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ORANGE COUNTY, CALIFORNIA

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BUREAU OF INVESTIGATION

LISA BOHAN - JOHNSTON
DIRECTOR
ADMINISTRATIVE SERVICES

September 20, 2011

Chief Paul Walters
Santa Ana Police Department
60 Civic Center Plaza
Santa Ana CA 92701

Officer-Involved Shooting (Fatal) of Martin Ruiz
Santa Ana Police Department
1115 South Shelton Street, Santa Ana, CA
S.A. # 11-002, FR # 11-40754

Dear Chief Walters,

OVERVIEW

This letter contains the scope and legal conclusion of the Orange County District Attorney's (OCDA) investigation of the January 16, 2011 fatal officer-involved shooting of Martin Ruiz. In this letter, the OCDA describes the investigative methodology employed, evidence examined, witnesses interviewed, facts discovered, and legal analysis determining whether criminal culpability existed on the part of any Santa Ana Police Department (SAPD) officers involved in the shooting—specifically Detective Tyler Salo.

On January 16, 2011, OCDA Special Assignments Unit (OCDASAU) Investigators responded to 1115 South Shelton Street after reports of an officer-involved shooting incident involving the SAPD. During the course of the resulting investigation, OCDA Investigators interviewed multiple witnesses, obtained and reviewed witness statements, SAPD reports, laboratory and identification reports, autopsy reports, incident scene photographs, and other relevant reports and materials.

The OCDA conducted an independent and thorough investigation of the facts and circumstances of this event and impartially reviewed all evidence and legal standards available. The scope and findings of this review are expressly limited to determining whether any criminal conduct occurred on the part of the SAPD officers and personnel involved. The OCDA will not be addressing policy, training, tactics, or civil liability.

INVESTIGATIVE METHODOLOGY

The OCDASAU is responsible for investigating officer-involved shootings within Orange County. The investigative protocol for officer-involved shootings involves the assignment of a lead

investigator from the OCDASAU, who is then supported by additional investigators from both the OCDASAU and other OCDA investigative units, as well as by other staff. The OCDASAU consists of six-full time investigators and one supervising investigator. There are additional investigators within other OCDA units who are trained to assist in fatal officer-involved shooting investigations when needed. All interviews are audio recorded by the OCDASAU. The OCDASAU is also assisted by the OCSD Crime Laboratory which processes physical evidence that is recovered in the course of the investigation.

At the conclusion of the OCDASAU's investigation, an investigative file is prepared containing all the relevant reports, documents and records, audio-recordings, photographs, and related material. The investigative file is then assigned to an experienced deputy district attorney for his or her legal review and for a determination of whether criminal charges are warranted. In the case of fatal, officer-involved shootings and custodial deaths, a deputy district attorney in the OCDA's Homicide or Gang Unit conducts the review. In the case of non-fatal officer-involved shootings, an experienced deputy district attorney in the Special Prosecutions Unit conducts the review. Ultimately, one deputy district attorney prepares a memorandum outlining his or her factual and legal analyses of the case and his or her legal conclusions.

Throughout the legal review process, the assigned prosecutor may consult with his or her supervising assistant district attorney who will also review the prosecutor's memorandum and legal conclusions. The matter may also be reviewed by a senior assistant district attorney, the Chief of Staff, and the District Attorney. If necessary, the assigned prosecutor may request further investigation before he or she renders a conclusion.

FACTS

On January 16, 2011, at approximately 4:56 p.m., Martin Ruiz was pronounced deceased at the residence of 1115 South Shelton Street after being shot by SAPD Detective Tyler Salo. The relevant circumstances which led up to his death and which were revealed through the subsequent investigation are as follows:

Martin Ruiz was a 19 year old male with an adult criminal history dating back to January 2009 for the following offenses: possession of illegal drug paraphernalia, participation in a criminal street gang, promoting felony criminal street gang, vandalism, possession of ammunition by prohibited person, probation violations, possession of liquor on school property, and minor in possession of alcohol. He was a documented member of the criminal street gang known as The Public Vandals (TPV) and the Orange County Probation Department had placed him on formal gang terms probation. At the time of his death, Ruiz had an outstanding warrant (#2659904) for his arrest as a result of violating his probation.

On January 16, 2011, SAPD detectives Caesar Flores and Tyler Salo—members of the SAPD Gang Suppression Team—were partnered together for a two-man shift beginning at 2:00 p.m. Both detectives had full duty belts and police badges displayed and were dressed in the SAPD Gang Suppression uniform consisting of a black tactical police vest with a SAPD cloth badge and "police" patch on the front, as well as a cloth "police" patch on the back.

At approximately 3:54 p.m., Flores and Salo had just completed a car stop in an area they knew to be claimed by the criminal street gang, The Public Vandals (TPV). TPV have a history of violent incidents including shootings of rival gang members and had recently begun increasing their activities outside of their normal boundaries in an effort to promote their gang and disrespect other gangs. Typically, gang members will arm themselves during these activities.

Flores and Salo knew Martin Ruiz as an active member of TPV and were aware that he had an outstanding warrant for his arrest for a probation violation relating to a weapons charge. In previous searches of Ruiz, Flores and other gang detectives had found ammunition in his possession which led them to the conclusion that he had access to guns. Gang detectives had previously attempted to locate Ruiz at his residence on multiple occasions but were unsuccessful.

After their car stop, Flores and Salo decided to drive by Ruiz's residence at 1123 South Shelton Street. As Flores and Salo passed Ruiz's residence, they observed Ruiz standing in the front yard speaking with a neighbor and holding an unknown small, black object in his left hand. The detectives continued driving until they parked on Russell Avenue as Salo placed a call to Orange County Probation Officer IBARRA to confirm the outstanding arrest warrant for Ruiz.

At approximately 3:55 p.m., Flores and Salo advised dispatch over the radio that they were going to conduct a pedestrian check on Shelton Street. As they arrived at Ruiz's residence, Ruiz was still standing in his yard but began to run down his driveway as soon as Salo started to exit from the car, leading Salo to jump over the fence in pursuit of Ruiz. As Flores got out of the car, he heard Salo's Taser go off, saw a large pit-bull dog coming after Salo, heard a single gunshot, and then saw the dog go down. He then observed Ruiz running along his backyard wall.

Flores informed dispatch that Ruiz was fleeing on foot and provided a description of his attire. Meanwhile, Salo provided dispatch with a further description of Ruiz and also requested a supervisor reference the dog shooting. As officers were setting up and coordinating the perimeter and search for Ruiz, residents informed officers that they had observed Ruiz jump into the backyard of 1119 South Shelton Street.

At approximately 4:13 p.m., an officer noticed that a shed door at 1119 Shelton Street, which had previously been open, was now closed. The searching officers feared that Ruiz may be hiding in the shed and called for an additional officer to respond to the area. As Detective Flores arrived to the front of 1119 South Shelton Street, he heard an officer exclaim, "he's making a run for it, he's coming out," and then observed Ruiz climbing over the north perimeter fence into the backyard of 1115 South Shelton Street. Flores then proceeded to the north perimeter of 1115 South Shelton Street and observed Ruiz attempting to climb over the north perimeter fence, made eye contact with him, and told him, "hey, I got you buddy." Ruiz then fled back into the backyard of 1115 South Shelton Street. At this point, Flores and other officers jumped into that backyard and searched for Ruiz in the enclosed patio area but were unable to locate him.

Meanwhile, Officer Jimenez arrived on South Shelton Street and ran toward the 1115 address. He observed officers pointing towards the backyard of the residence and also saw Ruiz climb over the south backyard perimeter fence that borders the 1115 and 1119 addresses as he headed from the backyard of 1119 to the backyard of 1115 with officers following behind him. The officers were dressed in SAPD uniforms and were yelling at Ruiz to stop. Several subjects—thought to be family members of Ruiz—were standing to the front of the 1115 residence and also yelling at Ruiz to stop.

As Ruiz ran toward the rear-end of the 1115 residence, Officer Jimenez moved the subjects away from the residence until another officer arrived to contain the subjects there. At this point, Jimenez moved toward the open front door in order to secure the perimeter of the residence. As he approached the front door, he noticed Salo standing just south of the open front door with his duty weapon drawn and pointed toward the interior of the residence. Jimenez withdrew his duty weapon, pointed it toward the interior of the residence, and positioned himself approximately two feet behind

and to the right of Salo. From this position behind Salo, he was unable to view Ruiz inside the residence but heard Salo yell several times “drop the knife” or “put the knife down,” and then heard 2 gunshots fired by Salo.

Meanwhile, Flores was starting toward the front of 1115 South Shelton Street and heard 3 gunshots coming from the front of the residence. He entered the residence through the front door while Salo, Jimenez and other officers were in the living room. Flores recalls observing a knife with a blade approximately 8” in length and handle approximately 4” long lying on the floor about 6” from Ruiz’s left hand. Similarly, Jimenez recalls observing a large, black handled, kitchen knife with a blade approximately 5” in length, lying on the floor directly next to Ruiz’s feet. Ruiz was still moving as other officers arrived to assist. Jimenez secured Ruiz’s legs as other officers handcuffed him.

In a separate account, witness John Doe states that he was in the front yard of 1119 South Shelton Street talking to Ruiz when a silver colored Chevy Malibu pulled up in front of the location and a gang officer exited the vehicle. The officer drew his weapon and told Ruiz to stop, but instead Ruiz immediately ran toward his backyard away from the officer. The officer chased after Ruiz, and when Ruiz opened the fence to the backyard, a large pit bull came out and the officer shot the dog. Soon after, other officers arrived on scene and told John Doe and all the other observers to move away from the scene. Approximately 10 to 15 minutes later, John Doe observed Ruiz run toward the back of 1115 South Shelton Street with officers in pursuit. Several officers, including the one he previously saw getting out of the silver car, ran into the front of the house at 1115 South Shelton. Seconds later, John Doe heard 3 gunshots.

At approximately 4:40 p.m., officers at the scene broadcast to SAPD dispatch that there had been a (998) “officer involved shooting,” and requested that paramedics report to the scene.

At 4:42 p.m., Santa Ana Medic 4 (SAM4) and Santa Ana Engine 4 (SAE4) were dispatched to 1115 South Shelton Street in Santa Ana regarding an officer involved shooting. SAM 4 and SAE4 arrived on the scene at 4:45 p.m., and responded to 1115 South Shelton Street approximately three to four minutes later. Paramedics observed apparent gunshot wounds on Ruiz’s right cheek and the left rear portion of his head, as well as a large amount of blood on the floor. A paramedic observed a kitchen-type knife, with an approximate eight inch blade, lying next to Ruiz’s lower left leg. The paramedic applied four heart monitor pads to Ruiz’s upper and lower, right and left portions of his back, and received an “asystole”—or lack of any heart rhythm—reading on his monitor. Ruiz’s pupils were fixed and his skin was cool to the touch. Observing no viable signs of life, the paramedic declared Ruiz deceased at approximately 4:56 p.m.

EVIDENCE ANALYSIS

AUTOPSY

On January 18, 2011, at approximately 9:04 a.m., Forensic Pathologist, Anthony A. Juguilon, M.D., conducted the post-mortem examination of Ruiz at the Coroner facility of the Orange County Sheriff-Coroner’s Forensic Science Center. Dr. Juguilon concluded that the cause of death was gunshot wounds to the head and torso. Dr. Juguilon noted a perforating gunshot wound on Ruiz’s neck and head, a perforating gunshot wound on Ruiz’s left upper lateral thoracic wall, and a penetrating gunshot wound on Ruiz’s left lateral thoracic wall. Dr. Juguilon also noted abrasions and superficial lacerations of Ruiz’s neck, left upper extremity, and right lower extremity. A toxicological examination detected the presence of multiple substances as noted below.

TOXICOLOGY

The Orange County Crime Lab conducted a toxicological exam on Ruiz's post-mortem blood sample. The results were:

DRUG	MATRIX	RESULT
Amphetamine	Post-mortem Blood	0.13 mg/L
Methamphetamine	Post-mortem Blood	1.6 mg/L
Tetrahydrocannabinol	Post-mortem Blood	Detected
Tetrahydrocannabinol Carboxy-Acid	Post-mortem Blood	Detected
Amphetamine, Methamphetamine	Post-mortem Blood	Detected

WEAPONS/FIREARM EXAMINATION

OCSD Crime Lab Forensic Scientist Thomas Matsudaira performed the firearms examination on the following items of evidence:

- 1) Detective Salo's Glock Model 22, .40 caliber semi-automatic pistol, magazines and cartridges
- 2) Projectiles from the autopsy and the scene
- 3) Cartridge cases from the scene

After examining the evidence, Matsudaira concluded that Salo's Glock pistol functioned normally and that the three fired cartridge cases from the scene were fired from Salo's pistol. However, he was unable to definitively determine whether the three bullets were fired from Salo's pistol as microscopic comparisons were inconclusive.

OCSD Crime Lab Forensic Scientist Thomas Matsudaira also completed an examination and comparison of Salo's Taser. He concluded that the Taser operated properly and that it was activated on January 16, 2011 at approximately 2:58 p.m. and 3:56 p.m. for durations of approximately 3 seconds each time.

OCSD Crime Lab Forensic Scientist Jeanne Putinier conducted a DNA Typing comparison examination on the knife from the scene (Phillipe Richard brand) using the DNA collected from the knife handle and the DNA extracted from Ruiz's blood standard. The examination revealed that the major contributor to the profile obtained from the apparent blood on the knife handle is the same as Ruiz's DNA profile.

OCSD Crime Lab Forensic Specialist Karen Ford conducted two finger print comparison examinations of the latent prints located on the knife. Results were inconclusive to Ruiz as to one latent print. All other latent prints were evaluated and determined to be of no value for comparison. In her report, Ford noted that fully rolled fingers, including the tips, sides and joints are needed to complete such a comparison.

THE LAW

Penal Code section 835a allows any police officer who has reasonable cause to believe that the

person to be arrested has committed a public offense to use reasonable force to effect the arrest, to prevent escape or to overcome resistance.

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, to refrain from using force or any weapon to resist such arrest.

CALCRIM 3470 permits a person to use force against another person when he reasonably believes that he or a third party was in imminent danger of suffering bodily injury and that immediate use of force was necessary to defend against that danger.

The United States Supreme Court in *Graham v. Conner* (1989) 490 U.S. 386 determined that an officer's right to use force is to be analyzed under the Fourth Amendment's "objective reasonableness" standard. The Court stated the "calculus of reasonableness 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 p. 397.)

LEGAL ANALYSIS

Ruiz's decision to flee from SAPD officers, including Detective Salo, as well as his decision to arm himself with a knife as Salo and other SAPD officers attempted to apprehend him, created circumstances under which it was reasonable for Salo to deem it necessary to use deadly force. Salo instructed Ruiz to put down his weapon several times before deciding that Ruiz's noncompliance rendered it necessary to use deadly force. Salo's belief that it was necessary to employ deadly force to stop the threat posed by Ruiz was reasonable under the circumstances.

CONCLUSION

On the basis of the evidence gathered and provided to the OCDA, all of the surrounding factual circumstances and applicable principles of law, it is my legal opinion that there is no evidence of any criminal culpability on the part of Detective Salo, nor on the part of any other SAPD officers or personnel. The action of each SAPD officer—and specifically Detective Salo—was reasonable in light of the situation they confronted.

Respectfully,



Matt Murphy
Senior Deputy District Attorney
Homicide Unit