

**CITY OF YAKIMA  
STANDARD TORT CLAIM FORM**

Pursuant to Chapter 4.96 RCW, this form is for filing a tort claim against the City of Yakima. Information requested on this form is required by RCW 4.96.010 and RCW 4.96.020 and may be subject to public disclosure. Claims involving accidents with vehicles operated by city employees should be filed on a Standard Vehicle Accident Claim Form, not this form. Claim forms cannot be submitted electronically (via e-mail or fax).

**PLEASE TYPE OR PRINT IN INK**

For Official Use Only

No.

**Mail or deliver original claim to:** City of Yakima  
City Clerk's Office  
City Hall - First Floor  
129 North Second Street  
Yakima, Washington 98901-2830  
Phone: (509) 575-6037

**CLAIMANT INFORMATION**

1. Claimant's name and spouse's name:

Lorena Arias, Administrator for the Estate of Rocendo Arias      10/03/90 (Rocendo)      N/A  
*Last name*      *First*      *Middle*      *Date of birth (mm/dd/yyyy)*      *Spouse's name*

2. Current residential address: 2302 W. Viola Avenue, Unit A, Yakima, WA 98902.

3. Mailing address (if different): The Pickett Law Firm, 917 Triple Crown Way, Ste. #100, Yakima Wa. 98908

4. Residential address on/at the date of the incident (if different from current address):

N/A

5. Claimant's daytime telephone number: 509-972-1825 (attorney)      509-972-1825 (attorney)

6. Claimant's e-mail address: William D. Pickett: bill@wdpickett-law.com      Vito De La Cruz: vito@tamakilaw.com  
*Home*      *Business*

**INCIDENT INFORMATION**

7. Date of the incident: 01/04/2014      Time: 0355  a.m.  p.m. (check one)  
*(mm/dd/yyyy)*

8. If the incident occurred over a period of time, date of first and last occurrences:  
from \_\_\_\_\_ Time: \_\_\_\_\_ a.m.  p.m. (check one) to \_\_\_\_\_, Time: \_\_\_\_\_ a.m.  p.m. (check one)  
*(mm/dd/yyyy)*      *(mm/dd/yyyy)*

9. Location of incident: 907 E. Nob Hill Blvd, Yakima, Wa.      Classic Auto Wash  
*Street address*      *City*      *Place where occurred*

10. If the incident occurred on a street or intersection:

See above.

*Name of street*      *At the intersection with or nearest intersecting street*

11. City department/division alleged responsible for damage/injury:

See attached addendum

12. Names, addresses and telephone numbers of all persons involved in or witnesses to this incident:

See attached addendum

13. Names, addresses and telephone numbers of all City employees having knowledge about this incident:

See attached addendum

14. Names, addresses and telephone numbers of all individuals not already identified in #12 and #13 above that have knowledge regarding the liability issues involved in this incident, or knowledge of the Claimant's resulting damages. Please include a brief description as to the nature and extent of each person's knowledge. Attach additional sheets if necessary.

See attached addendum.

15. Describe the cause of the injury or damages. In addition, explain the extent of property loss or medical, physical or mental injuries. Attach additional sheets if necessary.

See attached Addendum.

16. Has this incident been reported to law enforcement or City personnel? If so, when and to whom?

See attached addendum.

17. Names, addresses and telephone numbers of treating medical providers. Attach copies of all medical reports and billings.

See attached addendum.

18. Please attach documents which support the claim's allegations.

19. I claim damages from the City of Yakima in the sum of \$ 5,000,000.00.

This Claim form must be signed by the Claimant, a person holding a written power of attorney from the claimant, by the attorney in fact for the Claimant, by an attorney admitted to practice in Washington State on the Claimant's behalf, or by a court-approved guardian or guardian ad litem on behalf of the Claimant.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

\_\_\_\_\_  
**Signature of Claimant**

\_\_\_\_\_  
**Date and Place of execution**

## **NOTICE OF CLAIM FOR DAMAGES - ADDENDUM**

Paragraph 11:

This is a claim for damages pursuant to RCW 4.96 et seq., and presented against the City of Yakima, and/or its agents and/or employees, including but not limited to, Police Officer Casey Gillette, the Yakima Police Department, and Yakima Police Chief Dominic Rizzi.

*The claimant submits the following claim under penalty of perjury in accordance with the laws of the State of Washington.*

The claimant is Lorena Arias as special administrator for the Estate of Rocendo Arias. At the current time, and for six months prior to the claim arising, claimant resided at 2302 W. Viola Avenue, Unit A, Yakima, WA 98902.

Paragraph 12:

Chief Dominic Rizzi, YPD  
Officer Casey Gillette, YPD  
Neila Marie Bahadar (Gillette)

Paragraph 13:

Thorn, C. (YPD), Althausen, B. (YPD), Salinas, J. (YPD), Davis, R. (YPD), Walters, R. (YPD), Yates, J. (YPD), Saldana, C. (YPD), Rojas, J. (YPD), Martin, B. (YPD), James, M. (YPD), Walk, G. (YPD), Wisner, R. (YPD), Gronewald, S. (YPD), Agledal, Ein. (YPD), Jones, G. (YPD), Soptich, D. (YPD), Yates, R. (YPD), Fowler, R. (YPD), Hampton, K. (YPD), Bardwell, T. (YPD), Shaw, D. (YPD), Jensen, S. (YPD), Belton, C. (YPD), Moore, J. (YPD), Cays, K. (YPD), Way, T. (Union Gap PD), Santucci, C. (Union Gap PD), McNearney, M. (Union Gap PD).

See also paragraph 12, and any other City of Yakima employees as yet unidentified.

Paragraph 14:

Retired YPD Captain Rodney S. Light.

Paragraph 15:

The circumstances which brought about the harm, loss, and death, for which this claim is being filed occurred January 4, 2014 in Yakima, Washington at the Classic Auto Wash, 907 E. Nob Hill Blvd, Yakima Wa. 98901.

In the early morning hours of January 4, 2014, Yakima Police Officer Casey Gillette shot and killed Rocendo Arias while he slept in his car. Gillette first noticed Arias' car shortly

before the shooting as it was parked in a stall at the Classic Auto Wash. Surveillance video captures Gillette walking around the back of the Arias vehicle to the passenger side.

According to Gillette, he claims he then opened the front passenger side door, leaned into the vehicle, and fully illuminated Arias' body with his flashlight. And as Arias started to wake, Gillette yelled, "don't you fucking move!" Gillette then claims that Arias then lunged at him with a gun. Gillette alleges he responded by firing his service weapon multiple times.

One of the bullets fired by Gillette struck Arias in the right side of his head near his ear. The bullet passed through Arias' brain to the left side of his head. Mr. Arias died at the scene. The killing of Rosendo Arias was unnecessary, excessive, and unlawful.

Attached as Exhibit A to this addendum, and incorporated herein by reference to this claim, is the Expert Report of retired Police Captain Rodney S. Light. Captain Light's report details the improper conduct of Officer Gillette and the Yakima Police Department from the perspective of a police supervisor and command officer with 28 years of service to the Yakima community.

Following an extensive review of this matter, Captain Light is prepared to testify as follows regarding his initial opinions regarding the death of Rosendo Arias:

- The evidence clearly demonstrates that Yakima Police Officer Casey L. Gillette wrongfully shot and killed Yakima resident Rocendo Arias at the Classic Auto Wash at 907 E. Nob Hill Blvd. in Yakima, Washington on January 4, 2014. Evidence further demonstrates that Gillette fabricated facts in an attempt to justify his own unreasonable and excessive use of force against Arias. Specifically, actual physical evidence taken from the scene does not support Gillette's claim that Arias "lunged" at him, or that Arias held a toy gun out and toward him at the time of the shooting.
- Additionally, prior to shooting Mr. Arias, Officer Gillette had clearly demonstrated a propensity and history of using unreasonable excessive force followed by blatant concealment of his improper actions.
- Evidence further demonstrates that the YPD failed to take appropriate and effective disciplinary action against Officer Gillette months before the Arias shooting. In part, approximately eight months before killing Arias, YPD's administration had actual knowledge that Officer Gillette had fabricated factual evidence in an effort to justify his excessive use of force in an incident where he had trespassed onto the property of a young Hispanic male and wrongfully struck him in the head with his fist. While YPD was able to conclude that Gillette had used excessive force, Chief Rizzi completely discounted and failed to address the significant fact that Gillette had fabricated facts in an attempt to conceal his

improper action(s). Chief Rizzi's actions disregarded Lieutenant Foley's blistering condemnation of Gillette's actions.

***See, attached Exhibit A: REPORT OF RODNEY S. LIGHT REGARDING THE SHOOTING OF ROCENDO ARIAS BY YAKIMA POLICE OFFICER CASEY L. GILLETTE***

In summary, when police wrongfully shoot a person who is simply sleeping in their own car, they ***must tell the truth and take accountability!*** Deception and concealment shatter public trust with all citizens. Justice demands that this type of misconduct by police not be tolerated.

The injuries and damages suffered include:

Estate of Rocendo Arias: Wrongful death, excessive use of deadly force, unlawful search, and violations of due process, all resulting in death, humiliation, fear, pain, suffering, loss of support and affection.

Paragraph 16: N/A.

Paragraph 17:

Various members of the Yakima Fire Department responded but were only able to confirm that Mr. Arias was dead.

Paragraph 18:

See attached Death Certificate of Mr. Arias.

Paragraph 19:

The damage amount claimed herein is \$5,000,000.00.

Alternatively, should the Yakima Police Department and/or their Insurance Company desire to resolve this matter expeditiously, Plaintiff will agree to the following conditions:

1. An immediate public apology to the entire Arias family, including an admission that the killing of Rosendo Arias was unjustified and wrong.
2. Immediate termination of Officer Casey L. Gillette with documentation that he falsified evidence in an effort to support his shooting of Arias.
3. Immediately establish a citizen review panel with full authority to investigate and discipline police officers for any misconduct against citizens.
4. Intensive and ongoing training of all Yakima Police Department officers in the

"guardian" model of policing. This model seeks to eliminate the "warrior" cop mentality from community police forces.

5. Submission of Yakima Police Department to five (5) year monitoring program by outside agency, preferably DOJ, to assess ongoing training.
6. Monetary payment of \$2,500,000.00.

*I certify and declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.*

Dated at Yakima, Washington this \_\_\_\_\_ day of September, 2016.

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**Claimant: LORENA ARIAS as administrator  
for Estate of Rosendo Arias**

Responsive documents must be received by the following legal representatives within 60 days to avoid further legal action:

**THE PICKETT LAW FIRM  
WILLIAM D. PICKETT  
917 TRIPLE CROWN WAY, SUITE 100  
YAKIMA, WA 98908  
TEL: 509-972-1825**

**TAMAKI LAW  
VITO DE LA CRUZ  
1340 N. 16TH AVE.  
YAKIMA, WA. 98902  
TEL: 509-248-8338**

# ***EXHIBIT A***

**REPORT OF RODNEY S. LIGHT**  
**REGARDING THE SHOOTING OF ROCENDO ARIAS**  
**BY YAKIMA POLICE OFFICER CASEY L. GILLETTE**

My name is Rodney S. Light. I am a former Police Captain with the Yakima Police Department “YPD” where I worked for 28 years from November 1986 until my retirement in February 2015. I have extensive training and experience in police practices. I was recently retained by Yakima attorney William Pickett to conduct an extensive review of the totality of circumstances surrounding the shooting death of Yakima resident Rocendo Arias by YPD Officer Casey L. Gillette. This report contains a summary of the information I have reviewed along with my professional opinions concerning this incident. My findings are based in part on the following:

- During my service with the YPD, I was assigned to various divisions including patrol, traffic, training, special operations, SWAT, and detectives. As a Police Captain, I also provided administrative oversight of the Investigative Division (Detectives) and the gang unit. I further provided administrative support and oversight of officers assigned to the violent crimes task force.
- During the course of my career, I attended multiple Washington State Criminal Justice Training Commission Trainings up to and including:
  - A) 1998-First level supervision
  - B) 2001-Middle Management
  - C) 2005-Executive Leadership
- Additionally, I have received the following advanced police trainings over the course of my career:
  - A) 2006-FBI National Academy-Quantico Virginia (720 Hours)
  - B) 2008-Advanced Leadership for Command Staff
  - C) 2014-Managing police misconduct/Early warning signs-PATC

I have in excess of 3,100 hours of police training. I have specialized training regarding the investigations of child abuse and domestic violence assaults. Additionally, I have received significant training in the area of police management and issues related to vicarious liability. At the outset, it should be noted that it is common practice to evaluate the objective reasonableness of police conduct on a case-by-case basis from the perspective of a Police Reviewing Authority when assessing instances of officer involved shooting(s). I have applied this practice to my evaluation of the present matter. In doing so, I have utilized the following specialized expertise as part of my review and assessment of the police conduct as it relates to the shooting death of Rocendo Arias.

- A) My training and experience as a career law enforcement officer who has made hundreds of arrests and conducted hundreds of investigations including homicide investigations;



- B) My training and experience not only as a police officer but as a police supervisor and Command Officer;
- C) My training and experience as a police supervisor that has provided administrative oversight for police patrol and investigative divisions;
- D) My training and experience as a police supervisor and Captain who has evaluated the performance of my subordinate officers on numerous occasions;
- E) My training and experience as a police supervisor who has developed and administered policies and procedures;
- F). My training and experience as a police supervisor who has not only conducted, but also reviewed internal investigations while being tasked with the responsibility of final decisions and recommendations as to either sustaining or not sustaining allegations of police misconduct up to and including cases involving unreasonable and /or excessive use of force and /or officer involved shooting(s).

It should be further noted that my use of various terms (i.e. reasonable, suspicion, probable cause, objectively reasonable, deliberate indifference, ratification, violation of standard police practices, unreasonable and/or excessive force, unlawful arrest, improper misconduct, etc...) reflect my expertise and training in reviewing and objectively comparing factual information regarding the reasonableness of a Police Department and /or Individual Officer(s) action(s). My use of such terms does not imply or assert a statement of any legal conclusion(s), which are specifically reserved for the court(s).

In reviewing the present matter, I have reviewed the evidence collected at the scene including but not limited to: multiple photographs, various reports, numerous COBAN and surveillance videos taken at the shooting scene as well as various police officer reports/statements. I have further reviewed data and analysis of the shooting provided by the Washington State Patrol after the incident.

I have also personally viewed the weapon, a black Smith & Wesson M&P 40 caliber Serial #DXN9228 which was used by Gillette when he shot and killed Rocendo Arias. I have also personally viewed the magazines from the weapon along with the shell casings. I have also examined the vehicle in which Rocendo Arias was sleeping at the time he was shot and killed by Gillette.

Records indicate that one of the first actions taken by Gillette after the shooting of Arias was to retain a criminal defense lawyer who appears to have assisted Gillette in preparing a written statement on his behalf. In Gillette's statement he describes encountering a young Hispanic male (later identified as Rocendo Arias) who was sleeping in his vehicle at the Classic Auto Wash in the early morning hours of January 4, 2014. The Classic Auto is a 24-hour self-service car wash located at 907 E. Nob Hill Blvd.

According to Gillette's own sworn statement, at the time he encountered Arias, "the driver's (Arias') head was slumped forward and it appeared he was sleeping." Gillette describes that after seeing Arias through the driver's side window, he walked around the back of the Arias vehicle and opened the passenger door. Gillette never reports that he attempted to wake Arias and advise him that he was a police officer before he entered the vehicle. There was no justification for Gillette to leave the driver's side door, walk around the back of the Arias vehicle and open the passenger door. Standard proper police practice and safety would have dictated that Officer Casey Gillette take a position slightly behind the center pillar between the driver's side front and back doors. While doing this, Gillette would have simply knocked on the driver's side window while simultaneously identifying himself as a police officer. This would have more likely than not alerted Arias that a police officer was checking on him as opposed to some unknown assailant entering his vehicle through the passenger side door. Gillette's failure to follow a basic safety practice clearly contributed to the wrongful shooting and ultimate death of Rocendo Arias.

After failing to properly identify himself as a police officer, Gillette admits to opening the passenger side door of the Arias vehicle and noticing that Arias was "drooling." In all likelihood, Arias was asleep at this time and was unaware that someone had entered his vehicle. Gillette claims that as he leaned into the vehicle, he saw what appeared to be the "slide" on a semi-automatic pistol that was partially covered by Arias' left hand. According to Gillette, he drew his service weapon at that time and stated, "Don't you fucking move." Again by his own admission Gillette failed to properly identify himself as a police officer even after he had wrongfully and unlawfully entered the passenger side of the Arias vehicle without authorization.

In all probability, Gillette's alleged verbal statement of "Don't you fucking move," if actually heard by Arias would have been reasonably considered by a person who was sleeping, or just waking, as the threatening behavior of some unknown intruder. In an actual interview, Gillette later admitted that he already had his gun out before he verbally said anything to Arias. In part, this evidence demonstrates the unreasonable and unauthorized nature of Gillette's entry into the Arias vehicle.

Gillette alleges in his written declaration that as he entered the Arias vehicle, Arias "raised his head up and opened his eyes, turned his head and looked directly at me." Gillette also states in his written declaration that "The beam of my flashlight illuminated his whole body, including his hands, still on his lap."

Gillette further alleges that as he entered the Arias vehicle, Arias "lunged" toward him and "extended" his right arm, pointing the (apparent) firearm **directly at him** after he (Gillette) allegedly said, "Don't you fucking move." Gillette claims in his written statement that "I was convinced I was about to be shot." Gillette stated that he reacted to Arias movements by rapidly shooting once, and then shooting three more rounds.

Gillette states that he then remained at the car door and called dispatch on his portable radio and advised them of the shooting. Best police practices would have dictated that Gillette retreat to a position of cover and concealment until other police units arrived at which time the situation could have been further assessed.

Officers arrived on the scene within minutes after the shooting. Emergency medical responded however there was very little that could be done to save Arias' life as the head wound proved to be fatal.

Gillette noted in his written statement that his (Gillette's) perceptions of Arias' action and his (Gillette's) reactions to them occurred within seconds, although Gillette concluded they were simultaneous. Gillette fired four rounds into Arias vehicle, after he claimed that Arias lunged at him and pointed the handgun directly at him. This suggests that Arias was somehow able to lunge and point a handgun directly at Gillette while simultaneously recoiling his body and returning to the exact seated position in the driver's seat with his head slumped forward and both his left and right hand resting on his lap as first described by Gillette. This is incongruous. To the contrary, the physical evidence supports the fact that Arias never moved from the seated position with his head slumped forward as first described by Gillette when he initially made contact at the driver's door.

There was never any return fire from Arias as he sat defenseless in his vehicle. One of Gillette's four shots struck Arias on the right side of his head near his right ear with the bullet exiting near his left eye/temple area. The trajectory of the bullet through Arias brain was described in the final pathologic autopsy report as:

ENTRY WOUND: 5 CM SUPERIOR, 1 CM POSTERIOR TO RIGHT EAR CANAL.

EXIT WOUND: 8 CM SUPERIOR, 4 CM ANTERIOR TO LEFT EAR CANAL.

The bullet pathway is described as right to left: slightly interior to superior; slightly posterior to anterior.

Furthermore, the final pathologic diagnosis suggest that the barrel distance from Arias head at the time of the shooting was greater than 4 feet. This would further support that Arias was positioned in the driver's seat at the time Gillette fired his weapon through the opened front passenger door. The fact that the barrel was greater than 4 feet in distance from Arias at the time the shots were fired refutes any idea or suggestion that Arias was lunging at Gillette while simultaneously being fired upon.

Gillette stated in his written affidavit that once officers arrived on the scene, he was escorted to Patrolman Jim Yates' car. Gillette further declares in his written statement as Patrolman Yates walked past me carrying what I thought was the man's weapon "**I saw for the very first time the orange colored marks indicating it was a replica gun.**" Yet just moments earlier Gillette reported that the beam of his flashlight had fully illuminated Arias and Arias pointed the handgun directly at him at which time he feared he was going to be shot. Given the circumstances described by Gillette, he would have clearly seen the orange tip of the handgun that was pointed "directly at him." This revelation by Gillette himself would suggest that the airsoft gun Arias held in his hand was never pointed at Gillette. Gillette's account that Arias pointed the air soft gun at him lacks any factual or supportive credibility.

It is noteworthy that Gillette's sworn statement fails to mention that his girlfriend/fiancé, Neila Bahadar was riding in his patrol car at the time of the shooting. It should be further noted that it was later learned that Gillette had failed to secure a signed rider's release form for Bahadar prior

to the ride along. The Yakima Police Department has a strict citizen rider program which requires individuals who ride with an officer to be screened along with signing the designated release form prior to an assigned ride along. This policy exists to insure the safety of the rider, the officer, and the public. This is just another example of the flagrant disregard by Gillette of the policies set forth by the Yakima Police Department.

Yakima Police interviewed Bahadar after the shooting, however the initial taped-recorded statement was lost. According to Detective Drew Shaw it was due to a tape recorder malfunction. This was confirmed by Detective Shaw at the outset of the tape recorded statement with Bahadar dated January 7, 2014. The second tape-recorded statement of Bahadar was taken only after she learned of Gillette's version of events. In her statement on page 4 line 166 of Bahadar's statement she states "I know now what Casey's side of the story is." This clearly suggests that she and Gillette discussed the shooting incident sometime after her first statement was lost. Given that, any independent information or evidence she could provide as to what she might have seen has been tainted and would call into question the credibility or veracity of her version of the chain of events as she witnessed them.

Evidence was collected at the scene including extensive photographs showing the position of Arias' body at the time he was shot. Officer Gillette is captured on video stating that the suspect (Arias) has not moved since he (Gillette) shot him. Of significance is the fact that Arias' body was sitting squarely upright in the driver's seat of the vehicle. Both his feet were planted squarely beneath him. He was facing forward with his chin tucked to his chest in a sleeping position.

This again was the same position Arias was in as described by Gillette when he approached the driver's door of Arias' vehicle. Additionally, Arias' left hand was resting in his lap. His right hand was reportedly resting across his lap area and right leg, holding a toy gun that was pointed toward the driver's side door and away from the direction where Gillette was standing at the time of the shooting.

Based on my extensive review of this matter, I am prepared to testify as follows regarding my initial opinions regarding the death of Rosendo Arias.

- The evidence clearly demonstrates that Yakima Police Officer Casey L. Gillette wrongfully shot and killed Yakima resident Rocendo Arias at the Classic Auto Wash at 907 E. Nob Hill Blvd. in Yakima, Washington on January 4, 2014. Evidence further demonstrates that Gillette fabricated facts in an attempt to justify his own unreasonable and excessive use of force against Arias. Specifically, actual physical evidence taken from the scene does not support Gillette's claim that Arias "lunged" at him, or that Arias held a toy gun out and toward him at the time of the shooting.
- Additionally, information revealed since the shooting confirms that Gillette had clearly demonstrated a propensity and history of using unreasonable excessive force followed by the blatant concealment of his improper actions.

Evidence further demonstrates that the YPD failed to take appropriate and effective disciplinary action against Officer Gillette months before the Arias shooting. In part, approximately eight months before killing Arias, YPD's administration had actual knowledge that Officer Gillette

had fabricated factual evidence in an effort to justify his excessive use of force in an incident where he had trespassed onto the property of a Hispanic male and wrongfully struck him in the head with his fist. While YPD was able to conclude that Gillette had used excessive force, Chief Rizzi completely discounted and failed to address the significant fact that Gillette had fabricated facts in an attempt to conceal his improper action(s). Chief Rizzi's actions disregarded Lieutenant Foley's blistering condemnation of Gillette's actions.

- **Lieutenant Foley: Officer Gillette stuck a man on the head and took him into custody. Although there was an opportunity to give verbal commands and allow the man an opportunity to comply, no verbal direction was given. He was not permitted an opportunity to voluntarily comply before force was used. This is inconsistent with YPD training which complies with Graham-v-Conner reasonableness standards.**

**Gillette used the force to arrest the man for disorderly conduct, which does not exist in the City of Yakima. Sgt. Salinas consulted with Officer Gillette and the two agreed to charge the man with obstructing, even though the man was not obstructing, hindering or delaying any lawful duties of the officers. The charge appears to have been chosen to justify Gillette's prior use of force and to possibly protect the city. The man was drunk and loudly inviting the officer to fight. But he was not obstructing them from performing any of their duties.**

Lieutenant Foley's recommendation was reviewed by Captain Schneider who concurred with the recommendation. Both Lieutenant Foley and Captain Schneider have over 55 plus years of collective law enforcement experience yet their recommendations to discipline Gillette and the actions surrounding the improper conduct was discounted, excused, and most importantly totally disregarded by Chief Rizzi.

Standard police practice and procedure mandatorily prohibit police officers from making false or misleading statement(s) in connection with any investigation. Furthermore, standard police practices demand all police officers be truthful and honest in the conduct of official business. Additionally, a police organization cannot implicitly or explicitly allow intentional deceptive misconduct. If these simple and effective police practices had been followed appropriately, Gillette would have been severely disciplined due to his own dishonesty and misguided behavior months before the shooting of Arias. Unfortunately, Gillette was permitted to continue as a police officer despite his known propensity toward dishonesty and concealing his own unreasonable and excessive use of force. YPD's failure to take action is essentially a ratification/approval of dishonest conduct when used to conceal unreasonable and excessive use of force. Failing to properly discipline and/or terminate Gillette after discovering that he used false charges to conceal his excessive use of force only reinforced the probability that he would repeat similar behavior in the future. Tragically and predictably, Gillette used a similar pattern of fabrication to conceal his improper use of force against Arias.

Additionally, contrary to best police practices, evidence also shows that the YPD failed to conduct an unbiased, independent, and truly objective review of the shooting death of Arias. Similar criticism has been leveled against the YPD by former City Manager, Tony O'Rourke,

who recently reviewed a Yakima Police internal investigation regarding an unrelated matter. According to former City Manager O'Rourke, the Yakima Police internal investigation process was not balanced, thorough, objective or fair in considering all the evidence. Mr. O'Rourke's criticisms are equally applicable and accurately describe the approach taken by YPD in their investigation of Gillette's shooting of Arias. In essence, the investigation into the shooting of Arias was tainted from the beginning as YPD clearly accepted the false version of events from Gillette despite actual physical evidence to the contrary.

A review of the photographs taken from the death scene clearly demonstrates that Gillette most likely fired his weapon at Arias as he was sleeping. The actual positioning of Arias' body, as shown in photographs and described in reports, clearly demonstrates that Arias' chin was resting on his chest in a sleeping position with his hands in his lap at the time he was killed by Gillette. There quite simply is no evidence to support Gillette's claim that Arias "lunged" toward him. The physical evidence from the scene (Arias' body positioning and blood spatter evidence) along with Gillette's prior unreasonable use of force and the undeniable history of concealing his own misconduct demonstrate Gillette fabricated facts in an effort to justify the shooting afterwards.

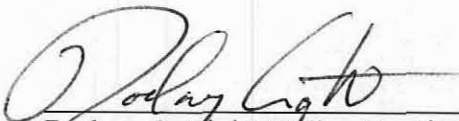
### **SUMMARY OF OPINIONS**

- Based on my education, training and extensive experience, including numerous homicide investigations during the course of my law enforcement career, it's my professional opinion that Gillette unreasonably and wrongfully shot and killed Rocendo Arias on January 4, 2014 in violation of standard police practices and procedures.
- It is my further stated opinion that the sequence of events described by Gillette after the shooting are simply not supported by the evidence obtained at the scene. In short, Gillette fabricated facts in an effort to conceal his own wrongful action(s) in the shooting of Rocendo Arias.
- Gillette's claim that Arias "lunged" toward him and "extended" his right arm, pointing the (apparent) firearm directly at him, is false and unsupported by evidence. Contrary to Gillette's claim, the evidence clearly demonstrates that Arias was sitting upright and generally facing forward with his hand in his lap at the time he was shot. In all probability, Arias was either sleeping and had no knowledge whatsoever that his life was about to be taken from him by Gillette, or Arias was barely waking by the commotion at the time Gillette screamed profanity and fired upon him.
- There is no credible evidence to suggest that Arias lunged towards Gillette. Additionally, there is no credible evidence that Arias pointed a toy gun at Gillette and then somehow managed to reposition himself to sit squarely in the driver's seat, face forward, and returns his hands to his lap, all while being fired upon from a few feet away. In Gillette's own words, he described the chain of events between him and Arias as occurring virtually simultaneously. Additionally, blood and blood spatter evidence further confirm that Arias was in a sleeping position at the time Gillette shot him.

- In all probability, the evidence proves that the alleged “lunge” and “pointing” of the toy gun never happened. This fabrication by Gillette was orchestrated to conceal his unreasonable, reckless, and wrongful shooting of Arias.
- The YPD and ultimately Chief Rizzi failed miserably in addressing Gillette’s misconduct months before the Arias shooting. Even after receiving a very strong recommendation from two high ranking command officers, Chief Rizzi found a way to excuse Gillette’s earlier misconduct. This very likely supported Gillette’s cavalier attitude to further engage in future misconduct which in fact he ultimately did when he killed Rocendo Arias.

In conclusion, it is worth noting that this shooting demonstrates a troubling trend that I have witnessed evolve over my many years of policing. This starts with the police believing they can objectively investigate themselves in situations where a life has been taken. This in reality is pure foolishness. I know that all too often police investigations of police officers start with personal bias along with an ardent belief that the officer is always telling the truth. I believe this trend has taken place, in part, as a result of institutionally biased policing that simply accepts an officer’s version of events as truthful regardless of facts that might present themselves which are to the contrary. The absence of citizen oversight has allowed this problem to go unchecked and will likely continue unless significant changes are made to the way police shootings are investigated.

Dated this 17<sup>th</sup> day of June, 2016.

  
Rodney S. Light, Police Practices Expert