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January 12, 2024

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

**Re: BPD Officer-Involved Shooting of Alexandro Rosales on February 19, 2022**  
**BPD Officer Garrett Sanford #1475**  
**BPD Officer Dakota Leopardi-Lacomb #1461**  
**2100 block of Dayton Avenue, Bakersfield CA**  
**Documented in BPD Report 2022-33602**

Dear Chief Terry,

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 February 19, 2022, Bakersfield Police Department Officers were dispatched to 2105 Dayton Avenue for a domestic violence call in which suspect Alexandro Rosales was alleged to have pulled the reporting party's hair and "knocked her around." The text of the call noted that the reporting party was unsure if Rosales remained at the residence, but that the family vehicle was still parked in front of the house. When Officers Sanford and Leopardi-Lacomb arrived, they approached the residence on foot and saw the brake lights activate on a vehicle that was parked in the driveway of the residence. The officers approached the driver's side of the vehicle, and as they approached the driver and sole occupant, Rosales, exited the driver's door. Officers began to greet Rosales and then noticed that Rosales had exited with a revolver in his right hand. Rosales made a deliberate motion with the revolver, pointing it directly in the direction of the officers. Officers Sanford and Leopardi-Lacomb began yelling at Rosales to drop the gun, and they immediately began retreating backwards. The officers fired a total of 23 rounds between them at Rosales' direction. Rosales was hit by two of the shots and succumbed to his injuries. A revolver with a single spent shell casing in the cylinder was found under Rosales' leg. The spent shell casing in the revolver was

in a position within the cylinder suggesting it was recently fired, however, the investigation ultimately could not determine whether Rosales fired the revolver during the incident or whether he possessed a revolver with a previously fired spent shell casing inside the revolver and pointed it at the officers. The presence of body worn camera footage as well as surveillance video from a nearby residence verified the account of the officers and the urgency of the situation.

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

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 actions 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.)

Officers Sanford and Leopardi-Lacomb were responding to a 9-11 call for help regarding a domestic violence situation within the residence. They approached the residence, and in particular, a vehicle in the driveway, on information relayed to them that the suspect may still be on scene. As they approached the vehicle, Rosales exited on his own volition, and did so while with a revolver in his hand. When the officers spotted the revolver, they immediately issued lawful commands to drop the firearm, however, Rosales ignored those commands and deliberately raised the firearm, pointing it directly at the officers. Faced with an armed domestic violence suspect that alighted from the vehicle at the sign of two uniformed officers, ignored commands to drop a firearm in his immediate possession, and who raised the firearm to point it directly at the officers, Officers Sanford and Leopardi-Lacomb deployed deadly force by firing with their service weapons toward Rosales.

California Penal Code Section 835a maintains that "a peace officer is justified in using deadly force upon another person only when the officer believes, based on the totality of the circumstances, that such force is necessary...[T]o defend against an imminent threat of death or serious bodily injury to the officer or to another person."

The actions of Rosales meet the criteria of presenting an “imminent threat of death or serious bodily injury” to each officer. In such situations, the law specifically permits officers to employ deadly force to respond to the threat.

***Conclusion***

Based upon a review of the evidence submitted by the Bakersfield Police Department, Officers Sanford and Leopardi-Lacomb responded reasonably in self-defense and defense of each other to the threat presented by Rosales. There is no state criminal liability for their use of deadly force under the circumstances of this case because the shooting is legally justified.

Sincerely,

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Cynthia J. Zimmer  
Kern County District Attorney