Contact: Skip Miller, (310) 552-5251

STATEMENT REGARDING DA BONNIE DUMANIS' PRESS CONFERENCE REGARDING THE SHOOTING OF FRIDOON NEHAD

LOS ANGELES, CA – December 22, 2015 – This morning, the San Diego County District Attorney held a press conference to release the surveillance video of the shooting of Fridoon Nehad by San Diego Police Department officer Neal Browder, plus other evidence of the shooting.

Our clients, Fridoon's family, are surprised and puzzled by DA Dumanis' actions and comments. They are also disappointed by the DA's continued attempt to demonize Fridoon, the victim of this shooting. The true facts make clear that, if the San Diego police department followed better procedures, this tragedy could and should have been avoided.

On December 2, 2015, the family asked the U.S. Department of Justice to investigate this incident and to investigate the SDPD use of force, particularly against people with mental disabilities. Today's events show why such an independent investigation is needed. Attached is a copy of a letter we sent to the U.S. Attorney and the Department of Justice's Civil Rights Division. We hope the DOJ investigates these issues and ensures that Fridoon did not die in vain.

The DA's press conference was one-sided and does not reflect the facts. For example, contrary to the DA's statements:

- Fridoon was not armed: he was holding a blue pen. The pen does not look like a knife. The DA's comparison to a butterfly knife was wholly created after the fact and is irrelevant. The pen that was in Fridoon's hand is visible on one of the videos.
- Fridoon was 25 feet away from Browder when Browder fired his side-arm, only seconds after leaving his vehicle. The video makes clear that Fridoon was not an imminent threat and that the officer had options available besides killing Fridoon.
- Fridoon's pace slowed and he came to a stop as Browder fired.
- Browder did not identify himself as a police officer; and the video makes it apparent that Fridoon had no idea the car in the alley, with its high-beams on, was a police car. This would have been different if the officer had either his light-bars or siren turned on.

The video is clear: if Officer Browder had properly assessed the situation, activated his light-bars or siren and waited for backup, the shooting could have been avoided.

The DA's actions show why we need a federal investigation of this shooting, the SDPD's use of force policies (particularly lethal force) and the SDPD's interactions with those impacted by mental illness. The Department of Justice has helped bring constitutional policing to communities throughout the country, particularly in the areas of use of force and the treatment of

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the mentally ill. San Diego deserves no less. It is not getting it from the SDPD or the San Diego DA.

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December 2, 2015

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VIA EMAIL AND CERTIFIED MAIL—RETURN RECEIPT REQUESTED

The Honorable Laura E. Duffy United States Attorney U.S. Attorney's Office Federal Office Building 880 Front Street, Room 6293 San Diego, CA 92101 The Honorable Vanita Gupta Civil Rights Division U.S. Department of Justice 950 Pennsylvania Avenue, NW Washington D.C. 20530

Re: Shooting of Fridoon Rawshan Nehad by SDPD Officer Neal Browder on April 30, 2015

Dear Ms. Duffy and Ms. Gupta:

We represent S.R. Nehad and K.R. Nehad (the "Nehads") and the Estate of Fridoon Rawshan Nehad in connection with the shooting death of Fridoon Rawshan Nehad. Fridoon was the Nehads' eldest child and only son; he was killed by San Diego police officer Neal Browder on April 30, 2015. The Nehads are immigrants from Afghanistan, where they fled a war torn country. While serving in the Afghan army, Fridoon was captured and likely tortured. His mother traveled to where the Mujahideen held him and successfully begged for his life. While a very intelligent man, he battled mental illness and PTSD since then and his family struggled to help him cope. They repeatedly sought help for him, including from the local police. Having rescued him from the brutality of Afghan captors and finally able to bring him to the US, they never imagined he would be killed on the streets of America by an American police officer.

We request that your offices open a civil rights investigation into the shooting, and into the practices of the San Diego Police Department ("SDPD") relating to its use of force (particularly on the mentally ill) and to its investigation of such force. While we appreciate the threshold for such cases is high, we think the facts of this case warrant not just your review, but actions that will prevent future senseless deaths. The family also requests a meeting to discuss the case with you.

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Fridoon, whose long history of mental illness was known to the SDPD, was walking in an alley and Officer Browder was responding to a call of a previous disturbance involving Fridoon. It was mistakenly reported that he had a knife. Officer Browder pulled into a dark alley without siren or light bars activated. Fridoon was walking slowly down the alley. The headlights on the officer's vehicle shone directly in Fridoon's direction, likely making it difficult for Fridoon to see the officer or even identify the vehicle as belonging to the police. In what is becoming a haunting national pattern, within two to three seconds of getting out of his car the officer killed Fridoon – shooting him hastily one handed.

Contrary to early and repeated statements by the SDPD (for example, that a "knife-wielding man charged at the officer prompting him to open fire"), Fridoon was not armed and was not "charging" the officer when he was killed. He was holding a blue pen. He did not threaten Officer Browder or anybody at the time he was shot. Also contrary to official statements, Fridoon was 25 feet away from Officer Browder, and had come to a stop, when the officer shot him.

These facts are incontrovertible. As is becoming all too common, the killing of Fridoon was captured on video – a video in the custody of the police but which they are refusing to share with the public. We urge you to view it. It is fortunate the shooting was captured on a civilian camera because the officer failed to activate his body camera, as required by SDPD policy. SDPD claims not to have any audio or other recordings of the events. The family has not been able to test the truth of these claims and we hope you would immediately secure all evidence.

The shooting was unjustified and denied Fridoon the ultimate civil right. It should be investigated as a crime.

In addition, the SDPD's method of investigating this lethal force was designed not to establish the truth, but to cover for the officer. The police did not interview Officer Browder immediately after the shooting. They did not test Browder for drugs or alcohol. Their canvas of witnesses seemed geared only towards exonerating the actions of the officer. The investigation was not conducted like a homicide investigation, or even in a manner reasonably consistent with a lethal use of force. In fact, investigative techniques clearly tainted the evidence.

For example, SDPD records show that Officer Browder initially admitted at the scene that Fridoon did not have a weapon, at which point all questioning was cut off immediately. In fact, the SDPD waited five days and then let Browder and his attorney watch the video before he answered any further questions about the shooting. His story, not surprisingly, became much more favorable for himself. It was this improved version that was later accepted by the prosecutor. SDPD did not discipline Browder for the shooting, or even for failing to activate his body camera, a violation of the SDPD's policy. Browder is back on the street.

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In 2014, the DOJ audited the SDPD and found serious flaws in its procedures. The new police chief, Shelley Zimmerman, promised to remedy these systematic abuses. But she has not done so. Despite the DOJ's investigation, it's business as usual in the SDPD.

The family turns to you because they do not trust the local authorities in San Diego. In the end, perhaps it was not surprising that the District Attorney declined to charge a police officer. Her office had informed the family that they had never done so in 30+ years. What was surprising is the way she mischaracterized what the video shows, while still refusing to make it public. It is also surprising that her decision was announced at a press conference that went out of its way to depict the officer favorably (e.g., an "exemplary" officer who "has dedicated himself to duty and performed at the highest levels") and Fridoon in a harsh light (e.g., describing details of prior incidents involving Fridoon, stating he "was not someone who could be reasoned with").

There is no question that Fridoon had a long history of mental illness, and violent propensities when in such a mental state. The District Attorney suggested that this history (though unknown by the particular officer) somehow justified the shooting. To the contrary, it only demonstrates SDPD's absolute inability to deal with mentally ill individuals, to get them help when needed (and reported) and to deescalate situations involving the mentally ill. SDPD had multiple opportunities to deal with Fridoon. Both the event in question and the previous encounters with Fridoon show that SDPD's failure to appropriately deal with those in mental health crisis make use of force not only more likely — but more dangerous.

We request that the FBI and U.S. Attorney's office investigate the procedures, practices and training within the SDPD regarding: 1) its investigation of use of force, particularly lethal use of force; and 2) its interactions with those impacted by mental illness or substance abuse.

This is the type of situation that requires the federal government's intervention. We read that DOJ is bringing constitutional policing to communities throughout the country, particularly in the areas of use of force and the treatment of the mentally ill. San Diego deserves no less. Please do what you can to ensure that Fridoon did not die in vain. Something good should come of it.

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Thank you for your consideration. We stand ready to meet at any time. Please call me at (310) 552-5251.

Very truly yours,

Louis R. Miller

LRM:SJS

cc: Eric Birnbaum Special Agent in Charge FBI San Diego 10385 Vista Sorrento Parkway San Diego, CA 92121