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January 30, 2020

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**LETTER DECLINING PROSECUTION AFTER INVESTIGATION**

*RE: Officer-Involved Shooting on January 29, 2019, by Austin Police Department Officers Luis Camacho #8512 and Robert Mattingly #8564 causing death to Paul Andrew Cantu (DOB 7/17/91)*

Dear Chief Manley:

The Office of the Travis County District Attorney has reviewed the Austin Police Department Special Investigation Unit's investigation of the above-referenced matter and concluded our independent review of the officer-involved shooting in which Austin Police Department Officers Luis Camacho and Robert Mattingly fired shots from their pistols that resulted in the death of Paul Andrew Cantu. This letter is to inform you of my decision to decline prosecution of criminal charges against both officers. My decision does not limit or address administrative action by the Austin Police Department, or other civil actions, where non-criminal issues may be reviewed and where different rules and lower levels of proof apply.

The District Attorney's Office ("DA") has reviewed the investigation of the Austin Police Department ("APD") into this incident, and a copy of this letter will be posted on the DA website.<sup>1</sup>

Based upon the evidence available and the applicable Texas law,<sup>2</sup> I am convinced that a jury following the law would not convict Officers Luis Camacho and Robert Mattingly because the evidence establishes that the use of force was justified under Texas law. The following sets forth

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<sup>1</sup> <https://www.traviscountytexas.gov/district-attorney/office-divisions/civil-rights/cru>

<sup>2</sup> In arriving at this conclusion, I have relied upon the legal guidelines governing the use of force/deadly force in Texas as set forth in sections 9.32, 9.33 and 9.51 of the Texas Penal Code, the case authority construing those provisions, and the United States Supreme Court case authority governing law enforcement use of force. (See applicable Texas Statutes cited herein.)

the facts determined during our review, identifies the applicable legal rules, and presents the analysis underlying my opinion.

## **I. FACTS AND CIRCUMSTANCES LEADING TO AND SURROUNDING MR. CANTU'S DEATH**

Critical to our analysis is the determination of the facts and circumstances leading to and surrounding a shooting incident. In determining these facts and circumstances, we rely on the entire investigative file compiled by APD's Special Investigations Unit<sup>3</sup> (SIU) whose primary responsibility is the independent investigation of all shooting incidents in which an APD officer is involved. In determining the facts and circumstances leading to and surrounding the shooting incident resulting in Mr. Cantu's death, we reviewed the entirety of SIU's investigative file to arrive at what we believe is a comprehensive understanding of those facts and circumstances.<sup>4</sup>

Our narration of the facts and circumstances of Mr. Cantu's death is based on our review of supplements and the written and audio statements made by the officers directly involved in this incident—Luis Camacho and Robert Mattingly—as well as other officers and civilians who were witnesses. Our narration of these facts and circumstances is also based on a review of the statements of those witnesses, audio and video recordings, audio- and text-recorded 911 calls, APD radio traffic recordings, evidence recovered and developed at the scene, and forensic analyses conducted on recovered evidentiary items. Below, we set forth the facts and circumstances surrounding Mr. Cantu's death based on our review of the evidence and information developed in the SIU investigation, including the results of forensic examination, testing, and analyses.

### **A. Initial Interaction between APD and Paul Cantu**

On January 28, 2019, Austin Police Officer Jacob Beirowski #7838 (call sign: F508) was on regular patrol in Frank Sector, which covers part of south-east Austin. At approximately 10:25 PM, he saw a 2013 Black Chrysler with the license plate GCT 0244.<sup>5</sup> He initially followed the vehicle because it was behind another car traveling westbound on East Slaughter Lane, and had flashed its high beams.<sup>6</sup>

In his police report, Officer Beirowski noted that, "The Chrysler was in the right turn lane and failed to stop at the designated point before the intersection. Another vehicle was heading Northbound through the intersection and the Chrysler almost struck it due to its failure to stop correctly. At this time I decided to initiate a stop on the vehicle."

At first, Officer Beirowski thought the car was going to stop in the HEB parking lot on East

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<sup>3</sup> APD's Special Investigations Unit has the primary responsibility for conducting all "criminal investigations involving all sworn peace officers alleged to have committed a criminal offense within the jurisdiction of the Austin Police Department." See <http://www.austintexas.gov/department/special-investigations>.

<sup>4</sup> This letter will refer to various items reports and information gathered in the SIU investigation, and these items will be released in redacted form in a press release available simultaneously with the public dissemination of this declination letter.

<sup>5</sup> See Supplement of Jacob Beirowski in Austin Police Report 2019-281761 at p.5 ("Beirowski Supp.").

<sup>6</sup> See Beirowski Supp. at p.5.

William Cannon Drive, and the vehicle did turn in there but drove along the storefront without stopping.<sup>7</sup> The Chrysler then sped up, and Officer Beirowski was unsure if the driver was attempting to evade, or if he was just frustrated at not finding a place to pull over, so he activated his siren to further indicate he should stop.<sup>8</sup>

Officer Beirowski said there were not many people in the HEB parking lot but there were some out there, so he “continued to follow the Chrysler at a distance and at a slower speed as the Chrysler with my sirens on to make pedestrians aware that the Chrysler was speeding through the parking lot.”<sup>9</sup> Once the car left the parking lot, he confirmed it was evading and deactivated his lights and sirens. The last times he saw the vehicle it was headed eastbound on East William Cannon Drive.<sup>10</sup>

APD Officer Ricardo Medrano #4883 (call sign: F803) attempting to assist Officer Beirowski with the traffic stop, positioned himself at the intersection of William Cannon Drive and the northbound service road of IH-35.<sup>11</sup> Officer Medrano watched as the driver of the Chrysler failed to stop, and drove past his patrol unit: “As the driver passed me I noticed that the driver appeared to be a white or light skinned male 40's-50's, wearing a black or dark colored baseball cap and white hair sticking out from the sides of the baseball cap.”<sup>12</sup>

Officer Medrano made an immediate U-turn and got behind Officer Beirowski, then watched as the Chrysler turned into the east driveway entrance of HEB and passed the front doors of HEB, obviously evading as he drove first westbound through the parking lot, then northbound, before exiting the HEB parking lot onto the frontage road again, where he drove eastbound on William Cannon Drive “at a high rate of speed.”<sup>13</sup>

### **B. Officers Work to Identify Driver of the Chrysler**

Officers Beirowski and Medrano terminated the pursuit once the Chrysler left the parking lot, and instead focused on identifying the driver. Prior to exiting the parking lot, the Chrysler passed directly in front of Officer Medrano who was able to briefly observe the driver and obtain a description of the driver as a middle aged white male with a black baseball cap with white hair. Using the license plate, the officers identified the car’s owner as “Roberto Cantu”, whose residence was listed as being in San Antonio. Within minutes of abandoning the pursuit, Officer Beirowski contacted Mr. Cantu by telephone.<sup>14</sup> Mr. Cantu indicated that he was not driving the vehicle and was presently in San Antonio. He told Officer Beirowski that his son was currently in possession of the Chrysler and would have been the driver of the vehicle, insisting that his son never let anyone else drive the vehicle. Officer Beirowski mistakenly suspected that Mr. Cantu was not being truthful after comparing the description of the driver provided by Officer Medrano with the driver license photos of Roberto Cantu and Paul Cantu.

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> See Supplement of Ricardo Medrano in Austin Police Report 2019-281761 at p.8 (“Medrano Supp.”).

<sup>12</sup> See Medrano Supp. at p.8.

<sup>13</sup> *Id.*

<sup>14</sup> See Beirowski Supp. at p.6.

Officer Beirowski accused Mr. Cantu of being the driver. Mr. Cantu insisted he was not driving the vehicle and suspected that someone had stolen the car. Mr. Cantu also stated that his son sometimes wore a black baseball cap and a shaved head, which both officers believed was consistent with the description of the driver as noted by Officer Medrano<sup>15</sup>. While they were talking on the phone, Roberto Cantu received a text from his son and told police that it said, “I’m sorry Dad; I love you with all my heart. My car is destroyed. Auburn Blaze Ln.”<sup>16</sup> Soon after, that information was relayed to Officer Luis Camacho #8512 (call sign: F809), also on patrol in Frank Sector, and he went to the address given but he was unable to locate the vehicle, so he cleared the call and continued on patrol.<sup>17</sup>

### **C. APD Locate Crash Scene, and Paul Andrew Cantu**

In the early morning hours of January 29, 2019, APD Sergeant Michael Joseph was working as the acting supervisor for the Frank 800 shift, and had therefore heard about the Chrysler evading, and knew that Officer Camacho had looked for the car but not found it.<sup>18</sup>

Because he was in the neighborhood, Sgt. Joseph decided to double-check the area himself, and said:<sup>19</sup>

**At around 140am as I was driving in around the 7900 block of E William Cannon Dr I observed a black sedan off of the roadway down a hill and partially in the bushes along the north curb line. I believed the vehicle to be the crashed out suspect vehicle from the earlier attempted traffic stop (about 3.5 hours ago). I drove over the curb and down the hill towards the vehicle coming to a stop about 2 car lengths behind the vehicle with my take down and spot lights on.**

As Sgt. Joseph was about to read out the license plate to the dispatcher, he saw movement in the driver’s seat and saw someone sitting up. That person almost immediately got out of the car, and walked around the back of it, toward Sgt. Joseph’s patrol car.<sup>20</sup>

**I could see it was a white male in his 20’s wearing a dark shirt and pants. He had his right arm and hand raised as if he was holding a gun however I did not immediately see a gun in his hands (only something black). He then pointed the object directly at me and I could see a barrel and knew at this time it was a handgun.**

Video from Sgt. Joseph’s dash-mounted camera supports this statement, showing Mr. Cantu exiting the vehicle, walking behind it, and pointing something at Sgt. Joseph (see Figure 1, below).

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<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> See Transcript of Sworn Statement of Luis Camacho (“Camacho Statement”) at p.6.

<sup>18</sup> See Sworn Statement of Michael Joseph (“Joseph Statement”) at p.1.

<sup>19</sup> See Joseph Statement at p.1.

<sup>20</sup> *Id.*



*Figure 1—Still from Sgt. Michael Joseph’s dash-mounted video camera, seconds after Mr. Cantu exited his vehicle.*

As fast as he could, Sgt. Joseph pulled his own service weapon and exited his patrol car, and aimed his gun at the subject.<sup>21</sup> However, just as he was about to fire he noticed the gun shaking in Mr. Cantu’s hand, and Mr. Cantu turning slightly away and wincing as if expecting to get shot.<sup>22</sup> Sgt. Joseph yelled repeatedly for Mr. Cantu to drop the gun, but he did not, instead dropping to his knees, with his face close to the ground also, and the gun to his own head.<sup>23</sup>

Sgt. Joseph continued to give Mr. Cantu commands to put the gun down, and repeatedly attempted to calm down the clearly upset man, assuring Mr. Cantu he did not want to hurt him and, when he had the chance, notifying dispatch that Mr. Cantu had a gun.<sup>24</sup>

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<sup>21</sup> *Id.*

<sup>22</sup> Although at this point, Sgt. Joseph had not identified the subject with the gun, he was later positively identified as Paul Andrew Cantu, the son of Roberto Cantu.

<sup>23</sup> See Joseph Statement at p.2.

<sup>24</sup> *Id.*

Sgt. Joseph described what happened next:<sup>25</sup>

I continued to try to do my best to talk the male down and talk the gun out of his hand however it seemed like a one sided conversation. I asked for his name however he would not tell me his name – at one point he said the grass was really green. I could hear sirens approaching as my backup officers were getting close and I realized they might not be able to see me since I was down in a ditch so I leaned into my patrol vehicle and turn on my rear lights. Just as I leaned back out the suspect sat up (still on his knees though) and let out a scream as he then placed the gun to his chest. I was startled again as I didn't know what he was about to do so I yelled more commands for him to drop the gun as I moved back to a position of better cover at the back left side of my patrol car. The male then went back down to with his head close to the ground and placed the gun back to the side of his head.

Sgt. Joseph's in-car camera captured all that happened, including his repeated pleas for Mr. Cantu to put down the weapon, to talk with him, and end things peacefully. Mr. Cantu was visibly and audibly upset, and Sgt. Joseph attempted multiple times to assure him everything was all right and there was no need for him, Mr. Cantu, to hurt himself.<sup>26</sup> This continued for more than six minutes, as evidenced by the time-stamp on the video (see Figure 2, below), as other police officers arrived, and Sgt. Joseph continued to speak to Mr. Cantu.



*Figure 2—Still from Sgt. Joseph's DMAV, six minutes after Mr. Cantu exited his vehicle.*

<sup>25</sup> *Id.*

<sup>26</sup> See Video from Dash-Mounted Audio-Visual recording device of Sgt. Michael Joseph ("Joseph DMAV").

## D. Shooting by Officers Camacho and Mattingly

### 1. Statement of Officer Luis Camacho

On January 31, 2019, Officer Luis Camacho provided a recorded video statement to SIU detectives. He said that prior to this incident he had started work at 8:30PM, was alone in his police car, and had conducted two traffic stops.<sup>27</sup> He'd also looked for the black Chrysler after it was initially reported having been in an accident close to William Cannon, but because he couldn't find it he continued with his patrol duties.<sup>28</sup>

Later on, Sgt. Joseph messaged him to say he had found the car, so Officer Camacho started driving in that direction.<sup>29</sup> He soon realized that he needed to hurry: “[S]o as I start heading over there I then heard him come over the radio... and then he told us to step it up. But I guess what kind of got me was that... from what I know from Sergeant (Joseph), he’s usually really calm on scenes even though they’re high stress, but it alerted me a bit when he went over the radio ‘cause it sounded, like, you know, he was in trouble. So at that point, um, I hit my lights and sirens. I start driving towards him as fast as I could.”<sup>30</sup>

Another police car joined him<sup>31</sup>, and Officer Camacho and Officer Consier were the first two to arrive to back up Sgt. Joseph.<sup>32</sup> Officer Camacho was able to see Mr. Cantu on the ground with a gun, pointing it at his own head as Sgt. Joseph called out to Mr. Cantu, trying to get him to relinquish the weapon.<sup>33</sup> Officer Camacho explained what happened next:

“And then, I remember seeing him, started shaking really violently. I thought that he was just gonna shoot himself... but then after a bit of doing that and Sergeant (Joseph) giving him commands I remember him standing up and started pointing the gun at - in the direction in [sic] him and Officer (Mattingly) were. And then from what I remember that’s when I start shooting.”<sup>34</sup>

He described precisely why he fired, saying, “My thoughts were, he’s going to start shooting at my partners, so I need to shoot him before he does that.... All I remember is, like, thinking in my head that he’s - he’s gonna shoot them. I have to stop him.”<sup>35</sup>

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<sup>27</sup> See Transcript of Luis Camacho Interview (“Camacho Interview”) at p. 4.

<sup>28</sup> See Camacho Interview at p. 5.

<sup>29</sup> *Id.* at p.6.

<sup>30</sup> *Id.* at pp.7-8.

<sup>31</sup> This car was driven by Officer David Consier.

<sup>32</sup> *Id.* at p.8.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at p.18.



*Figure 3—Sequential stills from Officer Camacho’s body-worn camera (“BWC”), moments before Mr. Cantu is shot by Officers Camacho and Mattingly.*

These stills, and a zoomed-in look at Sgt. Joseph’s dash-cam video, corroborates Officer Camacho’s statement that Mr. Cantu rose and pointed a gun toward officers (see Figure 4, below).



*Figure 4—Sequential stills from Sgt. Joseph’s DMAV, moments before Mr. Cantu is shot by Officers Camacho and Mattingly.*

## 2. Statement of Officer Robert Mattingly

On January 31, 2019, Officer Robert Mattingly also provided a recorded video statement to SIU detectives. He said that he and Officer Camacho graduated from the same academy class, and had both been working for APD for about a year and a half.<sup>36</sup>

On the night of the incident, he was alone in his patrol car and had just finished a call when he heard Sgt. Joseph on the radio saying he'd found the Chrysler, and that one person was inside.<sup>37</sup> As soon as Sgt. Joseph said the person had a gun, Officer Mattingly activated his lights and sirens and headed to the scene as fast as he could, "My initial feelings, um, just I need to get there. You know, and, um, they taught us from the academy a long time ago you just got get - you can't help anyone if can't get there so my initial [sic] was to make sure I got there in a safe manner and so I could help him, you know."<sup>38</sup>

Officer Mattingly was the third officer on scene<sup>39</sup> (not including Sgt. Joseph), and when he arrived someone called for a shield, which he retrieved and ran toward Sgt. Joseph, who stood on the driver's side of his own patrol car.<sup>40</sup>

Officer Mattingly said: "As I'm running down, I see a white male on his, uh, hands and knees and clearly see a gun to his head as I'm running down - there's like a little hill, um, I'm running down the hill. I see Sergeant Joseph I just assumed he was the one who needed the shield, so I just went to him."<sup>41</sup>

He described what happened next: "I'm handling the shield at the same time and that's when I see him rise up. I see him rise up and I see him raise his arm so at that point, um, I was in fear for my life, so I stand up to get a better position and get behind a position of concealment and cover and I reach around - pried around the corner and I took approximately four shots at him."<sup>42</sup>

Officer Mattingly said he fired four shots and stopped firing when Mr. Cantu fell to the ground (because he was no longer a threat) and was part of the team that applied medical aid to Mr. Cantu.<sup>43</sup>

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<sup>36</sup> See Transcript of Robert Mattingly Interview ("Mattingly Interview") at p. 2.

<sup>37</sup> See Mattingly Interview at p. 5.

<sup>38</sup> *Id.* at p.6.

<sup>39</sup> Officer Camacho and Consier were already there.

<sup>40</sup> See Mattingly Interview at p.9.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* Officer Mattingly was wearing an activated and functioning BWC, however it did not capture the shooting itself, being obscured at different times by his hands, the shield he was carrying, and Sgt. Joseph's vehicle.

<sup>43</sup> *Id.*

## II. POST-INCIDENT INVESTIGATION

### A. Statements of Witness Officers

Although the legal analysis as to the legality of Officers Camacho and Mattingly's shooting of Paul Cantu depends on the facts and circumstances as they knew them at the time of the shooting, it is instructive to show the scene into which they arrived, through the eyes of the other people who were there. Additionally, statements and other evidence obtained from non-subject officers on scene can either corroborate (or otherwise) statements from the two subject officers.

#### 1. Sergeant Michael Joseph

Sgt. Joseph confirmed that, in the moment leading up to the shooting, he was the one who asked for the shield that Officer Mattingly brought to the scene.<sup>44</sup> It was when Officer Mattingly was setting up with the shield that Mr. Cantu "quickly stood all the way to his feet and raised his right arm up with the gun in his hand."<sup>45</sup>

I moved back behind the patrol car for cover when I then heard gunshots coming from officers to my right. I then observed Ofc Mattingly fire approximately 2-5 shots at the suspect as well. I moved forward to see if I needed to fire shots as well however I did not have a safe shot as Ofc Mattingly was still in front of me and it would have been unsafe to shoot around him. I observed the suspect fall to the ground on his back – no one saw where the gun had went too.

When Mr. Cantu was on the ground, officers continued to give him commands to let go of the weapon, and eventually he did so and put his hands on his stomach, at which point officers approached to secure the scene, and to administer medical aid until EMS arrived.<sup>46</sup>

#### 2. Officer David Consier #8526

Officer Consier was typing up a report on another incident when he heard Sgt. Joseph's radio call that he'd located the evading car, and almost immediately said "10-32" (gun) over the air.<sup>47</sup> He activated his car's lights and sirens to the location, where he saw Sgt. Joseph standing at the rear left side of his vehicle with his gun drawn.<sup>48</sup> Officer Consier drove off the road and down the slope toward the scene, parking on the right (passenger) side of Sgt. Joseph's patrol unit, with the front of his hood even with the back doors of Sgt. Joseph's vehicle.<sup>49</sup>

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<sup>44</sup> See Joseph Statement at p.2.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.* at p.3.

<sup>47</sup> See Sworn Statement of David Consier ("Consier Statement") at p.1.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

Officer Consier described what happened next:<sup>50</sup>

**I exited my patrol unit, drew my service pistol and I remained in between my patrol unit and Sgt. Joseph's patrol unit. The third officer on scene, Officer Camacho arrived and went to the passenger side of my patrol unit. I pointed my firearm on the suspect who was on his knees leaning forward, rocking back and forth approximately 10-15 feet in front of Sgt. Joseph's patrol unit. The suspect was facing northwest at this time. In the suspect's right hand was a small black pistol.**

Meanwhile, Sgt. Joseph was telling Mr. Cantu to drop the gun, that they were there to help him, and Officer Consier could see Mr. Cantu rocking back and forth, "continuing to move the gun to his head and away." Officer Mattingly arrived with the shield, soon after which Mr. Cantu stood up and took a step forward. However, Officer Consier's view was blocked by the (front) "A" pillar of his own vehicle.<sup>51</sup>



*Figure 5—Still from Officer Consier's BWC, moments before Mr. Cantu is shot by Officers Camacho and Mattingly.*

Officer Consier heard six to eight shots from either side of him, and he repositioned himself to assist Sgt. Joseph on the approach to Mr. Cantu, and after multiple commands and between thirty

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<sup>50</sup> *Id.*

<sup>51</sup> *Id.* at p.2.

seconds to a minute, Mr. Cantu complied and they moved to him.<sup>52</sup>

### **3. Officer David Driskill #8273**

Officer Driskill was also writing up an unrelated report when he heard Sgt. Joseph come on the radio and say that Mr. Cantu had a gun, and like the other officers he hurried to the scene with lights and sirens.<sup>53</sup> When he arrived on scene, he saw a black passenger car on the north side of East William Cannon Drive, off the roadway by about thirty yards and down a small embankment.<sup>54</sup>

He retrieved his rifle and was moving toward the officer located on the south side of the southernmost police SUV to take up a supporting position, when he saw “the male stand and produce a black handgun... The male extended his right arm out at a 90 degree angle from his body and pointed the firearm in the direction of officers located on the north side of the northernmost police SUV.”<sup>55</sup>

He added: “When this occurred, I immediately felt that the officers near the two police SUVs were in imminent danger of being shot by the male and feared that they would be seriously injured and/or possibly die from being shot.”<sup>56</sup> Officer Driskill heard approximately ten shots, saw the male collapse to the ground, and lay there on his back, eventually placing his hands on his stomach allowing officers to approach.<sup>57</sup>

### **4. Other witness officers**

Three other officers were on-scene at the time of the shooting, but none had a clearer or closer view of the incident than the three officers cited above. Officers Julian Pardo-Martin #8243, Jacob Beirowski #7838, and Kyle Peterson #8783, all had a partial view of the incident, and all gave statements to SIU detectives. None of those statements differ nor contradict the sworn testimony of the subject officers, or the three eyewitness officers cited in this letter.

## **B. Crime Scene Unit**

After the shooting, Austin PD’s Crime Scene Unit documented the scene with photographs and video, and collected evidence. The photography was done both that night and the following morning to better show the relative positioning of the cars and people involved.

### **1. Crime Scene Unit Actions That Night**

The role of the Crime Scene Unit was to capture and preserve evidence immediately after the shooting. This included:

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<sup>52</sup> *Id.*

<sup>53</sup> *See* Sworn Statement of David Driskill (“Driskill Statement”) at p.1.

<sup>54</sup> *See* Driskill Statement at p.1.

<sup>55</sup> *Id.* at p.2.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.* at pp.2-3.

- photographing the crime scene (see Figures 6-7);
- marking the locations of the officers spent shell casings (see Figures 8-10).
- photographing the exterior and interior of Mr. Cantu's car (see Figures 11-13);
- documenting and collecting the weapons fired by Officers Camacho and Mattingly; and
- documenting and collecting the weapon found by Mr. Cantu (see Figures 14-19).



*Figure 6—Crime Scene Unit (“CSU”) photograph of patrol units of Sgt. Joseph (far vehicle) and Officer Consier (near vehicle), and Mr. Cantu’s Chrysler (right side).*



*Figure 7—Same scene from different angle.*

As mentioned, CSU took photographs to show the locations of the spent shell casings from Officer Camacho and Mattingly's weapons (see Figures 8, 9, and 10, below).



*Figure 8—CSU tents mark expended shell casings from both officers.*



*Figures 9 and 10—CSU tents mark expended shell casings from Officers Mattingly (left) and Camacho (right).*

CSU was also careful to document Mr. Cantu's vehicle (see Figures 11 to 13, below), including a container for a Ruger pistol purchased by Mr. Cantu (see section C., on page 23).



*Figures 11 and 12—CSU photos showing Mr. Cantu's car, the passenger side (left, and the driver's side (right).*



*Figure 13—CSU photo showing the interior of Mr. Cantu's car, with the box for Ruger circled in red.*

Additionally, CSU documented the weapon that Mr. Cantu had pointed at himself and officers, photographing it where it lay after the shooting (see Figures 14 and 15, on the next page)



Figure 14—CSU photo showing the area where Mr. Cantu's gun was lying, with the gun itself circled in red.



Figure 15—CSU close-up photo showing Mr. Cantu's gun.

## 2. Crime Scene Unit Actions the Following Morning

The morning after the shooting, CSU again photographed aspects of the scene. This included more (and clearer) pictures of Mr. Cantu's Ruger, and the magazine it held.



*Figures 16 and 17—CSU photos showing Mr. Cantu's gun and its loaded magazine.*



*Figures 18 and 19—CSU close-up photos showing the magazine taken from Mr. Cantu's gun, and a bullet from its chamber.*

As part of the investigation, SIU used video taken by APD's helicopter, Air One, to record the scene, and Figure 20, on the next page, shows the locations of the cars as well as (from statements and video recordings) the positions of the officers involved in the shooting.

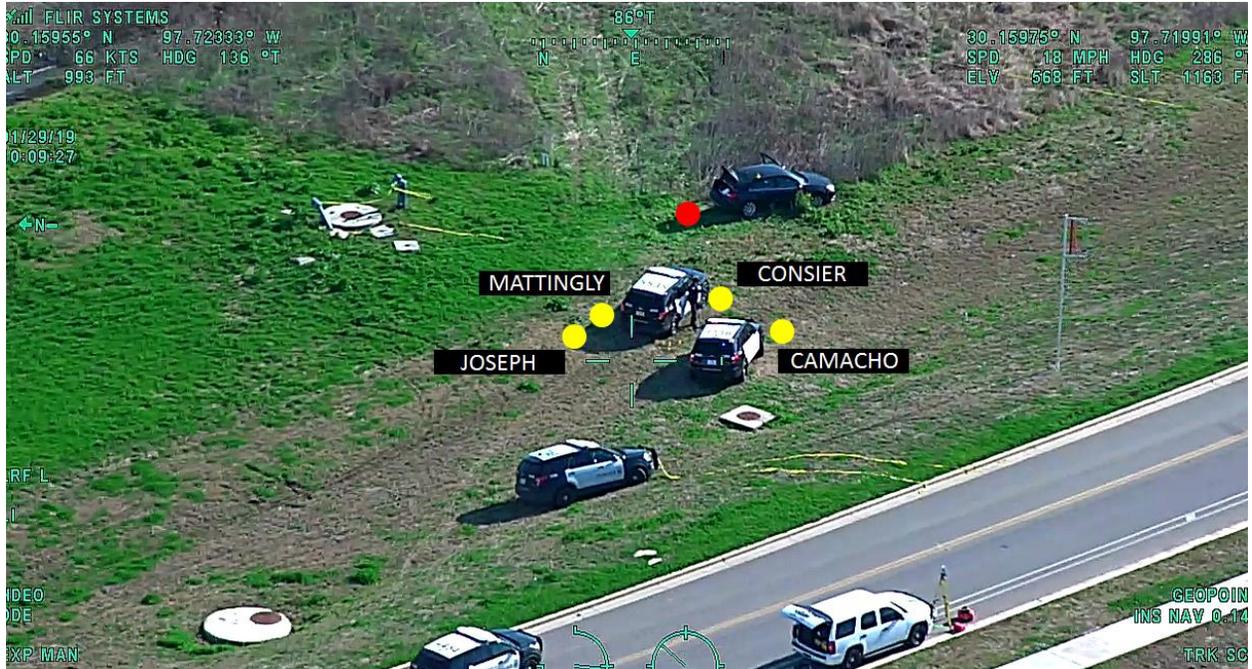


Figure 20—Still from Air One video showing relative positions of cars and individuals involved.

CSU also discerned and recorded the path taken by Mr. Cantu’s Chrysler the previous evening, when it left William Cannon on its way to ending up by the embankment. Using a still from Air One, that path is depicted in Figure 21, here:



Figure 21—Still from Air One video showing travel path of Mr. Cantu’s Chrysler from William Cannon to its resting place.

Photos taken on the ground by CSU show where Mr. Cantu appears to have left the roadway, and tracks made by his car, as well as debris from the vehicle, show the path it took and how it ended up where it did.



Figure 22—CSU photo showing where Mr. Cantu’s vehicle left the roadway, going through “Road Closed” barriers.



Figures 23 and 24—CSU photos showing tracks left by the Chrysler (left), and part of the car broken off on a rock (right).



*Figures 25, 26, & 27—CSU photos showing tracks left by, and the pathway of, Mr. Cantu's vehicle.*

As well as taking photographs, CSU collected and documented evidence from the vehicle, which was taken to a secure APD garage and searched pursuant to a search warrant. Of specific relevance, CSU documented a gun box, containing a lock and two bullets (see Figures 28 and 29, below).



Figures 28 and 29—CSU photos of gun box found inside Mr. Cantu's vehicle.

Police also found evidence that Mr. Cantu visited McBride's gun shop in Austin and purchased a firearm and ammunition there (see Section C., on page 23). The evidence they found consisted of a bag with the store's name and logo, paperwork about the Ruger he'd purchased, ammunition, and receipts from the store for those items (see Figures 30 through 35, below).



Figures 30 & 31—CSU photos of items found inside Mr. Cantu's vehicle.



Figure 32—CSU photo of ammunition found inside Mr. Cantu's vehicle.

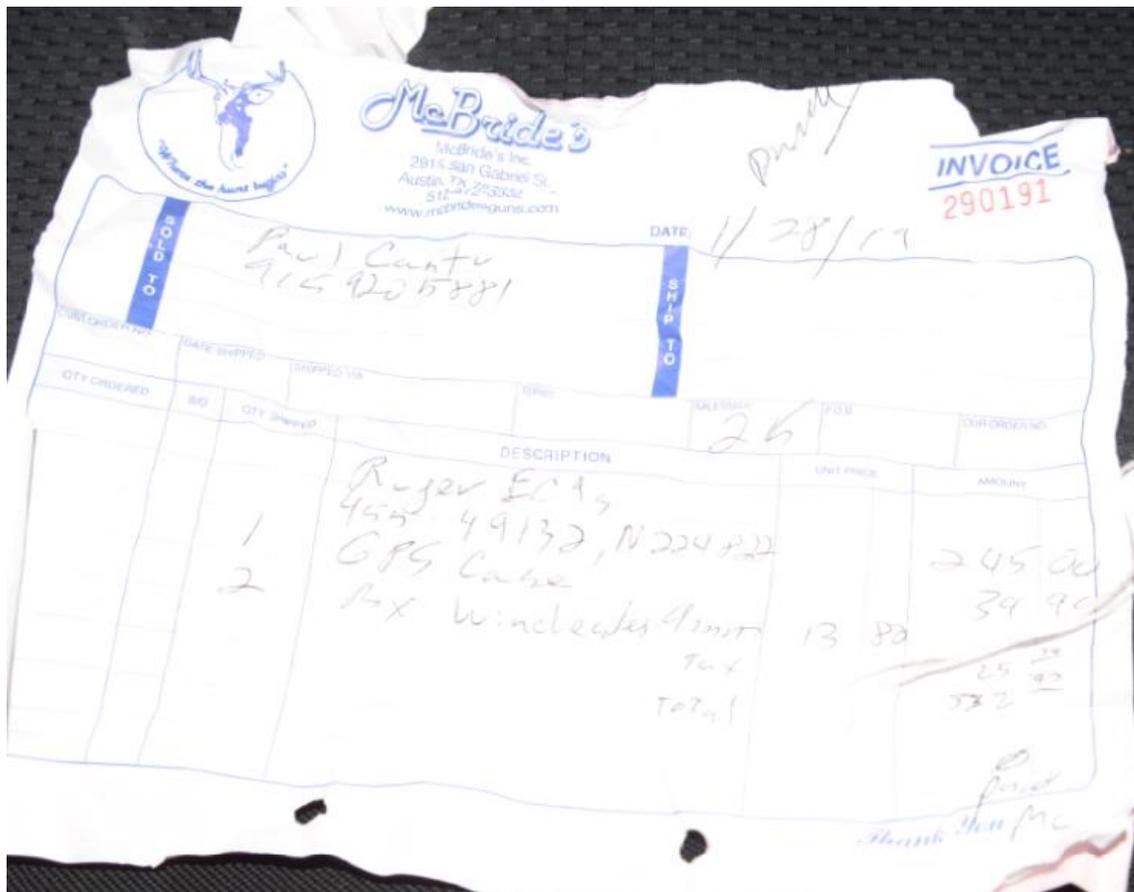


Figure 33—CSU photo of a receipt from McBride's found inside Mr. Cantu's vehicle.

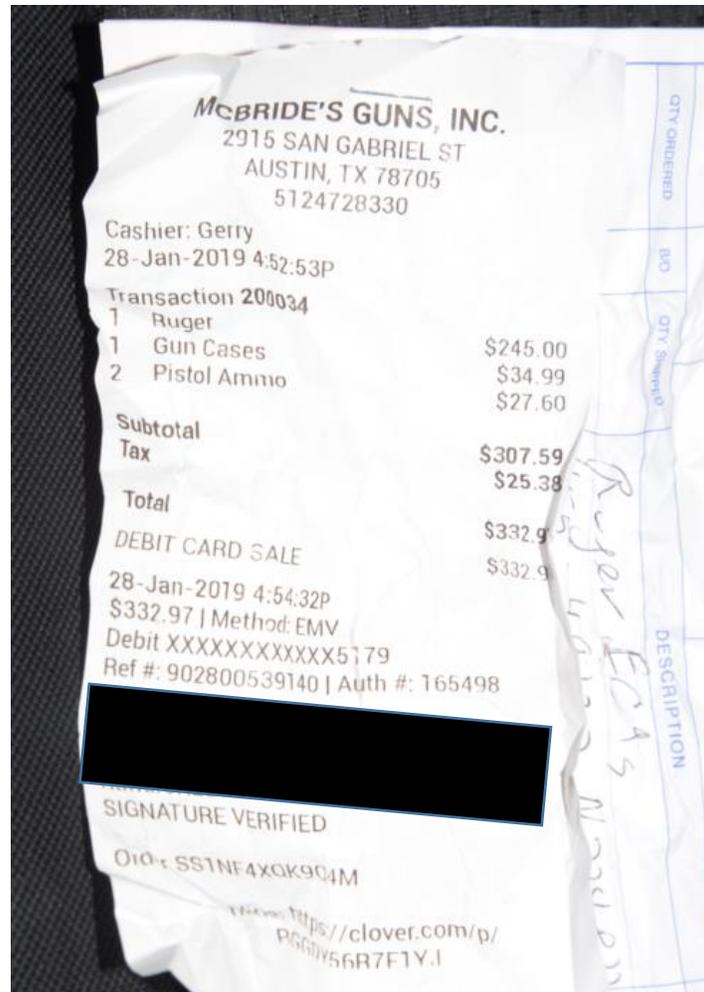


Figure 34—CSU photo of a receipt from McBride's found inside Mr. Cantu's vehicle (financial information obscured).

### C. Mr. Cantu's Purchase of a Firearm

As noted above, Mr. Cantu was seen by all responding officers holding a weapon, sometimes to his own head and then pointing it toward officers. Additionally, a weapon identified as a Ruger pistol was found and secured by officers on the scene beside Mr. Cantu, immediately after the shooting. SIU Detectives sought to determine whether or not this was, in fact, Mr. Cantu's firearm and began by looking at the contents of the vehicle Mr. Cantu had been driving.

As described in the previous section of this letter, CSU technicians assisted with the execution of a warrant obtained to search the vehicle, and one of the items retrieved was a receipt (see Figure 34, above) for a 9mm Ruger handgun from McBride's Guns Inc., a gun store located on San Gabriel Street in Austin.

Based on this finding, SIU detectives went to McBride’s on January 31 to inquire about and verify the purchase.<sup>58</sup> Detective Mireles met with a manager at the store and collected copies of the paperwork generated by the sale, including a sales invoice (see Figure 35), a computer receipt (see Figure 36), and the ATF report (see Figure 37) below.

These documents below and discussion with the manager confirmed the items Mr. Cantu purchased at around 4:52PM on January 28, less than twelve hours before the shooting,

- A Ruger EC9S – 9mm handgun;
- A GPS gun case; and
- Two boxes of Winchester 9mm ammunition.<sup>59</sup>



**McBride's**  
McBride's Inc.  
2915 San Gabriel St.  
Austin, TX 78705-3532  
512-472-3532  
www.mcbridesguns.com

**INVOICE**  
**290191**

DATE: 1/28/19

TO: Paul Cantu  
[Redacted Address]

SHIP TO: [Redacted Address]

IT. ORDER NO.	DATE SHIPPED	SHIPPED VIA	TERMS	SALESMAN	F.O.B.	OUR ORDER NO.
				26		
QTY ORDERED	B/O	QTY SHIPPED	DESCRIPTION	UNIT PRICE	AMOUNT	
			Ruger EC9s		245.00	
			455-49132, N224822			
1			GPS Case		34.99	
2			Bx Winchester 9mm	13.80		
			Total		25.76	
			Total		332.75	

Paid  
Thank You, MC

Figure 35—copy of McBride’s sales invoice (Mr. Cantu’s phone number redacted).

<sup>58</sup> See Supplement of Daniel Mireles in Offense Report 2019-5004025 (“Mireles Supp.”) at p. 15.

<sup>59</sup> See Mireles Supp. at p. 15.



Additionally, the manager of the store was able to provide Detective Mireles with security footage that shows Mr. Cantu inside the store on Monday, January 28, at around 4:43 PM.



*Figure 38—still from security footage showing Mr. Cantu at McBride’s gun store.*

Detective Mireles also spoke with the salesman who assisted Mr. Cantu with the purchase. The salesman said that Mr. Cantu was the only customer in the store when he came in, and the salesman asked questions to narrow down the kind of gun Mr. Cantu was interested in.<sup>60</sup> They settled on the Ruger because of the price, and throughout the discussion and sale Mr. Cantu was cordial and pleasant.<sup>61</sup> Mr. Cantu asked about the gun, saying it was his first and that he planned to get a permit, and the salesman showed him how the gun operated, also giving him advice about safe handling.<sup>62</sup>

Mr. Cantu appeared calm and pleasant to talk to, and the salesman said he evaluated all customers including Mr. Cantu and saw no indication not to sell to him, in that he seemed sober, “not mad at the world,” or otherwise disoriented.<sup>63</sup> Mr. Cantu did ask to use the bathroom and was there so long the salesman thought he might be sick, and so he offered Mr. Cantu water which was accepted.<sup>64</sup> Mr. Cantu then asked about gun ranges in Austin, and the salesman told him about one in north Austin and one in south Austin.<sup>65</sup> The salesman said that given Mr. Cantu’s appearance and demeanor, he saw no reason not to sell him the gun and, in fact, said he’d do so again under the same circumstances.<sup>66</sup>

<sup>60</sup> See Recorded Interview with McBride’s Salesman (“Salesman Interview”).

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

### D. Timeline of Events

TIME	EVENT
10:22 PM	Officer Jacob Beirowski sees black Chrysler fail to stop at designated point and almost strike another vehicle;
10:28 PM	Traffic stop attempted but pursuit called off.
11:22 PM	Officer Beirowski calls Roberto Cantu in San Antonio
12:35 AM	Text to Roberto Cantu from Paul Cantu re: car destroyed and at Auburn Blaze Ln
12:53 AM	Officer Beirowski requests a unit check out Auburn Blaze Lane, and officer Camacho responds
1:24 AM	Officer Camacho advises vehicle not found and clears call
1:40 AM	Sergeant Michael Joseph locates black Chrysler off E. Wm Cannon Dr.
1:40 – 1:47 AM	Sgt. Joseph attempts to get a kneeling Mr. Cantu to relinquish his gun, and engage in dialogue
1:47:07 AM	Mr. Cantu rises to his feet and aims his gun toward police
1:47:09 AM	Officers Camacho and Mattingly fire their weapons at Mr. Cantu

### E. Ballistics, Firearm and Tool Mark Evidence

No firearm or tool mark comparisons were conducted in this case. However, because Mr. Cantu did not discharge his firearm, and because the shooting itself was captured in its entirety on Sgt. Joseph's DMAV and other officers' body-worn cameras, we do not believe the results of any testing (or lack thereof) would affect, impact, or alter our conclusions in this case regarding the central legal issue we must resolve, specifically the reasonableness of Officers Camacho and Mattingly's use of force.<sup>67</sup>

However, APD's Firearms and Tool Mark Section *did* perform a functionality test on Mr. Cantu's weapon: on May 8, 2019, APD Firearm and Tool mark Examiner Sarah Jordan conducted an analysis of Mr. Cantu's weapon (identified in evidence as lab item #60).<sup>68</sup> Ms.

<sup>67</sup> Due to staff shortages at APD's ballistics-testing laboratory, firearm or Tool Mark comparisons are not currently being conducted unless such testing is directly relevant and necessary to the investigation.

<sup>68</sup> See APD Forensic Science Services Division, Laboratory Report # 2019-290092, and LRN: 9 ("Jordan Report").

Jordan test-fired four rounds using lab ammunition, and reported that the weapon “was found to be capable of discharging live rounds of ammunition and functioned normally during the test.”<sup>69</sup> She also correctly stated that the Ruger is a “firearm” as defined by the Texas Penal Code, and fit the code’s definition of a “deadly weapon.”<sup>70</sup>

### F. Medical Examiner’s Findings

On January 30, 2019, the Travis County Medical Examiner conducted a postmortem examination (autopsy) on Mr. Cantu. The examiner ruled homicide as his manner of death and gunshot wounds as his cause of death.<sup>71</sup> As required by law, the medical examiner issued a death investigation report.<sup>72</sup> The medical examiner identified five gunshot wounds, four to the torso and one to the right hand. Gunshot wound injuries included the left ribs, left lung, the vertebrae, spinal cord, small intestines, and pelvis.<sup>73</sup>

The medical examiner noted that Mr. Cantu sustained:

- One perforating gunshot wound<sup>74</sup> to the chest with exit wound; the wound pathway was right to left, front to back, and downward.
- One penetrating gunshot wound<sup>75</sup> to the abdomen; the wound pathway was slightly right to left, front to back, and slightly downward.
- One penetrating gunshot wound to the abdomen; the wound pathway was left to right, front to back, and downward;
- One penetrating gunshot wound to the left side of the back; the wound pathway was left to right, back to front, and downward;
- One perforating gunshot wound to the left hand; the wound pathway was back to front, with no significant right to left deviation, and slightly upward.

During the postmortem examination, three items of evidentiary value related to the shooting incident were recovered, specifically three deformed bullets.

The medical examiner could not make a determination of relative range of fire distance from examination of the wounds. For each of the wounds, the medical examiner did not notice soot, stippling, tissue searing, or muzzle imprint, any of which would indicate either a contact wound, close, or intermediate range of fire.

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<sup>69</sup> See Jordan Report at p. 2.

<sup>70</sup> See *id.*

<sup>71</sup> “Cause of death” refers to the condition that produced the victim’s death while “manner of death” is an interpretive opinion that explains how the cause of death was caused. “Homicide” is one of several manners of death which include accident, suicide, or natural causes. “Homicide” is not a legal denotation as to whether the act leading to the death is or is not criminal.

<sup>72</sup> Travis County Office of the Medical Examiner’s Office, Medical Examiner Report No. 19-00531.

<sup>73</sup> See *id.*

<sup>74</sup> A “perforating” gunshot wound is one that enters and exits the body. A single perforating gunshot can have multiple entry and exit points depending upon the trajectory of the bullet and the subject’s body position when struck.

<sup>75</sup> A “penetrating” gunshot wound is one that enters but does not exit the body.

The examining physician also noted evidence of the first aid administered to Mr. Cantu. The medical examiner's toxicology testing on Mr. Cantu's postmortem blood demonstrate the presence of ketamine, which was administered by medical staff after the shooting.

#### **IV. LEGAL ANALYSIS: REASONABLENESS OF USE OF DEADLY FORCE BY OFFICERS CAMACHO AND MATTINGLY**

The use of deadly force without legal justification would constitute a criminal offense for which prosecution is warranted. In the case of an officer's use of deadly force, to constitute a prosecutable offense would require us to conclude that there are no legal justifications applicable to the investigative facts. Here, whether or not the officers' use of deadly force was reasonable depends on whether the investigative facts support the conclusion that a reasonable juror would determine that their use of such force was justified in self-defense, defense of a third person, and/or to effectuate a legitimate law enforcement purpose. For the reasons outlined below, we conclude that a reasonable juror following the law would find the use of force (by both officers) to be justified.

##### **A. Law Governing Use of Deadly Force**

The Fourth Amendment and Texas statutory law govern our analysis of the reasonableness of Officers Camacho and Mattingly's use of deadly force in Mr. Cantu's shooting death. Under the Fourth Amendment, a law enforcement officer's shooting of a person constitutes a "seizure" and, as a consequence, is subject to the amendment's requirement that it be reasonable<sup>76</sup> as the United States Supreme Court has construed that term.<sup>77</sup> The Supreme Court has directed that the inquiry is essentially one of objective reasonableness: the question is "whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation."<sup>78</sup>

In conducting our analysis, we are to evaluate the officers' use of force based on the facts and circumstances then existing on the scene and determine "judged from the perspective of a reasonable officer on the scene." This inquiry requires us to ask whether a reasonable officer would have used deadly force based on the facts and circumstances viewed from the officer's perspective at the time the force was used.<sup>79</sup> This inquiry must make "allowance for the fact that police officers are often forced to make split-second judgments" and should not be based on the benefit of "the 20/20 vision of hindsight."<sup>80</sup> In the context of the law enforcement use of deadly

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<sup>76</sup> "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated..." U.S. CONST. AMEND. IV.

<sup>77</sup> U.S. CONST. AMEND. IV.

<sup>78</sup> *Graham v. Connor*, 490 U.S. 386, 396 (1989).

<sup>79</sup> *Id.* at 396-97.

<sup>80</sup> Our inquiry must consider whether a reasonable officer in the circumstances that Officers Camacho and Mattingly encountered would have reasonably concluded they were in imminent danger from the gun that Mr. Cantu was wielding.

force, the basic requirement is that the use of deadly force be limited to situations in which it was immediately necessary.<sup>81</sup>

Texas law incorporates the Fourth Amendment's reasonableness standard in several statutes applicable to the facts and circumstances of Mr. Cantu's shooting. Those statutes allow the use of deadly force in self-defense, in defense of third persons, and in order to effect a legitimate law enforcement purpose.<sup>82</sup>

## **B. Texas Law Governing the Use of Deadly Force: Chapter 9 and the Reasonableness Standard**

Chapter 9 of the Texas Penal Code provides three basic circumstances under which a law enforcement officer's use of deadly force is justified: in self-defense, in defense of a third person, or to effect a legitimate law enforcement purpose such as an arrest or search.

### **1. Use of Deadly Force in Self-Defense: Texas Penal Code § 9.32**

Section 9.32 of the Texas Penal Code describes the circumstances under which deadly force may be used in self-defense by any person, law enforcement or not. It states:

- (a) A person is justified in using deadly force against another:
  - (1) if the actor would be justified in using force against the other...; and
  - (2) when and to the degree the actor reasonably believes the deadly force is immediately necessary:
    - 1. to protect the actor against the other's use or attempted use of unlawful deadly force; or
    - 2. to prevent the other's imminent commission of aggravated kidnapping, murder, sexual assault, aggravated sexual assault, robbery, or aggravated robbery.

Section 9.32 expressly predicates the authority to use deadly force on the condition that the actor first has been authorized to use non-deadly force under Section 9.31, which governs the use of non-deadly force. That section, which sets forth the basic reasonableness standard discussed earlier, provides that:

- (a) ... [A] person is justified in using force against another when and to the degree the actor reasonably believes the force is immediately necessary to protect the actor against the other's use or attempted use of unlawful force.

Only if the actor first satisfies Section 9.32's requirements controlling the use of deadly force can he or she be justified in the use of deadly force.

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<sup>81</sup> *Tennessee v. Garner*, 471 U.S. 1, 11-12 (1985).

<sup>82</sup> TEX. PEN. CODE §§ 9.32, 9.33, and 9.51 (c).

## **2. Use of Deadly Force in Defense of a Third Person: Texas Penal Code § 9.33**

The use of deadly force to protect a third person calls for what might be best described as a surrogate analysis: the use of deadly force in defense of a third person is authorized only if the actor is justified in the use of deadly force to defend him or herself. As with Section 9.32, this justification is applicable to all persons, whether law enforcement or not. That section provides:

- (a) A person is justified in using force or deadly force against another to protect a third person if:
  - (1) under the circumstances as the actor reasonably believes them to be, the actor would be justified under Section 9.31 or 9.32 in using force or deadly force to protect himself against the unlawful force or unlawful deadly force he reasonably believes to be threatening the third person he seeks to protect.

## **3. Use of Deadly Force to Effect a Legitimate Law Enforcement Purpose: Texas Penal Code 9.51**

The final justification applicable to the facts established here is found in Section 9.51, which governs all uses of force by a law enforcement officer while in the discharge of his or her duties. It is applicable only to law enforcement officers' use of force. Section 9.51 provides:

- (a) A peace officer...is justified in using force against another when and to the degree the actor reasonably believes the force is immediately necessary to make or assist in making an arrest..., if:
  - (1) the actor reasonably believes the arrest or search is lawful...; and
  - (2) before using force, the actor manifests his purpose to arrest or search and identifies himself as a peace officer or as one acting at a peace officer's direction, unless he reasonably believes his purpose and identity are already known or cannot be reasonably made known to the person to be arrested.

### **C. Analysis: The Facts and Circumstances of Officers Camacho and Mattingly's Use of Deadly Force**

Officers Camacho and Mattingly's conduct in discharging their weapons<sup>83</sup> must be evaluated in terms of reasonableness under the above-cited statutes. We have concluded that on the facts established here that Officers Camacho and Mattingly's use of deadly force in Mr. Cantu's shooting was not unreasonable under the applicable statutes.

#### **1. Officer Camacho and Mattingly's Use of Deadly Force in Self-Defense**

The facts and circumstances known to Officers Camacho and Mattingly at the time they discharged their duty weapons must be considered.

The investigation established that at the time of their encounter with Mr. Cantu, Officers Camacho and Mattingly were aware that:

- The initial incident involved an individual disobeying police commands and evading in a motor vehicle, a third-degree felony;
- A senior officer was (initially) alone and facing a subject who had pointed a weapon at the officer and at himself;
- As they could see for themselves, Mr. Cantu was armed with a handgun; and
- Mr. Cantu was behaving highly erratically and was ignoring all commands, over a seven-minute period, to relinquish that weapon.

The best evidence comes from Sgt. Michael Joseph's DMAV video, which captured the entire incident, from Mr. Cantu exiting the car, Sgt. Joseph attempting to talk to Mr. Cantu, and Mr. Cantu standing up and pointing his gun. This footage, and that of the body-worn cameras of other officers, corroborates the subject and witness officers' statements as to the course of events.

I conclude that under these circumstances, Officers Mattingly and Camacho were justified in using deadly force in discharging their duty weapons at Mr. Cantu. I believe both officers were justified in doing so on the grounds of: (1) defense of self under § 9.32; (2) defense of third persons under § 9.33; and (3) in order to effect an arrest for an offense under § 9.51.

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<sup>83</sup> Even if the officers' shots had not struck Mr. Cantu, the discharge of their weapons in his direction alone constitutes a use of deadly force and is otherwise a criminal offense if not statutorily justified. "The threat of force is justified when the use of force is justified. For purposes of this section, a threat to cause death or serious bodily injury by the production of a weapon or otherwise, as long as the actor's purpose is limited to creating an apprehension that he will use deadly force if necessary, does not constitute the use of deadly force. TEX. PEN. CODE § 9.04. Here, it is evident that both officers discharged their weapons and as such there was an actual use of force. *See e.g.*, TEX. PEN. CODE § 22.02 Aggravated Assault (use of a deadly weapon during the course of an assault). An "assault" occurs whenever a person "intentionally or knowingly threatens another with imminent bodily injury..." TEX. PEN. CODE § 22.01. As a use of deadly force, the discharge of a weapon is justified only if reasonableness requirements are met, as contemplated by the various justifications for use of deadly force contained in chapter 9 of the Penal Code.

## 2. The Officers' Use of Deadly Force in Self-Defense—Tex. Pen. Code § 9.32

We conclude that the investigative facts establish that the facts and circumstances of which Officers Mattingly and Camacho were aware of when they discharged their weapons are sufficient to satisfy the provisions of Section 9.31, thus allowing them to use non-deadly force to defend themselves as a prerequisite to their use of deadly force.<sup>84</sup> The officers were faced with circumstances in which the danger to them was evident and imminent: they were in the dark and confronting an armed and obviously erratic and uncooperative individual.

Under these circumstances, we conclude that Officers Mattingly and Camacho “reasonably believe[d] [that] the [use of] force [was] immediately necessary to protect [themselves] against the other’s use or attempted use of unlawful force.”<sup>85</sup> Here, Mr. Cantu’s raising up a firearm and pointing it at police officers cannot be seen as a lawful threat of use of force. For these same reasons and under these circumstances, the provisions of Section 9.32 authorizing Officers Mattingly and Camacho’s use of deadly force in discharging their weapons at Mr. Cantu are unquestionably established.<sup>86</sup>

In fact, the investigation supported the officers’ statements because the gun was recovered (and is clearly visible on Sgt. Joseph’s DMAV and on several officers’ body-worn cameras), further demonstrating that Officers Mattingly and Camacho reasonably concluded that a danger existed. Under these circumstances, we conclude that these officers reasonably believed that their use of deadly force was immediately necessary to protect themselves against Mr. Cantu’s apparent use or attempted use of unlawful deadly force, or to prevent what they reasonably concluded was the imminent commission of murder if they did not discharge their weapon at him, and that a reasonable jury following the law would also so conclude.

## 3. The Officers' Use of Deadly Force in Defense of a Third Person

For the reasons that justified Officers Mattingly and Camacho in their use of deadly force in self-defense, we conclude that they were also justified in using deadly force to protect others. Mr. Cantu had pointed his weapon in the direction of several police officers and so it would have been reasonable for Officers Mattingly and Camacho to assume that the lives of their colleagues would be in imminent jeopardy.

As noted earlier, Texas Penal Code § 9.33 regulates the use of force in defense of a third person. That section provides that “[a] person is justified in using force or deadly force against another to

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<sup>84</sup> Under the circumstances then existing and with which the officers were confronted, the officers’ belief that the use of deadly force was immediately necessary is *presumptively* reasonable under Texas Penal Code § 9.32. Specifically, subsection (b) of section 9.32 provides that “[t]he actor’s belief...that the deadly force was immediately necessary...is presumed to be reasonable if the actor...knew or had reason to believe that the person against whom the force was used...was committing or attempting to commit” murder.

<sup>85</sup> TEX. PEN. CODE § 9.31 (a).

<sup>86</sup> Here, all of the non-exhaustive list of factors the Supreme Court noted in *Tennessee v. Garner*, the leading case on governing the reasonableness inquiry into a law enforcement officer’s use of deadly force are present: the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.” *Tennessee v. Garner*, 471 U.S. at 10-12. Mr. Cantu’s conduct involved the reasonably apparent danger of his commission of a violent felony while armed after evincing an intent to flee from officers rather than submit to an arrest.

protect a third person if...under the circumstances as the actor reasonably believes them to be, the actor would be justified under Section 9.31 or 9.32 in using force or deadly force to protect himself against the unlawful force or unlawful deadly force he reasonably believes to be threatening the third person he seeks to protect...and...the actor reasonably believes that his intervention is immediately necessary to protect the third person.”

Having concluded that Officers Mattingly and Camacho were justified in their use of deadly force in order to prevent Mr. Cantu’s apparent use or threatened use of deadly force against them in self-defense, I further conclude that those officers’ use of deadly force was also justified in order to defend each other and other colleagues from the same apparent danger, and that a reasonable jury following the law would also so conclude.

For these reasons, the use of deadly force by Officers Mattingly and Camacho in this shooting was an objectively reasonable use of deadly force under Texas law, and a reasonable jury following the law would so conclude.

### CONCLUSION

For these reasons, I have concluded that the filing of criminal charges against Officers Mattingly and Camacho is not justifiable under Texas criminal law standards because Officers Mattingly and Camacho’s use of deadly force in this incident was justified under the circumstances. Consequently, charges will not be filed. We have closed our review and will take no further action in this matter.

We have released a public/press packet that includes videos, witness statements, officer statements, forensic reports, photos and an autopsy report. This decision will be posted on the Office’s website and will be accessible under ‘Paul Cantu’ and the date of the incident, January 29, 2019.<sup>88</sup>

Very truly yours,



Margaret Moore

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<sup>88</sup> <https://www.traviscountytx.gov/district-attorney/office-divisions/civil-rights/cru>