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No Charges To Be Filed Against BPD Assistant Chief Evan Demestihias

District Attorney Cynthia Zimmer announced today that after a review by the Kings County District Attorney's Office, the California Attorney General's Office, and the Kern County District Attorney's Office, that no criminal charges are being filed as a result of an investigation of Bakersfield Police Department Assistant Chief Evan Demestihias.

Demestihias was identified as being involved in a dispute with a woman on September 4, 2019, while inside a vehicle in the parking lot of the V.I.P. Lounge on California Avenue in Bakersfield. Witnesses to the interaction and video surveillance from the area established the presence of Demestihias and the woman, who had spent time together inside the bar. After leaving the bar, witnesses and video surveillance revealed some type of interaction between the couple in the vehicle. The interaction ultimately resulted in audible screams from the woman, drawing the attention of nearby witnesses. The woman exited the vehicle and walked back toward the bar, and witnesses summoned law enforcement. The investigation revealed that both Demestihias and the woman had some visible injury after the interaction in the vehicle, but neither the video nor witness statements provided clear detail of what physical interaction occurred within the vehicle that accounts for the injuries to both parties, as well as whether the male or female were the initial aggressor in the incident.

From the outset of the investigation, the woman involved has consistently declined to pursue criminal charges as a result of the incident. Indeed, while review of the investigation has been pending, the woman has communicated in no uncertain terms that she is not a victim of domestic violence and refuses to be treated as one. While the District Attorney's Office recognizes the cycle of violence that often occurs in domestic violence cases, the investigation in this case did not reveal any evidence of previous abuse, and the woman involved is both trained in and aware of cycle of violence issues, and still has consistently not sought prosecution for the incident involved in this case and has not provided a recounting of events that implicates Demestihias in the commission of a crime.

Though some domestic violence cases may be proven even when a victim suffering from a cycle of violence recants earlier statements of abuse, this investigation differs in that the woman involved did not make a previous statement to police alleging she was abused. For example, the woman never called 9-1-1 to report the abuse or seek police intervention, and when police responded immediately after the incident at the behest of witnesses to the woman's apparent distress, the woman even then did not provide a statement implicating Demestih as an initial aggressor in any sort of abuse. Additionally, there is no evidence of previous abuse that might suggest a cycle of violence is affecting the witness.

Initially, the investigation was directed to the Kings County District Attorney's Office for review of potential charges and potential independent prosecution. After the Kings County District Attorney's Office deferred issuance of charges, the investigation was sent to the Kern County District Attorney's Office, which reviewed the investigation under the supervision of the California Attorney General's Office. The decision by the Kern County District Attorney's Office to not issue criminal charges in this investigation was made under the supervision and with the concurrence of the Attorney General's Office.

Assistant District Attorney Andrea Kohler participated in and commented on the decision:

"This investigation presents a situation where the alleged victim has repeatedly denied that she is a victim of any crime. While there is some evidence of a dispute and interaction that caused injury to both parties in a vehicle, the lack of evidence regarding which party instigated any physical aggression, or any details alleging what physical aggression may have occurred, precludes any finding of guilt beyond a reasonable doubt. While an arrest may lawfully be based upon probable cause to believe a crime occurred, conviction of the offense requires more. When the evidence produced in an investigation is clearly not sufficient to meet this burden, we are duty-bound not to initiate or continue prosecution."