditions or other exigent circumstances exist, "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.) Additional analysis, pursuant to California Penal Code section 835a, permits deadly force when the officer reasonably believes it is necessary, based upon a totality of the circumstances, to defend themselves or others against an imminent threat of death or serious bodily injury.

Based on the totality of all the evidence and facts, it is our conclusion that we do not have sufficient evidence to prove beyond a reasonable doubt that Officer Mazon was not justified in believing that Salazar posed a significant threat of death or serious physical injury to himself and others. This conclusion is based on the totality of the circumstances, but primarily based on Salazar’s conduct in the moments leading up to the shooting.

Firstly, the analysis begins with the reason for which Officer Mazon contacted Salazar. Officer Mazon personally observed Salazar driving in a reckless manner that resulted in a significant traffic collision. Officer Mazon’s intention when he first exited his idling police vehicle, leaving the driver’s side door ajar, was to check on the well-being of Salazar and render any necessary first-aid. Officer Mazon was not aware the Challenger was stolen. The MAV footage – which captured the Challenger as it collided with a center median – corroborated the accuracy of Officer Mazon’s characterization of the collision. Officer Mazon, under the reasonable assumption that Salazar was injured, did exactly what is expected of an on-duty patrol officer: to approach and help any injured occupant(s).

Secondly, Officer Mazon employed several non-lethal tactics in an effort to de-escalate Salazar’s increasingly serious non-compliance. Officer Mazon declined to forcibly react when Salazar physically pushed Officer Mazon. Officer Mazon issued repeated verbal commands to secure Salazar’s compliance without physical intervention. These included instructions to sit on the curb and, later, to exit the patrol vehicle. The MAV audio recording confirms these instructions were stated in clear, understandable terms. Salazar’s comments throughout the encounter, including his statement “... damn you guys ... I don’t want to have to kill a cop” corroborate that he was aware Officer Mazon – distinctively dressed in full uniform – was an on-duty police officer. From the outset, Salazar’s behavior, in response to all verbal commands, was erratic and non-compliant. Officer Mazon noted that Salazar displayed a “thousand yard stare”, mumbled incoherently, and displayed behavior consistent with narcotic impairment.

Thirdly, the OCDA notes a significant escalation of danger presented by Salazar’s activity in the patrol vehicle. The vehicle was running, and therefore capable of being driven. Salazar was seated in the driver’s seat, and therefore capable of driving. Despite being alone on scene (and without a cover officer), Officer Mazon refrained from using any sort of lethal force to extricate Salazar from the vehicle in advance of its movement. Instead, he confined his efforts to verbal commands and non-lethal physical force – all of which were narrowly tailored to removing Salazar from the idling patrol vehicle (i.e. to neutralize the specific behavior of Salazar that was most dangerous to public safety). Officer Mazon’s efforts included grabbing Salazar’s arm, shoulder, and shirt. He attempted to apply a wrist lock to dislodge Salazar from the driver’s seat. Salazar resisted every single one of Officer Mazon’s non-lethal tactics. In short, Salazar ignored all verbal commands and resisted all forms of moderate physical force used by Officer Mazon.

Rather than comply, Salazar physically placed the vehicle gear shift into the “drive” position. He did so by overcoming Officer Mazon’s efforts to prevent the same. Just as Salazar’s initial decision to enter the driver’s seat of a running patrol vehicle was a substantial escalation to the risk he posed, Salazar further escalated the gravity and immediacy of that risk by placing the vehicle into “drive”. The totality of all the evidence supports the conclusion that Officer Mazon could not, in good conscience, have allowed Salazar to flee in the patrol vehicle. Only moments before, Officer Mazon witnessed Salazar crash another vehicle into a median. Salazar was in no condition to safely drive *any* vehicle, given the severity of the initial collision and the symptoms indicating Salazar was under the influence of methamphetamine – impairment later confirmed, independently, by Salazar’s post-mortem toxicology. To permit Salazar to drive off, in the naïve hope that responding units could safely conduct a traffic stop, would have created an untenable risk to other motorists, pedestrians, the general public, and to any responding officers tasked with quickly apprehending Salazar. This is true even before factoring in the extraordinarily grave risk to the public that would ensue were Salazar to drive off in a patrol vehicle *containing loaded firearms* and ammunition, including a 9MM pistol with a cartridge in the chamber, a shotgun, and an AR-15 assault rifle. For these reasons, the OCDA does not believe Officer Mazon could have reasonably disengaged with Salazar in advance of the shooting. Officer Mazon had personally witnessed Salazar’s non-compliance. Officer Mazon had personal knowledge of the loaded firearms kept in the vehicle. Officer Mazon had personally witnessed conduct by Salazar that made it apparent Salazar meant to drive off in the patrol vehicle at any cost. Indeed, Salazar forcibly placed the gear shift into “drive”, despite Officer Mazon’s attempt to prevent such a dangerous escalation of risk. And, Salazar issued the ultimatum discussed below.

Fourthly, when Salazar drove the patrol vehicle toward the Challenger, Officer Mazon was situated in a highly vulnerable position: on foot, partially within the patrol vehicle doorframe. Salazar controlled the vehicle from the driver’s seat. As the patrol vehicle neared the Challenger, Salazar began “[d]amn it ... damn you guys ...” Within a second of Officer Mazon redirecting the patrol vehicle away from the Challenger, Salazar continued “... I don’t want to have to kill a cop ... I don’t want to kill a f***ing cop ...” In context, the statement – at a minimum – constitutes an ultimatum: that Salazar is prepared to kill Officer Mazon unless Salazar be allowed to drive off.

Officer Mazon was able to grab the wheel and steer it away from the Challenger, enough to avoid being crushed, but injured his left knee in the process. The injury, and its timing in relation to Salazar’s ultimatum, is of consequence for two reasons. To begin with, Salazar did not relent after passing the Challenger. Instead, Salazar continued to drive onto northbound Harbor – in a direction that had no police presence to block him from rapidly accelerating the patrol vehicle. Beyond that, the knee injury exacerbated the risk that Officer Mazon could fall to his death (under the patrol vehicle) should he continue with non-lethal efforts to remove Salazar from the driver seat. Such efforts were unsuccessful prior to Officer Mazon’s injury. It would have been unreasonable to conclude that further non-lethal force would have been effective following the injury. From the vantage point of arriving Officer Perez, this concern (that Officer Mazon would be dragged or pulled under the patrol vehicle) was apparent.

Believing Salazar had just tried to kill him and that Salazar would do so to anyone preventing Salazar’s escape, Officer Mazon fired two (2) shots at Salazar. Two (2) spent casings were located at the scene, both from Officer Mazon’s duty weapon. That firearm was a Glock, model 21, semi-automatic pistol, which had the capacity to fire fourteen (14) shots without reloading. A forensic pathologist, tasked with conducting the autopsy, confirmed Salazar was struck with a single bullet.

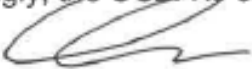
The reasonableness of Officer Mazon's perception of the lethal danger presented by Salazar could not be disproved beyond a reasonable doubt, as required to file criminal charges against Officer Mazon. Salazar could have used the vehicle as a weapon to inflict great bodily injury and/or death upon officers and civilians, most imminently to Officer Mazon. Salazar's defiant and erratic behavior, ultimatum to Officer Mazon, and actions with the patrol vehicle created a significant danger to Officer Mazon, responding officers, and the nearby public. By the time Officer Mazon resorted to deadly force, he had attempted every reasonably available non-lethal tactic to de-escalate the danger posed by Salazar, including verbal and non-lethal physical force. By the time Officer Mazon used lethal force, Salazar had reached open lanes upon which he could rapidly accelerate northbound on Harbor. This posed an imminent risk of great bodily injury or death to Officer Mazon. It also presented an untenably grave danger to the public – as Salazar was unsafe to drive away in *any* vehicle, much less a vehicle stocked with loaded firearms under circumstances where Salazar had already indicated he was prepared to kill in order to avoid arrest.

It should be reiterated that, in order for Officer Mazon to be ethically charged and lawfully convicted of a crime in connection with the February 26, 2020 death of Salazar, it is the OCDA's burden to prove beyond a reasonable doubt that Officer Mazon did not act in justifiable self-defense or defense of another. As should be apparent from the above-described analysis, a reasonable jury objectively analyzing these facts in the context of proving a crime beyond a reasonable doubt, would justly conclude that it was reasonable for Officer Mazon to believe that Salazar posed a grave threat to his life and those nearby, and that Officer Mazon's resort to lethal force was necessary under the circumstances. Simply stated, the available evidence does not support the conclusion that Officer Mazon, beyond a reasonable doubt, committed a crime.

CONCLUSION

Based upon a review of all 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 the evidence does not support a beyond a reasonable doubt finding that Officer Mazon's actions were not reasonable, not necessary, and not legally justified when he shot Salazar on February 26, 2020.

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



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