

SAN JOAQUIN COUNTY DISTRICT ATTORNEY
MEMORANDUM OF
OFFICER-INVOLVED CRITICAL INCIDENT
OF APRIL 13, 2016
AT WEST LANE and KNICKERBOCKER DRIVE, STOCKTON, CA



TORI VERBER SALAZAR, DISTRICT ATTORNEY
OFFICER INVOLVED CRITICAL INCIDENTS UNIT
APRIL 4, 2019



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MEMORANDUM

TO: ERIC JONES, CHIEF
STOCKTON POLICE DEPARTMENT

FROM: SAN JOAQUIN COUNTY DISTRICT ATTORNEY

DATE: April 4, 2019

SUBJECT: INVESTIGATION OF THE FATAL SHOOTING OF
RODNEY WATTS (SPD DR #16-13990).

Pursuant to the provisions of the San Joaquin County Officer-Involved Critical Incident Protocol, effective August 1, 1994, the responsibility of the Office of the District Attorney is to review the facts and determine what, if any, criminal charges should be filed whenever there is an officer-involved fatality or life-threatening incident.

This memorandum reviews the officer-involved shooting of Rodney Watts on April 13, 2016. The investigation was jointly conducted by investigators from the San Joaquin County District Attorney's Investigation Unit, the Stockton Police Department, the San Joaquin County Sheriff-Coroner's Office, and the California Department of Justice.

INVESTIGATION SUMMARY

On April 13, 2016 at approximately 8:45 a.m., Stockton Police Officers responded to the intersection of West Lane and Knickerbocker Drive, Stockton, for a report of a shooting. Involved were Officer Miguel Morales and Officer Marvin Guillen, of the Stockton Police Department, and Mr. Rodney Watts (DOB 05/01/1980), who was suffering from a gunshot wound. Officers attempted life-saving efforts until paramedics arrived at approximately 9:03 a.m., and took over life-saving measures. Mr. Watts succumbed to his injuries and was pronounced deceased at 9:09 a.m. by paramedics after they consulted with San Joaquin County General Hospital by phone.

As provided by the Memorandum of Understanding for the San Joaquin County Officer-Involved Critical Incident Protocol (hereinafter referred to as “Protocol”), the Stockton Police Department invoked the Protocol. A multi-agency task force was created that consisted of the San Joaquin County District Attorney’s Office’s Bureau of Investigations (hereinafter “BOI”), the Stockton Police Department (hereinafter “SPD”), the San Joaquin County Sheriff-Coroner’s Office, and the California Department of Justice (hereinafter “DOJ”).

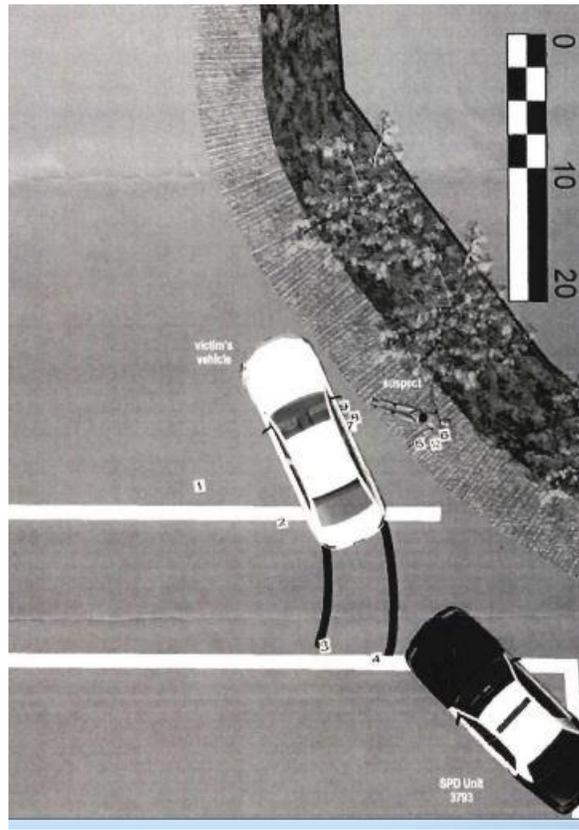
FACTUAL SUMMARY

On April 13, 2016, Stockton Police Officers Miguel Morales and Marvin Guillen were conducting a check of a vacant commercial building at West Lane and Knickerbocker Drive due to recent complaints of ongoing criminal activity in the parking lot. Upon entering the parking lot, Officer Morales observed three men in the parking lot. Officer Morales parked his patrol unit approximately forty feet away from the three men; intending to only talk to them about not trespassing on the property.



Google Maps Overview of West Lane and Knickerbocker Drive

As Officer Morales exited the patrol unit, he called to the men, “Hey, I want to talk to you for a second.” Immediately, one man began running. That man was later identified as Rodney Watts. Officer Morales yelled for Mr. Watts to stop and gave chase on foot. As Mr. Watts entered the street intersection, he jumped into a moving vehicle, belonging to Witness #1, through the open driver’s side window. Officer Morales deployed his baton and began striking the leg of Mr. Watts while Mr. Watts was telling Witness #1 to drive. Witness #1 was screaming and telling Mr. Watts she would not. Witness #1 had her foot on the brake while Mr. Watts was pressing the gas with his hand and lying across her lap; the rear tires of the vehicle were spinning.



DOJ Diagram of the scene.

The vehicle began moving toward the end of the intersection with Officer Morales hanging onto the leg of Mr. Watts. Officer Morales was giving verbal commands for Mr. Watts to show his hands and to get out of the car. Mr. Watts refused to comply to the verbal commands and the earlier baton strikes, and was still pressing on the gas in an attempt to get away. Officer Morales would not let this vehicle leave with Witness #1 in the car and told Mr. Watts if he did not comply, he would be shot. Officer Morales moved a few feet to his left and the car

lurched forward and to the left. Officer Morales was now in fear for Witness #1, and was afraid he was about to be hit by the vehicle. He fired his service weapon twice, striking Mr. Watts. The vehicle immediately stopped moving.

WITNESS STATEMENTS

Investigators from the San Joaquin County District Attorney's Office and Stockton Police Department detectives jointly interviewed the involved officers, medical personnel, and civilian witnesses. Whenever possible, these interviews were recorded. The investigators also conducted an area canvas to locate witnesses. Not every witness interviewed is summarized here. The individual witness synopses below are to assist the reader in supplementing the above Factual Summary. Civilian witnesses are identified in this memorandum as "Witness #" to protect their privacy rights. See, "Confidential Page APPENDIX A: Civilian Witness Information."

Stockton Police Officer Marvin Guillen

Stockton Police Department Officer Marvin Guillen was interviewed on April 13, 2016, by investigators at the Stockton Police Department, and stated the following:

Officer Guillen was a fifteen-month police officer of the Stockton Police Department. This day, Officer Guillen was on duty and on patrol in a marked unit, with his partner, Officer Miguel Morales, wearing his department-issued uniform. Officer Guillen was the passenger. He was armed with his service weapon. It was inspected and determined it had not been fired.

Officer Guillen stated that on the morning of April 13, 2016, he and his partner, Officer Morales, drove to the area of West Lane and Knickerbocker Drive due to recent criminal activity that had been taking place near a vacant commercial building. They drove into the parking lot of the abandoned building and immediately saw three males in the parking lot.

Officer Morales parked the patrol unit approximately forty feet from the three men. The three men began to stand up and slowly move away from the patrol vehicle. Officer Morales had exited and said something similar to, "Hey, I want to talk to you for a second." Officer Guillen observed one of the men started running. Officer Morales began chasing that man on foot. The man, later identified as Mr. Watts, continued running into the middle of the intersection of West Lane and Knickerbocker Drive.

Mr. Watts continued running while Officer Morales was yelling for him to stop. Mr. Watts stopped suddenly, turned to his left, and jumped into a vehicle that was slowing down. Mr. Watts jumped into the open driver's side window. Officer Morales deployed his baton and began striking Mr. Watts in the legs while giving him verbal commands to get out of the car. To Officer Guillen, it appeared that Mr. Watts was manipulating the gas pedals with his hands causing the car to drive towards the curb line of the northwest corner of the intersection

While on the driver's side of the vehicle, Officer Guillen gave verbal commands to Mr. Watts to stop and get out of the vehicle. The female driver of the car was screaming. Despite the commands to stop, Mr. Watts continued to cause the car to move forward. At that time, Officer Morales discharged his service weapon.

Officer Guillen said the woman was still screaming and asking to get out of the car. The officers were able to get her out of the car after turning off the engine and made sure she was not hurt. Paramedics arrived soon and took over life saving measures.

Stockton Police Officer Miguel Morales

Stockton Police Department Officer Miguel Morales was interviewed on April 13, 2016, by investigators at the Stockton Police Department, and stated the following:

Officer Miguel Morales was a two year and eight month police officer of the Stockton Police Department and, at the time of this incident, was in good standing with the department. This day, Officer Morales was on duty and on patrol in a marked unit, with his partner, Officer Marvin Guillen, wearing his department-issued uniform. Officer Morales was the driver. He was armed with his service weapon: a .40 caliber Sig Sauer P226 pistol.

Officer Morales stated that on the morning of April 13, 2016, he and his partner, Officer Guillen, drove to the area of West Lane and Knickerbocker Drive due to recent narcotics activity. Officer Morales pulled into the parking lot of the southwest corner of West Lane and Knickerbocker Drive. As he pulled in, Officer Morales saw a few individuals in the parking lot and alerted his partner Officer Guillen to the three men sitting down on a concrete curb.

Officer Morales exited the patrol vehicle and called out to the three subjects that he wanted to talk to them. Mr. Watts immediately stood up and looked at Officer Morales. Officer Morales said he called out, "Hey, come here. I need to talk to you, there is no loitering here." Mr. Watts began walking north and turned away from Officer Morales. Officer Morales said when Mr. Watts turned, he lost sight of his hands, and as Officer Morales told him to come over to talk, Mr. Watts began running. Officer Morales gave chase on foot.

Mr. Watts ran into the middle of the intersection of West Lane and Knickerbocker Drive. While chasing him, Officer Morales shouted at Mr. Watts to stop and get on the ground. Mr. Watts ignored the commands and continued to run. Mr. Watts suddenly did an abrupt turn toward a vehicle that had slowed in the intersection and dove into the vehicle through the opened driver side window. Officer Morales could hear the driver start screaming, and Officer Morales deployed his baton.

Mr. Watts had dove into the car but his legs were still hanging partially out the window. Officer Morales began to strike the legs with his baton but Mr. Watts was trying to pull himself further into the car. Officer Morales could hear Mr. Watts yelling at the female driver, "Drive bitch, drive, drive!" Officer Morales could hear the engine revving and he grabbed onto the legs of Mr. Watts to keep him from pulling himself further into the car. Mr. Watts kicked at him with his free foot, and the car screeched and began traveling toward the corner of the intersection. Officer Morales said he does not know how far the car travelled but he continued to hold on and was dragged by the car.

When the car stopped moving, Officer Morales let go of Mr. Watts, and drew his service weapon. Officer Morales continued giving verbal commands to get out of the car, as the back wheels of the car were spinning, kicking up smoke, but Mr. Watts would not comply. The female driver continued to scream. Officer Morales feared for her life, and realized that he could not allow the vehicle to leave the intersection. As the car began to move again it headed toward his direction. Fearing he was about to be run over, he fired his service weapon twice.

After Officer Morales fired the two shots, the car stopped moving, and he radioed to dispatch that shots were fired. The female driver was still screaming, asking the officers to remove her from the car. Officer Morales had her turn off the car, and get out. The female driver was crying and appeared to be in shock.

Officer Kirsten McClure arrived shortly after shots fired, and began giving medical aid to Mr. Watts. Officer Morales began directing other patrol units that were arriving to avoid traffic and secure the scene.

Witness #1

Witness #1 was identified as a victim-witness and contacted at scene by investigators. She was interviewed on April 13, 2016, around 11:53 a.m. by investigators at the Stockton Police Department, and stated the following

Witness #1 was in her car and stopped at the red light at Knickerbocker Drive and West Lane. When light turned green, she drove through the intersection and saw a man - Mr. Watts - running toward her car. Mr. Watts jumped into her car through the driver side window. Once inside her car, Mr. Watts told her to step on the gas, and let go of the brake. Witness #1 began arguing with Mr. Watts telling him she would not do that. She feared that if she did, her car would crash in a wall in front of her. Mr. Watts began pressing the gas pedals with his hand as she was pressing on the brake with her foot.

Witness #1 saw the police officers arrive "2.5 seconds" after Mr. Watts jumped in her car. Witness #1 was confused and did not know what was going on, but could hear her tires spinning. Witness #1 heard a police officer yelling at Mr. Watts but she did not recall what he was saying. Witness #1 slightly let off the brake, and the car moved forward toward the end of the intersection. Witness #1 had her foot on the brake while Mr. Watts was pressing on the gas causing the car wheels to emit a squealing sound.

Witness #1 next saw a police officer move toward the front of her vehicle, and fire his service weapon. To Witness #1 it appeared that the police officer did not want to fire his service weapon, because it took a long time for him to fire from the time he was at the car to the time he fired. Witness #1 was scared and felt like the police officer had given plenty of opportunities for Mr. Watts to get out of the car. She was concerned and frightened that the police officer was not going to do anything, and that if the car continued driving, something bad might happen to her.

Witness #2

Witness #2 was identified as a witness and contacted by telephone by investigators. He was interviewed on April 29, 2016, around 11:42 a.m. by investigators at the Stockton Police Department, and stated the following:

Witness #2 was driving westbound on Knickerbocker Drive on his way to work. He stopped at the light at West Lane. When the light turned green, he saw a man – Mr. Watts - running from the area of the bank being chased by a police officer. A car was stopped in front of him and he watched as Mr. Watts ran into the intersection and jumped into the driver's side window of the car.

The pursuing officer grabbed Mr. Watts's legs and began pulling on them trying to pull Mr. Watts out of the car. When that was ineffective, the officer used his baton to strike Mr. Watts's legs. The car began moving towards to the northwest corner of the intersection where it stopped again.

Witness #2 used his cell phone to begin recording the incident.¹ He watched as the pursuing officer and another officer pull their firearms while yelling for Mr. Watts to stop. The car was slowly moving as the tires were "screeching". The car moved two or three car lengths and it began turning toward the officers: "From my vantage point that car was coming right at em".

Witness #2 thought the car made a "jump" and he heard two shots fired. He was unclear if more than one officer fired. Witness #2 then left the area.

SUBSEQUENT INVESTIGATION

Video Documentation

City of Stockton Camera

A recording of a City of Stockton camera at the intersection was obtained and reviewed. The recording, which has no audio, shows the following:

Mr. Watts appears from the parking lot of the business running with Officer Morales approximately thirty yards behind him. Witness #1 can be seen driving through the intersection. As Witness #1 is driving through the intersection, Mr. Watts is seen jumping into her car. Officer Morales can be seen deploying his baton and striking Mr. Watts. After several strikes, the wheels of the car appear to put out some smoke and lurch forward to the end of the intersection dragging Officer Morales who is holding onto Mr. Watts.

At the curb, both officers are on the driver side of the car and Officer Morales is still striking the legs of Mr. Watts with his baton. Officer Morales is seen drawing his service weapon and moving toward the front left quarter panel of the

¹ See below, "SUBSEQUENT INVESTIGATION, Video Documentation."

vehicle. The vehicle begin to move forward, and to the left where the two officers are standing. The vehicle abruptly stops.

Officer Miguel Morales's Body Worn Camera (BWC)

The body worn camera of Officer Morales was obtained and reviewed. The recording shows the following:

Mr. Watts can be seen running away from Officer Morales as he is chasing him on foot. Officer Morales can be heard yelling a verbal command for Mr. Watts to get on the ground. Mr. Watts is then seen jumping through the driver's side window and laying on top of Witness #1. Mr. Watts can be heard telling Witness #1 to drive and you can hear her screaming. Officer Morales is heard yelling for Mr. Watts to get his hands up. Officer Morales uses his baton to strike the leg of Mr. Watts that is hanging outside the window.

Witness #1's car is moving while Officer Morales is at the driver side door. The car's tires are squealing as Mr. Watts depresses the accelerator while Witness #1 depresses the brake; smoke from the tire friction is visible. Officer Morales draws his service weapon and commands Mr. Watts numerous times to stop and get out of the car, or he will be shot. Officer Morales moves toward the front windshield of the vehicle as the vehicle lurches forward and to the left. Two rounds are heard fired from Officer Morales's service weapon. The vehicle immediately comes to a stop. Officer Morales uses his radio to dispatch that shots have been fired, and he requests paramedics to respond to the scene. Witness #1 can be heard screaming and crying, asking the Officers to get her out of the car.

Witness #2 Video²

The video taken by Witness #2 was obtained and reviewed. The recording shows the following:

The video is approximately fifty-eight seconds long and begins after Witness #1's car has already passed through the intersection and is stopped near the northwest corner of Knickerbocker Drive and West Lane. Both officers can be seen standing on the driver's side of the vehicle. The tires on the vehicle are squealing

² *Witness #2 originally uploaded the video, unedited, to YouTube where it was first viewed by investigators. During the interview of Witness #2, investigators viewed the video that was still on Witness #2's cell phone. Witness #2 confirmed that the video they had viewed on YouTube was the same unedited version that they viewed on Witness #2's cell phone*

and it appears as if both officers have their duty weapons drawn. Both officers appear to be yelling commands at someone inside the vehicle.

At this point in the video the tires can again be heard squealing and the car begins to move. The car turns left in the direction of the officers and then two gunshots can be heard

Witness #2 then leaves the scene.

Firearm Examination

DOJ criminalists arrived at the Stockton Police Department shortly after the incident and inspected Officer Morales's 40 S&W Sig Sauer P226 semi-automatic pistol.

After a briefing was given, DOJ criminalists went to the scene. The scene was taped off and secured. Members of BOI, DOJ, and Field Evidence Technicians from SPD investigated the scene. Evidence found had placards placed next to the items and were photographed.

Officer Morales's Firearm

Officer Morales's pistol was a 40 S&W Sig Sauer P226 semi-automatic pistol. There was one cartridge in the chamber and ten cartridges in the magazine. The examination of the pistol and the spare magazines indicated Officer Morales fired two times if the pistol had been loaded with a fully loaded magazine and a round in the chamber. This is consistent with the two shell cartridges located at the scene.

Scene Analysis

At the scene, two expended 40 S&W cartridge cases were located just south of Witness #1's vehicle. Forensic analysis concluded that the shell casings were from Officer Morales's pistol.

An inspection of Witness #1's vehicle at the scene revealed two oval bullet holes in the windshield in front of the steering wheel. One bullet was recovered from the dashboard. A second bullet was recovered from Mr. Watts.

Pathologist's Report

On April 14, 2016, Pathologist Robert D. Lawrence, conducted the autopsy of Mr. Watts. Dr. Lawrence's autopsy revealed that Mr. Watts suffered one gunshot wound: a penetrating gunshot wound to the left vertex of the scalp, perforating the

left parietal lobe, the left cerebellopontine angle, and lodging behind the mastoid process (the bone behind the ear) on the left.

Toxicology results showed Mr. Watts had 2.5 mg/L of methamphetamine, 2.0 mg/mL THC, and .06 mg/L morphine, in his system.

Dr. Lawrence determined the cause of death to be a fatal penetrating gunshot wound to the head.

Two syringes were located in Watts' pockets. A plastic syringe with an orange cap was found in Mr. Watts's left front pocket. The plunger was completely depressed and there was nothing inside the syringe. A second plastic syringe with a blue cap and no needle was located in Mr. Watts's right front pocket. Inside the syringe was 1.13 grams of black tar-like substance that tested presumptive positive for marijuana (hash oil).

Legal Analysis

Under Penal Code sections 197 and 198, homicide is justifiable and not unlawful when committed by a person who reasonably believed that he, or someone else, is in imminent danger of being killed, suffering great bodily injury, or to prevent a forcible and atrocious crime (*People v. Ceballos* (1974) 12 Cal.3d 470, 478). For a homicide to be in self-defense, the person must actually and reasonably believe in the need to defend with deadly force (*People v. Flannel* (1979) 25 Cal.3d 668, 674). If the belief both subjectively exists and is objectively reasonable, it constitutes "perfect self-defense" and the homicide is considered legally justified. (*In re Christian S.* (1994) 7 Cal.4th 768, 783).

Penal Code Section 197 states:

Homicide is also justifiable when committed by any person in any of the following cases:

1. When resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person; or,
2. When committed in defense of habitation, property, or person against one manifestly intends or endeavors, by violence or surprise, to commit a felony, or against one who manifestly intends and endeavors, in violent, riotous or tumultuous manner. To enter the habitation of another for the purpose of offering violence to any person therein; or

3. When committed in the lawful defense of such person, or of a wife or husband, parent, child, master, mistress, or servant of such person, when there is reasonable ground to apprehend a design to commit a felony or to do some great bodily injury, and imminent danger of such design being accomplished; but such person, or the person in whose behalf the defense was made, if he was the assailant or engaged in mutual combat, must really and in good faith have endeavored to decline in further struggle before the homicide was committed.

4. When necessarily committed in attempting, by lawful ways and means, to apprehend any person for any felony committed, or in lawfully suppressing any riot, or in lawfully keeping and preserving the peace.

Homicide committed by a law enforcement officer is governed by Penal Code section 196 (*Kortum v. Alkire* (1977) 69 Cal.App.3d 325, 333). Penal Code section 196 states:³

Homicide is justifiable when committed by public officers and those acting by their command in their aid and assistance, either-

1. In obedience to any judgment of a competent Court; or,
2. When necessarily committed in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty; or,
3. When necessarily committed in retaking felons who have been rescued or escaped, or when necessarily committed in arresting persons charged with felony, and who are fleeing from justice or resisting such arrest.

The test whether a police officer may use deadly force to apprehend a fleeing felon was announced in *Tennessee v. Garner* (1985) 471 U.S. 1, 11-12: “Where the officer has probable cause to believe the suspect poses a threat of serious physical harm, either to the officer or to others, it is not constitutionally unreasonable to prevent escape by using deadly force. Thus, if the suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary to prevent escape, and if, where feasible, some warning has been given.”

³ See also, jury instruction CalCrim 507.

The test of reasonableness is judged by an objective standard of “a reasonable officer on the scene, rather than with the 20/20 vision of hindsight....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 rapidly evolving—about the amount of force that is necessary in a particular situation.” (*Graham v. Conner* (1989) 490 U.S. 386, 396-397, see also, *Jeffers v. Gomez* (9th Cir. 2001) F.3d 895, 909, “broad discretion...must be afforded to police officers who face tense situations.”)

Penal Code section 835a also states that, “[a] peace 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 an officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or prevent escape or to overcome resistance.” As stated above, “if the suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary.” (*Garner, supra*, 471 U.S. at 11-12.)

The test for determining whether a homicide was justifiable under Penal Code section 196 is whether the circumstances “reasonably created a fear of death or serious bodily harm to the officer or to another.” (*Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334). Reasonableness must be considered in the context of the “dangerous and complex world” police officers face every day, because “what constitutes ‘reasonable’ action might seem quite different to someone facing a possible assailant than to analyzing the question at leisure.” (*Martinez, supra*, 47 Cal.App.4th at 343, quoting *Smith v. Freeland* (6th Cir. 1992) 954 F.2d 343, 347).

Application of Law

In analyzing the reasonableness of the decision by Officer Morales to use deadly force, the totality of the circumstances, including the information that the individual officer possessed at the time of his decision, is examined. The “‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.” (*Graham, supra*, 490 U.S. at 396.)

In the instant case, the following set of facts have been sufficiently established:

1) Officer Morales was acting within reason when he attempted a consensual encounter with Mr. Watts. (*Florida v. Royer* (1983) 460 U.S. 491.)

2) Officer Morales was acting with reasonable suspicion when he began to pursue Mr. Watts based on Mr. Watts's loitering; fleeing from the officer; and continuing to run. (*Terry v Ohio* (1968) 392 US 1.)

3) Officer Morales's transition from less-than-lethal force (baton) to lethal force was reasonable to prevent an "atrocious crime" (*Ceballos*, supra, 12 Cal.3d at 478), that is, the carjacking of Witness #1 and to prevent him and his partner's own great bodily injury from being struck by the car.

CONCLUSION

In applying the prevailing legal standards, and based upon the totality of the circumstances, and in light of all the evidence obtained from the multi-task force investigation, it is the opinion of the District Attorney that the lethal use of force by Officer Miguel Morales on April 13, 2016, was justified, and no criminal charges are warranted.

CONFIDENTIAL APPENDIX SECTION

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