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OFFICE OF  
**THE DISTRICT ATTORNEY**  
COUNTY OF SAN DIEGO

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DISTRICT ATTORNEY

June 17, 2022

Chief of Police David Nisleit  
San Diego Police Department  
1401 Broadway  
San Diego, CA 92101

**Re: Non-fatal shooting of Mr. Jesus Medina Morales on September 28, 2021, by San Diego Police Department Officer Justin Hibbard; SDPD Case No. 21-046157; DA Special Operations Case No. 21-115PS; Deputy District Attorney assigned: Cal Logan**

Dear Chief Nisleit:

We have reviewed the reports and other materials compiled by the San Diego Police Department's Homicide Division concerning the circumstances leading to the non-fatal shooting of Jesus Medina Morales by Officer Justin Hibbard on September 28, 2021. A District Attorney Investigator responded to the scene and was briefed about the incident. This case was submitted to the District Attorney's Office for review on February 4, 2022.

***Summary***

On September 28, 2021 Officer Hibbard and his partner, Field Training Officer LE1, attempted to conduct a traffic stop on a motorcycle, but the driver did not yield. A short pursuit ensued and ended when the driver, Jesus Medina Morales, fled on foot. The officers gave chase and shouted commands for Morales to stop. During the foot pursuit Morales turned toward Hibbard and fired an unregistered and unserialized 9mm handgun at him. Hibbard returned fire striking Morales in the chest and right forearm. Morales threw his firearm across the street and surrendered to the officers. The officers provided medical aid until Morales was transported to a hospital where he was treated for his injuries and released. Testing of Morales' blood revealed the presence of methamphetamines.

***Persons Involved***

Jesus Medina Morales is a 35-year-old resident of San Diego. Hibbard has been employed by the San Diego Police Department for less than a year and at the time was a trainee in his third phase of training with a field training officer.

***Law Enforcement Witness One (LE1)***

LE1 was Hibbard's field training officer. They had driven past Morales sitting on a motorcycle. LE1 had Hibbard turn their patrol unit around. The motorcycle drove past them. Hibbard noticed the license plate was tucked behind the wheel and wasn't visible, an infraction. Hibbard got behind the motorcycle, activated the overhead lights and chirped the siren. Morales continued

northbound on Hondo Street and then accelerated eastbound on Ogden Street. LE1 didn't notice if Morales looked back at them. LE1 thought Morales realized Ogden Street was going to dead end. Morales slammed on the brakes and the motorcycle started to wobble. Morales couldn't control the motorcycle. He crashed and laid the bike down. Hibbard and LE1 exited their vehicle. Morales removed his helmet, turned and looked at them, and took off running. Hibbard gave Morales commands to stop and get on the ground. LE1 told Hibbard to chase Morales and he would put out the radio traffic. LE1 had Hibbard and Morales in sight throughout the pursuit but wasn't close to them. They chased Morales westbound on the 5300 block of Wightman Street and then northbound onto the 3800 block of Shiloh Road. Hibbard closed the distance to about 10 feet, and LE1 was about 20-25 yards behind them.

LE1 was running up the middle of Shiloh Road when Morales and Hibbard turned westbound on Rex Ave. LE1 saw Morales turn to his left, produce a firearm, and fire it at Hibbard who was only about ten feet away from him. Morales held the handgun with his right hand, with his arm bent at a 90 degree angle a couple of inches from his chest when he fired. LE1 believed he heard Hibbard return fire, consisting of three rounds. He saw Hibbard go down to the side but could not see what happened because a parked car obstructed his vision. LE1 thought Hibbard had been shot. He aired shots fired, threw his radio, and moved forward. LE1 heard Morales say, "I give up. I'm hurt." He saw Morales throw his gun eastbound and it landed near the tailgate of a white Tacoma parked on the east curb line at 3800 Shiloh Street. LE1 and other officers took Morales into custody and provided aid. LE1 looked at the handgun and saw a casing lodged in the slide of the firearm. It looked jammed. LE1 felt there was no other reasonable use of force they could have used. He thought Hibbard had been hit and shot in the head. Morales was so close to him that LE1 thought Hibbard was hard to miss. "I thought this was going to be a different night."

#### ***Law Enforcement Witness Two (LE2)***

LE2 and LE3 responded to a vehicle pursuit with a subsequent foot pursuit taking place. As they arrived at the intersection of Shiloh Road and Rex Avenue, they saw Hibbard and LE1 taking Morales into custody. LE2 saw Morales was bleeding and had likely sustained injuries from the shooting. He retrieved the first aid kit from their patrol vehicle and LE3 rendered aid to Morales. LE2 saw a black handgun in the northeast corner of the intersection of Rex Avenue and Shiloh Road. LE2 felt it was best for officer/public safety to secure Morales' handgun. He collected the handgun and saw it was out of battery with the slide to the rear. Inside the weapon's chamber/ejection port, he saw two unspent rounds, one on top of the other which prevented the gun's slide from traveling forward. LE2 rendered the weapon safe by removing the gun's magazine, cycling the weapon's slide and locking it in a rear locked position. Two unspent rounds were freed as a result of cycling the weapon with the magazine removed. The magazine still had an unknown number of rounds in it. He did not further manipulate the weapon or magazine. The weapon was a black Glock 26 slide/upper and a "P80" frame. The magazine he removed from Morales' handgun appeared to be a 15-round magazine. LE2 could not find a serial number on the weapon. He secured the weapon in his patrol unit while they continued to provide medical aid to Morales. LE2 used LE3's ARJIS phone and took digital photos of Morales, his injuries, the location where he recovered the handgun and the scene.

***Law Enforcement Witness Three (LE3)***

When LE3 arrived on scene, LE3 saw LE1 and Hibbard trying to handcuff Morales. LE3 assisted them and advised the other officers Morales' handgun needed to be secured. He began providing aid to Morales. LE3 located a gunshot wound a few inches under Morales' right nipple and another wound at the center of his lower back. A chest seal was applied to both gunshot wounds. LE3 located an additional wound where a round had passed through the right inner forearm. LE3 patted down Morales while he was providing aid, looking for any other weapons. LE3 felt a bulky object and another unknow object in Morales' left front pants pocket. When he pulled the object out, he saw a plastic bag containing a white crystalline substance which he recognized to be a controlled substance.

LE3 handcuffed Morales to the gurney and rode to the hospital with him. Morales made a spontaneous statement during the transport: "I wanted to tell him sorry, I want to tell him sorry. I apologize. I was really scared." LE3 asked Morales who he wanted to apologize to. Morales said, "To the cop. To the cop. To the cop. I just didn't want to go to jail. I just didn't want to go to jail." Upon arrival at the hospital Morales stated, "Please tell him I'm sorry."

***Statement of Civilian Witness One (CW1)***

CW1 had a clear unobstructed view of the intersection. At around 5:30pm, CW1 heard a gunshot which sounded like fireworks. CW1 looked out the window and saw a Hispanic male running across the street northbound from 3800 Shiloh Road. He was running towards the northwest corner of Shiloh Road and Rex Street. CW1 initially thought he was playing with his kids. As the male was running, he looked back to see if someone was following him. CW1 saw Morales as he turned around and twisted to his right towards the officers. He held the gun in his right hand and fired one round at them. When the police officers got to the corner, they fired back at him and shot him in the back. CW1 knew it was a gun because of the way he was holding it.

CW1 did not see the officers when she saw Morales's shoot. She only saw him shoot in the direction the officers came from. CW1 saw him shoot and then she saw the officers. She believes she saw three officers running northbound from 3800 Shiloh Road after the man who shot at them. It was daylight and she could see them clearly in full uniform with their utility belts. The man turned back around and started running towards a house she sees children playing at all the time. She heard three or four gunshots and saw Morales fall to the ground. The officers were standing at the corner when they shot back at the man. She didn't see all of the officers until all of the shots were fired, and Morales was on the ground. CW1 did not hear any additional shots fired when he was on the ground. She heard the officers yell, "Shots fired, shots fired." It took the officers a few seconds before they ran up to Morales who was lying on the ground. CW1 heard an officer ask the man if he had another gun. She thinks they were checking to see if it was safe. They rolled him over and put handcuffs on him. She did not see Morales throw anything. However, it looked to her like the officers were looking for and found something he had thrown out of her view in the northeast corner of the intersection. CW1 saw an officer get a first aid kit out of his vehicle and start rendering aid. She was really concerned for the man who was shot.

CW1 added, after Morales shot at the officers, he ran towards a family home with a gun. He was a threat to public safety. The officers did not have much of a choice. CW1 was surprised no one

else got hurt. She was afraid for the children playing in the area and felt the officers were protecting those people and children. CW1 felt the officers did everything they should have done. She has had experiences with law enforcement when they have used too much force. CW1 felt the force used was justified and hopes the officer gets the support he needs.

***Statement of Civilian Witness Two (CW2)***

CW2 was walking up the street and heard a motorcycle engine rev to probably 5-6000 RPM's and then it stopped. CW2 heard and then saw Morales running down the street with two police officers in uniform chasing him and giving him orders to stop running. When the officers were five to six feet behind Morales, CW2 saw Morales, possibly with his right hand, pull a gun out, turn half-way around and shoot at the cops. The cops yelled "shots fired," and shot back at Morales. CW2 denied posting a video on YouTube of the shooting. CW2 did not see where Morales pulled the gun from. CW2 saw Morales shoot two or three times. There was a split second and then the police yelled "shots fired." The police then started shooting their guns. He felt it was pretty distinct to tell who was shooting when. The officers returned fire at Morales. He knows Morales was shot. He did not see what Morales did with his gun. CW2 had ducked behind a wall to get out of the way and to avoid getting shot. He felt it was easy to identify the police officers.

***Statement of Civilian Witness Three (CW3)***

CW3 has known Morales for more than twenty years. They went to high school together and dated and lived together in 2018. The relationship ended when he started using drugs in 2019. CW3 spoke to him by telephone. Morales was very suicidal on the phone with CW3 and told her he doesn't want to live. He denied having a gun to her. CW3 has never seen Morales with a gun.

***Statement of Jesus Medina Morales***

Morales was interviewed post-Miranda by detectives at the hospital and told them, "I'm a piece of shit. I'm sorry." The detectives wanted to make sure Morales was of sound mind and he replied, "Yes, sir." Morales admitted to using drugs for more than the past year. He was on his motorcycle to meet up with someone when the patrol vehicle passed him. He texted the person he was supposed to meet and told him not to come out because there was a cop outside. Morales was going to leave and go back home when he saw the police officers. They turned and went after him. Morales knew he had a misdemeanor warrant and was on drugs, or else he would have just pulled over. When the officer tried to pull him over, he tried to take off and go faster. Then he noticed it wasn't a through street and there was no way out. He knew he "fucked up." He tried to slow down to turn. He jumped off the motorcycle and ran. Morales said he did not hear the siren from the police vehicle. He wasn't able to stop the motorcycle or else he would have turned around and kept going.

Morales made the comment, "I'm never going to get out of jail huh? That is why I should have just died dude. I'm never going to be around my mom or my 9-year-old daughter. I just ran. Stupidest decision of my life. I wanted to stop doing drugs." Methamphetamine is his drug of choice. He knew he was running from the police. He was just trying to get away. Morales asked whether the officer was okay. When asked why he was inquiring about the officer, Morales stated he knew the officer had fallen. Hibbard fell and then started shooting at him. When asked

why Hibbard shot at him, Morales said it was because Morales didn't stop running. Morales denied knowing he had a gun and that he had shot it. He asked if it was a big gun. Morales claimed, "I would never fucking shoot at an officer...I know I'm stupid for not stopping, I know damn well drugs had a fucking big role to play for me not stopping and running from them." He said he has smoked "meth" every day for the past year. Morales continued to deny he fired a gun. He said he did not remember that. He said he didn't know where he got the gun. He said he didn't know anyone who owns a gun.

Morales remembered one of the officers helped him after he was shot. The other officers were just pushing him down. He told them he "couldn't fucking breathe." Morales wanted to know why Hibbard shot him. "Why didn't he use a taser?" When asked if he had shot at the officer, did he think it was appropriate to shoot back at them? Morales replied, "If anybody shoots at somebody whether he misses or whatever, (unintelligible) well yeah right. Not just wait for another shot or something."

#### ***Statement of Officer Hibbard***

Hibbard was on his second day of the third phase of training with his field training officer, LE1. Hibbard was driving when they saw Morales sitting on his motorcycle. Morales was putting on his helmet. Hibbard noticed immediately the license plate had been altered and was not visible up to 50 feet in violation of the Vehicle Code. They drove past the motorcycle and turned around. They came back and saw the motorcycle driving towards them and then passing them. They turned their vehicle around and got behind the motorcycle. Hibbard activated the vehicles lights and siren, but Morales continued driving 25 miles per hour and then decided to speed up and "full throttled it" causing the back tire to spin. Hibbard turned on his siren and LE1 called the pursuit. Morales hit a wash way ditch in the road and his back tire kicked up and spun around a little bit. It looked like he was going to lose control of the motorcycle, but he regained control. Morales then jumped off and threw the bike down. Morales immediately threw his helmet and pulled off his gloves as he ran. Hibbard thought Morales was trying to shed some of the weight off him so he could run faster. Hibbard immediately jumped out of his vehicle and yelled "San Diego Police, Stop!" Hibbard yelled "police, stop," at least three times during the foot pursuit. Hibbard could not hear what Morales was saying back to him as he ran. Morales turned right at the next road and went northbound. Hibbard's radio had come off his body while he was running. Hibbard held onto the cord and kept his eyes on Morales.

When Morales got to the end of the block Hibbard saw him undo the back and front of the vest and thought he was going to dump that too. Instead, when Hibbard was about 12 feet away, Morales produced a firearm and reached over his left shoulder. Hibbard "looked down the barrel of the firearm" as it was pointed at him. Morales fired one round directly at Hibbard. Hibbard knew immediately Morales wanted to kill or harm him and his life was in jeopardy. He stopped and dove behind a white pickup truck. While he was diving, Hibbard drew his handgun and returned five or six shots in Morales' direction. He believes Morales was hit once. Hibbard fired an additional round while yelling at Morales to drop his weapon. Morales flung the gun across the street. Hibbard had some abrasions on his arm from his fall. He yelled "shots fired."

Hibbard had planned to take Morales to the ground but when the gun came out, he felt he had no option except to use deadly force. Morales had used deadly force against him. Hibbard knew he had to meet and overcome that resistance. He knew he had to draw his firearm and shoot Morales. When Morales shot at Hibbard, he was caught totally off guard and scared.

### ***Investigation***

The scene was secured, photographed, and investigated by SDPD homicide detectives. All reports, audio-recorded interviews, calls, radio traffic, photographic evidence and body worn camera video were reviewed. These items provided evidence corroborating the witnesses and officers' statements.

Hibbard's firearm was examined and confirmed to be a department-issued Glock 17 Gen 5, 9mm caliber semi-automatic pistol. Hibbard's pistol was received with one cartridge in the chamber and eleven in the magazine. The capacity of the magazine is seventeen cartridges. The total capacity of the pistol with one in the chamber and a full magazine is eighteen cartridges. The evidence indicates a maximum of six cartridges could have been fired by this pistol. Six casings from Hibbard's firearm were recovered from the southwest corner of Shiloh Road and Rex Avenue.

Morales' firearm was a 9mm Glock 26 slide/upper and a black Polymer80 brand pistol frame unserialized "ghost gun." The handgun was out of battery with the slide to the rear. There were two unspent rounds, one on top of the other, commonly referred to as a double feed, which prevents the slide from traveling forward. There was a fifteen-cartridge magazine in the handgun loaded with eight additional cartridges. One 9mm expended cartridge casing that was recovered near the center of the intersection of Shiloh Road and Rex Avenue was determined by a firearm analyst to have been fired from Morales' gun. A second 9mm casing found at the scene was determined to have been fired from an unrecovered firearm. DNA extracted from the first casing did not match Morales' DNA profile. DNA extracted from the firearm itself did match Morales' DNA profile. The firearm was not fully functioning as a semi-automatic firearm because it wouldn't cycle correctly. The firearm was otherwise operable.

Morales sustained four gunshot wounds. An entrance wound to his chest a few inches below his right nipple with an exit wound to his center lower back. The other two being through and through wounds to his right inner forearm. Toxicological analysis of Morales' blood revealed the presence of methamphetamines and a blood alcohol level of 0.00%.

Hibbard had minor abrasions and high blood pressure after the shooting. Hibbard was transported to Scripps Mercy Hospital where he was treated and released.

### ***YouTube***

A video taken by an unknown citizen who possibly witnessed the incident was posted on YouTube. The link (<https://www.youtube.com/watch?v=k-XlqdXs0Mc>) allows you to view the video posted by IRATE Productions. It appears the video was recorded by a male who was standing on the 2<sup>nd</sup> floor balcony of an apartment complex. He filmed the intersection of Shiloh Road and Rex Avenue. The officer involved shooting had already taken place and additional officers were arriving

on scene. The male filming the video stated, *"The idiot turned around while he was running and tried to shoot the cops and the cops just fucking unloaded on his ass."* Another male responded, *"Damn, the guy just tried to shoot a cop. Damn, bro just shot at a cop."* The identity of the male voices in the video are unknown. Neither man is captured on the video.

### ***Body Worn Camera (BWC)***

Hibbard thought he activated his Body Worn Camera (BWC) when he and LE1 initiated a traffic stop on Morales. The BWC did not activate, and Hibbard did not know it didn't record until after the incident.

A review of LE1's BWC video begins with Hibbard driving and LE1 riding in the passenger seat of a patrol unit. There is no audio for the first two minutes. Hibbard talks into his hand-held radio microphone. The patrol vehicle comes to a stop and both officers exit the vehicle. LE1 exits out the front passenger door of the vehicle and runs around the front of it. A black motorcycle is seen a short distance in front of the vehicle laying on its right side. LE1 continues around the front of the patrol unit and Hibbard is seen running westbound on Wightman Street. When LE1 runs onto westbound Wightman Street, Hibbard and Morales are in view. LE1 is seen talking on his hand-held radio and is about fifty yards behind Hibbard and seventy-five yards behind Morales. They turn right onto Shiloh Road. Morales' motorcycle helmet is seen in the video on his right against the curb in the street. LE1 is again seen talking on his hand-held radio and Hibbard is seen running in the street in pursuit of Morales. Morales has on dark pants and a long sleeve white shirt. A black glove is seen lying in the street to the left of LE1 as he runs past it. As Morales and Hibbard approach Rex Avenue, Hibbard quickly moves to his left and out of view. Morales is seen in the street. LE1 is seen talking on his hand-held radio and now has his firearm in his right hand.

The audio on the BWC video starts and SDPD Dispatch is heard saying, "Okay, shots fired." LE1 runs past a white Dodge 1500 pick-up truck parked to his left at the corner of Shiloh Road and Rex Avenue and Morales is seen lying on the ground on Rex Avenue. Hibbard is standing on the sidewalk to the left of LE1 with his handgun pointed at Morales. LE1 has his handgun pointed at Morales. LE1 yelled at Morales as he approached him, "lay the fuck down. Are you fuckin stupid?" LE1 walked up to him and grabbed Morales' left wrist with his left hand and told him, "Lay on your fucking stomach, lay the fuck down." LE1 still had his handgun in his right hand. Morales is moaning in pain and bleeding. Morales is wearing a black protective vest for riding a motorcycle over his white long sleeve t-shirt and a black glove on his left hand. LE1 asks Hibbard if he is okay and if he was hit but Hibbard doesn't know if he was hit. Hibbard places handcuffs on Morales as additional officers arrive on scene.

LE1 walks over to where Morales had thrown his handgun, in the northeast corner of the intersection of Shiloh Road and Rex Avenue and looks at it. The gun is seen with the slide locked to the rear. The responding officers provide medical aid to Morales while LE1 checks Hibbard for injuries. LE1 is told Morales' handgun was collected by LE2. He tells another officer where the motorcycle is located and a sergeant on scene what happened. LE1 walks Hibbard away from the scene and learns Hibbard did not turn on his BWC.

A review of LE2's BWC video begins at the SDPD Multi-Cultural Community Relations Office on University Avenue. There is no audio for the first two minutes. He and his partner, LE3 and several other officers respond to assist LE1 and Hibbard. LE2 and LE3 arrive quickly on scene and run over to assist in handcuffing Morales. Morales is heard saying he can't breathe. LE2 returns to his vehicle and retrieves a first aid kit. LE3 directs LE2 to secure the handgun Morales had tossed. He complies. LE2 unloads the weapon and places it on the front passenger floorboard of his patrol vehicle. He assists other officers with providing medical care to Morales. Morales had a gunshot wound below his right nipple and an exit wound at the base of his spine. A chest seal was placed over both wounds. Morales moans in pain and at times, says he is having trouble breathing. LE2 stays within the crime scene, uses a cell phone to take photographs of the scene and collects information for the investigation.

A review of LE3's BWC video shows LE3 looking in Morales' pants pockets for additional weapons and finding a baggie with white substance in the left front pants pocket. The medics arrived and LE3 informed them where Morales had been shot. LE3 handcuffs Morales to the gurney prior to being loaded into the ambulance. LE3 rides in the ambulance with Morales, who identifies himself by name and date of birth to the medics and says his left leg is numb. Morales is heard saying he wants to apologize to the officer and to tell him he is sorry; he was really scared. LE3 photographs the Morales' wounds and removes the handcuffs when he is wheeled into the emergency room.

### ***Surveillance Video***

On the SDPD Multi-Cultural Community Relations Office video the first gunshot can be heard at 5:40:58 p.m. At 05:41:03pm the last of eight gun shots are heard.

### ***Toxicology***

Morales' blood was collected at Scripps Mercy Hospital and later tested by the San Diego Police Department Crime Lab. It revealed the presence of methamphetamines and a blood alcohol level of 0.00%.

Morales was charged with attempt murder and other violations in Case SCD 291920. On March 25, 2022, Morales pled guilty to attempted murder with a firearm, violations of Penal Code sections 664/187(a), 12022.53(c) and 12022.5(a) and admitted his prior strike conviction. Morales was sentenced to 27 years in prison on May 4, 2022.

### ***Legal Standards of Criminal Liability***

Penal Code section 835a(c) sets forth the standard to evaluate a peace officer's use of deadly force and the circumstances upon which an officer may use such force. The law provides, in part, 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 for the following reasons:

"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).



“Deadly force” means 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).

“A threat of death or serious bodily injury is “imminent” when 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.” Penal Code section 835a(e)(2).

“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).

“Totality of the circumstances” means 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).

“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).

“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).

### ***Conclusion***

Jesus Medina Morales fled from officers on his motorcycle when they tried to conduct a traffic stop of him. During the foot pursuit, Morales refused to follow the commands of the officers to stop. Instead, he turned and fired a handgun at Hibbard in a busy residential neighborhood. Hibbard dove to the ground to avoid being shot. He returned fire by shooting six rounds at Morales, who sustained wounds to his chest, back and right forearm. Morales fell to the ground and then tossed his handgun away.

Chief David Nisleit  
June 17, 2022  
Page 10 of 10

During transport to the hospital, Morales expressed his desire to apologize to Hibbard and stated, "I was really scared. ... I just didn't want to go to jail.". DNA extracted from Morales' firearm matched Morales' DNA profile.

In reviewing the evidence and considering the circumstances, Hibbard's actions were reasonable based on the facts known and perceived by him at the time of the shooting. Hibbard reasonably believed Morales posed an imminent threat and intended to cause him serious bodily injury or death. Morales fired at Hibbard from a very close range with a loaded handgun. The threat needed to be instantly confronted. Hibbard's firing of multiple shots at Morales was necessary to stop the threat. Less lethal alternatives were not feasible, reasonable, or safe against the immediate and lethal threat posed by Morales. Therefore, Hibbard bears no state criminal liability for his actions. A copy of this letter, along with the materials submitted for our review, will be retained for our files.

Sincerely,

  
SUMMER STEPHAN  
District Attorney

SS:gm

cc: Captain Richard Freedman