

Gerhardstein, Dennis

From: Choi, John
Sent: Monday, October 08, 2018 5:11 PM
To: Kelly, John; Dusterhoft, Richard
Cc: Gerhardstein, Dennis; Evans, Andrew (DPS)
Subject: Second Prosecution Review re: OIS Death of Darren Robert Jahnke

John and Rick,

I have reviewed your memorandum, dated October 4, 2018, that summarizes our re-opened prosecution review of the officer-involved shooting incident that resulted in the death of Darren Jahnke on April 16, 2017. As you both know, this office publicly announced the outcome of our original review of the Bureau of Criminal Apprehension's (BCA) investigation into Mr. Jahnke's death on March 15, 2018. The entire investigative file was also released to the public by the BCA that same day.

Recently, it came to our attention that a critical audio recording made by Mr. Jahnke during his fatal encounter was never presented to you because the BCA agent never listened to and therefore was unaware of this audio. Like both of you, I have taken the time to review that audio recording and concur that it corroborates the officers' statements and physical evidence from the investigation. I agree that the recording doesn't provide any information that would change our determination that the use of deadly force by Deputy Andre Rongitsch was legally justified.

While this new evidence did not alter our conclusion in this case, BCA Superintendent Drew Evans and I have spoken at length and committed to putting additional safeguards, protocols and practices into place so this does not happen again. We recognize that officer-involved shooting investigations require managing lots of information and our expectations, which reflect the public's needs, have placed additional stress on the investigators and prosecutors who handle these cases. This makes it even more important that we improve in the following areas:

1. Organization, indexing and transfer of BCA files as they are gathered by the BCA and presented to the prosecutor
2. Incorporating redundancy and proper checks in our respective processes
3. Consideration of electronic data, case and file management investments

I am confident the BCA is taking the necessary steps to improve and I ask you to support their efforts to implement these changes to better serve the public on whose behalf we conduct our work.

The decision involving this second prosecution review should be made public after you and the BCA have ensured that the public can easily find and access the audio recording made by Mr. Jahnke and other new public information associated with this re-opened prosecution review. Please also make sure the original BCA investigative file and our RCAO release of information on March 15, 2018, is easily available so that the public can make their own determination.

As always, please inform the family of Mr. Darren Jahnke, Sheriff Jack Serier, and the officers involved in this shooting incident of our decision before it is released to the public.

Thank you,

John Choi