HALL OF JUSTICE
330 WEST BROADWAY
SAN DIEGO, CA 92101
(619) 531-4040
SanDiegoDA.com

OFFICE OF
THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO

DWAIN D. WOODLEY
ASSISTANT DISTRICT ATTORNEY

SUMMER STEPHAN
DISTRICT ATTORNEY

March 29, 2022

Chief Ed Varso
Escondido Police Department
1163 North Centre City Parkway
Escondido, CA 92026

Re: Fatal shooting of Mr. Jonathan Carroll by Escondido Police Officer Chandler Hoppal on September 17, 2021; Escondido Police Department Case No. 21-009506; DA Special Operations Case 21-112PS; Deputy District Attorney assigned: Samira Seidu; District Attorney Investigator assigned: Steve Hutchinson

Dear Chief Varso,

We have reviewed the reports and materials compiled by the Escondido Police Department's Homicide Unit concerning the fatal shooting of Mr. Jonathan Carroll by Escondido Police Officer Chandler Hoppal. A District Attorney Investigator responded to the scene and was briefed by your officers. This case was submitted to the District Attorney's Office for review on December 27, 2021.

Summary
On September 17, 2021, at approximately 5:01 p.m., the Escondido Police Department received an emergency call by an individual that reported his companion had been shot by a man in a Mercedes Benz SUV. The caller provided the suspect's license plate number and the general area of the shooting. Officers responded to the scene and located two 9mm shell casings. The white Mercedes Benz was registered to Jonathan Carroll, a resident of Escondido. As officers headed toward Carroll's home, Carroll drove past them in the opposite direction. Hoppal, who was driving a marked patrol car, made a U-turn and attempted to initiate a traffic stop. Carroll failed to yield and fled at high speed. Hoppal and additional units pursued Carroll. While the other patrol units lost sight of Carroll, Hoppal continued to pursue him. The pursuit reached speeds of 110 miles per hour. Carroll tried to negotiate a turn from Bear Valley Parkway onto Encino Drive but hit a raised median and stopped on Encino Drive. Hoppal hit the same median and stopped on Encino Drive.

Hoppal got out and went to the front of his vehicle. Carroll emerged from his vehicle holding a handgun and turned toward Hoppal. Hoppal believed Carroll was involved in the earlier shooting and feared for his safety. Hoppal fired 12 rounds at Carroll, striking him three times. Carroll also fired his weapon but struck his own vehicle. Carroll was transported to Palomar Medical Center by paramedics where he was pronounced deceased. Toxicology results showed Carroll tested positive for methamphetamine and alprazolam. The cause of death was multiple gunshot wounds, and the manner of death was homicide.

Persons Involved
Jonathan Carroll was a 38-year-old resident of Escondido, CA. Officer Hoppal has been employed as an officer with the Escondido Police Department for two years.

Civilian Witness 1 (CW1)
CW1, his girlfriend CW2, and her two brothers (15-year-old CW3 and an 11-year-old) were running errands in CW2's car. CW1 was driving. They left a store and started driving home. When CW1 arrived at his residence and parked, he heard something hit the car. He got out of the vehicle to check for damage. A male in a white Mercedes pulled out of an adjacent parking lot. The male was glaring, smiling, and making faces at CW1. The male made a U-turn, drove over a sidewalk, and drove off. CW1 left CW2 and her 11-year-old brother at home and went with CW3 to run additional errands. As they drove west on Mission Avenue, they saw the white Mercedes in front of them. The driver was drinking out of a bottle. They decided to follow the vehicle to report what they saw. CW3 took a short video of the back of the Mercedes and CW1 took a photo of the car. They tried to lose the Mercedes and started making turns in alleys and driveways. CW1 did not explain how it came to be that the Mercedes began pursuing his vehicle. CW1 and CW3 eventually made their way to E. Pennsylvania Avenue. As they were turning onto eastbound E. Pennsylvania Avenue, they saw the white Mercedes going westbound on E. Pennsylvania Avenue. The driver glared at them. CW1 drove off. As he did, he saw the driver of the white Mercedes stick a gun out of his window and shoot at them. CW1 heard another gun shot and felt the bullet impact his back. CW1 drove himself to the hospital. CW1 gave investigators the photo he took of the white Mercedes, which included the car's license plate. CW1 suffered a non-penetrating gunshot wound to the mid-back.

Civilian Witness 2 (CW2)
CW2, her boyfriend CW1, and her two brothers went shopping. On the way home, CW2 saw a white Mercedes coming out of a nearby parking lot. She saw the same vehicle as they neared home. The male driver was smirking at her and moving his right arm by his waist as if he was about to pull something out. The male appeared to stop when he saw her 11-year-old brother. CW2 became nervous. She and CW1 decided CW1 should leave to run other errands so the male would not know where they lived. She then saw the male drive past them and hit a curb with his car. CW1 and CW3 left while CW2 and her 11-year-old brother stayed behind. During a subsequent investigation, CW2 was shown a picture of Carroll taken from Facebook. CW2 noted that the picture looked like the male she had seen, but the male had less hair and appeared older than the person in the Facebook photo.

Civilian Witness 3 (CW3)
15-year-old CW3 was in CW2's car with CW1, CW2, and his 11-year-old brother. They were headed home when CW3 fell asleep. CW3 woke up when he heard a bang or something hit the car. They parked the car across the street from their home. CW3 then noticed a white Mercedes. CW1 and CW2 thought the Mercedes followed them from the store. CW1 and CW3 then decided to follow the Mercedes. CW3 took video of the Mercedes to record the license plate. They followed the Mercedes into a parking lot. The Mercedes turned around so the two cars were facing each other. CW1 then began driving to get away from the Mercedes. He did this by driving through alleys and driveways. They lost the Mercedes at some point but saw it again on E. Pennsylvania Avenue. They drove past each other and CW3 saw the Mercedes' driver pull out a gun and shoot at them but miss. The driver then braced the gun with both hands and fired

again. This time, CW3 heard their car get hit by the bullet. The Mercedes then drove off. CW1 asked CW3 to check behind him because he felt something. CW3 looked at CW1's back and saw something, but wasn't sure if the bullet had entered CW1. They drove to the hospital. Earlier, during the interaction with the Mercedes' driver, CW3 had been able to get a good look at the driver. Later, CW3 was shown a picture of Carroll and confirmed that Carroll was the driver of the white Mercedes who had shot at them.

Civilian Witness 4 (CW4)

CW4 was doing yard work near the shooting scene. He heard sirens in the distance. The sirens got closer and CW4 heard tires squealing. He looked over the fence and saw a white Mercedes SUV. The SUV tried, but failed, to negotiate a turn onto Encino Drive. The driver of the SUV, later identified as Carroll, hit his brakes, skidded over a raised island, and hit a yield sign. Carroll stopped about eight feet after he hit the sign.

CW4 then heard and saw the police arriving on scene. The police officer made a wide right turn onto Encino Drive, ran over the raised island, and stopped at an angle approximately twenty-five feet away from the Mercedes. It appeared the officer was trying not to get too close to the Mercedes. The officer exited the vehicle and appeared to be assessing the situation for about 20-25 seconds. He did not have his gun drawn. CW4 did not hear any communication between the officer and Carroll.

CW4 saw Carroll get out of the Mercedes. He appeared to take two steps toward the officer. CW4 did not see Carroll's hands or anything in them because of the way he got out of the car. Carroll got out of the car "butt first" with his back facing CW4. CW4 thought this was an odd way to get out of the car if he planned to run. Carroll moved in the direction of the officer. The officer drew his handgun and fired approximately ten times at Carroll striking him in the head and body. Carroll slumped onto his stomach on the ground. It happened very quickly.

Civilian Witness 5 (CW5)

CW5 had just left work and was traveling northbound on Bear Valley Parkway approaching Encino Drive. He noticed an Explorer stopped in the intersection. The Explorer started to back up, so CW5 slowed down. CW5 then saw an officer stepping out of a stopped police vehicle and raising his handgun. CW5 believed the police vehicle had just come to a stop because there was dust everywhere.

CW5 noticed a white Mercedes SUV stopped approximately one and a half to two car lengths ahead of the police car on Encino Drive. The officer was pointing his handgun in the direction of the Mercedes SUV. The Mercedes SUV had damage to the front and the underside of the front bumper.

A male near the Mercedes SUV appeared as though he had just exited the Mercedes and was facing the officer. The male did not have his hands up. He appeared to be moving toward the officer with his hands in front of him in what CW5 described as a "low ready" position. CW5 was unable to determine if the male had anything in his hands at that time. The officer then began shooting at the male. The officer fired approximately six to ten rounds.

Statement of Officer Chandler Hoppal

Hoppal was working his regular patrol shift and was armed with his department-issued Glock 35 .40 caliber handgun. During his shift, he heard over the radio about the shooting of CW1 by a suspect in a white Mercedes, later identified as Carroll. Hoppal monitored the radio traffic and learned an officer had responded to Palomar Hospital where the gunshot victim was. That officer confirmed a valid shooting had taken place. Hoppal heard broadcast that officers found shell casings at the intersection of N. Ash Street and E. Pennsylvania Avenue. A vehicle description and license plate for the suspect vehicle were also broadcast.

Hoppal met with other officers at the staging area, which was a parking lot approximately a quarter mile from Carroll's home. There were three SWAT officers, a canine handler, and a less-lethal officer. Hoppal was assigned to the arrest team and was tasked with physically taking Carroll into custody if they located him. Hoppal and the other officers developed a plan on how to take Carroll into custody. They went over the scenario several times. Hoppal then got into his vehicle and followed the rest of the officers out of the parking lot. They intended to stage closer to Carroll's house in case Carroll returned home.

As they were driving toward Carroll's house, Hoppal saw a white Mercedes SUV with a license plate similar to the suspect vehicle drive past him in the opposite direction. Another officer transmitted over the radio that the vehicle Hoppal saw was the suspect vehicle. Hoppal made a U-turn, got behind the vehicle, activated his lights and sirens, and attempted to initiate a traffic stop. The driver, Carroll, failed to yield. Hoppal pursued Carroll.

During the pursuit, Carroll ran red lights and stops signs and drove aggressively. They reached speeds of 110 miles per hour. They drove down residential and commercial streets. Carroll wove in and out of traffic and drove on the opposite side of the road. Several vehicles nearly collided trying to avoid the pursuit. Carroll seemed desperate to get away based on the way he was driving and the length of the pursuit. Hoppal saw Carroll moving around inside of his vehicle a lot, leading Hoppal to believe Carroll was reaching for the firearm he had used in the earlier shooting. Hoppal was concerned Carroll would shoot at him from his vehicle during the pursuit.

When the pursuit reached Bear Valley Parkway and Encino Drive, Carroll tried to make a right turn onto Encino Drive. He collided with a raised concrete island, disabling his vehicle and forcing it to stop. Hoppal tried to radio that Carroll had collided, but could not get through since other officers were talking on the radio. Hoppal was also going too fast and collided with the same concrete island. His patrol vehicle came to a stop approximately seven yards behind Carroll's vehicle. Hoppal got out of his patrol car while Carroll was still in his vehicle. Hoppal did not see an immediate threat and did not have his gun drawn.

Hoppal was the only officer on scene. He planned to wait for other officers to arrive to take Carroll into custody. He then saw Carroll's vehicle door open. As soon as Carroll opened his vehicle door, Hoppal saw a black gun in Carroll's right hand. Carroll got out of his vehicle and faced Hoppal while holding what appeared to be a semi-automatic firearm. Carroll stood between the open driver-side door and the driver's seat. Carroll held the gun at chest height with his arm extended from his body at a ninety-degree angle. Hoppal did not know if Carroll shot at him. Hoppal reacted by moving behind his engine block to take cover. Hoppal drew his own gun and fired at Carroll until he saw Carroll fall to the ground and stop moving. Hoppal believed he

fired 12 rounds at Carroll. Hoppal radioed about the shooting and requested medical aid. Other officers arrived on scene seconds later.

Hoppal did not have time to use any other force options. He could not use his Taser because of the distance. He did not have time to give Carroll commands because of how quickly everything happened. Hoppal stated that based on his training and experience, a suspect could move his hand, point a gun, and shoot him in less than a second. Hoppal also stated that in a prior encounter with a fleeing suspect who was armed, that suspect discarded his weapon as he fled. Here, when Carroll turned toward Hoppal with the gun in his hand, Hoppal believed Carroll did not intend to flee, but instead intended to harm him. Hoppal believed if he had not fired his weapon, Carroll would have shot and killed him.

Statement of Law Enforcement Officer 1 (LE1)
LE1 did not witness the officer-involved shooting and was not interviewed by investigators. LE1 wrote a report detailing his involvement in the pursuit and the aftermath of the shooting. LE1 was working a single-person patrol unit when he responded to assist with the shooting involving CW1 and a suspect, later identified as Carroll, driving a white Mercedes. LE1 and other officers gathered at the staging area to form a "takedown" team and to formulate a plan to detain the suspect with minimal force.

After rehearsing the "takedown" of the suspect, they decided to move to a location closer to the suspect's residence. They drove to the new staging location. At approximately 6:12 p.m., LE1 saw Carroll driving the suspect vehicle in the opposite direction of the police caravan. LE1 broadcast to the other units that the suspect vehicle had just passed them in the opposite direction.

All the officers in the caravan made a U-turn and pulled behind Carroll. Hoppal was in the number one position and LE1 was in the number four position. At 6:19 p.m., Hoppal broadcast Carroll had collided at Bear Valley Parkway and Encino Drive. Hoppal then aired shots had been fired. LE1 arrived at the scene approximately 29 seconds later. He observed Carroll lying on his right side just outside of his driver's side door. LE1 approached Carroll with other officers. He observed a black semi-automatic handgun with a magazine inserted in it under Carroll's right side near his stomach. The firearm was recovered by LE2.

Statement of Law Enforcement 2 (LE2)
LE2 did not witness the officer-involved shooting and was not interviewed by investigators. LE2 wrote a report detailing his involvement in the pursuit and the aftermath of the shooting. LE2 wrote that he was working a two-person patrol unit when they were dispatched to the shooting of CW1 by a suspect who was later identified as Carroll. They responded and attempted to find witnesses. Approximately 30 minutes later, they responded to the staging area and were assigned to the arrest team. At approximately 6:11 p.m., LE2 and other officers began driving toward Carroll's home.

As they were heading toward Carroll's house, another officer saw Carroll's vehicle heading in the opposite direction. LE2 along with other officers immediately turned around to attempt a traffic stop on Carroll's vehicle. Carroll sped off and officers pursued. LE2's patrol car was the third vehicle in the pursuit. As the pursuit progressed, all officers, except Hoppal, lost sight of

Carroll's vehicle. Hoppal began calling the pursuit. LE2 heard Hoppal air that there was a collision. A few seconds later, Hoppal put out, "Shots fired. Code 3 cover."

LE2 and other officers arrived at the scene approximately 30 seconds later. LE2 exited his vehicle with his department-issued firearm. He saw Carroll lying face down just outside the driver's side door of his car. Carroll appeared to have a gunshot wound to his head. LE2 put on gloves and he and other officers moved in to assess Carroll. LE1 alerted LE2 to a weapon underneath Carroll's stomach area. LE2 lifted Carroll and retrieved the firearm. It was a black Sig Sauer 9mm handgun. He cleared the weapon, removed the magazine and the live round in the chamber, and moved it approximately two feet away from Carroll. LE2 also saw two 9mm casings near Carroll.

Investigation

The scene was secured, photographed, and investigated by the Escondido Police Department Homicide Unit. All detective reports, crime scene investigator reports, recorded witness interviews, body worn camera (BWC), and video recordings were reviewed. All these items were found to provide evidence that corroborated the officers' statements. The events leading up to and the incident itself were captured on BWC.

911 Calls/Dispatch

CW3 called 911 at 5:01 p.m. to report a male in a white Mercedes with a gun had shot at their vehicle. CW3 reported CW1 had been shot in the back and they were on their way to the hospital. The man who shot at them was driving a white Mercedes and was drinking. He provided the license plate number that matched a white Mercedes SUV registered to Carroll. They did not know the shooter and could not provide a description. The male shot at their car and the car had a bullet hole through the door. CW1 was driving the car at the time of the shooting, and they drove off as soon as the male started shooting.

At 5:25 p.m., San Diego Sheriff's dispatch called Escondido Police to report the car associated with the license plate provided by CW3 was a GL450 SUV with "white stick figure people" in the lower left portion of the rear window. They also reported a License Plate Reader (LPR) hit on the car showing it was going towards Valley Center.

The computer-aided dispatch printout of the incident showed pursuit callouts beginning at approximately 6:13 p.m. The callouts continued until Hoppal radioed "shots fired" at 6:19 p.m.

Body Worn Camera Evidence

Hoppal's BWC captured the pursuit and shooting. During the pursuit, Hoppal's BWC was at steering wheel level, so Carroll's car and driving pattern were not captured on the video. The audio started approximately 60 seconds into the video. The start of the audio captured police sirens and radio traffic. The pursuit went through several red lights. On two occasions during the pursuit, Hoppal drew his firearm, pointed it straight ahead, and then holstered it.

An officer came on the radio and advised Hoppal, "We lost a couple hundred yards to you at that red at Midway, so we're trailing a bit behind if you need to call it." Hoppal advised they were driving on I-78 at speeds between 60 and 110 miles per hour. Hoppal made a turn and appeared to hit a curb. Once the car stopped, Hoppal immediately got out of the car. Hoppal attempted to

radio that there was a traffic collision at Encino Drive. While Hoppal was on his radio, he walked around toward the front of the patrol car. Carroll's white SUV came into view. Hoppal was still attempting to speak into his radio as Carroll's car door opened. Carroll started to get out of his car. Carroll's car was positioned some distance away from Hoppal, so his actions cannot be clearly seen on the video. Hoppal drew his firearm, pointed it at Carroll, and began to move back while firing his weapon. Hoppal radioed shots had been fired. Hoppal also radioed his present location and requested medics. Additional officers began to arrive on scene. They approached Carroll, who was on the ground and not moving.

While the other officers had their BWC activated during the pursuit, no other officer was on scene at the time of the shooting. LE2 arrived on scene just after the shooting. He drew his weapon and pointed it at Carroll, who was on the ground at the driver's side door of his vehicle. Additional officers were standing with their guns pointed at Carroll. LE2 put on gloves and the officers moved toward Carroll. LE1 alerted to the gun underneath Carroll and advised LE2 to pull the gun out. LE2 removed the bloodied gun from underneath Carroll and secured it. LE2 put the gun and magazine down toward the front of the Mercedes and away from Carroll.

LE1's BWC was recording, however, he was holding his rifle directly in front of the camera while approaching Carroll. As a result, neither Carroll nor his gun can be seen on the video.

Cell Phone Video Evidence
CW3 provided cell phone video he recorded of Carroll's car. The vehicle was a white SUV with a six-person stick figure decal on the left side of the rear window. The vehicle and license plate matched the vehicle Carroll was driving at the time of the pursuit and officer-involved shooting.

CW4 provided two videos he recorded after the shooting. The first video was taken from an elevated position. There were several trees in the frame that obstructed the scene. At the beginning of the video, Carroll's white Mercedes SUV was seen with officers standing several feet away and to the right of the vehicle. The video zoomed in and patrol lights were seen behind the trees. Carroll was lying face down on the ground at the doorway of the white Mercedes SUV. Carroll's hands were not visible. There were no officers near Carroll. The second video was approximately five seconds long and taken from street level with no trees in the frame. Carroll was lying on the ground in the same location. There was a black object on the ground toward the front of the Mercedes SUV. It was in the same location that LE2 placed the gun he removed from underneath Carroll.

Valley View Casino Surveillance video
During the investigation, investigators discovered that after Carroll shot at CW1, Carroll went to Valley View Casino. Investigators obtained surveillance video from the casino. Video showed Carroll enter the casino at approximately 5:15 p.m. He was wearing a gray polo shirt and khaki shorts. Carroll walked through the casino and played several slot machines. Carroll appeared animated, fidgety, and unable to control his movements. He was moving around in his seat while playing the machines and was constantly moving his head and making facial expressions. Carroll repeatedly pulled at his shorts and reached in and out of his pockets. While waiting to retrieve his vehicle from the casino valet at approximately 5:46 p.m., Carroll stood in front of the valet pick-up area with his front right shorts pocket open. There appeared to be a dark and bulky object in the pocket that resembled the butt of a handgun.

Scene

Hoppal was armed with his department-issued Glock 35 .40 caliber handgun. It was loaded with one round in the chamber and the magazine was loaded at full capacity with 15 rounds. Hoppal also carried two fully-loaded 15-round magazines in the magazine pouches of his tactical vest. Following the shooting, Hoppal reloaded his gun with one of the spare magazines. After the shooting, an Escondido Police Department Forensic Services Unit specialist collected Hoppal's firearm and magazines for processing. There was one live round in the chamber. There were three rounds remaining in the magazine that had been in Hoppal's gun at the time of the shooting.

Twelve cartridge casings with a headstamp "WIN 40 S&W" were located and recovered just south of Hoppal's patrol car on Encino Drive.

Carroll was armed with a 9mm un-serialized handgun constructed with Sig Sauer P320 parts. It was loaded with five rounds and one round in the chamber. The round in the chamber that was removed by LE2 was head-stamped "Blazer 9mm Luger." Four of the rounds were head-stamped "A USA 9mm Luger" and another was head-stamped "G.F.L. 9mm Luger."

On the ground west of the Mercedes, officers found one mushroomed bullet, one piece of copper jacketing, a warped bullet with the attached jacketing, a cartridge with headstamp "Blazer 9mm Luger," and a cartridge with headstamp "F C 9mm Luger." In the southbound lane of Encino Drive at Rancho Verde Drive, investigators found two pieces of copper jacketing.

Investigators also searched the white Mercedes SUV. Inside the glove compartment of the vehicle they found an unloaded, un-serialized Polymer80 PF940C .40 caliber handgun loaded with an empty Glock 10-cartridge capacity magazine. In the bags and suitcases that were in the vehicle, investigators found a fully assembled and un-serialized AR-style rifle with an unattached magazine loaded with ten .223 caliber cartridges. In a blue zippered bag, they found 378 9mm cartridges, two 9mm magazines. There was also a plastic bag containing 89 .40 caliber cartridges. Carroll's car also had several bullet holes. According to investigators, a cartridge that struck the lower rocker panel of the Mercedes was fired from Carroll's weapon.

Investigators searched Carroll's home and found several boxes and bags of ammunition and miscellaneous gun parts.

Injuries and Toxicology

An autopsy completed on September 20, 2021 found Carroll suffered multiple gunshot wounds, including perforating gunshot wounds to the head and left elbow, and a penetrating gunshot wound to the left abdomen. One partially deformed, copper-colored jacketed bullet was recovered from Carroll's pelvic area. A small gray metallic fragment was recovered from the left elbow injury. Carroll's toxicology results showed he tested positive for methamphetamine (0.13 mg/L) and alprazolam (less than 0.05 mg/L). The cause of death was determined to be multiple gunshot wounds and manner of death was homicide.

Legal Standards of Criminal Liability

Penal Code section 835a(c) sets forth the circumstances in which a peace office may use deadly force and the standard to evaluate the use of such force. The law provides that "a peace officer is

justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of circumstances, that such force is necessary to defend against an imminent threat of death or serious bodily injury to the officer or to another person." Penal Code section 835a(c)(1)(A).

The statute defines "deadly force" as "any use of force that creates a substantial risk of causing death or serious bodily injury, including, but not limited to, the discharge of a firearm." Penal Code section 835a(e)(1).

An imminent threat of death or serious bodily injury is one where "based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed." Penal Code section 835a(e)(2).

The statute defines totality of the circumstances as "all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force." Penal Code section 835a(e)(3).

The statue further states, "In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case, and shall use other available resources and techniques, if reasonably safe and feasible to an objectively reasonable officer." Penal Code section 835a(2). "[T]he decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight. The totality of circumstances shall account for occasions when officers may be forced to make quick judgments about using force." Penal Code section 835a(4).

Additionally, a peace officer who makes or attempts to make an arrest need not retreat or desist from their efforts because of resistance or threatened resistance of the person being arrested. A peace officer shall not be deemed an aggressor or lose the right of self-defense by the use of objectively reasonable force in compliance with subdivisions (b) and (c) to effect the arrest or prevent escape or overcome resistance. For purposes of this section "retreat" does not mean tactical repositioning or other de-escalation tactics." Penal Code section 835a(d).

Penal Code section 196 provides that homicide is justified when committed by peace officers and those acting by their command in their aid and assistance when the homicide results from a peace officer's use of force that is in compliance with Section 835a.

Conclusion

Hoppal's actions were reasonable based on the circumstances known to and perceived by him at the time of the shooting. Hoppal was aware Carroll had already shot at a moving vehicle occupied by two people and that one of the occupants was hospitalized. Hoppal knew Carroll was possibly armed with a gun. Hoppal witnessed Carroll drive recklessly and dangerously through the streets of Escondido in an attempt to escape arrest. Hoppal had intended to make a

peaceful arrest following the collision. However, Carroll significantly escalated the situation when he exited his vehicle armed with a firearm and turned toward Hoppal. Witnesses perceived Carroll to be moving toward Hoppal. The use of less-lethal force was not a feasible option for Hoppal, given the immediacy of the threat posed by Carroll. Given everything that had occurred, it was reasonable for Hoppal to believe Carroll intended to shoot him. An objectively reasonable officer in the same situation would believe that Carroll had the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to Hoppal.

Under the totality of circumstances, Hoppal was justified in his actions and bears no state criminal liability. A copy of this letter, along with the materials submitted for our review, will be retained for our files.

Sincerely,

Summer Stephan

SUMMER STEPHAN
District Attorney

SS: ab
cc: Captain Mark Peterson