



OFFICE OF THE  
**DISTRICT ATTORNEY**  
ORANGE COUNTY, CALIFORNIA  

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TODD SPITZER, DISTRICT ATTORNEY

February 28, 2019

Chief David Valentin  
Santa Ana Police Department  
60 Civic Center Plaza  
Santa Ana, CA 92701

Re: Officer-Involved Shooting on July 1, 2018  
Fatal Incident involving Donadony Blake Taylor  
District Attorney Case # SA 18-021  
Santa Ana Police Department Case # 18-15953  
Orange County Crime Laboratory Case # FR 18-49132

Dear Chief Valentin,

Please accept this letter detailing the Orange County District Attorney's Office (OCDA) investigation and legal conclusion in connection to the above-listed incident involving on-duty Santa Ana Police Department (SAPD) Officer Gavin Roelofs. Donadony Taylor, 46, died as a result of his injuries. The incident occurred in the City of Santa Ana on July 1, 2018.

**OVERVIEW**

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the July 1, 2018, fatal officer-involved shooting of Taylor. 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 July 2, 2018, Investigators from the OCDA Special Assignment Unit (OCDASAU) responded to this incident. During the course of this investigation, 13 interviews were conducted. OCDASAU Investigators also obtained and reviewed the following: SAPD reports; body-worn camera video recording; 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 Taylor; Orange County Fire Authority (OCFA) reports; video of the Orange County Central Men's Jail reception area; criminal history records related to Taylor including prior incident reports; and other relevant reports and materials including audio recordings of the conducted neighborhood canvass.

The OCDA conducted an independent and thorough investigation of the facts and circumstances of this incident and has reviewed all 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 Roelofs. The OCDA will not be addressing any possible issues relating to policy, training, tactics, or civil liability.

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## **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, 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 Gavin Roelofs declined to provide a voluntary statement to the OCDA.

## **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**

This officer-involved shooting incident occurred on the evening of July 1, 2018, inside a parking structure located at 1020 West Civic Center Drive in the city of Santa Ana. According to surveillance footage, on July 1, 2018, around 10:52 p.m., Taylor entered into the lobby of the OCSD Central Men's Jail (CMJ). The CMJ lobby is equipped with surveillance cameras and an intercom system. The surveillance recording of the CMJ lobby showed Taylor wearing a gray t-shirt and dark colored shorts. In his left hand, Taylor was carrying a two to three foot long metal pipe and a one to two foot metal stake in his right hand. Taylor looked through the window of the locked staff entrance door. OCSD staff communicated with Taylor over the intercom system and asked "Lobby, how can I help you?" Taylor replied, he "need[ed] to speak to someone regarding some assistance." OCSD staff asked Taylor what kind of assistance he needed, and he replied, "I need some assistance." Taylor attempted to open the locked door by pulling on the handle multiple times. Taylor told OCSD staff he needed to report a "CPC 283.2." Taylor was asked by staff to leave the lobby and proceed outside, but this request was ignored. At 10:54 p.m. Taylor exited the CMJ lobby and went out of camera view.

Around 11:30 p.m., John Doe 1 was walking to the parking structure located at 1020 West Civic Center Drive, Santa Ana, where his vehicle was parked on the second floor of the structure. As John Doe 1 walked up the ramp of the garage to the second floor, he noticed Taylor standing by the passenger side of his vehicle. He assumed Taylor was attempting to break into his vehicle, so he continued towards Taylor and his vehicle. When John Doe 1 was approximately 30-40 feet from Taylor, Taylor began walking away. As Taylor walked away, John Doe 1 observed Taylor carrying a long strip of metal and a wire. Taylor continued up to the second floor of the garage. John Doe 1 got into his vehicle and followed Taylor up to the second floor. He observed Taylor attempting to lift the handle on a truck parked in the structure. John

Doe 1 decided to call 9-1-1 to report Taylor's activity. The 911 operator answered the call, and John Doe 1 reported a male wearing a gray t-shirt was checking car doors, and had a long piece of metal and a piece of wire.

Officer Roelofs was dispatched to the parking structure to investigate Taylor. Roelofs was dressed in an SAPD uniform, driving a marked black and white police vehicle, and wearing a body worn camera (BWC). Around 11:35 p.m., Officer Roelofs arrived at the structure and encountered Taylor on the second floor of the structure. Prior to exiting his vehicle, Officer Roelofs activated his BWC. Footage from Roelofs' BWC showed Officer Roelofs stepping out of the vehicle and remaining on the driver's side. Taylor walked toward the front end of the passenger side with an approximately three feet long metal bar over his left shoulder, and a metal object down to his right side. Roelofs told Taylor, at gun point, "put the pipe down." Roelofs radioed he had one individual at gun point on the second floor, south side of the structure. Taylor continued to walk from the front passenger side of the vehicle toward the rear of the vehicle. Roelofs ordered Taylor to "put the pipe down." Taylor replied, "shoot me," and Roelofs again ordered Taylor to "Put it down. Put the f\*\*\*\*\* pipe down, dude." Roelofs continued to order Taylor to put the pipe down. Taylor stopped near the rear passenger door of the officer's patrol vehicle, and Officer Roelofs walked to the left rear of the vehicle. Taylor positioned himself with his left side facing Roelofs and began swinging the metal bars with his left hand, similar to a batter's stance in baseball. Roelofs maintained his handgun in his right hand, pointed at Taylor, and retrieved his Taser with his left hand.

Roelofs again ordered Taylor to put the pipe down. Taylor did not comply. Officer Roelofs then discharged his Taser striking Taylor. Taylor did not fall and appeared unaffected by the Taser. Officer Roelofs ordered Taylor to drop the pipe, and the officer then dropped the Taser. Officer Roelofs again ordered Taylor, "drop it." Taylor appeared to reach for the Taser probes pulling one out of his body a moment before Officer Roelofs fired his weapon twice and Taylor fell to the floor. Approximately 32 seconds passed from the time Officer Roelofs exited his vehicle to make contact with Taylor to the time of the officer involved shooting.

SAPD Officer Marshall also responded to the call. Officer Marshall at the time of the call had an off-duty San Bernardino Sheriff's Deputy, John Doe 2, as a ride along. While Officer Marshall was going up the ramp of the structure, he heard Officer Roelofs put out on the radio that he had one individual at gunpoint. As Officer Marshall arrived to the second level of the parking structure, he observed Officer Roelofs with his gun pointed at Taylor. Officer Marshall observed Taylor standing on the passenger side of the vehicle with a metal bar and piece of wire in his hands. Officer Marshall heard Officer Roelofs give a command to Taylor, something to the effect of "stay back, or . . . drop the weapon." Officer Marshall stated that, it appeared as though Taylor was approaching Officer Roelofs. Officer Marshall observed Officer Roelofs fire two shots, and Taylor falling to the ground. Officer Marshall exited his patrol vehicle, and activated his BWC, and met Officer Roelofs near the trunk of Officer Roelof's patrol car. Officer Marshall advised over his police radio of the officer involved shooting. John Doe 2 remained in the front passenger seat of the vehicle when the shooting occurred. He relayed that as he and Officer Marshall arrived on the scene, he observed Taylor holding the metal bar like a batter's stance. John Doe 2 described Taylor as "looking angry, intoxicated, and resembled someone under the influence of methamphetamine." He heard Officer Roelofs order Taylor to put the pipe down, observed Taylor take a step toward Officer Roelofs, and he saw Officer Roelofs shoot Taylor twice. John Doe 2 stated that he had a clear and unobstructed view of the shooting from where he was seated in the vehicle.

SAPD Sergeant Oropeza arrived on the scene seconds after the shooting, and described seeing Officer Roelofs pointing his gun at Taylor, who was lying on his back. Sergeant Oropeza made contact with Officers Roelofs and Marshall, and they waited for two additional officers to arrive before approaching Taylor. SAPD Officer Griffith arrived on scene, and Sergeant Oropeza assigned himself, Officers Marshall and Griffith to be the arrest team. As the three approached Taylor, Officer Griffith kicked the two metal pieces away from Taylor and administered medical treatment until OCFA authorities arrived on scene to relieve them.

Paramedics arrived on the scene and observed Taylor handcuffed and lying on his back near the middle of the patrol vehicle. Paramedics continued CPR and placed Taylor on a Zoll monitor and ventilated Taylor with oxygen. Around 11:50 p.m., Taylor was placed in a CARE ambulance and transported to Orange County Global Medical Center in Santa Ana, where he received emergency care. At 12:25 a.m., Taylor was pronounced dead.

## EVIDENCE COLLECTED

The following items of evidence were collected and examined at the OCCL:

- One Glock Pistol, .40 Smith & Wesson caliber belonging to Officer Roelofs
- Two cartridge cases, head stamped Winchester 40 S&W
- One Glock magazine
- Two .40 caliber projectiles from Taylor's body
- One Taser gun belonging to Officer Roelofs
- Two Taser probes, one partial Taser door, Taser wire
- Taser with cartridge and wire, one partial gray Taser door
- One Metal Pipe – 42.3 inches long
- One Wire
- Two metal bars – 23.25 and 23.94 inches long

## AUTOPSY

On July 3, 2018, Forensic Pathologist Dr. Yong-son Kim of Orange County Coroner's Office conducted an autopsy on the body of Taylor. During the autopsy, Dr. Kim documented two gunshot wounds to following areas: 1) left upper chest, and 2) left anterior upper arm. Dr. Kim concluded Taylor died as a result of the gunshot wounds.

## EVIDENCE ANALYSIS

### Firearm and Projectile Examination

Officer Roelofs' Glock pistol was test fired at OCCL and fired without malfunction. The Glock pistol was determined to have fired the two cartridge cases recovered from the scene.

The TASER was received with a dead battery so another battery from SAPD was used to perform testing. One activation was recorded on the TASER on July 1, 2018. The TASER clock was 11 minutes 48 seconds ahead of the computer clock.

Sequence number	Local Date	Local Time(unadjusted)	Duration(seconds)	Battery Power (%)
518	7/1/18	23:47:37	5	97

### Toxicological Examination

A sample of Taylor's postmortem blood was collected. The blood was examined for the presence of drugs and alcohol, and the result shows that Taylor's blood came back positive for the presence of Amphetamine and Methamphetamine. The following results were obtained:

DRUG	MATRIX	RESULTS & INTERPRETATIONS
Amphetamine	Postmortem Blood	0.0494 ± 0.0037 mg/L
Amphetamine	Antemortem Blood	0.0288 ± 0.0022 mg/L
Methamphetamine	Postmortem Blood	0.648 ± 0.046 mg/L
Methamphetamine	Antemortem Blood	0.398 ± 0.029 mg/L

## TAYLOR'S PRIOR CRIMINAL HISTORY

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

- Obstructing a Peace Officer
- Domestic Violence Battery
- Inflicting Corporal Injury
- Battery
- US-Illegal Entry

- Hit and Run
- Under the Influence of a Controlled Substance
- Possession of Controlled Substance Paraphernalia

### **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 to justify the officer's use of deadly force. (*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 stated 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 High 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* appear applicable to the circumstances surrounding the interactions of SAPD Officer Roelof with Taylor.

## LEGAL ANALYSIS

The issue in this case is whether the conduct of Officer Roelofs on July 1, 2018, was criminally culpable and without justification. As stated above, in order to charge Officer Roelofs 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 Roelofs with a crime, the prosecution must prove beyond a reasonable doubt that he did not act in lawful self-defense or defense of others.

As the Court of Appeal held in the *Brown* 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 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 the circumstances, Officer Roelofs could have reasonably believed Taylor posed a significant threat of death or serious physical injury to himself and others at the moment he fired his handgun. This conclusion is based on the totality of the circumstances, but mainly based on the conduct of Taylor in the moments leading up to the shooting. Officer Roelofs was dispatched to reports of a suspicious male in the parking garage, who was carrying metal objects in both hands, and appeared to be attempting to break into the locked vehicles in the garage. Upon arrival to the parking garage, Officer Roelofs encountered Taylor, who was carrying a metal object in one hand and a strip of metal in the other. As Officer Roelofs exited his patrol car, Taylor began advancing toward the back of the patrol car, with both metal objects in his hands. This confirmed the veracity of the initial report to the police. Officer Roelofs yelled at Taylor numerous times to drop the pipe, but Taylor kept moving towards the rear of the patrol car, with the metal bars raised. This clearly presents a very dangerous and potentially violent situation.

Taylor stopped walking at the rear of the patrol car, positioning himself with his left side facing Officer Roelofs. Taylor, in a position similar to a baseball batter’s stance, began to swing the metal bars. Officer Roelofs gave multiple orders to

Taylor to put the pipe down, but Taylor was noncompliant, so Officer Roelofs discharged his Taser. The Taser probes made contact with Taylor, however he did not fall, appeared unaffected, and still retained full muscle control with the metal objects still in his hands. Officer Roelofs gave several more unsuccessful commands to Taylor to drop the pipe, and eventually fired two shots at Taylor immediately after Taylor pulled a Taser dart from his body while still holding the metal bars with his other hand.

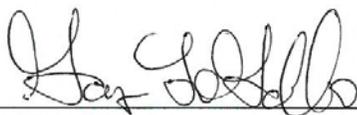
Certainly, it would have been preferable if OCDA obtained a voluntary statement from Officer Roelofs regarding his state of mind at the time of the shooting. However, Officer Roelofs' decision to decline to give the OCDA a voluntary statement may not legally and ethically be used to draw negative evidentiary inferences regarding Officer Roelofs' conduct and state of mind.

It should also be noted that, in order for Officer Roelofs 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 Roelofs did not act in reasonable and justifiable self-defense or defense of another when he shot Taylor. As should be apparent from the above-described analysis, the prosecution would be unable to carry that burden in this case. A jury analyzing these facts could justly conclude that it was reasonable for Officer Roelofs to believe his life and the lives of others were in danger. Therefore, there is insufficient evidence to support any criminal charges in this case.

**CONCLUSION**

Based upon a review of all of the evidence provided to and obtained by the OCDA, 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 insufficient evidence to support the filing of criminal charges in this case.

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



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**GARY LOGALBO**  
Senior Deputy District Attorney  
TARGET/Gangs Unit



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Read and Approved by **EBRAHIM BAYTIEH**  
Senior Assistant District Attorney  
Felony Operations II