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September 7, 2023

Chief Rick Scott
San Luis Obispo Police Department
1042 Walnut Street
San Luis Obispo, CA 93401

Chief Damian Nord
Paso Robles Police Department
900 Park Street
Paso Robles, CA 93446

Re: Review of Officer Involved Shooting Incident
Decedent: Adam Steven Calderon (DOB: 04-11-1989)
Date and Time of incident: July 6, 2021, about 1:11 a.m.
Location: 2403 Branch Creek Circle, Apt. 6, Paso Robles
Officers Using Deadly Force: San Luis Obispo City Police Officer Jeff Koznek and Paso Robles Police Officers Kyle Carson and Brenden Neary
Officer Using Less Lethal Force: San Luis Obispo Police Officer Sean Jessen
District Attorney Case No: 079-691570

Dear Chief Scott and Chief Nord:

The District Attorney's Office has completed its independent review of the officer involved shooting incident occurring at 2403 Branch Creek Circle, Apt. 6 in Paso Robles on July 6, 2021. The incident resulted in the shooting death of gunman Adam Steven Calderon. Calderon died by a gunshot to the head. This report contains our findings.

I. INTRODUCTION

The San Luis Obispo County District Attorney's Office bears the responsibility of independently evaluating all officer-involved shootings that occur in San Luis Obispo County for the purpose of determining whether criminal laws were violated by the involved officers.

This report addresses the July 6, 2021, fatal shooting of Adam Calderon by law enforcement at the Dry Creek Apartment Complex in Paso Robles. As detailed below, this incident was prompted by a 911 call late in the afternoon of July 5, 2021, and

involved a stand-off during which Calderon barricaded himself in a second-floor apartment.

Between 11:30 p.m. and 11:55 p.m. Calderon fired shots at officers, prompting return fire by two members of law enforcement. Gas cannisters eventually were used to force Calderon from inside the apartment. He reached out the front door, dropped his gun onto the landing, exited and sat at the top of the steps. As officers were preparing to approach and arrest Calderon, he reached for his gun and was shot. He died from a single gunshot wound to the chest.

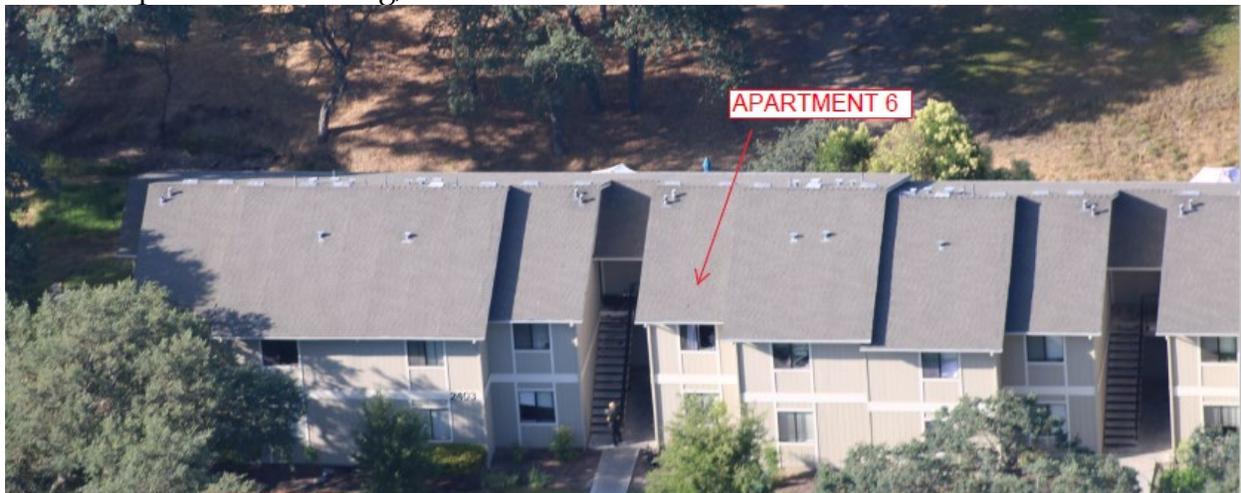
For the reasons discussed below, there is no basis for filing criminal charges against the officers involved in this incident. Their use of force was appropriate and reasonable under the totality of the circumstances.

II. FACTUAL SUMMARY

a. Location

The July 6, 2021, fatal shooting of Adam Calderon occurred at 2403 Branch Creek Circle, Apartment 6, in the Dry Creek Apartment complex in Paso Robles. Apartment 6 is on the upper floor of a two-story complex. The front door opens onto a landing and a flight of stairs leads to the ground floor and parking lot. The parking lot is to the north of Apartment 6.

The rear of Apartment 6 faces south and has a balcony overlooking an open area and another apartment building, 1217 Alamo Creek Terrace.



b. Events leading up to 911 call

At approximately 11:00 a.m. on July 4, 2021, Adam Calderon contacted his former girlfriend Maribel Parra by instant message through Google Hangouts to advise her he was on the train from Los Angeles to Paso Robles to visit their son [REDACTED], born in [REDACTED],

and that he would arrive at 5:00 p.m. Calderon and Parra had not been “together” for approximately 10 years. [REDACTED]

Parra was living at 2403 Branch Creek Circle, apartment 6, in Paso Robles with her one-year-old daughter. [REDACTED] lives with Parra’s mother, [REDACTED], in apartment 10 of the same complex.

When Calderon informed Parra he was travelling to Paso Robles, he said he would arrange for a motel and would take Uber from the train station to the hotel. However, between 10:00 and 11:00 p.m. Calderon contacted Parra to ask if he could spend the night with her, as he could not find a motel room. Parra was upset about him contacting her so late in the evening but asked her uncle Ramon if he would pick up Calderon. Ramon agreed and he, his cousin Francisco, and [REDACTED] drove to the Amtrak station in San Luis Obispo and retrieved Calderon.

When they returned, Parra made a place for Calderon and [REDACTED] on her living room floor. At about 1:50 a.m. Calderon and [REDACTED] were loud, and she came out of her room to ask them to be quiet.

On July 5 at 5:10 a.m. a video in the apartment complex captured Calderon hopping a gate into the pool area where he remained for the next 42 minutes. After removing his shirt, hat, shoes, and socks he went into both the jacuzzi and pool, performed body-weight squats, squats while holding a trash can over his head, reverse arm curls with a pool chair and pushups. He then put his clothes back on and hopped back over the fence. At 5:53 a.m. he returned to the laundry room with a large orange marker and began writing the words “Avenues” and “Drew St.”¹

Between 10:00 a.m. and 11:00 a.m. Parra awakened to find [REDACTED] up but Calderon sleeping. According to [REDACTED], Calderon had gone to sleep one hour earlier. At around 1:00 p.m. Calderon began asking Parra personal questions that she was uncomfortable answering, leading her to take her baby to her bedroom. Around 2:30 p.m. Parra observed Calderon “pop” a couple of unknown pills.² During this time she overheard Calderon telling [REDACTED] personal things about her, leading her to come out of her room and confront Calderon about what he was saying. She said matters began escalating between them, which was concerning given his history of domestic violence. He had been physically violent towards her on more than ten occasions.³

¹ Calderon has been affiliated with the Avenues Street Gang – Drew Street Click. [REDACTED]
[REDACTED] A photo at the autopsy shows a tattoo of “DST” on the top of his right hand.

² Calderon’s toxicology report was positive for the presence of methamphetamine, amphetamine, and Flualprazolam, which is structurally similar to alprazolam, a schedule IV-controlled substance.

³ [REDACTED]

At about 3:00 p.m. Calderon pulled out a handgun and began “tripping out” and talking about hearing people outside. Parra said Calderon used to use methamphetamine, but this behavior was different from what she had witnessed before. At one point he removed ammunition from the bottom of the gun and showed it to her. When Calderon exhibited the gun Parra “freaked out” and told him to leave. Although Calderon had not yet threatened her with the gun, he was acting paranoid and appeared to believe people were coming to the apartment.

When Parra asked him to leave, he became upset and would bring up her having children by different fathers. Calderon asked [REDACTED] to take Calderon’s belongings to Norma’s apartment (apartment #10), which [REDACTED] did. While [REDACTED] was gone Calderon pointed the handgun at Parra’s head and told her he was going to “blow her brains out.” When [REDACTED] returned Calderon asked who [REDACTED] had been speaking with outside. [REDACTED] replied he had not spoken with anyone outside.

Calderon then stepped onto the rear balcony and fired the handgun once. When he came back in Parra asked why he had done that and told him he needed to leave. Calderon did not respond, but stared at her, causing her to say nothing further. Calderon said he was leaving but was berating her. Parra felt he was waiting to do something bad, so she texted her uncle Ramon and asked him to call the police.

When Calderon asked [REDACTED] to go outside and wait for him, Parra panicked, grabbed her daughter, and quickly followed [REDACTED] out the front door. They went to Norma’s apartment, #10.

At 3:52 p.m. Paso Robles Police Department received Ramon’s 911 call. He reported that Parra had asked him to call 911 for her, that Calderon had “pulled out a gun and shot” and that she was scared. Ramon told the dispatcher he heard the shot but assumed it to be fireworks. Ramon provided the operator Parra’s cellphone number.

c. Initial response by Paso Robles Police Department

Based on the 911 call, officers were dispatched to the Dry Creek Apartment Complex. Officer Goeckner, one of the first to respond, saw Calderon near a vehicle in front of Apartment 6. He called Parra on her phone who confirmed that this was Calderon. He observed Calderon climb the stairs and walk into Apartment 6.

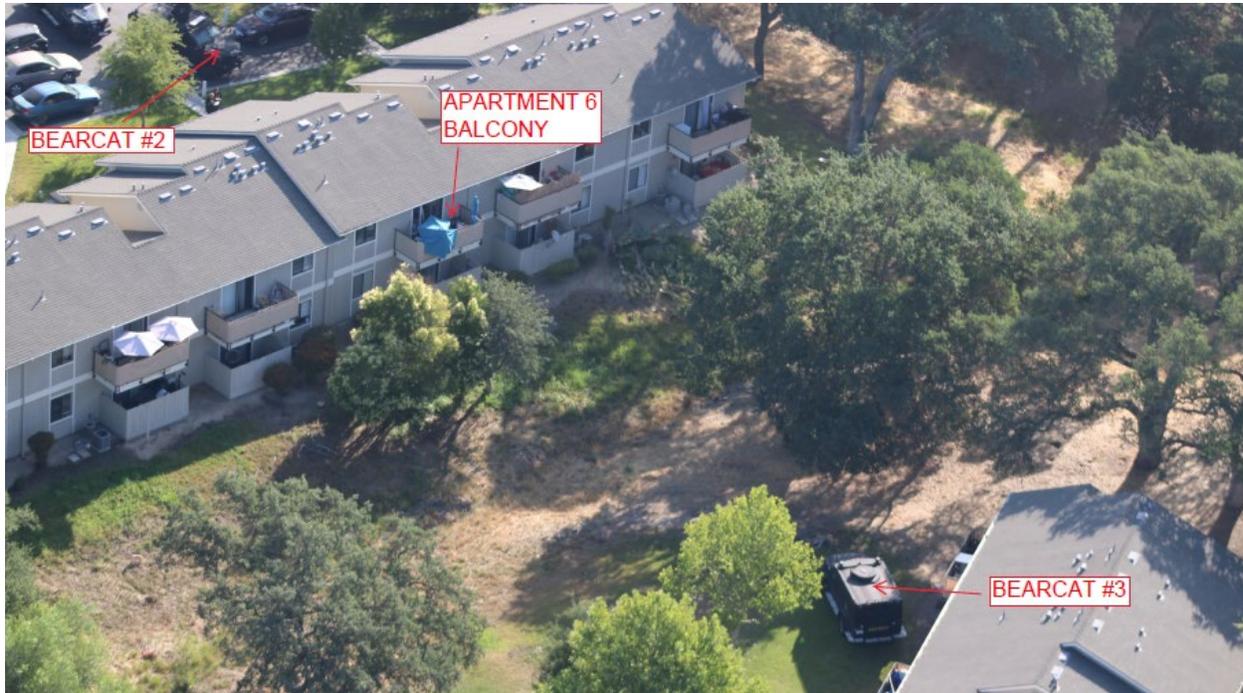
Paso Robles Police Officer Lugo also arrived and was behind the apartment when he saw Calderon step onto the rear balcony. He called out to Calderon, asking him to come to the front door. Calderon asked Lugo to step out and show his badge, but due to the report of Calderon being armed he declined the request. Lugo repeated the request several times, asking Calderon to go to the front door with his hands in the air, to which Calderon responded “Fuck you. Just shoot me, that’s what you guys are good at.”

At about 5:18 p.m. Lugo, who was at an elevated position, saw Calderon walk 10-15 steps into the apartment, drop to both knees and put his hands in the air. Lugo told him he needed to go to the front door. Calderon quickly reached down to the floor and brought his hands up in a shooting stance and was holding what appeared to Lugo to be a handgun. He then put his hands to the floor, stood up with nothing in his hands and walked off. Officer Lugo advised other officers that Calderon may have brandished a firearm.

d. SWAT team and Bearcats 1, 2 and 3

At 5:29 p.m. a SWAT call-out was made. Three SWAT Bearcat vehicles responded to the scene, Bearcat 1 (San Luis Police Department), Bearcat 2 (Grover Beach Police Department) and Bearcat 3 (San Luis Obispo County Sheriff's Office). Bearcats 1 and 2 were positioned in the parking lot in front of Apartment 6. Bearcat 3 was situated behind Apartment 6.





At 7:03 p.m. a sniper team took a position at the back of apartment 6. At 7:15 p.m. PRPD Officer Aguilar initiated communications with Calderon, who had been observed several times on the rear balcony of Apartment 6. Officer Aguilar asked Calderon to come out and speak with officers. Calderon responded that he did not need to come out to talk, as he was already talking to them. Officer Aguilar attempted to build rapport with Calderon but was unsuccessful.

When Officer Aguilar asked if he had weapons, Calderon replied something to the effect of “he had a gun on his hip,” though Aguilar never observed a gun.⁴ There were no further communications between Officer Aguilar and Calderon. At 9:06 p.m. a drone was launched which provided live-stream video to the command post. At 9:45 p.m. a robot delivered a mobile phone (throw-phone) to the landing outside Apartment 6 to facilitate communication between Calderon and law enforcement.

At 9:46 p.m. Bearcat 1, positioned in the parking lot in front of Apartment 6, began making announcements over the public address system. Calderon was advised officers did not want to hurt him, that they had an arrest warrant for him and asked him to come out and that they wanted to handle things peacefully.

At 11:03 p.m. a flash-bang device was deployed beneath the staircase of Apartment 6 to get Calderon’s attention, as he had been unresponsive for over an hour. Calderon appeared on the rear balcony and said something to the effect of “are you guys shooting

⁴ At the post-mortem exam a firearm holster was found attached to Calderon’s shorts.

at me? Two can play at that game.” Personnel in Bearcat 1 used the PA system to inform Calderon he was not being shot at.

At 11:12 p.m. a red laser emanating from the back of Apartment 6 pointed at and above Bearcat 3. SLOSO Deputy Lucas, who was in the driver's seat of Bearcat 3, described the laser hitting his face, eyes, chest.

At 11:30 p.m. Pismo Beach PD Sergeant Chris Trimble and PRPD Officer Carson, located in a sniper position approximately 80 yards to the north of Apartment 6, saw the red light of a laser coming from one of the windows overlooking the parking lot. This window was designated as Window 1. Bearcats 1 and 2 were in the parking lot in front of this window.



At about this same time, SLO PD Officer Magana, who was in the driver's seat of Bearcat 2 said he observed a laser pointed at him, and then saw the laser track from left to right at officers located along both sides of his Bearcat. When this happened, Officer Magana used the PA system and ordered Calderon to stop pointing the laser.

When Officer Magana instructed Calderon to stop using the laser, he saw Calderon move back from the window and he then heard gunshots. Officer Magana saw a spark on the windshield of his Bearcat 2.

e. Shots fired by Officer Brenden Neary from area of Bearcat 2

PRPD Officer Brenden Neary was on the driver's side of Bearcat 2 when he saw the laser hit Bearcat 2 and then hit his partner, Pismo Beach PD Officer Erik Jimenez, who was standing in front of him. Officer Neary was familiar with lasers and knew they could be mounted on firearms. Concerned over the use of a laser, officers Neary and Jimenez moved closer to the Bearcat for protection.

Officer Neary then heard a gunshot and saw a muzzle flash in Window 1. At that point Officer Neary transitioned from his less lethal 40 mm impact weapon to his rifle. Officer Neary then heard additional gunshots and became concerned for the safety of Jimenez, for the safety of those in a sniper position behind him, and for members of the public who were also in the area behind him.

Because of these concerns, Officer Neary moved forward towards the engine block of Bearcat 2 and fired into Window 1 where he had seen the muzzle flash. He believes he fired four or five times into Window 1.

SLOPD Sergeant Kemp was on the passenger side of Bearcat 2 and saw the laser light coming from Window 1. Based on reports of Calderon possessing and firing a handgun earlier and the fact that he (Kemp) has owned a handgun with an integrated laser, Kemp was operating under the assumption that Calderon's laser was attached to a firearm. As he was walking towards the rear of the Bearcat, Kemp heard three or more of what sounded like handgun gunshots which he believed were coming from Calderon. Kemp also heard what he believed to be the sound of bullets striking vehicles around him.

f. Shots fired by Officer Kyle Carson from sniper position

Sniper team PRPD Officer Kyle Carson and Pismo Beach PD Sergeant Chris Trimble were positioned beneath an exterior staircase at the west end of 2405 Branch Creek Circle, a building within the Dry Creek Apartment complex. Their position was approximately 80 yards north of Apartment 6.

Carson and Trimble had concealed their position by hiding beneath a blanket draped over shrubbery and the staircase. Though they believed their position to be concealed, it provided no protection in the event they were shot at.



Apartment 6 has two north-facing windows, both bedroom windows. Officer Carson's assignment was to monitor activity at Window 1, the window closest to the front door. He used the scope on his rifle to monitor activity. Sgt. Trimble was focused on the front door. If either saw activity, their responsibility was to relay that information to other operators and the command center.

Officer Carson was aware that behind their position was a trailer containing the crisis negotiation team and that behind the trailer were 15-20 spectators.

At one point during the evening Officer Carson saw Calderon manipulate blinds and appear to look out of the window. Later Officer Carson saw a laser light emanate from the window which appeared directed towards he and Sgt. Trimble.

About thirty minutes after observing the laser light, Carson heard a "crack" and what he believed to be a bullet impact to his right.⁵ When he used his scope to view the Window 1, he saw movement at its lower right corner. Believing he and Sgt. Trimble were being shot at, he fired one round at the window where he had seen the movement. Officer Carson then observed what appeared to be the concussion of a firearm being discharged from within the apartment, causing the blinds to move. This was accompanied by the sound of a gunshot. Believing they were being shot at, he responded by firing a second round where he had seen the movement. Carson was concerned for law enforcement personnel in the command trailer behind him and the 15-20 spectators at the perimeter who were also in line-sight of the window. He was also aware that officers closer to Apartment 6 had exited a Bearcat to get ready to deploy gas and believed they were in direct line of fire from the window Calderon was firing from.

⁵ A van parked three stalls away from Carson's position was later found to have a bullet hole in its front windshield.

Because their position was exposed, Sgt. Trimble and Officer Carson breached the door at an adjacent apartment and went inside to take cover.

g. Shots fired from Bearcat 3

Bearcat 3 was positioned at the rear of Apartment 6, providing officers a view of its balcony. As referenced above, the early contacts between Calderon and law enforcement occurred while Calderon was on or near the rear balcony.

At approximately 11:32 p.m. Paso Robles PD Officer Trevor Aguilar and Sheriff Deputies Andrew Lucas and Andrew Mora saw a red laser coming from the rear of Apartment 6. This was followed by four shots fired by Calderon. As detailed below, Bearcat 3 was struck by one bullet, and apartment building 1217 Alamo Creek Terrace, located behind Bearcat 3, was struck twice.

At approximately 11:54 p.m. a laser was observed coming from the back of Apartment 6 and another shot was fired from the rear of Apartment 6.

At 11:55 p.m. officers attempted to open the front door of Calderon's apartment using the robot but were unsuccessful.

At 11:59 p.m. the law enforcement drone, hovering outside and above the rear balcony, captured an image of Calderon concealing himself in the kitchen and pointing a laser (firearm) at the drone.



On July 6th at 12:55 a.m. Calderon again directed the laser at Bearcat 3.

h. Fatal shooting of Calderon on Apartment 6 landing

At 1:01 a.m. gas munitions were fired into Apartment 6 to force Calderon from within.

At 1:07:38 a.m. Calderon opened the front door and officers could see his head. SLOPD Officer Magana used the PA system and told Calderon to show his hands. Calderon stuck out one hand and then his other, which was holding a gun. Officer Magana told him to drop the gun, which he did. The gun fell to the landing. Due to the elevated position of the landing, officers were unable to see where the gun had fallen. Calderon remained standing near the front door. A baby stroller, large plastic kitchen trash bag and the previously deployed robot and throw-phone were located on the landing.

The following events were captured on video from the law enforcement drone, hovering out from the stairs and slightly above Calderon's position on the landing.

At 1:09:02 a.m. Calderon removed his shirt after being instructed to lift his shirt. He was then told to move to his right, which he did. This resulted in him moving away from the doorway and toward the staircase.

At 1:09:32 a.m. Calderon picked up the throw-phone by its cord and dropped it. He was instructed by Magana to not reach for anything. Calderon then sat on the arm of the robot which was at the top of the stairs and bounced up and down, as if trying to damage the robot.

At 1:09:43 a.m. Calderon stood and threw the robot down the stairs and then kicked the throw-phone down the stairs. Calderon sat on the landing with his feet on the second step below the landing. Officer Magana told Calderon they wanted to end the incident peacefully. Calderon appeared agitated and appeared to be talking and at several points threw his hands up or made gestures. Magana told Calderon to stand up and slowly walk down the stairs.

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At 1:11:30 a.m. Calderon looked over to his left and straightened his torso. He then moved his right foot and then his left foot up one step to the first stair below the landing. He lifted himself slightly and shifted to his left, closer to the front door. Officer Magana told Calderon “Do not reach for anything.”

At 1:11:37 Calderon then reached to the left and down toward the landing. Within less than two seconds, and almost simultaneously, San Luis Obispo Police Officer Jeff Koznek fired one round from his rifle and San Luis Obispo Police Officer Sean Jessen fired one round from his 40 mm impact munitions weapon.

1. Observations by Officer Koznek

Officer Koznek was positioned next to Bearcat 1. He saw Calderon’s arm extended out of the front door and then saw him drop the gun. However, Calderon ignored further directives. He observed Calderon raise both hands to his chest and “flip off” officers and then throw the robot down the stairs. Calderon was not complying with officers’ commands. Officers had intended to use less-lethal 40 mm impact munitions and a K-9 if Calderon remained non-compliant.

Officer Koznek saw Sergeant Hendricks looking for a location from which he could deploy his K-9. Officer Koznek told Hendricks he would provide cover for him. The two of them moved to the passenger side of Bearcat 1. When Calderon was sitting at the top of the landing some officers had assembled an arrest team and had moved forward into the area between Bearcats 1 and 2. This was an exposed position that they would have taken had Calderon not dropped his gun earlier. Likewise, Officer Koznek’s position on the passenger side of Bearcat 1 was not behind armor.

When Officer Koznek saw Calderon move over and saw him look to his left, Officer Koznek believed Calderon was trying to locate his gun. When Calderon reached quickly with his left hand Officer Koznek believed Calderon had found the gun and was attempting to retrieve it. Koznek fired because Calderon had ignored repeated commands and he believed Calderon would fire upon him, his canine, and officers who were in exposed positions.

2. Observations by Officer Jessen

When Calderon exited the apartment San Luis Obispo Police Officer Jessen moved forward on the driver's side of Bearcat 2. After Calderon exited Apartment 6 and was seated at the top of the stairs, Officer Jessen repositioned himself to the rear passenger side of Bearcat 2. In this location was in a good position to fire the 40 mm impact weapon at Calderon, if needed. Officer Jessen described Calderon as animated, throwing his arms up as if to challenge officers. Officer Jessen determined that if Calderon moved towards his gun, it would create a lethal-threat situation. In addition to the threat to officers, Officer Jessen knew civilians in the complex had been told repeatedly to remain inside but had not done so.

Officer Jessen saw Calderon initially leaning forward with his arms on top of his knees, and then start to lean back. He then saw Calderon's feet move up one step, as if he was loading his legs and getting ready to move. Officer Jessen then saw him make a diving movement towards the last area where the gun was seen. Officer Jessen believed Calderon was going for his gun, which he believed presented a danger to himself and his partners. Based on this, Officer Jessen fired his 40 mm impact weapon, striking Calderon on the lower, right side of his abdomen.

3. Observations by Officer Gonzales

Officer Gonzales provided lethal coverage from the turret of Bearcat 2. He heard someone say Calderon was coming out and then saw Calderon's hands emerge from the doorway. He heard the command to drop the gun and come out and surrender. He watched Calderon drop the gun and come out. He saw Calderon kick, shove, and throw the robot down the stairs and become very agitated. He then saw Calderon "kind of" begin walking down the stairs and thought he was going to surrender, which relieved him.

However, Calderon sat on the top step. When he saw Calderon lean out toward the gun Officer Gonzalez disengaged the safety on his rifle. He knew there were officers outside the Bearcat and others in close proximity to Calderon. He knew handgun fire at this close range can be deadly. He also knew there were bystanders on Creston Road (to the east of him) and at other areas around the perimeter. Gonzalez aimed the reticle of his scope at Calderon's head and began to squeeze the trigger when he heard a loud bang, which he understood to be the 40 mm less-lethal weapon being fired from his

right. He saw Calderon fall onto his back. Officer Gonzalez did not fire, but released the pressure from his trigger, as Calderon no longer presented a threat.

III. FORENSICS

The following is limited to a discussion of evidence pertaining to use of force by officers.

1. Ballistic and other evidence located at Apartment 6

The two-bedroom apartment was the residence of Maribel Parra and her one-year-old daughter. The scene was processed by SLOSO Identification Technicians Jeanine West and Shelby Liddell. Photographs of the apartment show it in a state of disarray.

A Ruger LC9 pistol was collected from the landing outside the front door of Apartment 6. The pistol had an integrated laser.



Six 9mm shell casings were located within the apartment. The casings underwent ballistic testing by the California Department of Justice and were determined to have been fired from the RugerLC9 pistol found on the landing. Four of the casings were found in the kitchen. The kitchen has a window with a view out of the rear of the apartment. Adjacent to the kitchen is the living room with a sliding glass door leading to the balcony, also with a view of the back of the apartment. As referenced above, Bearcat 3 and the apartments located at 1217 Alamo Creek were located behind Apartment 6.

One of the 9mm shell casings was in a bedroom with a window (Window 1) facing the parking lot where Bearcat 1 and Bearcat 2 were situated. A second 9mm shell casing was located in the hallway just outside this bedroom. Window 1 was partly covered by curtains and damaged horizontal blinds were laying below the window.

Graffiti was located on two living room walls: “Fuck you Maribel Ill haunt you til suicide” and “██████ Im sorry I love you”.

2. Ballistic evidence located outside Apartment 6

A bullet hole was located in the windshield of a van parked approximately 25 feet west of where Officer Carson was positioned. As noted above, Officer Carson heard a “crack” followed by what he believed to be a bullet impact nearby.



A bullet strike was located on the windshield area of Bearcat 2, consistent with Officer Magana’s seeing a spark on the windshield. A bullet fragment was located near Bearcat 2.

Bearcat 3, located behind Apartment 6, had a bullet strike in the left front wheel-well area. A bullet fragment was located on the ground beneath the strike.

A bullet hole was found in the fascia of the balcony at 1217 Alamo Creek Terrace Apartment 8. This location was directly behind Bearcat 3.

A bullet hole was found in the exterior wall of 1217 Alamo Creek Terrace, Apartment 7. A 9mm projectile was recovered from within an interior kitchen cabinet. Ballistic testing was unable to determine whether this projectile was fired from the Luger LC9 pistol.

3. Postmortem examination of Adam Calderon

On July 7, 2021, Forensic Pathologist Joye Carter, MD conducted an autopsy of Adam Calderon. His cause of death was determined to be a penetrating gunshot wound to the chest. A blood sample was collected and submitted for analysis. His blood was found to contain Amphetamine, Methamphetamine and Flualprazolam.

IV USE OF FORCE ANALYSIS

California Penal Code section 835a establishes the legal framework for analyzing use of deadly force by officers. Officers Carson, Neary and Koznek each used deadly force against Calderon, though only Officer's Koznek's use of force resulted in death. However, the analysis remains the same regardless of whether death resulted from the use of force. In each case, officers were confronted by a situation where they were concerned about their own safety, the safety of other law enforcement personnel, and the safety of spectators who had gathered in the area, some of whom were not complying with officers' requests to remain inside.

Penal Code section 835a(c)(1) addresses circumstances involving self-defense and defense of others. It states 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 for either of the following reasons:

(A) To defend against an imminent threat of death or serious bodily injury to the officer or to another person.

This analysis under section 835a(c)(1) requires a consideration of the "totality of the circumstances." These circumstances are limited to what information officers were aware of when they acted.

In this case as the evening progressed Calderon demonstrated his unwillingness to communicate with officers and comply with their lawful requests, but instead engaged threatening behavior towards others. Officers arriving at the scene were advised of the 911 call and that Calderon was armed, that he had discharged his firearm, and that the 911 call was made at the request of Parra (Calderon's ex-girlfriend). The PA system had been used throughout the evening to negotiate with Calderon, but this had been unsuccessful. A throw-phone had been delivered to Calderon's front door, but he had not used it.

As the evening progressed Calderon continued to resist efforts by officers to engage with him. At approximately 11:15 Calderon escalated the standoff by aiming a laser at Bearcat 3 to the rear of Apartment 6 and, shortly thereafter, by aiming the laser at officers to the front of the Apartment 6.

As detailed below, between 11:30 p.m. and 11:55 p.m. he fired shots from the back of Apartment 6 towards Bearcat 3, fired from the front window towards the area where Bearcats 1 and 2 were positioned and fired in the direction of the position Officer Carson and Sgt. Trimble had taken.

a. Officer Kyle Carson

Although officer Carson and Sergeant Trimble were in a concealed location, they were not behind a barrier that would protect them if fired upon. They had concealment, but no cover. Officer Carson knew that behind them was a trailer containing the crisis negotiation team and that behind the trailer were 15-20 spectators.

When Officer Carson heard the “crack” and what he correctly perceived to be the impact of a bullet strike nearby, he believed he and Sgt. Trimble were being fired upon. In addition to concerns for himself and Sgt. Trimble, he knew that those in the command center and 15-20 spectators were also potentially in the line-of-fire. Further, he was aware that officers from Bearcat 1 and/or Bearcat 2 had exited and were getting ready to deploy gas cannisters into the apartment. Officer Carson believed they were in immediate danger, as they were in line-of-sight of the window from which Calderon was shooting.

Based on these circumstances, Officer Carson was reasonable in his belief that he was being fired upon, that his life and the lives of others around him were in immediate danger and that an immediate response with deadly force was necessary. Officer Carson's use of force was justified when he fired once at the portion of Window 1 where he had seen movement. Likewise, he was justified in firing a second time when he observed what appeared to be a muzzle flash, believing that to be the position from which Calderon was firing at officers.

Officer Carson's belief that they were being shot at is supported by what is clearly a bullet hole in the windshield of a van adjacent to his location.

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b. Officer Brenden Neary

Officer Neary was positioned on the driver's side of Bearcat 2.

Officer Neary was concerned when he learned Calderon was using a laser, as he was aware that lasers can be mounted to a firearm and that lasers can improve accuracy. He was also concerned because Calderon was in an elevated position, an advantage for a shooter. When Calderon began "lasering" Officer Neary, he and his partner Officer Jimenez moved closer to the Bearcat for better cover.

He saw the laser pointed in his direction followed by a muzzle flash and the sound of a gunshot. At that point he believed he and Officer Jimenez, who was in front of him next to the Bearcat, were under fire and exposed. He was concerned for their safety and for the safety of snipers, who were behind his position, as well as civilians who were in a nearby area. When he heard the gunshot, he ducked for cover behind the Bearcat. While in that position he heard additional shots being fired. He then came up over the engine and fired between four and five times into the window where he had observed the muzzle flash.

Officer Neary's belief that he and Officer Jimenez were under an immediate threat of death was reasonable under these circumstances. A laser had been directed at them shortly before shots were fired. He was reasonable to conclude that shots were being directed towards him and his partner and that they were in danger of being shot. They were in an exposed position and Officer Neary's response of returning fire was justified under these circumstances. The bullet strike located in the window area of Bearcat 1 supports his belief that Calderon was shooting at them.

Officer Neary's use of deadly force was justified under these circumstances.

c. Officer Jeff Koznek

The shooting of Calderon by Officer Koznek was preceded by a lengthy stand-off during which Calderon had not responded to lawful directives by law enforcement. Calderon had already demonstrated his willingness to use deadly force towards officers by shooting at Bearcat 3, shooting at or in the direction of Officer Carson and Sgt. Trimble, and shooting at Bearcat 2, where Officers Neary and Jimenez were situated.

After Calderon dropped the gun and exited the apartment, he continued to ignore directives and was agitated--gesturing, tossing the robot down the stairs and kicking the throw-phone. If he remained non-complaint, officers intended to use less-lethal means to take him into custody. Once Calderon dropped his gun and sat on the stairs, the arrest team assembled from positions of cover, including Sgt. Hendricks and his K-9, whom Koznek was covering.

When Calderon looked to his left, moved his feet up, shifted to his left and then reached to his left, Officer Koznek believed Calderon had visually located his gun. His belief that Calderon had located the gun is reasonable given the location where the gun had been dropped, Calderon's act of looking in that direction, his shifting of his body in that direction and then reaching out in that direction.

Officer Koznek's act of using deadly force was reasonable under the circumstances: Calderon had already demonstrated a willingness to fire upon officers and Officer Koznek and those on the arrest team were in exposed positions. Officer Koznek's use of force was reasonable and necessary to avoid what appeared to be an imminent threat.

It is noteworthy that two other officers—Officers Jessen and Gonzalez—reached the same decision as Officer Koznek at the same time he did. Officer Jessen fired his less-lethal round at the same time as Koznek, and Officer Gonzalez was in the act of depressing his trigger when he heard a shot and believed Calderon had been hit.

d. Officer Sean Jessen

Officer Jessen's use of his 40 mm impact weapon—a less lethal weapon—was also justified under the circumstances. Penal Code section 835a(b) provides:

Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance.

Officer Jessen's firing of his 40 mm impact weapon was justified under the circumstances. He had observed Calderon's animated and agitated behavior and believed the gun that Calderon dropped on the landing was operable. When Calderon moved closer to the gun and then quickly reached towards it, Officer Jessen was reasonable in concluding that Calderon presented a danger to himself and others and that the use of non-deadly force was necessary to overcome resistance.

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**V.
CONCLUSION**

Based on a review of the materials described in the Case Index, attached to this report, and pursuant to the controlling legal principles, it is our legal opinion that there is no criminal culpability on the part of the involved peace officers in this incident. There is reliable evidence that each officers' actions were reasonable, necessary, and justified under the totality of the circumstances when they shot or shot at Adam Calderon on July 5 and 6, 2021.

Accordingly, the San Luis Obispo County District Attorney's Office has closed its inquiry into this shooting incident.



Eric J. Dobroth
Assistant District Attorney



Read and approved by:
Dan Dow
District Attorney