



OFFICE OF THE
DISTRICT ATTORNEY
ORANGE COUNTY, CALIFORNIA

TODD SPITZER

January 24, 2020

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

Re: Officer-Involved Shooting on August 23, 2018
Fatal Incident involving Arturo Padilla
District Attorney Investigations Case # 18-031
Santa Ana Police Department Case # 18-19510
Orange County Crime Laboratory Case # 18-52108

Dear Chief Valentin,

Please accept this letter detailing the Orange County District Attorney's Office's (OCDA) investigation and legal conclusion in connection with the above-listed incident involving on-duty Santa Ana Police Department Detective Chris Shynn. Arturo Padilla, age 35, died as a result of his injuries. The incident occurred in the City of Santa Ana on August 23, 2018.

OVERVIEW

This letter contains a description of the scope and the legal conclusions resulting from the OCDA's investigation of the August 23, 2018, fatal, officer-involved shooting of Arturo Padilla. 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 Santa Ana Police Department (SAPD) detective 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 August 23, 2018 Investigators from the OCDA Special Assignment Unit (OCDASAU) responded to this incident. During the course of this investigation, eleven interviews were conducted and two witnesses were contacted during the supplemental canvass interviews regarding surveillance video. OCDASAU Investigators also obtained and reviewed the following: SAPD reports, audio dispatch and radio traffic recordings; Orange County Crime Laboratory (OCCL) reports, including toxicology, forensic alcohol examination, latent print, officer processing and firearms examination reports; crime scene investigation photographs; medical records and photographs related to the injuries sustained by Padilla; video surveillance and Body Worn Camera footage; criminal history records related to Padilla including prior incident reports; and other relevant reports and materials.

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The OCDA conducted an independent and thorough investigation of the facts and circumstances of this incident and has reviewed all evidence and legal standards impartially. The scope and findings of this review are expressly limited to determining whether any criminal conduct occurred on the part of SAPD officers or personnel, specifically Detective Shynn. 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 an experienced 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 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 reviews 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 is attempting to obtain a statement from the involved officers. Detective Shynn refused to provide a voluntary statement to OCDA Investigators.

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

Nine days prior to this incident, on August 14, 2018, a male adult was murdered in the City of Santa Ana. On August 21, 2018, an arrest warrant was issued for Padilla by the Orange County Superior Court for the murder occurring on August 14, 2018. Additionally, a second warrant was issued for Padilla by the Riverside Superior Court for a parole violation.

On August 23, 2018, SAPD Detectives Chris Shynn and David Fernandez were assigned to the SAPD Gang Unit and working together in the same patrol car; Detective Fernandez was the driver

and Detective Shynn was the passenger. Detective Fernandez received information from other SAPD investigators that Padilla was wanted for murder and possibly driving a 2003 green Volkswagen (VW) Passat. Other SAPD investigators were tracking Padilla's cellphone.

That same day at approximately 2:58 pm, the VW, driven by Padilla with John Doe 1 in the passenger seat, entered the Express Car Wash located at 202 East 1st St, Santa Ana. Padilla parked the vehicle on the west side of the carwash. Both Padilla and John Doe 1 exited the vehicle and began to clean and vacuum the interior of the car. At 3:00 pm, Padilla's cellphone indicated to SAPD investigators that it was on the southeast corner of 1st Street and Cypress Avenue where the Express Car Wash was located. Subsequently, at 3:07 pm, Detective Fernandez with Detective Shynn drove north on Cypress Avenue and observed a VW matching the description in the carwash parking lot. The detectives then entered the carwash driveway and confirmed the VW license plate matched the information provided in the description. Both Detectives Fernandez and Shynn exited their patrol car and approached the VW on foot.

As the detectives approached, John Doe 1 was vacuuming the interior of the rear passenger compartment and Padilla was seated in the front driver's seat. Detective Fernandez recognized Padilla as the individual from the wanted flier regarding the murder on August 14, 2018. Padilla then looked left toward the detectives' patrol car and immediately climbed over the center console, across the front passenger seat, and out the open front passenger door. Both detectives began running toward the vehicle. Padilla then reversed his course and climbed back into the VW, over the center console, and into the driver's seat where he closed the driver's door.

Shortly thereafter, Detective Shynn pulled John Doe 1 from the right rear passenger seat and pointed his gun at Padilla. Detective Shynn yelled to Padilla, "Hey, let me, let me see your hands. Let me see your hands. Hands. I will shoot you. I'm gonna shoot you." In response, Padilla looked directly at Detective Shynn and placed his right hand into his right front pants pocket. Consequently, Detective Shynn fired three gunshots at Padilla. Each shot struck Padilla; one in the right ear, one grazed his chin, and one went through his right upper arm into his chest. After the shots were fired, Detective Fernandez asked Detective Shynn, "What do you got? What do you got?" Detective Shynn replied, "I don't know. He was reaching for something."

At 3:09 pm, SAPD Corporal Jason Bruns arrived and coordinated an arrest team comprised of SAPD Detectives Michael Griffith, Carlos Luevano, and Gerardo Raya. Detectives removed Padilla from the VW and handcuffed him. Detective Griffith removed the key fob for the VW from Padilla's right front pants pocket. Around this time, Detective Shynn told an unknown SAPD officer, "Hey, right when we got there, I told him to put his hands up. He reached for his waistband, buddy."

At 3:11 pm, Detective Shynn provided a Safety Statement to SAPD Sergeant Gilbert Hernandez. Detective Shynn stated he fired two to three shots in a northeastern direction and there were no suspects outstanding. Detective Shynn also stated, "I thought he was reaching for one. That's what it looked like."

While at the scene, SAPD officers initiated Cardio Pulmonary Resuscitation (CPR) on Padilla until they were relieved by Orange County Fire Authority (OCFA) paramedics. Padilla was then transported to and treated at Orange County Global Medical Center (OCGMC), however he succumbed to his injuries. At 3:44 pm, Dr. Davis pronounced Padilla deceased. Padilla did not have any weapons on him.

EVIDENCE COLLECTED

The following items of evidence were collected and examined:

- \$2,180.00 inside a white envelope
- One cigarette lighter
- One ignition fob
- One hotel key
- One red plastic gas can
- Four car floor mats
- One blue terry cloth hand towel
- One bullet from the inside driver door panel
- Three .40 caliber "WIN S&W" cartridge casings recovered from the backseat area
- One Wylde AR-15, .223 caliber rifle with one REM .223 WOLF cartridge in the chamber, which was located in the trunk of the VW
- DNA swabs from interior and exterior of the vehicle
- Latent print cards from the interior and exterior of vehicle
- One digital weighing scale
- One syringe
- One glass smoking pipe
- One baggie containing apparent methamphetamine
- One Samsung cellphone
- One cigarette butt

AUTOPSY

On August 27, 2018, Forensic Pathologist Dr. Aruna Singhania of the Orange County Coroner's Office conducted an autopsy on the body of Padilla. Dr. Singhania determined the cause of death was multiple gunshot wounds to the right side of the body, including a fatal gunshot wound to the head.

EVIDENCE ANALYSIS

Firearms and Projectiles Examination

Detective Shynn's Glock 22 pistol was test fired at the Orange County Crime Lab and fired without malfunction. The three fired cartridge cases and the bullet recovered from the VW at the scene were determined to have been fired from the Detective Shynn's pistol.

Toxicological Examination

A sample of Padilla's blood was collected at Orange County Global Medical 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:

DRUG	MATRIX	RESULTS & INTERPRETATIONS
Morphine (Free)	Postmortem Blood	0.312 ± 0.034 mg/L
Codeine (Free)	Postmortem Blood	0.0159 ± 0.0016 mg/L
6-Monoacetylmorphine	Postmortem Blood	Detected
Amphetamine	Postmortem Blood	0.195 ± 0.015 mg/L
Methamphetamine	Postmortem Blood	1.44 ± 0.11 mg/L

PADILLA'S PRIOR CRIMINAL HISTORY

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

- Resisting Arrest
- Grand Theft
- Possession of a Controlled Substance
- Evading a Peace Officer with Disregard to Safety
- Hit and Run with Injury or Death
- Driving without a License
- Probation Violation
- Burglary
- Possession of Controlled Substance Paraphernalia
- Possession of Controlled Substance for Sale
- Receiving Stolen Property
- Auto Theft
- Damaging Power Lines
- Spousal Battery
- Intimidating a Witness
- False Imprisonment
- Trespassing
- Possession of Hypodermic Syringe
- Selling a Hypodermic Syringe without Permit
- Possession of a Switchblade
- Passing Completed Checks to Defraud
- Transportation of a Controlled Substance
- Assault with a Deadly Weapon
- Obstructing a Public Officer
- Parole Violation
- Kidnapping

STANDARD LEGAL PRINCIPLES IN OFFICER-INVOLVED SHOOTING CASES

Possible criminal charges against an officer involved in a 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.

California Penal Code Section 196 provides that use of deadly force by a public officer is justifiable when necessarily used in arresting persons who are "charged with a felony" and who are fleeing from justice or resisting such arrest. Section 196 applies both where the suspect in question is "charged with a felony" and where the officer has "reasonable cause" to believe that the person has committed a felony. (*Kortum v. Alkire* (1977) 69 Cal.App.3d 325, 332.) The felony must involve violence or the threat of violence. (*Id.* at 333.)

California Penal Code Section 197 provides that the use of deadly force by any person is justifiable when used in self-defense or in defense of others.

California Penal Code Section 835a allows any police officer who has reasonable cause to believe that a person to be arrested has committed a felony [public offense] to use reasonable force to effect the arrest, to prevent escape, or to overcome resistance. The section further provides that a police officer “who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.” The Court of Appeal in *Kortum* further held that deadly force against a fleeing felony suspect is justifiable only when the felony “is of the violent variety, *i.e.*, a forcible and atrocious one which threatens death or serious bodily harm, or there are other circumstances which reasonably create a fear of death or serious bodily harm to the officer or to another.” (*Kortum v. Alkire*, *supra*, 69 Cal.App.3d at p. 333.)

In addition, Penal Code section 834a requires that if a person has knowledge, or by the exercise of reasonable care, should have knowledge, that he/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 very much applicable to the circumstances surrounding the interactions of SAPD Detective Shynn with Padilla.

LEGAL ANALYSIS

The issue in this case is whether the conduct of Detective Shynn on August 23, 2018 was criminally culpable and without justification. As stated above, in order to charge Detective Shynn 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 Detective Shynn with a crime, the prosecution must prove beyond a reasonable doubt that they did not act in lawful self-defense. If the actions that day of Detective Shynn were justifiable as lawful self-defense or defense of others, then criminal charges will not be warranted.

As the Court of Appeal held in a recent case, it is well settled that “[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 potential dangerous, emergency conditions or other exigent circumstances exist, the California Courts of Appeal have noted that the United States Supreme Court's definition of reasonableness is comparatively generous to the police. The court in *Brown* noted that in effect, “the Supreme Court intends to surround the police who make these on-the-spot choices in dangerous situations with a fairly wide zone of protection in close cases. A police officer's use of deadly force is reasonable if the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others. Thus, an officer may reasonably use deadly force when he or she confronts an armed suspect in close proximity whose actions indicate an intent to attack.” (*Brown v. Ransweiler, supra*, 171 Cal.App.4th at p. 528.)

Based on the totality of all of the available evidence, it is reasonable to conclude that the People will not be able to disprove that Detective Shynn was justified in believing that Padilla posed a significant threat of death or serious physical injury to himself and others. Prior to arriving on scene, Detective Shynn was aware that Padilla was wanted for a murder occurring just days before this incident, and Padilla had a significant and violent criminal history entangled with gangs.

Once on scene, Detective Shynn observed Padilla immediately begin to evade him and Detective Fernandez after seeing their patrol car. Padilla climbed from the driver's seat, over the center console, across the front passenger seat, and out the open front passenger's door. As the detectives got closer to the VW, however, Padilla retreated back into the driver's seat of the vehicle and closed the driver's side door.

Once at the vehicle, Detective Shynn pulled John Doe 1 from the passenger's side of the vehicle and pointed his weapon at Padilla. Detective Shynn began executing commands to Padilla yelling, “Hey, let me, let me see your hands. Let me see your hands. Hands. I will shoot you. I'm gonna shoot you.” However, Padilla ignored Detective Shynn's commands and began reaching toward his waist. It is reasonable to conclude believing that Padilla was reaching for a weapon and out of fear for his safety, Detective Shynn fired his weapon striking Padilla three times.

Detective Shynn immediately ceased fire after he stopped the threat and reassessed the situation. After discharging his weapon, Detective Shynn told SAPD personnel arriving on scene that Padilla ignored his commands and he believed Padilla was reaching for something in his waistband.

Therefore, based on all of the available evidence, including body worn camera and surveillance footage, the prosecution will not be able to disprove that Detective Shynn acted justifiably and reasonably when he shot Arturo Padilla. Detective Shynn knew Padilla had a history of violence and was wanted for murder, he observed Padilla try to evade him and his partner, and then he witnessed Padilla reach for his waistband despite him pointing his weapon at Padilla and yelling commands. This could have reasonably created a belief that lethal force was necessary to stop the threat that Padilla was posing.

Certainly, it would have been preferable for the OCDA to obtain a voluntary statement from Detective Shynn regarding his observations and state of mind at the time of the shooting. However, Detective Shynn's decision to decline to give the OCDA a voluntary statement may not legally and ethically be used to draw any negative evidentiary inferences regarding his conduct or state of mind.

It should also be noted that, in order for Detective Shynn 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 Detective Shynn did not act in reasonable and justifiable self-defense or defense of another when he shot and killed Padilla. As should be apparent from the above-described analysis, the prosecution would be unable to carry such burden in this case. A jury analyzing these facts would justly conclude that it was reasonable for Detective Shynn to believe that his life and the lives of others in the area were in danger.

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 a lack of evidence to prove criminal culpability beyond a reasonable doubt on the part of Detective Shynn. Moreover, there is competent evidence that his actions were reasonable and justified under the circumstances when he shot and killed Padilla on August 23, 2018.

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



BRIAN ORUE
Deputy District Attorney
Homicide Unit



READ AND APPROVED BY **EBRAHIM BAYTIEH**
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