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November 20, 2018

Chief Todd Elgin  
 Garden Grove Police Department  
 11301 Acacia Pkwy,  
 Garden Grove, CA 92840

Re: Officer-Involved Shooting on March 2, 2018  
 Fatal Incident involving Erick Eduardo Mora Martinez  
 District Attorney Investigations Case # S.A. 18-009  
 Garden Grove Police Department Case # 18-1244  
 Santa Ana Police Department Case # 18-05307  
 Orange County Crime Laboratory Case # 18-43360 / 18-01162-IC (Toxicology)

Dear Chief Elgin,

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 Garden Grove Police Department (GGPD) Sergeant Brian Dalton. Erick Eduardo Mora Martinez, 31, died as a result of his injuries. The incident occurred in the City of Santa Ana on March 2, 2018.

**OVERVIEW**

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the March 2, 2018, fatal officer-involved shooting of Martinez. 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 Garden Grove 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 March 2, 2018, Investigators from the OCDA Special Assignment Unit (OCDASAU) responded to this incident. During the course of this investigation, 18 interviews were conducted, and seven additional witnesses were contacted during the supplemental canvass interviews. OCDASAU Investigators also obtained and reviewed the following: GGPD reports, California Highway Patrol (CHP) reports, Santa Ana Police Department (SAPD) reports, audio dispatch and radio traffic recordings; Orange County Crime Laboratory (OCCL) reports, including toxicology, forensic alcohol examination, latent print, officer processing and firearms examination reports; crime scene investigation photographs; medical records and photographs related to the injuries sustained by Martinez; criminal history records related to Martinez including prior incident reports; 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 Garden Grove officers or personnel, specifically Sergeant Dalton. 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 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/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 Felony Operations II Division of the OCDA, 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. Sergeant Dalton gave a voluntary statement to OCDA Investigators on March 14, 2018.

### **FACTUAL SUMMARY**

Martinez was on Post Release Community Supervision after having been released from police custody. On Nov. 27, 2017, a warrant, No. R02942, was issued for Martinez for having violated the terms of his release.

On or about Feb. 23, 2018, Martinez was identified by GGPD's Career Criminal Apprehension Team (CCAT) as having a No Bail arrest warrant for probation violation and being a possible suspect in recent burglaries. CCAT placed a GPS tracking device on a car Martinez was known to drive, a silver 2009 Toyota Rav-4 (RAV-4) SUV bearing California license number 6GYZ084.

On March 2, 2018, at approximately 12:00 p.m., CCAT went on-duty. At approximately 11:30 a.m., CCAT checked the location of Martinez's RAV-4 using the GPS tracking device. The RAV-4 was located in the city of Rowland Heights. CCAT located Martinez driving the RAV-4 and surveilled him to different areas of Los Angeles and Orange Counties. CCAT's plan was to surveil Martinez to see if he was committing any crimes. Martinez drove through neighborhoods slowly. CCAT members believed Martinez was searching for a crime opportunity. Eventually, Martinez was followed to the La Quinta Hotel, located at 2721 Hotel Terrace in Santa Ana. Officers Richard Alvarez-Brown and Stephen Estlow got out of their vehicles and walked into the parking lot to see what Martinez was doing. Officer Alvarez-Brown observed Martinez looking into vehicles in the hotel parking lot. Martinez and a female passenger got back into the RAV-4 and drove away. Sergeant Brian Dalton decided to wait for Officers Alvarez-Brown and Estlow to return to their vehicle safely prior to following Martinez. Once Officers Alvarez-Brown and Estlow returned safely to their vehicle, they relocated Martinez through the GPS tracking device. The GPS tracking device showed Martinez was in the parking lot of the 7-Eleven convenience store and gas station located at 1700 East Dyer Road in Santa Ana.

At 11:30 p.m., Officers Alvarez-Brown and Estlow observed the RAV-4 was parked along the north side of the 7-Eleven convenience store facing the front of the store. Martinez was sitting in the driver seat of the RAV-4. They observed Martinez's girlfriend, Jane Doe 1, walking away from the RAV-4 toward the 7-Eleven convenience store. At the time, it was not known to CCAT members that Jane Doe 2 was sitting in the seat behind the driver's seat. Once all members of CCAT were in the parking lot of the 7-Eleven convenience store, they drove their vehicles toward the RAV-4 to block all escape routes. Based on Sergeant Dalton and other members of the CCAT team, the officers were aware Martinez often fled from and fought police to escape detention. Officers Orozco and Shelgren were in a black Dodge Caravan and parked toward the right rear bumper of the RAV-4. Officers Alvarez-Brown and Estlow were in a silver Ford F-150 truck and parked perpendicular to the RAV-4's left rear wheel. The RAV-4 was additionally boxed in by cement curbs to the right, front, and left. The 7-Eleven convenience store's front (north) block wall was in front of the RAV-4.

Once in position, all CCAT members got out of their vehicles wearing tactical vests that had the word "POLICE" affixed in multiple locations. According to witnesses on scene, it was clear by the officers' dress and statements that were yelled upon leaving their vehicles, that the CCAT team members were police officers. Sergeant Dalton and Officer Alvarez-Brown approached the front of the RAV-4, Officer Shelgren approached the right-rear passenger side of the RAV-4, Officer Orozco approached the driver's door of the RAV-4 and Officer Estlow went inside of the 7-Eleven convenience store to detain Jane Doe 1.

Jane Doe 2 noticed that Officer Orozco approached Martinez while yelling "stop" and noticed Officer Shelgren approach the passenger door wearing a vest with "POLICE" while holding a firearm. John Doe 1 heard officers shouting, "Show me your hands!" Officer Orozco stated she announced she was an officer and demanded Martinez place his hands where she could see him. Martinez did not comply. Officer Orozco then pounded on the driver's side window, while continuing her announcements and commands. Officer Orozco opened the driver's side door and Martinez raised his hands up. However, Sergeant Dalton stated that at this time Martinez looked at him, looked back towards the rear of the vehicle, and then back at him. Martinez then put the vehicle into reverse striking and pinning Officer Orozco with the opened driver's door and A-frame as Martinez continued to accelerate until he crashed into the black Dodge Caravan. Officer Orozco stated she held onto the RAV-4 as Martinez drove in reverse because she thought she was going to be run over by Martinez. It was this movement that caused Officer Shelgren to be struck by the opened rear passenger door.

Sergeant Dalton described watching as Officer Orozco was dragged toward the silver Ford F-150 truck. Sergeant Dalton was afraid that Officer Orozco would be killed by Martinez. Jane Doe 3 described watching the scene unfold and believed the driver of the truck was trying to escape and hit the other truck in reverse harder than what she described would have been just a fender bender. John Doe 2 felt the female officer that was trying to apprehend Martinez was in danger because "she could've gotten run over." Sergeant Dalton fired his handgun three times into the RAV-4's windshield where Martinez was seated.

Martinez then put his vehicle into drive and accelerated forward toward Sergeant Dalton who was in between Martinez's vehicle and the wall of the 7-Eleven convenience store. Jane Doe 3 believed the driver of the truck was trying to run Sergeant Dalton over and believed Sergeant Dalton had to jump out of the way to avoid being struck by the truck. John Doe 1 described Martinez as driving "towards the officer and trying to get out of there." Sergeant Dalton said he feared for his life and fired his handgun at Martinez three more times. Martinez's RAV-4 eventually collided into the 7-Eleven convenience store wall. At 11:33 p.m., Sergeant Dalton broadcasted over the countywide radio channel (Red Channel) that they were involved in an officer involved shooting and requested paramedics to respond. Officers from SAPD and the CHP responded. Jane Doe 1 and Jane Doe 2 were both detained. GGPD pulled Martinez from the RAV-4 and performed first-aid until relieved by the Orange County Fire Authority (OCFA).

At 11:38 p.m. OCFA Engine 79 (paramedics) arrived. An OCFA Paramedic relayed that he noticed Martinez on the ground and four to five police officers were around Martinez performing Cardio Pulmonary Resuscitation (CPR). The OCFA Paramedic's assessment of Martinez revealed what appeared to be a gunshot wounds to the upper right chest, two on his neck, one on the left or right cheek, and a large amount of blood on Martinez's head. The OCFA Paramedic placed

an Electrocardiogram (EKG) and defibrillator monitor on Martinez and found Martinez did not have a pulse, but did have some electrical heart activity. CPR was continued and Martinez was transported to Orange County Global Medical Center (OCGMC) via CARE ambulance.

At 11:48 p.m. Martinez was transported to OCGMC. The OCFA paramedic administered two doses of epinephrine while en-route to OCGMC. At 11:55 p.m., the OCFA paramedic relinquished Martinez's medical care to the trauma team. Martinez was asystole and did not have a heartbeat or pulse. Standard Advanced Cardiac Life Support (ACLS) protocols were initiated and continued in the trauma bay, to include; administering epinephrine, calcium chloride, and bicarbonates. An OCGMC Doctor installed a "Central Line" in Martinez's right femoral vein. Martinez received blood transfusions and normal saline fluids via the central line and was intubated. At approximately 12:03 a.m., the OCGMC Doctor performed a "Thoracotomy" in which she surgically opened up the left side of Martinez's chest and massaged his heart. However, all medical intervention failed and Martinez was unable to sustain life.

On March 3, 2018, at approximately 12:10 a.m., Martinez was pronounced deceased.

### **VOLUNTARY STATEMENT OF SERGEANT DALTON**

The following is a summary of Sergeant Dalton's voluntary statement to the OCDA.

On March 2, 2018, Sergeant Dalton was working in his capacity in the CCAT assignment. Sergeant Dalton stated that he had personally dealt with Martinez on numerous occasions. During his personal encounters with Martinez and from what he has heard from other officers that have personally dealt with Martinez, Sergeant Dalton knew Martinez often ran from the police and fought with his arresting officers.

On March 2, 2018, while assigned to CCAT, Sergeant Dalton and his team members located Martinez via a GPS unit attached to the car Martinez was known to use. Sergeant Dalton described his CCAT team following Martinez in and around both Los Angeles County and Orange County. Eventually Sergeant Dalton stated that Martinez made his way to a hotel in Santa Ana. While there, Martinez and Jane Doe 1 were seen getting out of his car and additionally meeting up with a second female before all leaving together in Martinez's car.

After waiting for all officers to return to their vehicles safely, CCAT once again located Martinez's vehicle via the GPS device. This time, the GPS placed Martinez at a 7-Eleven convenience store. Sergeant Dalton stated that the plan was to either stop him while committing a crime or to wait for Martinez to go to a liquor store to give Martinez an opportunity to get out of his vehicle. Sergeant Dalton believed, based on his experience with Martinez, having a "black and white" patrol car conducting a stop would result in a pursuit which could cause injury to innocent bystanders.

When Sergeant Dalton and other officer members of CCAT arrived on scene at the 7-Eleven convenience store, Sergeant Dalton made the decision the CCAT team would confront Martinez in the parking lot because it was well lit, they could see, and they were able to box him in. Sergeant Dalton stated the plan was to put a truck on either side of Martinez and his car would pull in behind Martinez to prevent Martinez from reversing away from the scene. However, there was not enough room on one side of Martinez, so the three cars boxed Martinez in with the front end of his vehicle up against the 7-Eleven.

Sergeant Dalton and CCAT team members exited their vehicles and approached Martinez while identifying themselves and demanding Martinez put his hands up. Sergeant Dalton and the other officers had their vests on that said "POLICE." Sergeant Dalton stated that he opened the door so that Officer Orozco could grab Martinez. However, as Officer Orozco was grabbing for Martinez, Martinez looked up at Sergeant Dalton and then looked behind his vehicle. Sergeant Dalton stated Martinez then slammed his car in reverse and Officer Orozco got caught by the door and was being dragged backwards towards the silver F150.

Sergeant Dalton then described seeing Martinez rev his engine and Sergeant Dalton stated that he feared that if Martinez were to come forward, Officer Orozco would be "smash[ed] [] between the two cars." Sergeant Dalton stated that, "[his]

first thought [was] she's gonna get killed." Sergeant Dalton fired three times into the windshield at Martinez to prevent Officer Orozco from being smashed. Then, after the first three rounds, Sergeant Dalton heard the engine rev again and Martinez's car was headed straight at him. Sergeant Dalton fired three more rounds "fearing that he's gonna hit [him] with the car." Sergeant Dalton stated, "I knew if I didn't fire he would've smashed her between the car, and I knew if he-, if I didn't fire when the car was coming at me, uh, he'd a killed me with that car."

### **EVIDENCE COLLECTED**

The following items of evidence were collected and examined:

- Six cartridge cases head stamp "WIN" 9mm Luger
- One black tank top
- One black sweater with hood
- One gray t-shirt

### **AUTOPSY**

On March 4, 2018, Forensic Pathologist Dr. Yong-Son Kim of the Orange County Sheriff-Coroner (OCSC) conducted an autopsy on the body of Martinez. Dr. Kim observed five gunshot wounds to Martinez's body. A wound to Martinez's left temple, left cheek, left neck, to the base of the left neck, and to the upper right chest. Dr. Kim stated that the cause of death was multiple gunshot wounds.

### **EVIDENCE ANALYSIS**

#### **Firearms and Projectile Examination**

Sergeant Dalton's Glock handgun was test fired at the OCCL and fired without malfunction. The Glock handgun was determined to have fired the six cartridge casings recovered from the scene.

#### **Toxicological Examination**

A post mortem sample of Martinez's blood was collected at the OCSC Forensic Science Center. 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:

<b>DRUG</b>	<b>MATRIX</b>	<b>RESULTS &amp; INTERPRETATIONS</b>
Amphetamines	Postmortem Blood	0.207 ± 0.013 mg/L
Methamphetamines	Postmortem Blood	1.56 ± 0.11 mg/L

### **MARTINEZ'S PRIOR CRIMINAL HISTORY**

Martinez's criminal history was reviewed and considered. Martinez had a California Criminal History that dates back to 2001. He has previously been arrested for the following charges:

- PENAL CODE SECTION 594(B)(2) - VANDALISM
- PENAL CODE SECTION 241(B) - ASSAULT ON PEACE OFFICER
- PENAL CODE SECTION 243 (B) - BATTERY ON PEACE OFFICER
- PENAL CODE SECTION 488 - PETTY THEFT
- HEALTH AND SAFETY CODE SECTION 1377(A) - POSSESS CONTROLLED SUBSTANCE
- HEALTH AND SAFETY CODE SECTION 11364 - POSSESS CONTROL SUBSTANCE PARAPHERNALIA
- PENAL CODE SECTION 245 (A)(1) - ASSAULT WITH A DEADLY WEAPON
- PENAL CODE SECTION 496 - POSSESSION OF STOLEN PROPERTY
- PENAL CODE SECTION 459 - BURGLARY
- PENAL CODE SECTION 466 - POSSESSION OF BURGLARY TOOLS
- PENAL CODE SECTION 29800(A)(1) - FELON IN POSSESSION OF FIREARM
- PENAL CODE SECTION 148(A)(1) - RESIST, DELAY OR OBSTRUCT POLICE OFFICER
- PENAL CODE SECTION 602.5(B) - TRESPASSING

## STANDARD LEGAL PRINCIPLES IN OFFICER-INVOLVED SHOOTING CASES

Possible criminal charges against an officer involved in a fatal shooting include murder [Penal Code Section 187]; manslaughter [Penal Code Section 192]; assault with a deadly weapon [Penal Code Section 245]; and assault by a police officer [Penal Code Section 149]. In order to convict an officer of any of these charges, however, it would be necessary to prove beyond a reasonable doubt that no legal justifications existed for the officer's actions. (*People v. 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.

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.)

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.

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/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 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 applicable to the circumstances surrounding the interactions of Garden Grove Sergeant Dalton with Martinez.

## **LEGAL ANALYSIS**

The facts in this case are determined by considering all the available evidence, especially Sergeant Dalton's statements to the OCDA investigators, which was supplemented by other relevant material and witnesses present at the incident.

The issue in this case is whether the conduct of Sergeant Dalton on March 2, 2018 was criminally culpable and without justification. As stated above, in order to charge Sergeant Dalton 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 officers' conduct. Therefore, in order to lawfully charge Sergeant Dalton with a crime, the prosecution must be able to prove beyond a reasonable doubt that he did not act in lawful self-defense or defense of another. If the actions that day of Sergeant Dalton were justifiable as lawful self-defense or defense of another, then criminal charges will not be warranted.

As the Court of Appeal held in a relatively 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 Court of Appeal has 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.)

Sergeant Dalton was justified in believing that Martinez 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 mainly based on the conduct of Martinez in the moments leading up to the shooting. Based on Sergeant Dalton's previous experiences with Martinez, Sergeant Dalton wanted to ensure the least amount of danger to the community and chose to confront Martinez while Martinez was blocked in to prevent a wild pursuit. Sergeant Dalton and the CCAT approached Martinez's vehicle while wearing clearly visible POLICE vests and identifying themselves as officers. Sergeant Dalton could see that Martinez was attempting to escape and was afraid of who might be hurt or killed in the process, including Sergeant Dalton and Officer Orozco. Martinez was in a multi-ton vehicle that had the power to kill multiple individuals if Sergeant Dalton did not fire his handgun as a result of Martinez's actions.

Sergeant Dalton was well aware that Martinez was known to flee from officers and fight if confronted. Sergeant Dalton chose to block Martinez in to prevent innocent bystander from being harmed. Sergeant Dalton could see that Martinez was attempting to escape at all costs. Sergeant Dalton saw that his fellow officer, Officer Orozco, was being dragged

backwards with the truck that Martinez was driving. Martinez reversed his truck at a high rate of speed, one civilian witness stated that the speed caused damage that was much greater than a fender bender, and immediately after, the driver of the truck aimed his vehicle at Sergeant Dalton. Sergeant Dalton feared for the safety of his fellow officer, Officer Orozco, because he knew that if Martinez were to turn the truck and drive forward or backwards again, Officer Orozco would be smashed in the process. Additionally, right after attempting to stop Martinez, Martinez turned his truck towards Sergeant Dalton. Sergeant Dalton could clearly see Martinez heading straight into him with a multi-ton vehicle. Sergeant Dalton rightfully feared for his life, and the life of Officer Orozco.

It should also be noted that, in order for Sergeant Dalton 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 Sergeant Dalton did not act in reasonable and justifiable self-defense or defense of another when he shot at Martinez. As should be apparent from the above-described analysis, the prosecution would be unable to carry this burden in this case. A jury analyzing these facts would justly conclude that it was reasonable for Sergeant Dalton to believe that his life and Officer Orozco's life were in danger. Therefore, Sergeant Dalton was legally justified when he shot at Martinez.

**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 Sergeant Dalton, and there is substantial evidence that his actions were reasonable and justified under the circumstances when he shot Martinez on March 2, 2018.

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



**SCOTT A. SIMMONS**  
SENIOR DEPUTY DISTRICT ATTORNEY  
HOMICIDE UNIT



READ AND APPROVED BY **EBRAHIM BAYTIEH**  
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