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August 24, 2022

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

**Re: KCSO Officer-Involved Shooting of Jose Ramirez Jr. on 7/25/21;
Lt. David Hubbard, Sr. Deputy Brandon Geherty, Sgt. Michael Dorkin,
Sgt. Patrick McIrvin, Sgt. Christian Melero, Sr. Deputy Jesse Hernandez, Deputy
Jason Ackerman, Deputy Ryan Brock, Deputy Justin Newton,
Deputy Sanya Maokosy;
1700 block of 1st Street, Wasco, CA. KCSO Report # 2021-00097851**

Dear Sheriff Youngblood,

The Kern County District Attorney's Officer-Involved Shooting Committee (hereinafter "OIS Committee") has reviewed reports and other materials submitted by your agency regarding the shooting referenced above. The OIS Committee has completed its review. The findings from that review are contained herein.

Summary

On July 25, 2021, Jose Ramirez Jr. shot and killed his wife and two of his sons. He also threatened others within his home with a firearm. Calls from inside the house summoned Kern County Sheriff's Deputies to the scene. Jose Ramirez Jr. opened fire on those deputies upon their arrival, and SWAT was called. Jose Ramirez Jr. made phone calls from inside the home that lured SWAT deputies into rescuing living occupants of the home from Jose Ramirez Jr. As deputies prepared to enter the home, Jose Ramirez Jr. opened fire through the door with an AK-47 rifle, killing Deputy Phillip Campas and wounding another deputy. Deputies returned fire, attempting to stop the threat. With help from Bakersfield Police SWAT and California Highway Patrol aircraft, deputies continued to attempt to enter the residence to no avail. KCSO placed a SWAT sniper on a nearby house. Jose Ramirez saw the sniper and left his home with his rifle and a pistol. He climbed to the roof of the house in an apparent attempt to attack the SWAT sniper and to obtain

an advantageous position from which to fire on other SWAT deputies in the area whose cover positions would be compromised by Ramirez taking an elevated firing position from the roof. Deputies fired on Jose Ramirez Jr., finally ending the persistent and imminent threat that Jose Ramirez Jr. had posed. Jose Ramirez Jr. succumbed to his injuries.

Legal Principles and Analysis

Penal Code section 835a(a)(3) states, “the decision by a peace officer to use force shall be evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force by peace officers, in order to ensure that officers use force consistent with law and agency policies.” Penal Code section 835a, as amended on January 1, 2020, states that officers “shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.” (Pen. Code § 835a(2).) Penal Code section 835a(c)(1) reads in part, “[A] peace officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary... ‘[t]o apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended,’ and, “[w]here feasible...prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.”

The California Court of Appeal for the Third District applied the recently amended Penal Code section 835a in *Koussaya v. City of Stockton* (2020) 54 Cal.App.5th 909. In that case, the court stated, “[w]e finally note that as long as an officer's conduct falls within the range of conduct that is reasonable under the circumstances, there is no requirement that he or she choose the most reasonable action or the conduct that is the least likely to cause harm and at the same time the most likely to result in the successful apprehension of a violent suspect...” (*Id.*, at p. 936 [internal quotations omitted].) Accordingly, the touchstone of an officer’s appropriate use of force is reasonableness in light of the totality of the circumstances. In a “sudden police chase,” the measure of reasonableness is similar to that of an officer in a prison riot: “They are supposed to act decisively and to show restraint at the same moment, and their decisions have to be made in haste, under pressure, and frequently without the luxury of a second chance.” (*County of Sacramento v. Lewis* (1998) 523 U.S. 833, 853 [internal quotation omitted].)

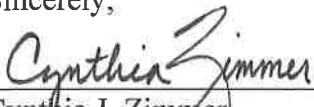
In the case under consideration, deputies were present at the report of victims inside a residence and someone shooting. Jose Ramirez Jr. opened fire on uniformed deputies when they arrived. Deputies from SWAT were made aware of these actions before they began attempting to enter the house to save any hostages. That the large gathering of law enforcement officers outside the residence were peace officers was patently obvious to Ramirez, who had every reason to know that peace officers would, and had in fact responded to the multiple-murder scene initiated by his use of firearms. Jose Ramirez Jr. used the 9-11 system to lure deputies into a plan to enter the house. When the deputies attempted to enter to save any hostages, Jose Ramirez Jr. used an AK-47 rifle to shoot two deputies, killing one of them. All deputies on scene were aware of this due to the radio traffic and their own observations the shooting. Jose Ramirez Jr. continued the standoff. Once Ramirez saw a SWAT sniper on the roof of a nearby home, Ramirez exited with the rifle and

began moving toward the roof -- a location that would have allowed him to freely shoot more law enforcement officers. It was at this point that the involved deputies acted to stop the threat. Deputies in that moment were forced to choose between being shot and killed or using lethal force to stop the threat that Ramirez posed to law enforcement and members of the public.

Conclusion

Based upon a review of the evidence submitted by the Kern County Sheriff's office, deputies responded reasonably in the totality of the circumstances and acted in self-defense. Moreover, other forms of force would have been unreasonable in the circumstances and would have put law enforcement and the public at great risk. When confronted by a well-armed suspect that had already used his armament to kill members of his own family as well as members of the responding law enforcement officers. There is no state criminal liability for use of force by LT Hubbard, Sr. Deputy Geherty; SGT Dorkin, SGT McIrvin, SGT Melero, Senior Deputy J. Hernandez, Deputy Ackerman, Deputy Brock, Deputy Newton, Deputy Maokosy under the circumstances of this case because the shooting is legally justified.

Sincerely,


Cynthia J. Zimmer
District Attorney