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New Mexico State Agent David Trujillo
New Mexico State Police Captain Goret
Santa Fe Police Department Chief Joye

RE: OIS Santa Fe Police Officers, Sergeant Alire-Maez and Officer Julian Norris,
Civilian John Eames

Upon receiving the case file from the New Mexico State Police, I reviewed the investigation into the officer involved shooting that occurred on May 12, 2023 in Santa Fe, New Mexico involving civilian John Eames, and Santa Fe Police Officers, Sergeant Alire-Maez and Officer Julian Norris.^[1] I reviewed the entire case file provided to my office by the New Mexico State Police including reports, body worn camera evidence, crime scene photos, and the forensic report from the Office of the Medical Investigator.

FACTUAL SUMMARY

On May 12, 2023 at approximately 2:30pm Santa Fe Police Department Officers were dispatched to the 100 block of Calle Ojo Feliz in the city of Santa Fe. The dispatch was for a suicidal man who had gone into the arroyo and fired shots into the air. Officers were aware that he was armed and suicidal. The first officer on scene, Officer Gallegos heard several shots fired as he pulled into the parking lot at 1805 Arroyo Chamiso which is in approximately the same area as Calle Ojo Feliz. Officer Gallegos immediately requested backup officers to respond. Officer Gallegos then spoke with the calling party who stated that a man from her apartment complex, John Eames, told her to call 911 because he was going to kill himself.

Officers then began searching in the arroyo for Mr. Eames. Multiple officers searched the arroyo for approximately thirty minutes before making the first visual contact with Mr. Eames. At 3:10pm Officers saw Mr. Eames in the arroyo. He was walking behind bushes, vegetation and trees away from the officers, so initially Officers could not get a good visual

^[1] There were a number of SFPD officers involved, however my review is of the officers who used deadly force in the May 12, 2023 incident.

of him. Within moments, they were able to see that he was carrying a handgun in his right hand. Officers began to shout commands, such as “drop your weapon” to Mr. Eames. Eames was completely non-responsive and non-compliant and continued to walk around in the arroyo. It is important to note that several officers attempted to deescalate Mr. Eames and, although speaking loudly were also stating, “We want to help you,” “We just want to talk to you, please drop your weapon,” and “We aren’t here to hurt you.” Mr. Eames continued to hide or walk behind large chamiso bushes without responding.

At 3:16p.m. officers were able to place themselves in an arc around Mr. Eames and he seemed, initially, to respond to some commands. Officers continued to emphasize that they were not there to hurt him, they were there to help, but that he must drop his weapon. He placed his hands in the air and started walking towards officers. Officers could no longer see the gun in his hand, so they asked him to keep walking towards them with his hands in the air. Sergeant Alire-Maez mostly took over speaking to Mr. Eames at this point. Alire-Maez’s voice was firm but calm as he emphasized that police were there to help Mr. Eames, not to hurt him.

All officers had weapons drawn, including two officers with less-lethal bean bag guns. Alire-Maez was able to get Mr. Eames to state his name and briefly respond. Alire-Maez was attempting to establish a rapport with Mr. Eames by telling him what he needed to do, including keeping his hands in the air when, for unknown reasons, Mr. Eames dropped his hands. He appeared to be reaching towards his right sweatshirt pocket. Several officers then yelled at Eames to put his hands back up in the air. Mr. Eames briefly put his hands back in the air but was not responding in any other way. Officers continued to yell to him not to reach for anything. Officer Gallegos then says over his radio that he has a clear shot on Mr. Eames. Officer Gallegos was armed with a bean bag gun. Sergeant Alire-Maez tells Officer Gallegos to “take the shot.”

Unfortunately, in the second before Officer Gallegos can take his beanbag shot, Mr. Eames drops his hands and reaches for his pocket again. Multiple officers then shoot Mr. Eames. Mr. Eames was shot in the lower back, right arm, left arm and left leg. Mr. Eames fell to the ground.

Officers were unable to approach Mr. Eames for several minutes after the shooting because he continued to roll around and would not put his hands up. From their vantage point, Officers could not see if he still had the gun in his hand or not. Once Mr. Eames finally complied two officers approached and were able to secure Eames’ gun which was lying next to his body and slightly underneath his arm. They then began rendering aid and life-saving measures, including tourniquets and a trauma seal to the gunshot wound in his back.

LEGAL ANALYSIS

For an officer to use deadly force, the force used by the officer must be “objectively reasonable.” *Graham v. Connor*, 490 U.S. 386, 396, 109 S.Ct. 1865. The proper application of this reasonableness standard requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses

an immediate threat to the safety of officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight. *Id.*

New Mexico law requires that a homicide be "necessarily committed" by placing a limit on the use of deadly force by law enforcement officers. See NMSA 1978, § 30-2-6(B). New Mexico's statute on justifiable homicide by a law enforcement officers aligns with the United States Supreme Court decision in *Tennessee v. Garner*, 471 U.S. 1, 105 S. Ct. 1694, 85 L.Ed.2d 1 (1985). Thus, "if a suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used." See *Garner* at 11-12. The reasonableness of an individual police officer's actions is an objective analysis evaluated from his perspective at the of the incident and is a factual inquiry. See also *State v. Johnson*, 1998-NMCA-01,9, 124 N.M. 647. Similarly in *Archuleta v. Lacuesta*, 1999-NMCA- 113,128 N.M.13, the Court confirmed that whether an officer's use of deadly force was reasonable is heavily fact dependent. The reasonableness of the use of deadly force in any particular situation is an objective test from the perspective of the officer on scene, with the understanding that officers must make split second decisions in difficult situations about what force is necessary.

The crux of the issue is, did Sergeant Alire-Maez and Officer Norris objectively believe that John Eames threatened him or the other officers on scene with serious physical harm or deadly force, and the use of deadly force was necessary to avert the threat? In other words, was there an appearance of immediate danger of death or great bodily harm to the officers on scene as a result of Eames reaching for his pocket which contained his gun, was the threat immediate (see *State v. Jernigan*, 139 N.M.1 2005), and was this apparent danger to the officers such that would cause a reasonable officer in the same circumstances to act as Sergeant Alire-Maez and Officer Norris did? See also *State v. Lymon* 488 P.3d 610 (2021); *State v. Ellis*, 144 N.M. 253 (2008); *State v. Galfegos* 130 N.M. 221 (2001).

Applying the legal authority to the facts of this officer-involved shooting, it is my conclusion that all officers that fired upon John Eames used reasonable force in this situation. Officers tried over and over again to engage with and deescalate Mr. Eames, and to assure him that they were there to help him. Sergeant Alire-Maez, in particular tried to work with Mr. Eames to get him to comply. All Officers were hoping to use non-lethal force to ensure Eames' compliance and officer safety, but that was rendered impossible but Eames' continual noncompliance and reaching for his gun several times. The threat to officers was immediate. In addition, a reasonable officer in the same situation would have acted as Alire-Maez and Officer Norris did.

Under the facts and circumstances, all officers acted reasonably in response to an immediate threat to their and their fellow officers' safety. Therefore, in accordance with NMS 1978, §30-2-6 Sergeant Alire-Maez and Officer Norris were justified in their use of deadly force. New Mexico State Police and Santa Fe Police Department may release

evidence to the rightful owners provide there are not any further criminal or civil matters pending.