



Via E-Mail (piu@doj.ca.gov) and Overnight Mail
January 28, 2020

Hon. Xavier Becerra,
Office of the Attorney General
Department of Justice
1300 'I' Street
Sacramento CA 95814-2919

Re: Protocol for Independent Investigation into Police Use of Deadly Force

Greetings,

We are writing on behalf of the Hayward City Council, which on November 5, 2019, directed the City Manager to request an independent investigation by your office into our police department's use of deadly force, which such investigation would be in addition to the mandatory internal investigations conducted by the Hayward Police Department (HPD) and the Alameda County District Attorney's Office (ACDA). The City Council's intent is to have the initial request focus on the fatal officer-involved shooting (OIS) of Agustin Gonzalez, which occurred on November 15, 2018.

In order to proceed with our next steps in response to the City Council's direction and to conduct a meet and confer process with our Police Officers' Association, we seek your office's direction and guidance regarding the policies, procedures, or protocols that would dictate whether and when a local law enforcement agency's use of deadly force warrants an independent investigation by the Office of the Attorney General, Department of Justice. We are also interested in understanding the scope and potential outcomes of any review that your office would conduct.

We are aware of OIS incidents in which your office has joined local law enforcement in such investigations. The Stephon Clark OIS in Sacramento in 2018 is one such high-visibility case in which your office participated. Given that all local investigations have been concluded in the Gonzalez OIS, could you provide information regarding the policies, procedures, or protocols that would be employed in a potential independent investigation by your office into this incident? How would your office distinguish between local investigations that have been completed or OIS incidents where the local investigations are underway? Could you also describe your purview as it relates to repercussions for the officers involved in these incidents?

Further as it relates to the Gonzalez OIS, HPD conducted internal investigations into the Gonzalez incident, including an administrative investigation into compliance with internal HPD policies, procedures, and tactics, as well as an internal criminal investigation to determine if any crimes were committed by any of the actors involved in the OIS. HPD's internal investigations

were undertaken and completed as required by state law. Additionally, as required by state law and consistent with Alameda County protocols, ACDA conducted an independent criminal investigation to determine if the actions of the involved officers warranted pursuit of criminal charges. No criminal charges were filed against the involved officers at the conclusion of these investigations. (Civil litigation is currently pending between the decedent's survivors and the city of Hayward.)

Thank you for your prompt attention to this important inquiry. If you would prefer to have us set up a meeting with you or members of your staff to discuss this matter, please contact us at (510) 583-4305 or via email Kelly.McAdoo@hayward-ca.gov and Michael.Lawson@hayward-ca.gov.

Respectfully,



Kelly McAdoo, City Manager



Michael Lawson, City Attorney

Cc: Toney Chaplin, Chief of Police