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**January 21, 2022**

Sheriff Donny Youngblood  
Kern County Sheriff's Office  
1350 Norris Road  
Bakersfield, CA 93308

**Re: Officer-Involved Shooting of Graciano Ceballos by KCSO Sgt. Adrian Olmos, Senior Deputy Dwayne Perkins, Deputy Daniel Rickard, Deputy Kent Sakamoto, Deputy Jessica Zavala on April 18, 2020, at California Avenue at Calif Crop Boulevard in Bakersfield, CA.**

Dear Sheriff Youngblood,

The Kern County District Attorney's Officer-Involved Shooting Committee has reviewed the reports and other materials submitted by your agency regarding the shooting noted above. The Officer Involved Shooting Committee reviews cases for criminal liability under state law. The Committee has completed its review. The findings are noted below.

### ***Summary***

On April 18, 2020, deputies were dispatched to 308 May Street to a report of a shooting. When deputies arrived, they received information, that a Hispanic male, later identified as Graciano Ceballos, had pointed a gun at an individual's head, threatened to kill him, and then fired several shots in the air and into several vehicles. Graciano Ceballos then fled in a gray Dodge SUV. Edward Ceballos was also inside of the vehicle, seated in the front passenger seat. Deputies located multiple .40 caliber shell casings at the scene. A short time later, deputies located the vehicle and attempted to conduct a vehicle stop. During the attempted traffic stop, Graciano attempted to run over Senior Deputy Eidenshink and Deputy Fisher before fleeing. A vehicle pursuit ensued and during which, multiple shots were fired at deputies Paxson, Olmos, and Pucilowski. It was later discovered that a Glock semi-automatic pistol with an extended magazine was tossed out of the suspect vehicle during the pursuit. DNA evidence linked the firearm to Graciano Ceballos.

During the pursuit, while no other vehicles were present, Sergeant Olmos authorized the use of deadly force to disable the suspect vehicle. Deputy Perkins attempted a P.I.T. maneuver while on

Highway 99, however, was not successful. While still on Highway 99, Graciano blacked out his vehicle and sideswiped Deputy Perkins' patrol vehicle. After the suspect vehicle exited Highway 99 onto eastbound California Avenue, a successful P.I.T. maneuver was conducted causing the suspect vehicle to become disabled near California Avenue and Easton Road. Both Graciano and Edward stayed in the vehicle while multiple announcements were made by KCSO. Graciano opened the driver side window up and down a few times until he suddenly and abruptly exited the driver side of the vehicle. Graciano closed the driver side door and immediately ran southbound towards occupied apartments. Deputies were able to see Graciano's left hand but unable to see his right hand and waistband area. As Graciano ran away, multiple deputies shot one to two times at Graciano. Graciano was hit three times and died at the scene. Edward surrendered about an hour later. Deputies and medical personnel were unable to attend to Graciano until Edward was secured. A .40 caliber Glock magazine and multiple expended .40 caliber casings were found in the suspect vehicle.

### ***Legal Principles and Analysis***

Graciano Ceballos' conduct in evading clearly marked KCSO patrol vehicles with their forward facing red lights, emergency lights, and sirens and ultimately running away from KCSO Sgt. Adrian Olmos, Senior Deputy Dwayne Perkins, Deputy Daniel Rickard, Deputy Kent Sakamoto, Deputy Jessica Zavala after being lawfully attempted to be stopped and arrested was a violation of Vehicle Code section 2800.2(a), felony evasion of a peace officer and Penal Code section 148(a)(1), delaying or resisting a peace officer in the performance of his or her duty. An officer with reasonable cause to believe a crime is committed or a person is a danger to others may use reasonable force to affect arrest or detention, to prevent escape, or to overcome resistance. *Tennessee v. Garner* (1985) 471 U.S. 1; *Graham v. Connor* (1989) 490 U.S. 386; *see also* Penal Code section 835a(b).). KCSO Sgt. Adrian Olmos, Senior Deputy Dwayne Perkins, Deputy Daniel Rickard, Deputy Kent Sakamoto, Deputy Jessica Zavala had probable cause to arrest Graciano Ceballos due to the violent felonies that were reported to them along with the personal observations of the violent felonies having been committed against multiple deputies. Those felonies included multiple counts of Penal Code section 664/187(a), attempted murder, Penal Code section 245(a)(1), assault with a deadly weapon "to wit: vehicle", Penal Code section 422, criminal threats, Penal Code section 245(a)(2), assault with a firearm "to wit: semi-automatic handgun", Penal Code section 246.3, negligent discharge of firearm, and Vehicle Code section 2800.2, felony evasion.

An officer may use deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary to defend against an imminent threat of death or serious bodily injury to the officer or another person. (CA Penal Code section 835a(c)(1)(A).) When evaluating the use of deadly force, one must decide whether the officers' beliefs and action were objectively reasonable under all the circumstances known to him or her, as they appeared at the time. "The calculus of reasonableness must embody allowance for the fact that peace officers are often forced to make split second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." *Graham v. Connor*, *supra* at pp.396-397. The law does not impose a duty to use less lethal options. "Requiring officers to find and choose the least intrusive alternative would require them to exercise superhuman judgment. In the heat of battle with lives potentially in the balance, an officer

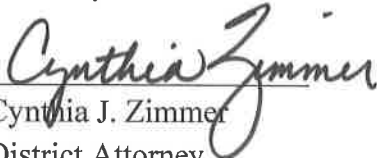
would not be able to rely on training and common sense to decide what would best accomplish his mission. Instead, he would need to ascertain the least intrusive alternative (an inherently subjective determination) and choose that option and that option only. Imposing such a requirement would inevitably induce tentativeness by officers, and thus deter police from protecting the public and themselves. (*Scott v. Henrich* (9<sup>th</sup> Cir.1994) 39 F.3d 912, 915). The appearance of danger is all that is necessary; actual danger is not. (*People v. Toledo* (1948) 85 Cal.App.2d 577 (*overruled on other grounds*); *People v. Jackson* (1965) 233 Cal.App.2d 639.) “The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene rather than with the 20/20 vision of hindsight.” (*Graham v. Connor*, *supra*, 490 U.S. at p. 396.)

KCSO Sgt. Adrian Olmos, Deputy Daniel Rickard, Deputy Kent Sakamoto, Deputy Jessica Zavala did not have the benefit of hindsight but rather were faced with a situation where Graciano Ceballos fled from them in the Dodge SUV and when the vehicle became disabled, he ran from them, after having committed numerous violent felonies in their presence. Further, the deputies thought that Graciano Ceballos was still armed and dangerous and was running in the direction where onlookers were gathered. In order to prevent further violent felonies and escape, KCSO Deputy Dwayne Perkins attempted two P.I.T. maneuvers during the vehicle pursuit, KCSO Sgt. Adrian Olmos fired one shot from his shotgun, Deputy Daniel Rickard fired two shots from his handgun, Deputy Kent Sakamoto fired two shots from his rifle, and Deputy Jessica Zavala fired one shot from her handgun. Sgt. Adrian Olmos, Deputies Dwayne Perkins, Daniel Rickard, Kent Sakamoto, and Jessica Zavala beliefs in the necessary use of deadly force were considered reasonable under all the circumstances.

### ***Conclusion***

Based upon a review of the evidence submitted by the Kern County Sheriff's Department, Sgt. Adrian Olmos, Deputies Dwayne Perkins, Daniel Rickard, Kent Sakamoto, and Jessica Zavala responded reasonably under the circumstances. There is no state criminal liability for each of the deputy's use of force under the circumstances of this case.

Sincerely,

  
Cynthia J. Zimmer  
District Attorney