



OFFICE OF THE DISTRICT ATTORNEY  
**COUNTY OF SOLANO**

**DAVID W. PAULSON**  
DISTRICT ATTORNEY

**L. Kathryn Coffey**  
Chief Deputy

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Chief Deputy

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Chief Investigator

February 18, 2004

Chief Robert Nichelini  
Vallejo Police Department  
111 Amador Street  
Vallejo, CA 94590

Re: Officer Involved Fatal Incident of August 2, 2003  
Vallejo Police Department Case No. 03-16056  
Solano County District Attorney Case No. 03-397

Dear Chief Nichelini:

The above referenced incident, which resulted in the death of Kevin Laron Smith, was investigated pursuant to the Solano County Officer Involved Fatal Incident Protocol. In accordance with the protocol, the investigative team consisted of Detectives from the Vallejo Police Department, Criminal Investigators from the District Attorney's Office, and Investigators from the Sheriff-Coroner's Office for a joint and co-equal investigation.

I have thoroughly reviewed the investigative reports from the protocol team. I am pleased to note that all of the involved officers – Officers Eric Jensen, Officer Joe McCarthy, Officer Jeff Coburn, Officer Kent Tribble, and Sergeant Steve Gordon – cooperated fully in the investigation. Their input along with the statements of other officers and civilian witnesses, together with the reports, dispatch records, and Coroner's findings support the only logical conclusion that can be reached in this unfortunate incident.

Specifically, I find that the actions of Officer Jensen, Officer McCarthy, Officer Coburn, Officer Tribble and Sergeant Gordon were lawful. There is no evidence whatsoever to support a charge of any crime. On the contrary, the officers used lawful force in responding to Mr. Smith. The officers' actions were both objectively reasonable and necessary to prevent injury to themselves and others.

Mr. Smith's death, therefore, cannot be attributed to any unlawful conduct on the part of Officer Jensen, Officer McCarthy, Officer Coburn, Officer Tribble or Sergeant Gordon. There was none. Rather, Mr. Smith's demise was the result of his own misconduct – his assault with a firearm on Officers Jensen and McCarthy, his violent physical resistance to Officer Coburn's efforts to place him in lawful restraint, and his repeated attempts to remove Officer Coburn's duty weapon from its holster for the apparent purpose of using it against him and other officers.

Sincerely,

David W. Paulson  
District Attorney