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Ninth Judicial District  
*Serving Garfield, Pitkin, and Rio Blanco Counties*

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Brooks Bennett  
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Chief Tommy Klein  
Rifle Police Department  
201 E. 18<sup>th</sup> Street  
Rifle, Colorado 81650

Re: Officer Involved Shooting Investigation-ALLAN THOMAS GEORGE-Rifle Police  
Corporal D. RYAN-Case No. 2019-389

Dear Investigator Jenness, Agent Bennett and Chief Klein:

The purpose of this correspondence is to memorialize my charging decision regarding the officer involved shooting which occurred on Monday, August 5, 2019 in Rifle, Colorado. In short, I decline to file any criminal charges against Corporal D. Ryan of the Rifle Police Department, or any other officer involved in the incident. A more thorough explanation for my decision is contained herein below.

Thank you Investigator Jenness for serving as lead investigator for the 9th Judicial District Critical Incident Team's ("CIT") investigation of this matter. I am also thankful for all the other members of the CIT from various law enforcement agencies within the 9<sup>th</sup> Judicial District who aided and assisted in the investigation. I have thoroughly reviewed the investigation file which includes multiple interviews, videos, audios, police reports, toxicology testing laboratory reports, and the autopsy report of the decedent named Allan Thomas George. The investigation was thorough, professional, objective, and complete. I have also consulted with my team and other professionals regarding the facts and circumstances of this incident and legal conclusions I reached. The important facts upon which I have relied to reach my decision to not file criminal charges bear some

highlighting, which I attempt to do below. However, I should note that I have not summarized herein every single fact or detail of the incident.

### **Summary of Important Facts**

#### **A. Chronology of Critical Events Leading up to Monday, August 5, 2019**

Very few events, and outcomes derived therefrom, can be properly evaluated in a vacuum. Events leading up to, and at the time of, a critical incident are significant and relevant in understanding the context of an event and an outcome. Consequently, I have carefully considered the chronology of key events which preceded the death of Allan Thomas George on Monday, August 5, 2019. I outline these events below.

Around 2009, in a different judicial district and in Lake County, Colorado District Court Case No. 08CR81, Allan Thomas George (“Mr. George”) pleaded guilty to Sexual Exploitation of a Child, in violation of C.R.S. §18-6-403, a class five felony. As a result of this guilty plea, Mr. George was placed on probation by the Lake County District Court and was required to register as a “sex offender” for four years. After successfully completing the terms and conditions of the sentence, Mr. George’s original felony case was dismissed in the 5<sup>th</sup> Judicial District, and no felony conviction entered. The facts and circumstances of the 2008 Lake County District Court Case were very similar to the new 2019 allegations against Mr. George, which prompted the Rifle Police officers to contact him on Monday, August 5, 2019, the day of his death.

On April 10, 2019, the Child Exploitation and Human Trafficking Task Force of the Washington Field Office of the Federal Bureau of Investigation (“FBI”) reported that during a recent criminal investigation of suspected illegal possession and distribution of child pornography which involved a number of individuals utilizing “Kik Messenger” under a Kik group called, “Taboo Parents” to view, possess and distribute pornographic images of children and minors, a potential suspect from Rifle, Colorado was involved. “Kik” is a cross-platform mobile application used for instant messaging to transmit and receive messages, photos, and videos with a key feature enabling users to preserve anonymity, because a user does not have to register to use the application with a phone number. However, the Kik application logs user IP addresses, which can determine the location of a user. Although Kik can be used for legitimate noncriminal purposes, a person may utilize this application to message individuals as well as a group to facilitate access to, and distribution of, child pornography. Through the investigation, Allan Thomas George (“Mr. George”) of Rifle, Colorado was positively identified as an active participant in this illegal activity. After the FBI from the Washington Field Office reported this to local law enforcement, an investigator with the 9<sup>th</sup> Judicial District Attorney’s Office and a local FBI agent performed follow-up investigation of Mr. George’s suspected commission of these crimes. After the execution of search warrants on June 20, 2019, Mr. George was, in fact, found in possession of pornographic and/or sexually exploitive images of children. Such possession is illegal and a crime.

Also, on June 20, 2019, law enforcement personally contacted Mr. George who was working at the time for a company called “PSI”. At the time of this contact, Mr. George was working on a construction site during the workweek in Vail, Colorado. Investigators informed Mr. George of the



criminal investigation. Mr. George told investigators that he, “knew it was wrong, but explored several groups on Kik” looking for child pornography. Mr. George told investigators that he engaged in such illegal behavior in the evenings after work while off duty. At the particular time of these 2019 illegal activities, Mr. George was living during the workweek in Vail, Eagle County, Colorado, which is in the 5<sup>th</sup> Judicial District. In addition, on this same day, law enforcement served two search warrants on Mr. George’s home residence in Rifle. During the execution of the search warrants, investigators personally interacted with Mr. George’s wife (referred to herein as “SG”), who was home at the time the officers executed the search warrants. As a result of the execution of these search warrants, the personal interaction between Mr. George and investigators, and the personal interaction between Mr. George’s spouse and investigators, as early as June 20, 2019, Mr. George knew law enforcement was investigating him for crimes involving sexual exploitation of a child, the same crime for which he had pleaded guilty in the 2008 Lake County felony case for which he had been placed on probation and as a result of which required him to register as a sex offender for four years.

Sometime after June 20, 2019, Mr. George’s spouse, SG, left Colorado with his two young children and travelled to another state during which time she informed multiple people, including members of Mr. George’s family, of the criminal investigation into Mr. George and that law enforcement was investigating Mr. George for crimes involving possession of child pornography. The two children with whom SG travelled out of Colorado were Mr. George’s biological children and SG’s stepchildren who lived with Mr. George and SG in the Rifle residence.

On July 12, 2019, after passing a background check, Mr. George purchased a .45 caliber handgun, which was identified as a Springfield XDS pistol, from a licensed firearms dealer. Since Mr. George’s original felony had been dismissed after he completed the terms of the sentence in the 2008 Lake County felony case, the background check did not reveal a disqualifier which would prevent him from purchasing the firearm.

Around July 30, 2019, Mr. George’s spouse, SG, requested a welfare check/suicidal party at Mr. George’s residence in Rifle. SG was still out of state at the time and was not scheduled to return to Colorado until early August 2019. She relayed to Rifle Police that Mr. George was being investigated for child pornography and that he had recently made suicidal statements to her. She also relayed to the Rifle Police that Mr. George had just bought a gun and that he had said to her that he was not “going back to jail without a fight.” This information was memorialized in a weekend “pass-down” at the Rifle Police Department. “Pass-down” is a routine beneficial practice of the Rifle Police Department which occurs at the end of each shift so that officers from a previous shift can update and inform other officers of critical information at the time such other officers take over a follow-on subsequent shift.

## **B. Monday, August 5, 2019-Death of Allan Thomas George**

After the completion of the investigation into Mr. George’s illegal 2019 activities involving child pornography, it was determined by a judge that probable cause existed that Mr. George did commit a criminal offense, and that the offense had occurred in Eagle County, Colorado located in the 5<sup>th</sup> Judicial District, which is adjacent to, and just east of, the 9<sup>th</sup> Judicial District. Consequently,

on the morning of Monday, August 5, 2019, an Eagle County Judge issued an arrest warrant for Mr. George supported by an affidavit alleging he committed the violation of Sexual Exploitation of a Child in violation of C.R.S. §18-6-403, a class five felony. The arrest warrant for Mr. George stated in part,

“YOU ARE HEREBY COMMANDED to arrest Allan Thomas George... and take him without unnecessary delay before the nearest available Judge of the County or District.”

On Monday, August 5, 2019, Vail Police Officers attempted to contact Mr. George during the day at his jobsite to make the arrest as ordered by the arrest warrant. Vail police officer(s) went to the suspected work site of Mr. George in Vail and spoke with his supervisor. However, since Mr. George did not show up for work that day, officers did not find Mr. George to execute the court order to arrest him and take him into custody.

Sometime during the afternoon on Monday, August 5, 2019, Rifle Police officers visited Mr. George's residence in Rifle, Colorado. Officers spoke to Mr. George's wife, SG, who told them that Mr. George had a firearm, that he carried it all the time at work and at home, that he carried it in a backpack with ammunition in his PSI company work truck, and that she had recently returned from a weeks-long trip out of state. She told officers that Mr. George had recently told her that he was “not going to be a sex offender” and he “wasn't going to jail” and that she interpreted this as he was not going to be arrested without a fight. She also told Rifle Police officers that Mr. George had a video surveillance camera installed at their home while she was away and that the home surveillance video camera fed video directly to Mr. George's cellular phone, which would have enabled him to observe visitors approaching his residence. She also told officers that she was thinking about getting a protection order against Mr. George. SG also provided a detailed description of Mr. George's work truck that he was driving at the time and informed Rifle Police that Mr. George had been working in Vail, Colorado during the workweek but that she was expecting him to return home to Rifle that Monday evening.

Around 6 p.m., Monday, August 5, 2019 at the end of the day shift, a day shift Rifle Police officer conducted a “pass-down” which, as previously stated, is a customary procedure intended to inform officers at the beginning of each shift of potential critical issues. During this pass-down, a day shift Rifle Police Officer told Corporal D. Ryan and Officer S. McNeal, the night shift patrol officers, of the information regarding the arrest warrant for Mr. George and the statements relayed to law enforcement earlier that day by Mr. George's spouse, SG. At or near the time of this pass-down, Corporal Ryan and Officer McNeal both viewed a photograph of Mr. George. In that Corporal Ryan and Officer McNeal were the only officers working the night shift, the belief that Mr. George had recently been suicidal, had bought, and was in constant possession of a firearm, and the presence of surveillance capabilities by Mr. George of visitors to his residence, they opted not to attempt to contact Mr. George at his residence. Rather, Corporal Ryan and Officer McNeal planned to conduct a felony traffic stop upon Mr. George's return home to Rifle from Vail that evening but to perform the felony traffic stop prior to Mr. George's arrival at his residence.



Around 6:34 p.m. on Monday, August 5, 2019, Corporal Ryan and Officer McNeal departed the Rifle Police Department to begin their night shift, each driving their own police patrol vehicles. Corporal Ryan and Officer McNeal both parked their well-marked patrol vehicles at the intersection of I-70 and Colorado State Highway 13 in a manner enabling them to observe Mr. George's PSI work truck in the event it exited off I-70 Exit 90 into Rifle. Sometime prior, to aid and assist he and Officer McNeal in performing the felony traffic stop and the arrest of Mr. George, Corporal Ryan requested mutual assistance from a Garfield County Sheriff Deputy working in the western zone of Garfield County. The only mutual assistance available at the time was a single Garfield County Deputy on shift to cover western Garfield County. Consequently, this Garfield County Deputy initially staged his patrol vehicle near Corporal Ryan and Officer McNeal's vehicles at I-70, Exit 90, to assist in the felony traffic stop and arrest. However, the Deputy was soon dispatched to respond to an active domestic violence incident occurring in Battlement Mesa, some 20 miles west of Rifle, which left Corporal Ryan and Officer McNeal still awaiting the arrival of Mr. George.

At approximately 7:11 p.m. on Monday, August 5, 2019, Corporal Ryan observed a white Ford F-150 take the offramp from I-70 westbound at mile marker 90 and Exit 90. The Ford F-150 had clearly visible markings of "PSI" on the side and it precisely matched the description given by Mr. George's spouse, SG, of Mr. George's work truck. Having been provided a photograph of Mr. George earlier, Corporal Ryan positively identified the driver of this vehicle as Allan Thomas George. After positively identifying the vehicle and Mr. George, Corporal Ryan and Officer McNeal, both in well-marked patrol vehicles, immediately activated their emergency lights and positioned their vehicles directly behind Mr. George as soon as he exited off westbound I-70 and turned right and was travelling northward onto Colorado State Highway 13. Highway 13 generally runs north and south under I-70. It also traverses northward over a bridge above the Colorado River directly into downtown Rifle. This bridge is commonly referred to as the "River Bridge." At the time, it was still daylight outside and well before dark.

Within seconds of Corporal Ryan and Officer McNeal getting directly behind him with their emergency lights flashing, Mr. George pulled his vehicle to the side of the road and stopped approximately 200 yards from the offramp on the River Bridge. Corporal Ryan positioned his vehicle approximately 5-10 yards behind Mr. George's vehicle and Officer McNeal positioned her vehicle less than 5-10 yards behind Corporal Ryan's vehicle. Corporal Ryan immediately retrieved his patrol rifle, exited his patrol vehicle, and stood in the gap between his open driver's side door and the main vehicle frame of the patrol car. Corporal Ryan immediately began giving loud verbal commands to Mr. George to place his hands outside of the window. Mr. George looked several times at the rear facing driver's side mirror directly at Corporal Ryan. However, Mr. George did not place his hands outside the vehicle as directed by Corporal Ryan.

Although ordered by Corporal Ryan to place his hands outside of his driver's side window, Mr. George ignored these commands and suddenly and abruptly exited his vehicle. Corporal Ryan never gave Mr. George a command to exit his vehicle. Nevertheless, upon his sudden exit, Mr. George walked with purpose from his driver's side door to the rear of his vehicle toward Corporal Ryan. Corporal Ryan was continuously giving very precise commands to Mr. George to "stop, turn around and place his hands behind his head." Mr. George ignored these multiple commands and while walking toward Corporal Ryan, Mr. George reached behind his back and retrieved a handgun,



which Corporal Ryan immediately recognized as a Springfield XDS. Corporal Ryan also recognized that Mr. George's handgun had an extended magazine, which provided a larger capacity of ammunition. Corporal Ryan has owned Springfield XDS handguns and has a significant amount of experience and training using this make of handgun. At the same time, Officer McNeal exited her police patrol vehicle with her service handgun drawn and began moving forward toward Corporal Ryan and Mr. George's vehicle. Both Corporal Ryan and Officer McNeal wore visible official uniforms identifying them as "police" with openly displayed badges and insignia.

After ignoring numerous loud, clear and concise commands, Mr. George moved the handgun around his body sliding the barrel along his abdomen up to his chest. Despite Mr. George ignoring numerous commands and Corporal Ryan and Officer McNeal both being uncertain of Mr. George's intent upon openly displaying the handgun, Corporal Ryan and Officer McNeal refrained from engaging Mr. George with deadly force at that time. Rather, Corporal Ryan continued to give Mr. George loud, clear and concise commands. For example, Corporal Ryan repeatedly yelled, "Put the gun down! Put the gun down!" By this time, Officer McNeal had exited her patrol vehicle and was moving forward, and she also observed Mr. George in possession of the handgun and his continuing refusal to obey the commands of Corporal Ryan. Officer McNeal also began giving loud, clear, and concise commands to Mr. George. During this timeframe, citizen traffic continued north and south over the River Bridge mere feet away from the scene.

Mr. George continued to disobey the officers' commands and walked between the rear of his vehicle and the front of Corporal Ryan's vehicle toward the guardrail at the eastern edge of the road. Mr. George engaged in conversation with Corporal Ryan and Officer McNeal and repeatedly stated, "No! It's over! I'm not going to jail! I'm not going to be a sex offender!" According to Corporal Ryan, Officer McNeal and other citizen witnesses, Mr. George was very animated and appeared agitated and angry. According to both Corporal Ryan and Officer McNeal, on at least two occasions, Mr. George began to verbally count down saying, "3, 2, 1" as if demonstrating the intent to shoot himself. Although he didn't shoot himself, he refused to peaceably submit to the lawful arrest. When he got to the edge of the road at the guardrail, Mr. George placed his back toward the river with his calves pressed against the guardrail facing the officers and facing traffic that continued passing nearby. Without exception, Mr. George continued ignoring every single command given by Corporal Ryan and Officer McNeal.

Both officers activated their individual digital audio recorders at, or near, the beginning of the traffic stop. Although not necessarily in the exact order and not meant to delineate the entirety of the recording and exchanges between Mr. George and Corporal Ryan, the following are verbatim quotes from the audio recording of Corporal Ryan:

**Corporal Ryan:** Put the pistol down! Put the pistol down! Stop reaching!  
Put the pistol down! Don't shoot yourself man! Don't do it. Don't do it. Put  
the pistol down! We can talk through this man.

**Mr. George:** I'm not going to jail! I'm not going to be a sex offender!

**Corporal Ryan:** Don't do it!

**Mr. George:** It's not gonna(sp) happen!

**Corporal Ryan:** Don't! It's not worth it!



**Mr. George:** Yes, it is!

**Corporal Ryan:** It's not worth it. Put the pistol down. Come on man, it's...you have kids! You have a wife!

**Mr. George:** I won't be around them anymore! I won't be able to be around my family, my grandkids...

**Corporal Ryan:** It's not worth it!

**Mr. George:** It's all over!

**Corporal Ryan:** It's not over!

**Mr. George:** It is over!

**Corporal Ryan:** It's not over. Don't do it! Hey, let's talk through this. Just put the weapon down.

**Mr. George:** No, I'm not! It's over!

**Corporal Ryan:** Put the gun down! Put the gun down! Don't do that! Don't do that...you don't have to do it. Crawl back over, put the gun down and we'll talk about it.

**Mr. George:** I'm not going to jail. I'm not doing this! Don't you get it?

**Corporal Ryan:** Put the gun down! Put the gun down! Put the gun down!

**Mr. George:** I'm not! It's not gonna(sp) happen...whatever you want...(inaudible)...I don't give a shit...(inaudible)

**Corporal Ryan:** Don't do it.

**Mr. George:** Here I go!

**Corporal Ryan:** Don't do it man. You don't want to go out this way.

**Mr. George:** I have no choice.

**Corporal Ryan:** Think about your kids.

**Mr. George:** They don't have a dad anymore.

**Corporal Ryan:** They do!

**Mr. George:** No, they don't!

**Corporal Ryan:** They do!

**Mr. George:** No, they don't! It's over!

**Corporal Ryan:** Put the gun down! Don't do it. Don't do it. Put the gun down man. We can talk about this.

**Mr. George:** Fuck you! (inaudible)...talk about it with somebody else...but not you!...talk about it anymore.

**Corporal Ryan:** Put the gun down!

**Mr. George:** No! (inaudible)

**Corporal Ryan:** Put the gun down!

**Mr. George:** I'm not... (inaudible).

**Corporal Ryan:** Put the gun down. Think about your kids and your wife. Think about your kids and your wife. Don't do it. Don't do it. Don't do it.

**Mr. George:** It's all over...you don't get it...

**Corporal Ryan:** It's not over man!

**Mr. George:** It is over!

**Corporal Ryan:** Put the gun down! Put the gun down! Put the gun down!  
Put the gun down! Put the gun down! Put the gun down! Put the gun down!  
Put the gun down.

**Mr. George:** ...tell 'em(sp) I love 'em(sp) okay?

**Corporal Ryan:** Don't do it! You tell 'em(sp) yourself.

**Mr. George:** I won't be around 'em(sp)! You don't get it! It's over! It's over!

**Corporal Ryan:** It's...there's a warrant...

**Mr. George:** I lose everything!

**Corporal Ryan:** You're not convicted. You're not convicted! Put the gun down. Step back here and we can talk about it.

**Mr. George:** I'm not talking about shit! It's over! You don't get it! It's over!

**Corporal Ryan:** We have counselors. Your family gonna(sp)...your kids are going to miss you man.

**Mr. George:** No shit! And even if I'm alive they're gonna(sp) miss me.

**Corporal Ryan:** At least they're gonna(sp) be able to talk to you.

**Mr. George:** No, they can't!

**Corporal Ryan:** They can!

**Mr. George:** (inaudible)...Goodbye!

A careful review of Corporal Ryan's entire audio recording reveal that Corporal Ryan ordered Mr. George to put the gun (weapon/pistol) down at least 34 times. Also, of note is the clarity and concision of Corporal Ryan's commands and the presence of mind by Corporal Ryan to attempt to explain to Mr. George that he was not yet convicted of any crime, the implication of which is that Mr. George's life "was not over" as Mr. George seemed to firmly believe.

Although not necessarily in the exact order and not meant to delineate the entirety of the recording and exchanges between Mr. George and Officer McNeal, the following are verbatim quotes from the audio recording of Officer McNeal:

**Officer McNeal:** Drop the weapon! Drop it!

**Mr. George (in response to Corporal Ryan stating "Come on man, it's not worth it"):**...it is!

**Officer McNeal:** It's not! Don't do it! Just put the weapon down. Don't do it! You can put it down!

**Mr. George:** No, I'm not! It's over!

**Officer McNeal:** Yea, don't let other people see it! Just put it down! Put it down! You don't want other people to see it, so don't let 'em(sp)! Get off the rail! Don't do it! You don't want other people to see it! So, don't do it! Just put the gun down! There're other options!

**Mr. George:** I'm not going to jail! I'm not doing this. Don't you get it!? It's not happening! Tell my family I love 'em(sp)...(inaudible)...my son...my daughter...

**Officer McNeal:** So, don't put them through this! Don't do it to your kids!

**Mr. George:** I won't have my fucking kids! It's all over!

**Officer McNeal:** You can be able to talk to them still! Don't do it! Put the gun down! Please! You can talk to your kids!



**Mr. George:** It's not gonna(sp) happen!...(inaudible) all you want. I don't give a shit!

**Officer McNeal:** So, what can we do to make you put the gun down?

**Mr. George:** Here we go!

**Officer McNeal:** What can we do for you to get the gun down?

**Mr. George:** I have no (inaudible)...I have no life!

**Officer McNeal:** Don't do it! You still have family!

**Mr. George:** I don't even have that anymore!

**Officer McNeal:** You still have family! You still have family! Your family doesn't go away!

**Mr. George:** Fuck you!...talk about it...(inaudible)...know that...know way more than you guys...(inaudible)

**Officer McNeal:** Tell us about it! You say we don't know! Tell us! Just put the gun down! Don't do it! Don't do it! You can just put the gun down right now! You have family! And they don't go away. They're gonna(sp) be sad if you do this! Just drop the gun! Stay o...come back over. You still have family and you know that! You know they will be upset if you do this! It's not gonna(sp) make it better!

**Mr. George:** (inaudible)

**Officer McNeal:** Then explain it! Dispatch, 412, he's starting to jump off the bridge. I'm gonna(sp) have to get river rescue team ready. You have family still. You still have family that will talk to you. They'll help you get through this...but not if you jump. You don't want to traumatize all these other people driving by. They have nothing to do with this.

**Mr. George:** I'm not talking about shit! It's over! You don't get it!

**Officer McNeal:** Your family will help you. Your family is gonna(sp) miss you man!

**Mr. George:** No shit! And even if I'm alive they're gonna(sp) miss me!

**Officer McNeal:** You can write letters. There are options! There's other options besides this. Just step back over.

**Mr. George:** No! Go away!

**Officer McNeal:** We're not leaving you!

**Mr. George:** I'm not coming there. I'm going there one way or another...(inaudible)

**Officer McNeal:** You have family. You said it yourself. Stay on that side! Just stop right there! Stop!

A careful review of Officer McNeal's entire audio recording reveal that Officer McNeal ordered Mr. George to put the gun (sometimes referred to as "it") down at least 12 times. Also, of note is the clarity and concision of Officer McNeal's commands and the presence of mind by her to attempt to explain to Mr. George that his family would miss him if he chose to end his life.

Altogether, Corporal Ryan and Officer McNeal ordered Mr. George approximately 46 times to drop his handgun. However, Mr. George never surrendered possession of his handgun. In fact, during the standoff and after reaching the guardrail, Mr. George removed from his pockets his

wallet, some cash, two knives and his glasses and threw these items on the ground. However, Mr. George never dropped his handgun. At some point, Mr. George turned toward the Colorado River, stepped over the guardrail, and placed the handgun in his right front pocket with the butt of the handgun protruding outside. For a time, he rocked backwards and appeared to be getting ready to jump into river. After some time, he then stepped back over the guardrail facing the officers and traffic again.

Corporal Ryan and Officer McNeal continued to engage Mr. George in conversation and persisted in negotiating with Mr. George to get him to peaceably submit to the arrest and dispossess himself of the handgun. However, despite the near 10-minute-long negotiation, at some point, Mr. George patted his right front pocket, presumably to ensure his handgun was still in his pocket, then turned northward toward downtown Rifle and began to run away from the officers. As he ran, he still possessed the handgun but left his wallet, some cash, two knives and his eyeglasses behind. As Mr. George ran away toward downtown Rifle still possessing the handgun, Corporal Ryan then moved forward shooting Mr. George with his patrol rifle two times in the back.

The initial felony traffic stop and attempt to arrest began at approximately 7:11 p.m. and Corporal Ryan fired two shots both of which struck Mr. George causing him to fall approximately 30 yards to the north of his truck at 7:21 p.m. When Mr. George appeared to be debilitated and did not appear to pose a threat to the officers and other nearby citizens, Corporal Ryan and Officer McNeal moved forward away from the protective cover provided by the vehicles and performed a pat-down search of Mr. George's person. Corporal Ryan removed Mr. George's handgun from his right pocket, the only item in Mr. George's possession at that time. Images from a video captured by a nearby citizen depict Corporal Ryan quickly and easily removing the handgun from Mr. George's pocket. After removing it, Corporal Ryan sat Mr. George's handgun over on the concrete curb underneath the guardrail. A Garfield County Deputy who had recently arrived inspected the handgun taken from Mr. George and found it to be locked and loaded, ready to fire, with a round loaded inside the firing chamber.

After Corporal Ryan disarmed Mr. George, Officer McNeal placed Mr. George into handcuffs and then began to provide Mr. George with emergency medical treatment, such as applying pressure to obvious bullet wounds to Mr. George's torso. The officers also called immediately for an ambulance and began to talk to Mr. George to encourage him to stay alive. Corporal Ryan said things like, "Stay with us Allan. Stay with us man. Stay with us. Come on Allan! Stay with us! Allan, stay with us." Officer McNeal made statements like, "You're alright. The ambulance is coming. Ambulance is coming. Just hang on. They're almost here. Come on Allan. They're almost here." Emergency medical providers arrived shortly thereafter. Despite swift life-saving efforts on the part of Corporal Ryan, Officer McNeal and numerous other emergency medical personnel, Mr. George died at approximately 7:38 p.m. and was pronounced dead at Grand River Hospital in Rifle. The standoff lasted a total of approximately 10 minutes.

At the formal request of the Garfield County Coroner, a medical pathologist, Dr. Dean Havlik, performed an autopsy on Mr. George's body at Community Hospital in Grand Junction. The conclusions reached by Dr. Havlik and memorialized in his autopsy report stated in part,



“Autopsy revealed two gunshot wounds that involved the chest. Both gunshot wounds had entrance wounds on the right aspect of the back and exit wounds on the right aspect of the chest. The entrance wounds had features most suggestive of distant range fire with no evidence of soot or gunpowder stippling on the skin surrounding the wounds. Both gunshot wounds perforated the right lung and resulted in internal bleeding in the right chest cavity...*The cause of death is gunshot wounds of the chest and the manner of death is homicide* [emphasis added].”

### C. Other Pertinent Facts

On multiple occasions up to, and on the same day of, his death, Mr. George communicated to several people that he would “not go back to jail” and would “not be arrested.” In addition to the statements provided to police by his spouse, SG, before the incident, Mr. George’s family members relayed similar statements after the incident to CIT investigators. For example, Mr. George’s sister told investigators that she thought she had been the last person to communicate with Mr. George before he was shot. Mr. George told his sister during a phone conversation that evening, which phone records reveal happened right before the incident, that “he had to go as the police were behind” him. Mr. George’s sister said that Mr. George “was upset that day” and that he said someone from his work, one of the managers at the site, contacted him earlier that day and said the police were looking for him. She also said that Mr. George told her that they were looking for him and that no matter what, he “wasn’t going to jail.” She said that Mr. George had been telling her this for a while as he knew about the criminal charges against him. She also said that for over a week, Mr. George had told her that he “wasn’t going to jail.” He said it was “no matter what” and that “jail was not an option.” She also stated that she knew he had a gun and asked him if it was on him, but he told her that he would not let her know if it was. Mr. George’s sister told Mr. George not to do this and “that is not the answer,” but he again said that “jail is not an option as his life would be over” if he went there. Mr. George’s sister also said that he “knew he screwed up and this was the only way out.” She stated that Mr. George had his mind made up and no one could talk him out of it. She also told investigators that she thought Mr. George was carrying the gun just in case the police showed up, and that in her opinion, this was “cop assisted suicide.”

Mr. George’s adult daughter also told CIT investigators that Mr. George told her that he was “not going back to jail” and that he had “disgraced” his “family name.” She told investigators that Mr. George had communicated with her that day, evidently close in time to the incident, and told her that he loved her, and he was getting pulled over. Mr. George’s daughter told investigators that he had also sent messages to her brother, Mr. George’s adult son, telling her brother’s family goodbye. Mr. George’s daughter also told investigators, “This time he was terrified as he has been through the system, he didn’t want to go to jail, and he was worried his kids wouldn’t get to be around him.” Mr. George’s daughter also said, “He was already in the mindset that he wasn’t going to go to jail” and “Everyone knew he wasn’t going to go down without a fight as he didn’t want to go to jail.”

Mr. George’s adult son also told CIT investigators that over the weeks prior to the incident, Mr. George was distant and was not calling daily as he customarily had prior to August 5, 2019. Mr.

George's adult son told investigators that Mr. George had told him if anything happened, he wanted him to take care of his younger brothers (Mr. George's younger biological children). Mr. George's son also told CIT investigators that after hearing that Mr. George may take his own life, he called his father and confronted him. Mr. George told his adult son that he "wasn't going to court or to prison and there wasn't any way that anyone was taking him anywhere." Mr. George's adult son also told investigators that he had spoken to Mr. George the day of the incident and that Mr. George told him that "they" were looking for him and he "wasn't going in."

#### **D. Legal Analysis**

Several federal court cases exist which support the proposition that when an officer has probable cause to believe that a suspect poses a threat of serious physical injury, either to the officer or to others, deadly force may be legally authorized. *Tennessee v. Garner*, 471 U.S. 1 (1985). Substantial evidence exists which demonstrates Corporal Ryan and Officer McNeal exhausted every reasonable means to peaceably disarm Mr. George giving him nearly 10 minutes and approximately 46 commands to dispossess himself of the loaded handgun and submit to a lawful arrest. Mr. George ignored these numerous loud, clear and concise commands, refused to relinquish possession of the handgun, and refused to lawfully and peacefully submit to a court-ordered arrest warrant for a felony. As previously emphasized, other than initially submitting to emergency lights of the marked police patrol vehicles and pulling over on the Highway 13 River Bridge at the very beginning, Mr. George failed to obey a single command, directive or order of either Corporal Ryan or Officer McNeal.

Arguably, after being ordered by Corporal Ryan to place his hands outside of his driver's side window, turn around, drop the gun-those commands given during the initial seconds of the encounter, Corporal Ryan could have fired his firearm at Mr. George as soon as he removed the handgun from concealment and openly presented it. However, Corporal Ryan used restraint, did not initially shoot Mr. George and persistently gave repeated commands to Mr. George to put the weapon down and submit to the arrest. Corporal Ryan, Officer McNeal and numerous passersby faced a very volatile situation fraught with danger to themselves and members of the public. Although Mr. George evidently never pointed the handgun directly at Corporal Ryan, Officer McNeal, or other passersby, nothing prevented him from doing so in a split second. Where over three dozen orders to drop the weapon go unheeded, prevailing law does not require a police officer to wait until an armed and dangerous felon has drawn a bead on the officer or others before using deadly force.

In addition, having dropped his wallet, cash, two knives and eyeglasses on the pavement, Mr. George was physically able to consciously dispossess himself of other articles on his person. However, he consciously refused to drop and surrender possession of his loaded handgun. When Mr. George turned and ran toward downtown Rifle still in possession of the handgun, Corporal Ryan had reason to believe that Mr. George might be running to take cover and at some point, engage the officers or others with his handgun.

This analysis does not go without legally supportive precedent. In a Federal Court of Appeals case for the Eleventh Circuit, *Montoute v. Carr*, 114 F.3d 181 (11th Cir.1997), officers shot in



the back an individual in possession of a shotgun although the person never turned to face the officers or point the gun at them. The federal court in *Montoute* stated,

“We accept for the purposes that, once past Sergeant Carr, Montoute never turned to face him again, and Montoute never actually pointed the sawed-off shotgun at anyone. But there was nothing to prevent him from doing either, or both, in a split second. At least where orders to drop the weapon have gone unheeded, an officer is not required to wait until an armed and dangerous felon has drawn a bead on the officer or others before using deadly force.”

*Montoute* at 185.

In another Federal Court of Appeals case for the Eleventh Circuit, *Garczynski v. Bradshaw*, 573 F.3d 1158 (11th Cir.2009), Palm Beach Florida Sheriff's deputies responded to a man armed with a handgun who was suicidal. Initially, his location was unknown, but through investigation, officers located him in his vehicle in a secluded parking lot. Officers rushed his car with weapons drawn and ordered Garczynski to drop his gun, which he initially pointed at his head. Garczynski refused to drop his gun and instead began to swing it around and the officers fired, killing him. The court in *Garczynski* reiterated the rationale of the *Montoute* case and stated, “Even if we assumed that Garczynski did not point his gun in the officers' direction, the fact that Garczynski did not comply with the officers' repeated commands to drop his gun justified the use of deadly force under these circumstances.” *Garczynski* at 1169. Citing the *Montoute* case, the court in *Garczynski* also stated,

“...the officers did not have control over Garczynski and there was nothing preventing him from shooting at the officers in an instant. The officers could reasonably believe that the weapon was loaded, as it actually was, given Garczynski's expressed intent to commit suicide. As in *Montoute*, Garczynski's repeatedly disobeyed the officers' orders, first to show his hands and then to drop his gun. These factors, even assuming that Garczynski never pointed the gun at the officers, provided a sufficient basis for the officers reasonably to believe that Garczynski posed an immediate risk of serious harm to them.”

*Garczynski* at 1169.

In another Federal Court of Appeals case in which a person was running away from law enforcement when he was shot and who had not threatened definitely the officers with a gun, the federal court stated, “...the law does not require officers in tense and dangerous situations to wait until the moment the suspect uses a deadly weapon to act to stop the suspect.” *Long v. Slaton*, 508 F.3d 576, 581 (11th Cir.2007).

It has also been recognized by courts that officers may use deadly force to prevent escape of a fleeing, dangerous felon. *Tennessee v. Garner*, 471 U.S. 1 (1985). The United States Supreme Court in *Garner* stated, “[w]here the officer has probable cause to believe that the suspect poses a threat of serious physical injury, either to the officers or others, an officer may use deadly force.” In *Garner*,

the Court also stated, "...if a suspect threatens the officer with a weapon or there is reason to believe that the suspect had committed a crime involving serious physical harm, deadly force may be used if necessary to prevent escape, and, if where feasible, some warning has been given." *Garner* at 12.

The United States Supreme Court has also stated, "The 'reasonableness' of a particular use of force by a police officer must be judged from the perspective of a reasonable officer on the scene, rather than 20/20 hindsight. We must allow for the fact that police officers are often forced to make split-second judgments-in circumstances that are tense, uncertain, and rapidly evolving-about the amount of force that is necessary in a particular situation." *Graham v. Connor*, 490 U.S. 386, 396 (1989). When evaluating whether a law enforcement officer has used excessive force in a particular circumstance, the United States Supreme Court has emphasized that there is no precise test or "magical on/off switch" to determine when an officer is justified in using excessive or deadly force. *Scott v. Harris*, 550 U.S. 372, 382 (2007); *see also Graham* at 396. The Court has said, "Nor must every situation satisfy certain preconditions before deadly force can be used." *See Scott* at 382. "Rather, the particular facts of each case must be analyzed to determine whether the force used was justified under the totality of the circumstances." *See Graham* at 396. The Court has further stated, "[I]n the end we must still sash our way through the factbound morass of 'reasonableness'...the only perspective that counts is that of a reasonable officer on the scene at the time the events unfolded." *Id.*

The Supreme Court further stated, "Accordingly, the 'reasonableness' inquiry in an excessive force case is an objective one: 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." *Graham* at 397. Those facts and circumstances are often "tense, uncertain and rapidly evolving," thereby requiring "split-second judgments" as to how much force is necessary. *Id.* "Because an officer's perspective in the field differs from that of a judge sitting peacefully in chambers, we must resist the temptation to judge an officer's actions 'with the 20/20 vision of hindsight.'" *Id.* at 396.

Like the Supreme Court has emphasized in *Graham*, Corporal Ryan's perspective on Monday, August 5, 2019 differs from mine sitting peacefully in an office. I too must resist the temptation to judge Corporal Ryan's actions with 20/20 vision of hindsight. In considering the principles delineated in multiple federal cases considering whether an officer has used excessive force in a civil context in which the burden of evidentiary proof is significantly less than it would be in a criminal prosecution, I cannot reasonably conclude that Corporal Ryan's use of deadly force violated any criminal statute. A prosecutor has an ethical duty to only file charges which are supported by probable cause. Moreover, the National Prosecution Standards recommend that a prosecutor only file formal charges when the prosecutor has a reasonable belief that he or she can prove a crime was committed beyond a reasonable doubt, a significantly higher burden of evidentiary proof. Moreover, Colorado statutory law must be considered.

Turning to Colorado law, the circumstances presented to Rifle Police Officers Corporal Ryan and Officer McNeal justified the use of deadly force against Mr. George. In C.R.S. §18-1-707,



titled, "Use of Physical Force in Making an Arrest or in Preventing an Escape-definitions", the law states:

(1) Except as provided in subsection (2) of this section, a peace officer is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary:

(a) To effect an arrest or prevent the escape from custody of an arrested person unless he knows that the arrest is unauthorized; or

(b) To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect such an arrest or while preventing or attempting to prevent such an escape.

(2) A peace officer is justified in using deadly physical force upon another person for a purpose specified in subsection (1) of this section only when he reasonably believes that it is necessary:

(a) To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or

(b) To effect an arrest, or to prevent the escape from custody, of a person whom he reasonably believes:

(I) Has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon; or

(II) Is attempting to escape by the use of a deadly weapon; or

(III) Otherwise indicates, except through a motor vehicle violation, that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay.

(3) Nothing in subsection (2) (b) of this section shall be deemed to constitute justification for reckless or criminally negligent conduct by a peace officer amounting to an offense against or with respect to innocent persons whom he is not seeking to arrest or retain in custody.

(4) For purposes of this section, a reasonable belief that a person has committed an offense means a reasonable belief in facts or circumstances that if true would in law constitute an offense. If the believed facts and circumstances would not in law constitute an offense, an erroneous though not unreasonable belief that the law is otherwise does not render justifiable

the use of force to make an arrest or to prevent an escape from custody. A peace officer who is affecting an arrest pursuant to a warrant is justified in using the physical force prescribed in subsections (1) and (2)...of this section unless the warrant is invalid and is known by the officer to be invalid.

C.R.S. §18-3-201 defines "Peace Officer" as one "engaged in the performance of his duties...and one who is engaged or acting in, or who is present for the purpose of engaging or acting in, the performance of any duty, service, or function imposed, authorized, required or permitted by law to be performed by a peace officer...whether or not the peace officer...is within the territorial limits of his jurisdiction, if the peace officer...is in uniform or the person committing an assault upon or offense against or otherwise acting toward the peace officer...knows or reasonably should know that the victim is a peace officer..."

After applying the aforementioned statutory provisions and the principles delineated by the aforementioned federal courts related to the use of deadly force by a police officer, no criminal prosecution of any kind can or should occur against Corporal Ryan or any other person. Clearly, Corporal Ryan and Officer McNeal were engaged in the performance of their duties as a "Peace Officer" and indeed, both were performing a duty required by law. Corporal Ryan and Officer McNeal were on duty, in uniform, in well-marked police vehicles and had verified that a Colorado court of law had issued an arrest warrant for Mr. George and which commanded he be arrested. The officers had a duty to arrest Mr. George. They were required by law and by court order to arrest Mr. George. Allowing Mr. George to leave or escape would have violated their duties as police officers and violated the court order.

Both officers exercised restraint by not initially engaging Mr. George with deadly force despite his abrupt production of a loaded handgun. Both officers had a duty to protect themselves, each other, and innocent citizens from the threats posed by Mr. George. Engaging in the benefit of 20/20 hindsight is not a profitable exercise when evaluating the decision of Corporal Ryan during the tense standoff with Mr. George. As in the *Montoute* and *Garczynski* case, Corporal Ryan, Officer McNeal, and innocent members of the public nearby faced very dangerous, volatile, and unpredictable circumstances. Corporal Ryan knew that Mr. George had made suicidal statements to his spouse and was armed with a loaded handgun.

Mr. George's behavior in the presence of Corporal Ryan strongly corroborated the suicidal emotional state which Mr. George's spouse, SG, had relayed to Rifle Police earlier in the day. Based on his behavior in the presence of the officers and the multiple statements made by Mr. George to Corporal Ryan and Officer McNeal evincing a desperate emotional state such as, "It's all over" and his verbally giving a countdown implying his intent to commit suicide, Corporal Ryan had a reasonable belief that Mr. George's behavior was dangerous and unpredictable. Corporal Ryan directly observed Mr. George ignore repeated commands to drop his loaded handgun and then attempt to escape he and Officer McNeal fleeing toward downtown Rifle while still in possession of the handgun. At the time, Corporal Ryan and Officer McNeal had no additional law enforcement to aid and assist them in making the lawful arrest and in protecting nearby innocent citizens. Considering these circumstances, both Corporal Ryan and Officer McNeal's options were extremely limited.



Engaging in a foot pursuit of Mr. George was inherently unsafe and extremely dangerous for several reasons. One, use of force studies have revealed a “reactionary gap” that is often present during a foot pursuit of an armed person. Once a person has decided to fire a handgun, it takes .31 of a second to fire the first shot; multiple additional shots can also be fired at quarter-second intervals. Two, with respect to a person armed and fleeing, because often armed persons fleeing may take cover behind an object and gain a tactical advantage over the pursuing officer, Corporal Ryan and Officer McNeal could not allow Mr. George to run away to a densely populated area still in possession of the handgun. Persons who flee and who are armed often adopt a hide and ambush strategy and consequently fire on pursuing officers at some later time. As both Corporal Ryan and Officer McNeal stated in their interviews, pursuing and attempting to physically tackle Mr. George was not a viable option. Having already ignored repeated commands to drop his handgun, Mr. George was still armed with a loaded handgun and tackling him would not prevent him from firing upon the officers or other innocent persons in the nearby vicinity.

Corporal Ryan and Officer McNeal also stated that the less-than-lethal option of using a TASER (also known as a “Thomas A Swift Electric Rifle”) was not a viable option either. A TASER is a less-than-lethal tool which at a short distance delivers a temporary electric shock which may, but is not sure to, temporarily disable a person. Near the beginning of the contact, Mr. George abruptly produced the handgun and nearly immediately pressed it against his own body and when the handgun was not pressed against his body, he was leaning over the Colorado River flowing underneath the River Bridge. Using a TASER could have caused him to squeeze the trigger and shoot himself or cause him to fall into the swift river and drown. Thereafter, Mr. George was fleeing away from the officers still in possession of his handgun. A TASER has a maximum effective range of 25 feet and thus its effectiveness was quickly out of range once Mr. George began running away from the officers. Numerous citizens passed by and were in the nearby vicinity as he ran. Deployment of a TASER could have created a situation in which the TASER failed to effectively disable Mr. George and since he was still in possession of the handgun, he could have directly fired upon the officers or erratically fired the handgun striking innocent passersby.

Although both officers stated that Mr. George never directly pointed the handgun at them, nothing prevented him from doing so in a split second and firing at the officers or other innocent citizens. In viewing the available videos of some of the circumstances, there were numerous vehicles traveling nearby both north and south on the River Bridge during the standoff. The CIT investigation revealed numerous citizen witnesses who witnessed parts of the standoff and the eventual shooting. These witnesses corroborated the agitated state of Mr. George and the minutes-long attempt by Corporal Ryan and Officer McNeal to converse with Mr. George for the purpose of negotiating his surrender. Nothing would have prevented Mr. George from, in an instant, pointing and firing the gun at innocent passersby or taking a hostage and high jacking a vehicle.

Colorado law authorizes a police officer to use deadly force upon another person when he or she reasonably believes it is necessary to defend himself/herself or a third person from what he or she reasonably believes to be the use or imminent use of deadly physical force. Given the totality of the circumstances, an objective officer in Corporal Ryan’s situation could have reasonably believed that Mr. George posed a significant threat and potentially imminent threat of deadly physical force



or of serious bodily injury to himself, a fellow officer, pedestrians, and/or other citizen motorists passing nearby especially as he was running toward the more concentratedly populated area of downtown Rifle. As Corporal Ryan stated in his interview, "there are restaurants, businesses, convenience stores which were super busy at the time." Corporal Ryan's decision to eliminate the threat of danger to the citizen population and to him and Officer McNeal was objectively reasonable under the circumstances.

Because Mr. George threw everything in his possession on the ground *except* the handgun, allowing him to escape while continuing to possess a loaded handgun in such a volatile and desperate state was not reasonable under the circumstances. Corporal Ryan and Officer McNeal had a lawful arrest warrant and were dutybound to arrest Mr. George.

Neither officer had control over, or custody of, Mr. George. From the outset, he ignored initial commands to place his hands outside of the vehicle and he also ignored repeated persistent commands to drop his handgun. Very similar to federal case law cited herein in which deadly force was found legally justified, (*See Garzynski v. Bradshaw*, 573 F.3d 1158 (11th Cir.2009)), these factors alone provided a sufficient legal basis for Corporal Ryan to reasonably believe Mr. George posed an immediate risk of serious harm. However, Corporal Ryan was also aware that Mr. George had recently made suicidal statements and told his spouse that he was not going to jail. The law did not require Corporal Ryan in a tense and dangerous situation to wait until the moment Mr. George used the deadly weapon to act to stop Mr. George in order to prevent harm to himself or others (*See Long v. Slaton*, 508 F.3d 576, 581 (11<sup>th</sup> Cir.2007)).

Colorado statute also authorizes a police officer to use reasonable and appropriate force upon another when to the extent the police officer reasonably believes it necessary to "effect an arrest or prevent escape from custody of an arrested person unless he knows that the arrest is unauthorized." While distinguishable, in a Colorado Case, *Martinez v. Harper*, 802 P.2d 1185 (Colo. App. 1990), a court found officers justified in using deadly force during an attempted escape. In *Martinez*, an escaped prisoner took a firearm from a guard, briefly pointed the firearm at officers and was told twice to drop the gun. After these commands, the officers used deadly force. The Colorado Appellate Court found that the officer involved did not unreasonably use deadly force in shooting the escapee, when the officer knew the escapee was armed and dangerous, had pointed the gun at the officer, the officer reasonably feared for his own safety, the officer had given two clear warnings and the escapee was not cornered. *Martinez* at 1187.

Here, Corporal Ryan knew, and had verified, that the arrest of Mr. George had been ordered by a Colorado Court. Corporal Ryan and Officer McNeal were required to effect the lawful arrest of Mr. George and take him into custody, which necessarily would prohibit Mr. George's escape. The handgun possessed by Mr. George was a "deadly weapon". It was loaded and ready to fire. While Mr. George did not point his handgun directly at the officers, he abruptly brought it into plain sight of the officers after disregarding their initial lawful orders to place his hands outside the vehicle's window. Instead, in defiance of these commands, Mr. George got out of the car and approached the officers while pulling out a loaded handgun. Thereafter and for nearly 10 minutes, both Corporal Ryan and Officer McNeal ordered Mr. George approximately 46 times to drop his handgun. Mr. George disregarded these numerous verbal commands throughout the interaction. Mr. George



November 4, 2019 DA Legal Review Letter

Re: Officer Involved Shooting Investigation-ALLAN THOMAS GEORGE-Rifle Police Corporal D. Ryan-

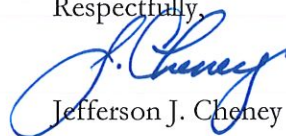
Case No. 2019-389

Page 19 of 19

refused to submit to a lawful arrest and by continuing to conscientiously possess this handgun and not dispossess himself of it and ignoring persistent loud, clear and concise commands, he effectively used this deadly weapon to escape. The Colorado statute justifies a police officer to use deadly force when a person uses a deadly weapon to escape from a lawful arrest. As Corporal Ryan stated in his interview conducted by CIT Investigators, had Mr. George dropped his handgun, the outcome would have been totally different.

In conclusion, Allan Thomas George is a human being and is now dead. No death which occurs during a law enforcement contact should be dismissed without serious consideration of the appropriateness and legal permissibility of law enforcement's actions. I have thoroughly reviewed the circumstances leading up to, and at the time of, Mr. George's death and the applicable law related to the use of deadly force by a peace officer. Based on the totality of circumstances described herein and the prevailing legal principles related to "use of force" by law enforcement, I decline to charge anyone with a crime for the death of Allan Thomas George, which occurred Monday, August 5, 2019.

Respectfully,



Jefferson J. Cheney