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Chief Greg Terry
Bakersfield Police Department
1601 Truxtun Avenue
Bakersfield, CA 93301

**Re: BPD Officer-Involved Shooting of Juan Ramirez on June 16, 2021
BPD Sr. Officer Chris Dalton
2700 block South Union Ave, Bakersfield, CA
Bakersfield Police Report 2021-115659**

Dear Chief Terry,

The Kern County District Attorney's Officer-Involved Shooting Committee has reviewed 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 Officer Involved Shooting Committee has completed its review. The findings are noted below.

Summary

On June 16, 2021, law enforcement attempted a traffic stop on Juan Ramirez, which resulted a long and dangerous high-speed chase. After Ramirez's car became disabled, he attempted to carjack a civilian to continue his flight from police officers. Ramirez jumped into another, unrelated vehicle with an innocent civilian driver and tried to take over the car by pushing himself into the driver's seat and hitting the gas pedal. As Ramirez tried to accelerate the vehicle, the civilian driver was simultaneously pressing the brake in order to maintain control of the car and to keep it from harming others. The civilian was trapped in the driver's seat and he was leaning outside his driver-side window attempting to get help from officers.

As Ramirez struggled with the civilian, and tried to operate the vehicle, Bakersfield Police Officers surrounded the vehicle and attempted to resolve the situation. Ramirez placed officers in danger as he tried to drive the car while officers surrounded it; he placed the victim in danger by trying to flee with the victim in the vehicle, and he placed the public in danger with his reckless disregard for safety. Officer Dalton fired two rounds at Ramirez to protect himself, the civilian driver who was being carjacked, as well as other officers and civilians endangered by Ramirez's actions. Ramirez was hit twice by the shots and survived his injuries. When searching the vehicle, officers located a firearm that Ramirez he had stashed in the vehicle he was trying to carjack.

Legal Principles and Analysis

Ramirez's actions demonstrated an imminent threat to officers' lives and the life of the carjacking victim. While attempting to carjack the civilian, Ramirez jumped into the driver's seat, through the passenger door and began to press the gas pedal in the car. The victim, attempting to counter-act Ramirez's efforts, was hitting the brake while attempting to get help from those outside the vehicle. Had Ramirez's attempt to take the car been successful, he could have taken the civilian car-owner hostage on a dangerous pursuit. This innocent victim's life would have been in grave danger based on Ramirez's actions up until that point.

There is no homicide, but officer Dalton deployed lethal force against Juan Ramirez by firing his weapon during the encounter. Lethal force, even when it results in a homicide, is justified where three elements are met: 1) A person reasonably believes that he, or someone else, is in imminent danger of being killed or suffering great bodily injury, 2) the person reasonably believes that the immediate use of deadly force is necessary to defend against that danger, and 3) the person used no more force than was reasonably necessary to defend against that danger. (Penal Code section 197; *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; CALCRIM 505). There is no duty to retreat from the danger. (*People v. Hughes* (1951) 107 Cal.App.2d 487, 493; *People v. Hatchett* (1942) 56 Cal.App.2d 20, 22; CALCRIM 505).

In deciding whether an officer who fired his or her weapon did so lawfully, one must consider what a reasonable person would have done in a similar situation with similar knowledge and experience. One must decide whether the officers' beliefs and actions were objectively reasonable under all of 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). For the use of deadly force to be "objectively reasonable," the officers must have probable cause to believe that the suspect posed a significant threat of death or serious physical injury to an officer or others.

Penal Code section 835a(a)(4) states, "the decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force." For the use of deadly force to be "objectively reasonable," the officers must have probable cause to believe that the suspect posed a significant threat of death or serious physical injury to an officer or others. The courts give great deference to the police when choosing what weapon to use when responding to a threat. "Monday morning quarterbacking is not allowed." *Graham v. Connor*, 490 U.S. 386, 396 (1989). "Detached reflection cannot be demanded in the presence of an uplifted knife." *Brown v. United States*, 256 U.S. 335, 343 (1921) (Holmes, J.).

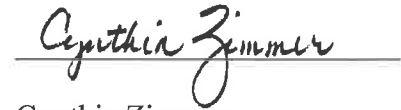
Officer Dalton was not required to first attempt alternative uses of force or required to retreat before discharging his firearm. At the time of the incident, Officer Dalton was faced with a dangerous situation for himself, other officers, the public, and certainly for the civilian driver in the vehicle. Though Penal Code section 835a holds that the availability of less lethal resources and techniques factor into the determination of whether deadly force is necessary, such alternatives must be used only if reasonably safe and feasible. In the quickly evolving situation created by Ramirez's actions, the high likelihood of a civilian carjacking victim, the dangers posed to officers, and citizens by a partially controlled motor vehicle elevated the need for immediate apprehension and elimination of an imminent threat.

A person threatened with an attack that justifies the exercise of the right of self-defense need not retreat. In the exercise of his right of self-defense a person may stand his ground and defend himself with deadly force which would appear to be necessary to a reasonable person in a similar situation and with similar knowledge. In this case, the situation would have become more deadly and more dangerous if the Officers had retreated. Had they retreated, Ramirez would have likely fled in the new vehicle with a hostage in the front seat, with a struggle over control of the vehicle potentially having catastrophic consequences.

Conclusion

Based upon a review of the evidence submitted by the Bakersfield Police Department, Officer Dalton responded reasonably to an imminent threat of death or serious bodily injury and in self-defense and defense of others. There is no state criminal liability for the use of deadly force under the circumstances of this case because the shooting is legally justified.

Sincerely,

A handwritten signature in cursive script that reads "Cynthia Zimmer". The signature is written in black ink and is positioned above a horizontal line.

Cynthia Zimmer
Kern County District Attorney