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February 14, 2014

Patrick Jennings
Woodbury County Attorney
Woodbury County Courthouse
620 Douglas Street, 3rd Floor
Sioux City, IA 51101

RE: Officer Involved Shooting Death – Felix Navarrete

Dear Mr. Jennings:

Due to a potential conflict of interest, you requested the Iowa Attorney General's Office investigate the use of deadly force on Felix Navarrete that occurred on January 28, 2014, when a member of local law enforcement shot and killed Navarrete at 2728 South Helen Street Building # 1, Apt. 13 in Sioux City. The sole purpose of our review is to make a determination as to whether or not the use of deadly force by the officer was legally justified.

Our decision in this matter was made after reviewing the following:

1. Relevant background information on Felix Navarrete including his previous encounters with local law enforcement and his criminal history which included convictions for assaultive behavior on police officers and a conviction for sexual abuse.
2. Information relating to the reasons law enforcement contacted Felix Navarrete on January 28, 2014. This information indicated that Navarrete was a suspect in a recent homicide and near fatal shooting in Sioux City on January 25, 2014. A search warrant had been issued based on the same incident. Navarrete was considered to be armed and very dangerous.
3. Information detailing the contact law enforcement had with Navarrete at the South Helen Street apartments on January 28, 2014.
4. The case agent from DCI provided information from the Sioux City Police Department, Woodbury County Sheriff's Office and the United States Marshalls Service including statements from other officers on the scene as well as information from bystanders.

5. A review of the statement of the officer who shot and killed Navarrete.
6. A review of the education, training and experience of the officer who shot Navarrete.
7. A review of the entirety of the investigation conducted by the Iowa Division of Criminal Investigation into the shooting of Felix Navarrete.

On January 25, 2014, Felix Navarrete became a suspect in a homicide and near fatal shooting that occurred in Sioux City. Shortly after the shooting law enforcement obtained a search warrant for the person of Felix Navarrete and the firearm that was suspected to have been used in the homicide. A warrant for the homicide was not issued immediately due to other investigation that needed to be completed. The Sioux City Police Department issued information to local media outlets in an effort to engage the public to assist in the location and apprehension of Navarrete. Police received information that Navarrete was located at 2728 South Helen Street Building #1 Apartment # 13. The apartments located at this address are two level residences arranged in 8 different buildings. The residence at building # 1 apartment # 13 was known to be occupied by a female and two minor children.

Based upon this information law enforcement converged on the area of the South Helen Street apartments at approximately 3:00 a.m. of January 28, 2014. Observations were made of Navarrete entering building number 1 with an unknown female shortly after their arrival. A number of officers were placed in strategic locations near the apartment building in an effort to establish a secure perimeter to prevent Navarrete's escape and to prevent injury to any bystanders or area residents. Later in the morning members of the Sioux City SWAT team, of which the officer involved in the shooting was a member, were placed in positions to give them the best vantage point of the apartment where Navarrete was believed to be staying. The officer involved in the shooting was positioned on a deck attached to another residence near building # 1 just prior to law enforcement's entry into the apartment.

Prior to arriving at the South Helen Street apartments officers involved were provided information concerning Navarrete. The information included Navarrete's general description, his criminal history, including his assault on police officers, the fact that he was a suspect in a recent homicide and near fatal shooting, the fact a search warrant had been issued for a firearm believed to be in Navarrete's possession and that he was considered to be armed and dangerous. Officers were also told that Navarrete had recently stated that he was not going to go out without a fight and that he was not going back to prison. At the time officers located Navarrete the firearm used in the homicide had not yet been recovered. Officers were appropriately warned concerning the danger Navarrete presented, not only to officers engaging him, but to others who might be in his presence.

At approximately 9:20 a.m. a five man team of officers made entry into apartment # 13. At the time of the entry the weather was cold and sunny. The officers making entry forced open the door of apartment # 13 and threw a distraction device into the apartment. Several officers remained just outside the door waiting to

make entry and to provide security in the event Navarrete fled. There was no cover for the officers outside the apartment. After the device detonated Navarrete was observed running up the stairs to the upper level of the apartment. This fact was communicated to other officers on the scene. Navarrete was next observed in the upstairs window flailing at the glass in an apparent attempt to break the window. He succeeded in breaking the window and then leaned out of the window towards the officers underneath him. The officer stationed on the deck adjacent to the apartment was armed with a Remington .308 caliber rifle. His location placed him at a 45 degree angle and approximately 30 yards to the left or generally west of Navarrete's location at the window. This officer observed and was privy to the information concerning the entry team's actions and Navarrete's behavior and response. This officer stated that Navarrete appeared to get caught up in the curtain covering the window as he was trying to break it. Even though it was sunny outside, the window and Navarrete appeared darkened. When Navarrete leaned out of the window the officer observed what he believed was a dark object in Navarrete's hand. Coming to the conclusion that Navarrete's actions presented a deadly threat to the officers below the officer fired one shot that struck Navarrete in the rear shoulder. Navarrete fell out of the window onto the ground where he was immediately shot with a taser by the officers underneath the window. A loaded handgun was found in Navarrete waistband once he was secured on the ground. Navarrete was immediately transported to a nearby hospital where he was dead on arrival. It should be noted that some bystanders reported to officers that just before Navarrete was shot he was standing upright in the window with his hands raised in the air. Other established facts developed during the investigation directly contradict that information.

A subsequent autopsy of Navarrete determined that he died from a single gunshot wound. The bullet entered his body in the left posterior shoulder, passed through his chest cavity and exited his body under his right rib cage. The bullet damaged the shoulder, his upper torso including his lungs, fully severed his spinal cord and caused damage on exit. The trajectory of the bullet once it entered his body is generally from left to right and downward toward the right hip. Navarrete did not live long after the bullet entered his body. There is no evidence that the taser shot administered to Navarrete contributed to his death. The cause of death is a gunshot wound and the manner of death was ruled a homicide.

In order to be justified, the force used by the officer who fired the shot must have been reasonable. Reasonable force is that force which a reasonable person, in like circumstances, would judge to be necessary to prevent an injury or loss and can include deadly force if (1) it is reasonable to believe that such force is necessary to avoid injury or risk to one's life or safety or the life or safety of another; (2) it is reasonable to believe that such force is necessary to resist a like force or threat; (3) if an available alternative course of action entails a risk to life or safety or the life or safety of a third party; or (4) the alternative course of action requires one to retreat from one's dwelling or place of business. Iowa Code Sections 704.1, 704.2 and 704.3 and State v. Harris, 222 N.W.2d 462 (Iowa 1974).

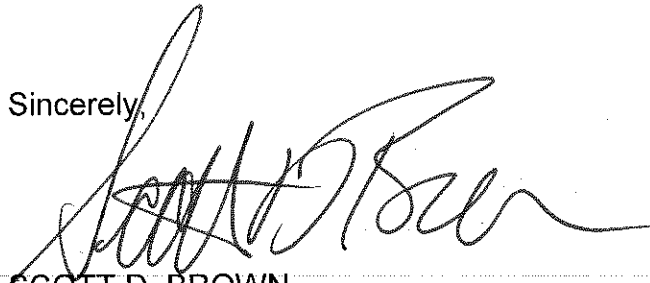
Based on our review of the case with the Iowa Division of Criminal Investigation and a full review of the facts and circumstances surrounding the death of Felix Navarrete and the actions of the officer firing the shot, it is determined that the officer was fully justified under the laws of the State of Iowa in using deadly force. The actions of the officer were objectively reasonable under the circumstances. The officer acted professionally and did not deviate from training or established protocols. He was reported to have been calm and under control just after the shooting. He left his rifle and spent shell casing in a manner where it could be easily retrieved and examined by his superiors. The rules of engagement, as established by training and command staff, were adhered to strictly.

The officer taking the shot was confronted with what reasonably appeared to be deadly force being used against officers by Navarrete. That force included Navarrete's aggressive actions towards the officers in failing to abide by their commands when they entered the apartment, the failure of the distraction device to incapacitate him, his breaking of the window, and his leaning over the edge of the window towards the officers with what appeared to be an object in his hand. Although nothing was found on the ground consistent with a dark object, the officer making the observations could have observed a piece of the curtain that was pulled through the window or a piece of glass that had been broken out. It is also possible that Navarrete was attempting to break out the window using the gun found in his waistband. In the time the window was broken until the time he was shot and fell Navarrete had time to place the gun back in his waistband. If so, the officer did in fact see a dark object in Navarrete's hand. Navarrete did not have any cuts on him that would be consistent with breaking the window with his hands only. In the instant the officer had to process this information his decision in taking the shot was reasonable. To wait could have caused further injury or loss of life. The officer was legitimately reasonably concerned for the life and safety of other officers, not only on the ground below the window, but others in the area that would have been in serious jeopardy if Navarrete were able to escape the apartment.

The results of the autopsy support the shooting officer's version of events. The location of the entry wound on the rear portion of Navarrete's shoulder and the trajectory compared to the position of the officer firing the shot are proof that Navarrete was indeed leaning out of the window and bent at the waist when he was shot. The wound and trajectory do not support any claim that Navarrete was upright, had his hands in the air or was in any position other than that described by the officer.

The death of Felix Navarrete is determined to be a justifiable homicide under the laws of the State of Iowa. The Iowa Attorney General's Office considers this matter closed. If you have any questions please do not hesitate to call us at (515) 281-3648.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott D. Brown", written over a horizontal dotted line.

SCOTT D. BROWN
Special Assistant Attorney General
Division Director – Area Prosecutions Division
IA Attorney General's Office

Copy to:

[REDACTED]

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Doug Young
Chief of Police
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