



**OFFICE OF THE
DISTRICT ATTORNEY**

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May 14, 2018

Brian Manley - Chief of Police
Austin Police Department
P.O. Box 689001
Austin, Texas 78768-9001

LETTER DECLINING PROSECUTION AFTER INVESTIGATION

Re: Officer-Involved Shooting on March 12, 2018, by Austin Police Department Officers Kevin Bittner and Dustin Turner involving Kyle Garcia (DOB 3/2/1994).

Dear Chief Manley:

The Office of the Travis County District Attorney (“District Attorney”) has reviewed the Austin Police Department Special Investigation Unit (APD SIU) investigation of the above-referenced matter and concluded our independent review of the officer-involved shooting in which Austin Police Department Officer Kevin Bittner fired his shotgun, and Officer Dustin Turner fired his rifle, at Kyle Garcia while responding to a 911 call about a disturbance with a gun. Kyle Garcia was struck at least twice, but survived his injuries. This letter is to inform you that, after reviewing the facts and circumstances surrounding Mr. Garcia’s shooting, the District Attorney declines to prosecute Officers Kevin Bittner and Dustin Turner for their actions during this incident.

The District Attorney monitored and reviewed the investigation of the Austin Police Department in this incident pursuant to the officer-involved shooting protocol that is posted on its official website. A copy of this letter will also be posted on the District Attorney official website.¹

Kyle Garcia has been charged with Aggravated Assault – Family Violence and Aggravated Assault of a Public Servant arising out of this incident, and his cases are pending in felony court.

The Civil Rights Division of this office has a policy of issuing declination letters setting out a thorough factual and legal analysis of the officer-involved shooting where the elected District Attorney has

determined a grand jury review of the officer's use of force is not necessary. However, when there are pending criminal cases arising out of these incidents, as there are in this case, the accused's right to a fair trial and prosecutorial ethical rules prohibit the release of such information.² Consequently, our more comprehensive analysis will be published after the criminal matters against Kyle Garcia are resolved.

Very truly yours,

A handwritten signature in black ink that reads "Margaret Moore". The signature is written in a cursive, flowing style.

Margaret Moore

¹ <https://www.traviscountytx.gov/district-attorney/cru>

² Texas Disciplinary Rules of Professional Conduct 3.07(a). "The Rules of Professional Conduct state that trial attorneys have a duty to ensure a trial free from the taint of publicity by specifically prohibiting a lawyer from making statements that may materially prejudice an adjudicatory proceeding." Edward L. Wilkinson, *Legal Ethics & Texas Criminal Law* 86 (2006) (citing Tex. Disciplinary R. Prof'l Conduct 3.07 (a) & cmt 1).