

**REPORT ON THE OFFICER-INVOLVED SHOOTING OF
OSHAINE EVANS ON OCTOBER 7, 2014**



GEORGE GASCÓN, DISTRICT ATTORNEY
INDEPENDENT INVESTIGATIONS BUREAU
CITY AND COUNTY OF SAN FRANCISCO
JANUARY 8, 2018

TABLE OF CONTENTS

I. INTRODUCTION	3
II. SUMMARY OF INVESTIGATION	3-10
A. EVENTS LEADING UP TO THE SHOOTING	3-5
B. THE SHOOTING	5-7
1. OFFICER GOFF	
2. DAVEON D.	
3. STEVEN M.	
C. THE RESPONSE TO THE SHOOTING	7-10
1. SFPD RESPONSE	
2. CIVILIAN WITNESS	
3. MEDICAL RESPONSE	
4. CRIME SCENE INVESTIGATION	
5. FIREARM EXAMINATION	
6. DNA ANALYSIS	
III. LEGAL STANDARD	10
IV. ANALYSIS	10-11
A. SUBJECTIVE BELIEF	
B. OBJECTIVE REASONABLENESS	
V. CONCLUSION	11

I. INTRODUCTION

The San Francisco District Attorney's Office (SFDA) has completed its review of the officer-involved shooting that resulted in the death of Oshaine Evans near 448 Bryant Street in San Francisco, California on October 7, 2014. The SFDA's Independent Investigations Bureau (IIB) reviewed all evidence previously collected by the San Francisco Police Department (SFPD) and SFDA. IIB's review focused exclusively on determining whether criminal charges relating to the officers' conduct are warranted. IIB's review did not examine issues such as officers' compliance with internal SFPD policies and procedures, their training or tactics, or any issues related to civil liability. This report should not be interpreted as expressing any opinions on non-criminal matters.

In brief, the investigation revealed that San Francisco Police Officer David Goff (Star No. 2400) was part of a team of officers investigating auto burglaries around AT&T Park. The officers were surveilling a silver Infiniti that was dropping off and picking up two passengers, Steven M. and Daevon D., and suspected that the Infiniti's occupants were casing cars. The officers saw the passengers break a car window, remove a bag, and head back to the Infiniti, which was parked on Bryant Street. At approximately 9:00 p.m., Officer Goff, who was alone and on foot, approached the Infiniti to arrest the three men. As he approached the car, Officer Goff stated that Evans pointed a gun at him, causing him to fear for his life. In response, Officer Goff fired seven shots into the parked car, killing Evans and wounding Daveon D. An unloaded gun with Evans's DNA on the pistol grip was recovered next to the Infiniti's driver's seat.

For the reasons detailed below, the District Attorney has concluded that there is insufficient evidence to file any criminal charges against Officer Goff relating to the use of deadly force in this matter.

II. SUMMARY OF INVESTIGATION

A. Events Leading Up to the Shooting

On October 7, 2014, Officers David Goff (Star No. 2400), Dan Rosaia (Star No. 2376), Ryan Crosby (Star No. 4164), Anthony Scafani (Star No. 2319) and Brenton Reeder (Star No. 4247) and Sergeant Darren Nocetti (Star No. 394) were investigating auto burglaries around AT&T Park during an evening Giants baseball game.¹ The officers were wearing standard SFPD BDU uniforms² and were traveling in two unmarked cars. Sergeant Nocetti and Officers Crosby and Reeder were in a Chevy Malibu, while Officers Goff, Scafani, and Rosaia were in a Ford Taurus.

After 8:00 p.m., the officers noticed a silver Infiniti appearing to case cars. The Infiniti repeatedly circled the area around South Park, dropping off and then picking up two men who were shining flashlights and looking into vehicles. Officers Goff and Rosaia got out of the cars to

¹ This was Game 4 of the National League Division Series at AT&T Park. The game started at approximately 6:08 p.m. and ended at approximately 9:23 p.m.

² BDU uniforms are generally a dark blue shirt with a sewn-on star and tactical pants with cargo pockets.

conduct surveillance on foot while the other officers remained in their cars. The two officers put plain clothing over their uniforms so they could conduct their investigation more discreetly. Officers Goff and Rosaia separated when they were on foot. Officer Rosaia was later joined on foot by Officer Scafani.

Eventually, the Infiniti parked on Bryant Street near Jack London Alley. The driver, Oshaine Evans, remained in the car while the two passengers, Daveon D. and Steven M., cased vehicles nearby. Officer Scafani made a radio call stating, “He popped the window right now. All right, the deal is done. The black sweatshirt has the bag out of the driver’s side. They’re going on Bryant back towards the car.”

Officer Scafani and Officer Rosaia lost sight of Daveon D. and Steven M. when the two suspects turned the corner onto Bryant Street, so the officers began “power walking” and then jogging to try to catch up to them. Officer Goff was alone near 420 Bryant Street, where he could see the Infiniti.

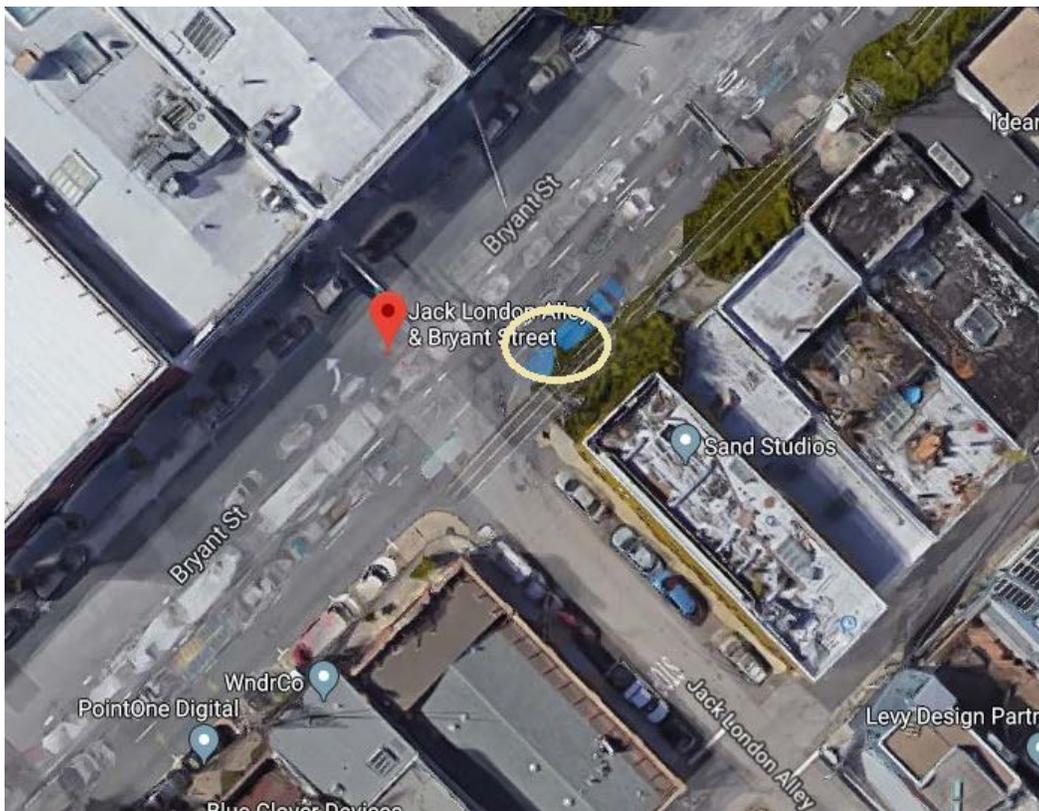


Figure 1: Map of Bryant Street and Jack London Alley. The yellow circle indicates the Infiniti’s location. (Source: Google Maps)

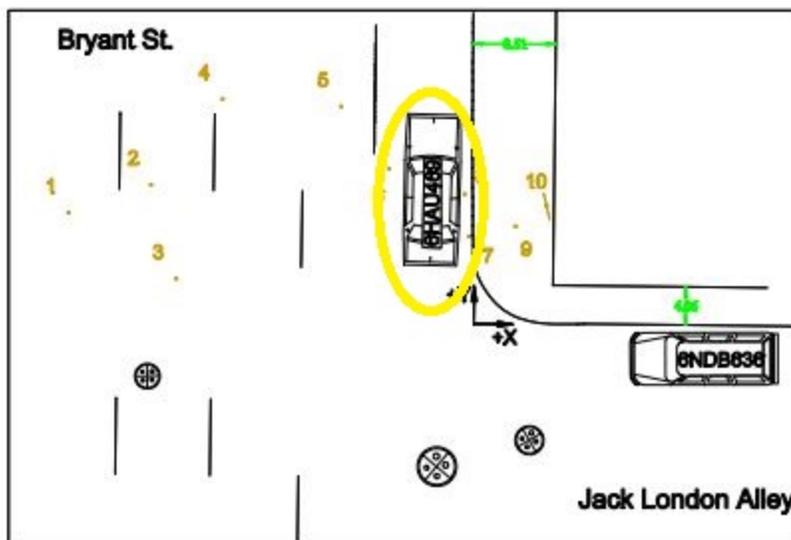


Figure 2: CSI Diagram of Scene. The yellow circle highlights the Infiniti. (Source: CSI)

When Evans, Daevon D., and Steven M. reunited at the Infiniti on Bryant Street, Officer Goff was still the only police officer present. As he approached the Infiniti to make the arrests, Officer Goff said over the radio, “You guys better get here. I’m fucking here!” Another officer asks, “Where at?”

As Officers Rosaia and Scafani approached the scene, they heard Officer Goff yell, “Show me your hands, show me your hands!” They then heard gunshots, and Officer Rosaia made a radio call announcing, “Shots fired! Shots fired!”

B. The Shooting

A surveillance video from 433 Bryant Street captured portions of the incident leading up to and after the shooting, but the shooting itself occurred off-screen. The video shows Officer Goff quickly crossing Bryant Street with a flashlight that illuminates the pavement in front of him. His arms are extended in front of him at about shoulder height, holding what is likely his firearm as he disappears from the video. Approximately three seconds later, the video captures what sounds like verbal commands but the actual words are unintelligible.³

Multiple shots ring out in rapid succession within seconds of the verbal statements. Steven M. then runs directly in front of the camera and shouts, “He’s shooting!” Officers Crosby and Sergeant Nocetti detain him at gunpoint and handcuff him. Steven M. says, “Ain’t nobody got no fucking gun.” During the remainder of the video, Steven M. says there was no reason to shoot, and that this is all over an auto burglary.

Only three people saw the shooting: Officer Goff, Daveon D., and Steven M. Steven M. declined to cooperate with the investigation despite multiple efforts, including from IIB three years after the incident, to speak with him. The other two accounts are summarized below.

³ Investigators enhanced the video’s audio but Officer Goff’s commands still could not be deciphered.

1. Officer Goff

Officer Goff walked across Bryant Street toward the Infiniti and saw two men (Steven M. and Daveon D.) standing outside the car. Officer Goff approached with his firearm drawn and shined his flashlight at the car. Officer Goff said his flannel shirt covered the police star sewn on his BDU top and he had no metal star on a chain or otherwise displayed. According to Officer Goff, he announced himself as “Police!” and commanded the suspects to show their hands.

He approached the driver’s door of the vehicle because he was concerned the driver would try to flee. One suspect (Steven M.), was still standing outside the car but the other was now inside of it. Steven M. began to comply but then started to drift away from the car. Officer Goff shined his flashlight into the car. When he did so, he saw the driver reach toward the door handle with his left hand even though Officer Goff never ordered the man to get out of the car. Officer Goff then saw a black gun in Evans’s right hand.

Officer Goff said the driver raised the firearm and pointed it at him: “When the gun faced me I thought the guy was going to shoot and kill me. At which point I ordered him to drop the gun, and I fired my weapon.” When Officer Goff began shooting at Evans, Goff was “right on him... even a little bit in front of him” near the side mirror. He backed up as he fired and saw Evans lean back. “I lost visual of the firearm and his hands were still kind of out of sight so I was ordering him continuously to put his hands up, get his hands away from the gun, get away from the gun, at which point Officer Rosaia and Officer Scafani came around Jack London, came up northbound Jack London to Bryant.”

Within seconds of the shooting, Officer Rosaia joined Officer Goff near the driver’s door. Officer Goff – not yet knowing Evans was fatally wounded – continued to shout at the driver to drop the gun and shouted to his partner that there was a gun in the car. Officer Rosaia opened the driver’s side car door and recovered the gun from “somewhere near the door and the seat.” Officers Goff and Rosaia then pulled Evans out, and Officer Rosaia began performing CPR.

2. Daveon D.

Daveon D. said he was in Evans’s silver Infiniti “just driving around.” When he got out of the car to use the bathroom, he said that “somebody ran up to the car shooting. That’s all I really remember.” Daveon D. said the man who ran up and shot did not say anything and began shooting as Daveon D. got back into the car. He also initially said he did not know the other passenger but later acknowledged that it was his cousin, Steven M., who was with them in the Infiniti.

After further questioning, Daveon D. said that he “popped the window” of a black SUV with a metal punch and removed a black laptop bag before he got back into Evans’s car. It was just as he was getting back into the car that Officer Goff ran up shooting. Daveon D. recalled Evans saying something like “What the fuck?” before Daveon D. felt himself get shot in his left hip area. He said he did not know Evans had a gun.

3. Steven M.

As noted above, Steven M. refused to speak to investigators despite multiple efforts to interview him. Investigators reviewed Steven M.'s recorded jail call records, only one of which clearly pertains to Officer Goff: "An undercover came out of nowhere...He just, he said 'Stop! Put your hands up!' He never said 'I'm the police,' he never said, 'Police! Freeze!'.... They just start shooting without notifying that they the police."

Both Steven M. and Daveon D. were criminally charged with their involvement in the car burglary. Steven M. was convicted of second degree burglary and Daveon D. was convicted of being an accessory.

C. The Response to the Shooting

1. SFPD Response

When Officers Rosaia and Scafani arrived on the scene, Officer Goff had his gun drawn and yelled that there was a gun in the car. Officer Rosaia saw Evans "slumped" in the driver's side seat and opened the driver's door. He saw Evans was bleeding from his chest with his left arm down between the door and the seat. As Officer Goff continued to point his gun at Evans, Officer Rosaia opened the car door and saw a black handgun right next to his hand. He picked up the gun and put it in his jacket pocket, performed a quick waistband search of Evans, pulled him from the car, and began CPR. Officer Rosaia later secured two shell casings that he found on the ground and provided them to CSI.

Daveon D. was on the ground after he had fallen from the back of the Infiniti, saying "I'm hit. I'm hit. I'm hit." Officer Scafani handcuffed him and then relieved Officer Rosaia of CPR until medical personnel arrived. Meanwhile, Officer Crosby searched Steven M. and recovered a cell phone with the flashlight still on and a window punch. Sergeant Nocetti headed toward Officer Goff and saw Officer Rosaia performing CPR on Evans.⁴ He saw Officer Reeder and possibly Officer Scafani with Daveon D.

2. Civilian Witnesses

Multiple civilian witnesses heard but did not see the shooting. Robert R., a supervisor at the SAE Institute of Technology located at 450 Bryant Street, was in his office looking at his computer screen when he heard 3 to 4 gunshots and someone shouted "Get your hands up, show me your fucking hands." Robert R. looked out the window after the shots were fired and saw police officers pull a male out of a car and perform CPR.

⁴ Officer Reeder did not see or hear the shooting. He was on foot when he heard Officer Rosaia announce "shot fired" on the radio, while Reeder was still about two blocks away. When he arrived at the scene, he saw Scafani and Rosaia giving CPR to one person with another person handcuffed near the Infiniti.

A second civilian witness, David B., heard gunshots and saw two officers vigorously performing CPR on a person on the ground. No other witnesses offered statements of evidentiary value beyond what these two witnesses noted.

3. Medical Response

At approximately 9:20 p.m., paramedics transported Evans from the scene to San Francisco General Hospital. He was pronounced dead at 9:32 p.m.

Dr. Ellen Moffatt of the San Francisco Medical Examiner's Office conducted the autopsy and determined that Mr. Evans's cause of death was "multiple gunshot wounds." Dr. Moffatt noted two gunshot wounds, one to Evan's head and one to the left upper chest. Neither gunshot created an exit wound. Both wound tracks had a downward trajectory, which is consistent with Evans's position sitting in the car and Officer Goff firing from a standing position.

4. Crime Scene Investigation

The SFPD Crime Scene Investigations Unit (CSI) responded to the scene and secured evidence. CSI found five .40 caliber S&W Winchester shell cases, a single bullet, a window punch, a collapsible baton, and a small flashlight. CSI also recovered two casings from Officer Rosaia's jacket, for a total of seven expended shell casings. Officer Goff's firearm which had a total capacity of 13 rounds, had six rounds remaining in the weapon, meaning that he fired a total of seven rounds. CSI also recovered the gun that Officer Rosaia seized from the Infiniti.

CSI recovered three bullet fragments from inside the Infiniti that allowed them to determine bullet trajectory. The three bullet paths indicate the shots were fired from roughly the level of the driver's side mirror and from three positions in front of and (from the position of someone in the driver's seat) to the left of the driver's side mirror.

As evident from CSI's chart below, the firing angle changed between trajectory A and trajectory D, suggesting that Officer Goff moved during the shooting. One bullet path, labeled "C," traveled through the driver's headrest towards the right rear of the vehicle.

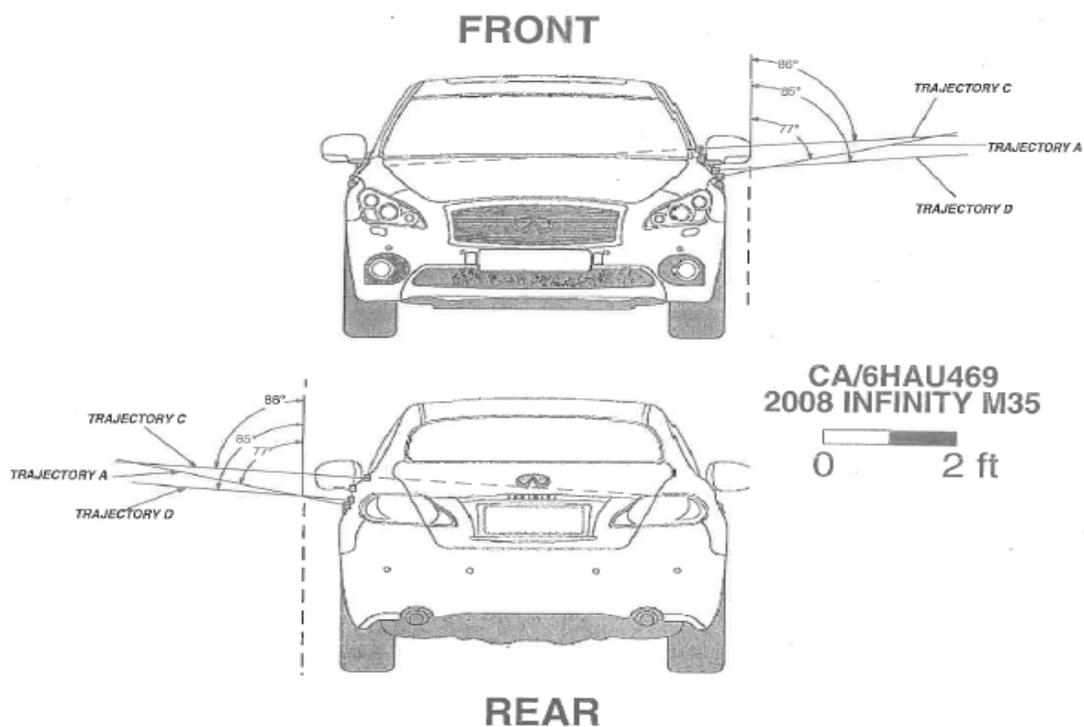


Figure 3: Bullet trajectory analysis. (Source: CSI)

5. Firearm Examination

The Lorcin .380 firearm recovered next to Mr. Evans was unloaded and without a magazine. An SFPD Criminalistics Laboratory firearms examination found that it fired properly when loaded. According to the Bureau of Alcohol, Tobacco, Firearms and Explosives, the gun was purchased in 1994 by a private citizen, Dwight R. The citizen told an investigator that the gun was reported stolen in Alhambra, California a number of years ago.



Figure 4: Photo of Lorcin firearm recovered from the Infiniti. (Source: CSI)

6. DNA Analysis

SFPD Criminalist Erin Kilpatrick conducted a Forensic Biology Examination to test for DNA on the gun. Ms. Kilpatrick compared swabs taken from the grip of the Lorcin gun to Mr. Evans's DNA sample. The DNA profiles from the blood found on the grip of the gun matched Mr. Evans's DNA.⁵

III. LEGAL STANDARD

The question presented is whether the officers committed a criminal act in shooting and killing Mr. Evans. Possible criminal charges against an officer involved in a fatal shooting include murder and voluntary manslaughter. In order to charge an officer with any of these crimes, the prosecutor must be satisfied that the evidence will show beyond a reasonable doubt that no legal justifications existed for the officers' actions. Here, the relevant legal justification offered by Officer Goff is that he was acting in self-defense when he fired his weapon.

California law permits any individual to use deadly force “[w]hen resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person.” Cal. Pen. Code, § 197; *see also Kortum v. Alkire* (1977) 69 Cal.App.3d 325, 333. Specifically, self-defense or defense of others serves as a complete defense to murder and to voluntary manslaughter so long as the person (1) subjectively believed in the need to resort to force in order to avert a threat of imminent and great bodily injury, and (2) his perceptions and actions were objectively reasonable under the circumstances. *See People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *People v. Viramontes* (2001) 93 Cal. App. 4th 1256, 1262.

The subjective prong of the self-defense standard examines the person's belief in the need to use force. The objective component of self-defense asks what a reasonable person would have done in their position. *People v. Humphrey* (1996) 13 Cal.4th at 1082-83. The reasonable person is an abstract individual of ordinary mental and physical capacity who is as prudent and careful as any situation would require him to be. *People v. Jefferson* (2004) 119 Cal.App.4th 508, 519. In making the determination as to whether an officer's conduct was objectively reasonable, one must consider all the “facts and circumstances . . . in determining whether the defendant acted in a manner in which a reasonable man would act in protecting his own life or bodily safety.” *People v. Humphrey* (1996) 13 Cal.4th at 1083. Self-defense law “grants a reasonable margin within which one may err on the side of his own safety, and so long as he is found to have done so reasonably, no abuse of the right of self-defense should be found to have occurred.” *People v. Ross* (2007) 155 Cal.App.4th 1033, 1057.

IV. ANALYSIS

A. Subjective Belief

Regarding the subjective prong, Officer Goff said he believed he needed to use deadly force because Evans pointed a gun at him after he ordered Evans to show him his hands. Officer Goff

⁵ The probabilities of an unrelated person matching this DNA profile are in the quintillions.

stated, “When the gun faced me I thought the guy was going to shoot and kill me. At which point I ordered him to drop the gun, and I fired my weapon.” The investigation did not reveal sufficient evidence that undermined Officer Goff’s stated subjective belief. Therefore, the remainder of the analysis focuses on the objective reasonableness of Officer Goff’s decision to fire his weapon.

B. Objective Reasonableness

The objective prong asks whether Officer Goff reasonably believed that he was in fear of an imminent threat of death or great bodily injury when he used deadly force. Here, there is no reasonable dispute that Officer Goff was lawfully acting as a police officer when he approached the Infiniti. His team had identified the Infiniti and its occupants as being involved in a car burglary, and Officer Goff was approaching to make an arrest. As he attempted to do so, Officer Goff stated that Evans pointed a gun at him. Fearing for his life, Officer Goff fired seven shots as he backed away from the car.

Officer Rosaia found a gun lodged by the Infiniti’s front driver-side door, and DNA evidence established a physical link between the gun and Evans. Moreover, CSI’s bullet trajectory analysis and the physical evidence is consistent with Officer Goff’s statement that he began shooting at Evans when Goff was “right on him... even a little bit in front of him” and near the side mirror, and that Goff “began to back up as [he] fired.” The audio and video of the incident do not contradict the claim that the shooting was in self-defense.

Finally, the fact that Evans’s gun was unloaded does not make the shooting objectively unreasonable. The relevant question under California law is whether Officer Goff reasonably believed that he faced an imminent threat of death or great bodily injury when he used deadly force. There is no evidence to suggest that Officer Goff knew that the gun was unloaded at the time that he fired his weapon. Rather, the available evidence suggests that he fired because Evans pointed a gun at him and he reasonably believed that he faced an imminent threat. Accordingly, the prosecution cannot prove beyond a reasonable doubt that Officer Goff’s decision to use deadly force was an unreasonable response to an imminent threat of death or serious bodily injury.

V. CONCLUSION

For the reasons outlined above, the District Attorney concludes that there is insufficient evidence to file any criminal charges against Officer Goff in this matter.