

**OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF VENTURA
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**REPORT ON THE SHOOTING
OF JUAN LUIS REYES
BY OXNARD DETECTIVE EDWARD BALDWIN
ON MARCH 17, 2010**

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District Attorney**

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INTRODUCTION

On Wednesday, March 17, 2010, at approximately midnight, Oxnard Police Department detectives went to the area of South Rose Avenue and Sanford street to arrest Juan Luis Reyes (DOB 6/12/91) for felony sexual assault. Detective Edward Baldwin approached Reyes with his service weapon drawn and ordered Reyes to get down on the ground. As Detective Baldwin approached Reyes, he lost his footing and began to fall. While Detective Baldwin was regaining his balance, he accidentally shot his weapon. Reyes was shot one time in the right front forearm. He survived the shooting and had surgery to repair his arm.

The Oxnard Police Department conducted a detailed investigation of the shooting, which included: interviewing witnesses, collecting physical evidence, photographing the area of the shooting, and conducting interviews with the involved officers. The Oxnard Police Department investigation reports were then submitted to the District Attorney's Office for a determination of whether the shooting of Juan Luis Reyes was justified, and if not, whether criminal charges should be filed. The scope of the District Attorney's review was limited to those issues.

The District Attorney's review included: studying over 500 pages of reports, documents, interviews of police and civilian witnesses, diagrams, photographs, audio recordings, records of radio transmissions, and visits to the scene of the shooting. This 20-page report, authored by Senior Deputy District Attorney Stacy Ratner, summarizes the review of this incident.

After a complete review of all of the evidence, it is the conclusion of the District Attorney that Detective Edward Baldwin was lawfully engaging in his duties to effect an arrest of Juan Luis Reyes and the shooting was accidental.

STATEMENT OF FACTS

On Wednesday, March 17, 2010, Oxnard Police Department sexual assault detectives Sharon Giles and Rachel Burr were investigating a felony sexual assault case involving alleged forced oral copulation and robbery. One of the suspects was identified as Juan Luis Reyes (DOB 6/12/91) of Oxnard. The investigation revealed that Reyes lived at 4940 South Rose Avenue #5 in the city of Oxnard.

Detectives Giles and Burr contacted members of the Oxnard Police Department Violent Crimes Unit to assist with the apprehension of Reyes. They devised an operational plan to take suspect Reyes into custody by luring him outside of his apartment. Detective Sergeant Terry Burr, Detective Edward Baldwin, and Detective Jeff McGreevy were assigned to assist in the arrest.

The plan was to lure Reyes out of his residence with a telephone call requesting him to return the alleged victim's cell phone and credit card. Detective Rachel Burr and the alleged victim planned to drive to the area of Reyes' apartment in an unmarked Ford sedan. At the same time, Sergeant Terry Burr, Detectives Baldwin, McGreevy, and Giles, would also drive to the same location in an unmarked mini-van. The mini-van would park in a position north of the Ford Sedan.

Once the vehicles were parked, the call was made to Reyes requesting that he come outside with the property. When Reyes exited his residence, he was directed to walk southbound on the sidewalk towards the Ford sedan containing Detective Burr and the alleged victim. As Reyes walked on the sidewalk, he would pass Sergeant Burr's mini-van and the detectives would exit the van via the passenger side sliding door and contact Reyes. At the same time, Sergeant Burr would exit the driver's seat and block the path back to Reyes' residence to prevent Reyes from fleeing back to his home.

Detectives Giles, Baldwin, McGreevy and Sergeant Burr were wearing their department-issued ballistic vests and vest covers. These vest covers are black in color and were marked with the word "Police" in large white letters on the front and back. These detectives were also in possession of their duty handguns.

The detectives responded to the area of South Rose Avenue. The mini-van containing the detectives parked along the east curb of South Rose Avenue. The Ford sedan, containing Detective Burr and the alleged victim, parked south of the van near the intersection of South Rose Avenue and Sanford Street. After several calls were made to Reyes, he agreed to come outside and return the property. As Reyes exited his residence, Detective Rachel Burr honked her vehicle's horn to attract his attention. Reyes walked towards Detective Burr's sedan. After Reyes passed by Sergeant Burr's mini-van, Detective Baldwin opened the passenger side sliding door and exited the van onto the sidewalk. Detective Baldwin had his handgun drawn. Detective Baldwin was followed by Detectives McGreevy and Giles. Detective Baldwin identified himself

as a police officer and yelled several times to the suspect to “get on the ground.” Reyes turned to face Baldwin and Baldwin shot him in the arm.

According to Detective Baldwin, he stumbled as he walked towards Reyes. While stumbling, Detective Baldwin fired one shot from his Sig Sauer P220 .45 caliber handgun. The round struck Reyes in the right front forearm. Detective Baldwin moved backwards and appeared to be in a state of shock. At the same time, Sergeant Burr and Detective McGreevy provided first aid to Reyes. Reyes was found to be unarmed. Reyes was transported to St. John’s Regional Medical Center in Oxnard where he was treated for a gunshot wound. Reyes had surgery and survived.

Statement of Detective Edward Baldwin

Detective Edward Baldwin had been a police officer for six years at the time of shooting. He was assigned to the Violent Crimes Unit as a gang investigator in the Oxnard Police Department’s Investigative Services Division. He had been in that assignment for approximately 18 months in March 2010.

On the evening of March 17, 2010, Detective Baldwin was informed that the Oxnard Police Department Sexual Assault Unit needed assistance with an active case. The Sexual Assault Unit was investigating a case where the allegations were that the victim was forced to orally copulate the suspect and that the suspect had forcibly taken the victim’s cell phone and credit card during the encounter. The sexual assault detectives taped a telephone call from the alleged victim to the suspect. During this call, the suspect admitted that he had a sexual encounter with the alleged victim. The suspect also admitted to being in possession of the alleged victim’s cellular

telephone and credit card. Detectives from the Sexual Assault Unit and the Violent Crimes Unit designed a plan to take the suspect into custody for the felony crimes.

Detective Baldwin understood that the plan included a felony arrest of the suspect with the officers exiting from Sergeant Burr's undercover mini-van. The officers would go to the suspect's residence in two cars: a mini-van and a Ford Taurus. Sergeant Burr was assigned as the driver of the mini-van. Detectives Baldwin, McGreevy, and Giles were in the back of the van. Detective Rachel Burr and the alleged victim would be in the Ford Taurus. Once the detectives were staged in the area of the suspect's residence, a phone call would be placed to the suspect. The alleged victim would request the suspect return her property. She would tell the suspect to exit his residence and contact her in the parked Taurus. When the suspect exited his residence, he would walk to Detective Rachel Burr's vehicle to return the property. While enroute to her vehicle, the suspect would pass the parked mini-van containing the take-down team. Once the suspect passed the van, the officers would exit via the passenger side rear sliding door and take the suspect into custody and prevent the suspect from retreating into his residence.

Detectives Baldwin, McGreevy, and Giles were tasked with contacting the suspect via the passenger side sliding door. At the same time, Sergeant Burr would exit the mini-van and post himself near the front of the van to block the suspect's path if he decided to flee back to his residence. The detectives were shown a picture of Reyes so they could recognize him as he walked down the sidewalk.

The vehicles moved into the area after all the detectives were briefed. Sergeant Burr had a difficult time locating a parking space for the mini-van in front of the suspect's house. Sergeant Burr ended up parking the van near the corner of South Rose Avenue and Sanford Street. Detective Rachel Burr and the alleged victim parked south of the mini-van. Detective Burr double-parked the Taurus as part of the ruse to get Reyes out of the house. They told Reyes that they were double-parked in the street so that the alleged victim could not come to the door of Reyes' apartment.

Detective Baldwin saw the suspect exit his residence and walk past the mini-van. Detective Burr notified the other detectives in the van that the suspect was looking into the parked cars along the sidewalk as he walked southbound. Detectives Baldwin, McGreevy, and Giles were seated in the back of the mini-van. Sergeant Burr was in the driver's seat, and no one was seated in the right front passenger seat. Detective Baldwin was able to look through the top of the sun visor and he saw the suspect looking into the mini-van. After the suspect walked past the van, Detective Baldwin told the other detectives in the van that he was going to open the passenger side sliding door. Once the suspect arrived at the rear bumper of the mini-van, Detective Baldwin opened the door and exited the van. He was followed by Detectives McGreevy and Giles.

As Detective Baldwin stepped out of the van he drew his firearm to effectuate the felony arrest. He could clearly see the suspect standing next to the passenger side of Detective Rachel Burr's Ford Taurus. Detective Baldwin identified himself as a police officer and directed the suspect to get down onto the ground. The suspect turned around and looked directly at him. While Detective Baldwin was advancing towards the suspect he pointed his firearm at him. Suddenly

he lost his footing and he felt as if he were going to fall. He started lunging forward and tried to gain control so he would not fall onto the ground. As he did this, a single round was fired from his firearm. He heard the suspect yell and saw him fall against the side of Detective Rachel Burr's vehicle. Detective Baldwin immediately placed his firearm close to his chest and pointed it towards the ground in a safe position. He stepped to his right and Detective Giles approached him and took his firearm from him. Detective Baldwin saw the other detectives attending to the suspect.

Detective Baldwin did not have any injuries. He said that he only stumbled; he did not fall to the ground. He was wearing his normal work boots and he did not know if there were any defects or obstructions in the sidewalk. Detective Baldwin indicated that he did not intentionally discharge his firearm, rather, it went off as he was trying to regain his balance as he was advancing towards the suspect. Detective Baldwin was extremely upset about the fact that he had accidentally shot Reyes. He cried repeatedly during his interview and expressed extreme remorse over the fact that Reyes had been injured.

Statement of Detective Jeff McGreevy

Detective McGreevy was assisting Sergeant Burr and other detectives on March 17, 2010, to arrest Juan Luis Reyes for an alleged sexual assault. McGreevy was informed that the suspect was in the possession of property belonging to the alleged victim. He was in the van driven by Sergeant Burr with Detectives Baldwin and Giles. McGreevy was aware that the alleged victim was going to make a phone call to the suspect to lure him out of his residence. Once the suspect

came out of his residence and into a public area, the detectives were going to apprehend him for the felony sexual assault.

Detective McGreevy said they initially planned to park in front of the suspect's house but they had to modify their plan because there were no available parking spaces. They parked near the corner instead of in front of the suspect's house. Detective McGreevy stated that it was ultimately Sergeant Burr's decision when they executed the arrest. There was no plan as to who would be the contact or arresting officer, but since Detective Baldwin was seated near the door of the van, he was going to make the first contact with the suspect. Detective McGreevy would be the cover officer assisting Detective Baldwin. The plan also included Sergeant Burr exiting the driver's door and covering near the front of the van in case the suspect tried to escape.

When the suspect walked past the van, Detective Baldwin opened the right passenger sliding door and was the first person out of the van. Detective McGreevy heard Baldwin identify himself as a police officer and tell the suspect to get down on the ground. Detective McGreevy said that as he exited the van he heard a gunshot. Detective McGreevy did not observe the shooting or the suspect because he was looking at the ground where he was going to be stepping as he exited the van.

Detective McGreevy did not recall if he stepped on the asphalt before stepping onto the curb, or if he stepped directly onto the curb after exiting the van. He recalls seeing a "No Parking" sign on the sidewalk directly in front of the van door. The pole that the sign was attached to was an obstacle the officers had to walk around immediately upon exiting the van. He also knew that

Detective Baldwin was to his right, and he had already cleared away from the doorway of the van when he heard the gunshot.

Detective McGreevy looked up after hearing the gunshot and observed the suspect standing by the right rear passenger door of Detective Burr's vehicle. Detective McGreevy heard the suspect make a noise and grab his arm. He saw the suspect fall back against Detective Burr's vehicle, and the suspect's arm started bleeding. Detective McGreevy put gloves on and began first aid by applying direct pressure to the suspect's arm to try to stop the bleeding.

Detective McGreevy did not initially know who fired a weapon. He noticed Detective Baldwin had moved to his left side and he appeared visibly shaken. He saw Detective Baldwin move away from him and he remained focused on the suspect.

Statement of Detective Sharon Giles

Detective Giles was assigned to the Sexual Assault Unit at the Oxnard Police Department. She rode in the van with Sergeant Burr and Detectives Baldwin and McGreevy. She was the last one to exit the van after Detectives Baldwin and McGreevy. She saw Detective Baldwin open the sliding side door and exit with his duty weapon drawn as the suspect passed by. She did not know if Detective McGreevy had his weapon drawn but Giles did have her own weapon drawn as she exited the van. She heard Detective Baldwin give the suspect verbal commands to get down onto the ground. As she started to exit the van, she immediately heard a gunshot and saw Baldwin run back towards her.

She asked Baldwin what happened but he had his hand over his mouth as if he was in shock. Baldwin told her that he had his finger in the trigger and accidentally shot the suspect. She saw the suspect down on the ground in a seated position leaning up against Detective Rachel Burr's vehicle. Detective McGreevy and Sergeant Terry Burr were attending to him. Detective Giles removed Detective Baldwin's duty weapon from his hand and walked him over to the driver's side of the van. She noticed that he was visibly shaken and extremely upset at the fact that he had accidentally shot the suspect. He remained at the driver's side of the van until he was transported back to Oxnard Police Department.

Statement of Sergeant Terry Burr

Sergeant Burr drove the unmarked van occupied by Detectives Baldwin, McGreevy and Giles. He parked at the corner of Sanford Street and South Rose Avenue. He instructed Detective Rachel Burr to park behind his van. He placed a sunshade in front of the windshield to help conceal the detectives inside. From the driver's seat he observed the suspect as he came out of his residence. He notified the detectives when the suspect stepped outside of his apartment, and at that point Detective Baldwin released the door handle so that the side door of the van could open quickly. Sergeant Burr instructed Detective Baldwin to open the door and make an announcement as soon as the suspect passed by the van. Detective Baldwin was the first person to get out of the van followed by Detectives McGreevy and Giles. Sergeant Burr exited through the driver's door. When Sergeant Burr was in front of the van, he heard Detective Baldwin yell "Police!" The next thing he heard was a gunshot. He immediately ran to the passenger side of the van and saw Detective Baldwin with his hands up to his face. Sergeant Burr first thought that Detective Baldwin had been shot. He also noticed that the suspect was on the ground and that

Detective McGreevy was holding him. He saw Detective Giles take possession of Baldwin's handgun.

Sergeant Burr noticed that Detective Baldwin was very upset. He saw him crying and screaming. Sergeant Burr directed Detective Baldwin to sit in the front seat of the van and he remained there while Sergeant Burr and Detective McGreevy administered first aid to the suspect. Sergeant Burr determined that the suspect did not have a weapon and had been wounded in the right forearm.

Statement of Juan Luis Reyes

Juan Luis Reyes was transported to the emergency room of St. John's Regional Medical Center in Oxnard. He told detectives that he had been in possession of the cell phone and credit card of the alleged victim. That night he received a phone call at his home from an older female who asked him to bring the phone outside. He went outside and walked down the sidewalk towards where the female was waiting in a car. Directly in front of the car was a silver mini-van parked along the sidewalk. As he walked past the silver mini-van, he noticed the side door open. Reyes turned towards the van to see what was happening and that is when he was shot. Reyes saw one police officer exit the van, but he did not hear any commands directed at him. After he was shot he heard the officer say, "Oh shit," or something similar to that. After he was shot, he fell to the ground. Other officers ran to him and began to render aid.

Reyes said that he did not know why he was shot. He was just walking over to the girl's vehicle to give her phone back to her. He was not armed.

Reyes suffered a gunshot wound to the right forearm. The entrance wound was on the top of his right arm approximately half way between the wrist and elbow and closer to the thumb side of the arm. The exit wound was on the bottom of the forearm approximately half way between the wrist and elbow and closer to the thumb side of the arm. His radius bone was broken but he did not suffer any nerve damage or damage to any critical artery.

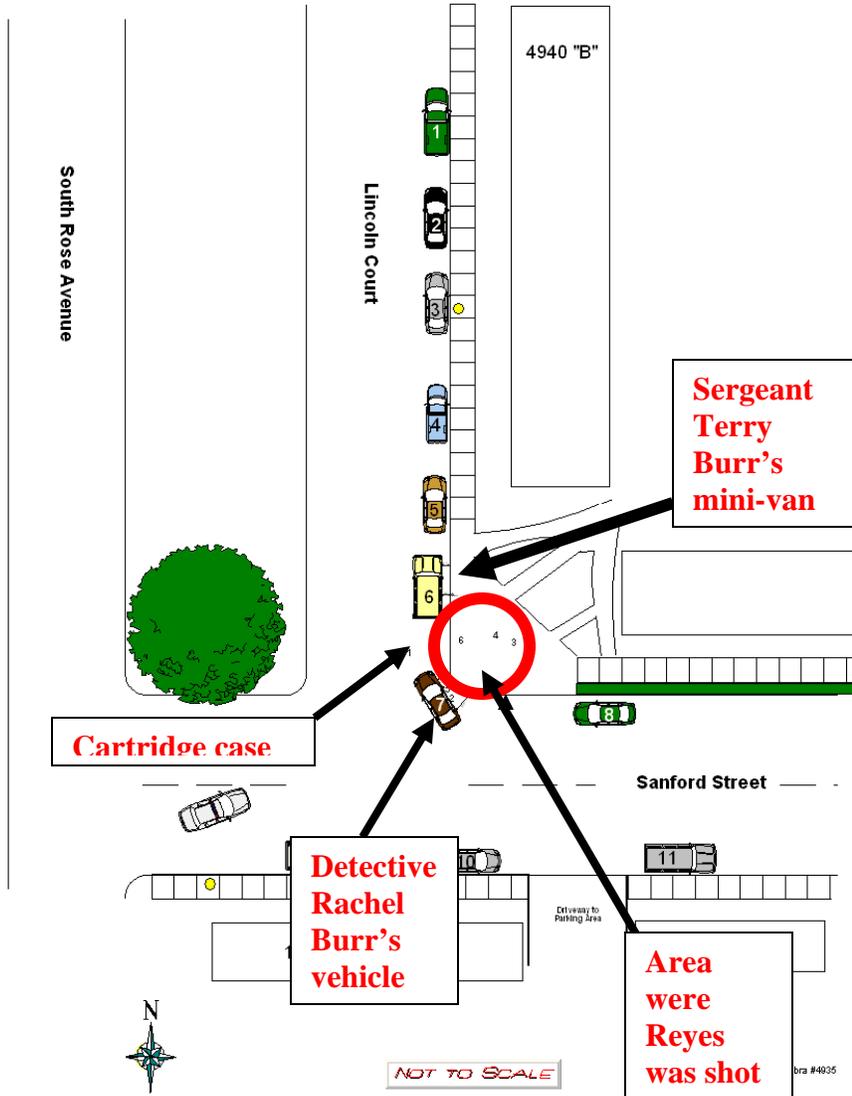
Reyes underwent surgery at St. John's Regional Medical Center on March 25, 2010. He had a bone graft taken from his right hip and placed into his right forearm to repair the break in his radius bone. The bone graft was attached with screws and a metal plate. The surgery was successful and Reyes' arm has fully healed from the gunshot wound.

OTHER INFORMATION

The criminal case against Juan Luis Reyes and his friend, Rodrigo Rivera, was presented to the Sexual Assault Unit of the District Attorney's Office for filing. The charges presented were oral copulation of a person under the age of 18 (Penal Code section 288a (b) 1) and possession of stolen property (Penal Code section 496). Senior Attorney Margaret Coyle conducted a thorough analysis and review of the facts and the law related to the charges presented. She rejected the case against both Reyes and Rivera because the charges could not be proven beyond a reasonable doubt due to inconsistencies with the victim and consensual conduct that the victim had engaged in with the suspect and his friend on the same day as the alleged sexual assault.

PHYSICAL EVIDENCE

Scene Diagram
DR# 10-05869



The shooting scene is generally comprised of the area of the southeast corner of South Rose Avenue at Sanford Street. Reyes' apartment is north of the apartments at 4940 "B"; it is not depicted on the diagram. Sergeant Burr's mini-van was parked on Rose Avenue north of Sanford Street along the east curb. Its right rear passenger door was in front of a "No Parking" sign. Detective Rachel Burr's Ford Taurus was double-parked behind the van approximately 15 feet

away from the curb. One expended Winchester .45 caliber shell casing from Detective Baldwin's gun was found in the street between the mini-van and the Taurus. A fired bullet was found in a pool of blood next to the Taurus where Reyes was lying on the ground.

The evidence at the scene of the shooting is consistent with witnesses' statements about where Detective Baldwin was standing and where Reyes was shot.

LEGAL PRINCIPLES

According to Penal Code section 246.3(a) any person who willfully discharges a firearm in a grossly negligent manner which could result in injury or death to a person is guilty of a public offense. This offense is chargeable as either a felony or a misdemeanor.

The Judicial Council of California, Criminal Jury Instructions (CALCRIM) 970 defines the elements necessary to prove a violation of Penal Code section 246.3. They are:

1. The defendant intentionally shot a firearm.
2. The defendant did the shooting with gross negligence.
3. The shooting could have resulted in the injury or death of a person.

Gross negligence is further defined as follows:

Gross negligence involves more than ordinary carelessness, inattention, or mistake in judgment. A person acts with gross negligence when:

1. He or she acts in a reckless way that creates a high risk of death or great bodily injury; AND
2. A reasonable person would have known that acting in that way would create such a risk.

In other words, a person acts with gross negligence when the way he or she acts is so different from the way an ordinarily careful person would act in the same situation that his act amounts to disregard for human life or indifference to the consequences of that act.

Gross negligence, as a basis for criminal liability, requires a showing that the defendant's act was “such a departure from what would be the conduct of an ordinarily prudent or careful [person] under the same circumstances as to be incompatible with a proper regard for human life, or, in other words, a disregard of human life or an indifference to consequences.” *People v. Penny* (1955) 44 Cal.2d 861, 879

“The mere failure to perform a statutory duty is not, alone, willful misconduct. It amounts only to simple negligence. To constitute ‘willful misconduct’ there must be actual knowledge, or that which in the law is esteemed to be the equivalent of actual knowledge, of the peril to be apprehended from the failure to act, coupled with a conscious failure to act to the end of averting injury.” *Meek v. Fowler* (1935) 3 Cal.2d 420, 425-26

According to Black's Law Dictionary:

Accident is defined as an unusual, fortuitous, unexpected, unforeseen or unlooked for event, happening or occurrence; an unusual or unexpected result attending the operation or performance of a usual or necessary act or event.

ANALYSIS

The primary question that must be answered is: Did Detective Baldwin intentionally discharge his firearm in a grossly negligent manner towards Juan Luis Reyes such that criminal liability should attach to his actions?

In this case, Detective Baldwin was assigned by his sergeant to accompany him and other detectives to arrest Reyes, who was a suspect in a felony sexual assault case. On the night of March 17, 2010, the detectives went to Reyes' house in the hopes that they could lure him outside and then arrest him. In order to accomplish this goal, the alleged victim drove to the same location in a vehicle with a detective. The alleged victim assisted in making several phone calls to Reyes' house. Reyes had previously admitted in a pretext phone call that he was in possession of the alleged victim's property. Detective Baldwin was hidden in the back of the unmarked mini-van that was parked directly in front of the vehicle that the alleged victim was seated in. Once contact was made with Reyes, he was instructed to come outside and bring the alleged victim's property.

The plan was for Detectives Baldwin, McGreevy, Giles and Sergeant Burr to jump out of the mini-van once Reyes walked past, and take him into custody. This was planned as a felony

arrest, and in keeping with their training, the detectives drew their weapons as they exited the mini-van. Baldwin was the first to exit. Once he stepped out of the van, he drew his weapon and ordered Reyes down to the ground. While he was advancing towards Reyes, Baldwin lost his footing and began to stumble towards the ground. His weapon was already drawn and pointed towards Reyes when he began to stumble. While he lunged to regain his balance his finger accidentally squeezed the trigger of the gun and a round discharged hitting Reyes in the lower forearm.

Baldwin immediately knew that he had accidentally shot Reyes and he placed his weapon in a safe position and moved away from Reyes. Detective McGreevy and Sergeant Burr began to render aid to Reyes while Detective Giles moved Detective Baldwin away from the area and relieved him of his firearm. Detective Baldwin's reaction was one of shock and horror. According to Reyes, he did not hear any order to get down onto the ground, but as soon as he was shot he heard Baldwin exclaim, "Oh shit." The other detectives at the scene heard Detective Baldwin crying and moaning in disbelief that he had shot Reyes by accident.

In his interview with detectives after the shooting, Detective Baldwin was clear that he did not intentionally shoot Reyes; rather, he described the shooting as an accident. Reyes himself heard the officer exclaim in shock and surprise that he had discharged his weapon. The other officers on the scene also indicate that the shooting appeared to be accidental. All witnesses, including Reyes agree with Detective Baldwin that this shooting was inadvertent and accidental.

In order for Detective Baldwin to be subject to criminal charges there must be evidence that he intentionally shot Reyes. A thorough examination of all of the witness statements and the physical evidence indicates that Detective Baldwin did not intentionally shoot Reyes. Penal Code section 246.3 proscribes any negligent discharge of a firearm, but that section requires that the shooter act with gross negligence. Gross negligence as defined in case law and in the California Judicial Council Criminal Jury Instructions is more than ordinary carelessness, inattention, or mistake in judgment. A person acts with gross negligence when:

1. He or she acts in a reckless way that creates a high risk of death or great bodily injury; AND
2. A reasonable person would have known that acting in that way would create such a risk.

In other words, a person acts with gross negligence when the way he or she acts is so different from the way an ordinarily careful person would act in the same situation that his or her act amounts to disregard for human life or indifference to the consequences of that act.

In this case, Detective Baldwin was acting within the scope of his duties as a police officer and he was engaged in a felony arrest. He had his weapon drawn as did other officers at the scene. There is no evidence that he intentionally shot Reyes, nor is there any evidence that he acted with a reckless disregard for human life or indifference. The reason that he inadvertently discharged his firearm is that he lost his footing as he exited the van, not because he was using deadly force to arrest Reyes. In fact, Detective Baldwin was extremely distraught that his gun went off and

that Reyes was injured. Clearly, he had his finger on the trigger of the gun when it went off; however, it is obvious that he accidentally pulled the trigger. At most, this act would be considered ordinary negligence and there is no criminal liability for ordinary negligence in this situation.

CONCLUSION

It is the District Attorney's conclusion that Detective Edward Baldwin was acting within the course and scope of his responsibility as a peace officer conducting a felony arrest when he approached Reyes with his gun drawn. The shooting was accidental not intentional and for that reason, the District Attorney concludes that Detective Baldwin bears no criminal liability for his actions.