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Special Assistant Attorney General

IOWA DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
AREA PROSECUTIONS DIVISION

April 26, 2021

Erika L. Allen
Grundy County Attorney
115 Broad Street
P.O. Box 193
Reinbeck, Iowa 50669

RE: OIS – Michael Thomas Lang

Dear Erika:

Your office requested the Iowa Attorney General's Office review the circumstances of a shooting incident that occurred in Grundy County in which officers were responding to a barricaded subject on April 9, 2021. The subject is Michael Thomas Lang. At your direction, the sole purpose of our review is to determine if the actions of officers encountering and using force against Lang were legally justified.

The officer involved shooting incident was investigated by the Iowa Division of Criminal Investigation. The investigation is now complete, and I have had a full opportunity to review the findings with the case agent. Both car and body video are available and have been reviewed. The summary below is purposely cursory on the facts since there are pending charges against Lang that arose out of the events of April 9, 2021.

On April 9, 2021, at approximately 7:22 p.m. a Grundy Center reserve officer attempted to perform a traffic stop on Lang for speeding. Lang fled from the reserve officer and a short pursuit occurred. When Lang finally stopped, he exited the vehicle and immediately became verbally and physically aggressive towards the officer, assaulted the officer, and fled the area. Other officers responded and, a short time later, found Lang at his residence located in Grundy Center. Several officers responded to the same area including Iowa State Patrol Officer Sgt. Jim Smith. Lang's father also arrived at the area where officers were located and provided information about the interior of the home and information concerning firearms believed to be possessed by Lang. A plan was discussed and reviewed among officers present. Sgt. Smith, a trained tactical officer, along with other officers made entry into the home of Lang at approximately 8:55 p.m. Officers entered through a door attached to a garage. After a canine deployment into the basement, several officers entered the basement that was adjacent to a small entry way from the garage. Other officers remained in the garage to cover the entry from the garage into the home. Once the basement was cleared several officers led by Sgt Smith emerged from the basement. The officers next planned to make entry into the main floor of the home. In preparation for

entering the main floor, two officers remained on the basement steps, while Sgt. Smith took a position in the entryway. Officers announced their presence and that a canine would be introduced into the home. Shortly after the announcement, Sgt. Smith neared the doorway into the home, he stated that he observed a gun. Just after doing so, Sgt. Smith was shot once in the upper body and immediately fell to the floor. Sgt. Smith was shot in the leg while on the floor. Within moments after the shooting officers removed Sgt. Smith from the garage. The two officers who had not made it out of the basement remained in that location due to safety concerns. Lang was determined to be the person who fired the shots striking Sgt. Smith. Lang made numerous admissions that can be overheard by officers admitting to the shooting and threatening to do the same to other officers.

A standoff ensued with Lang. Eventually an armored vehicle was brought to the scene and officers attempted to negotiate Lang's surrender. Upon the breakdown of those negotiations, Officers were able to make entry into the home. As they did so Lang began firing at the vehicle containing several officers. Officers returned fire striking Lang once in the head and twice in the chest. Lang was subdued and removed from the home. He was transported to the hospital and is expected to survive his wounds.

In order to be justified, the force used by officers who fired the shots must have been reasonable. Reasonable force is that force which a reasonable person, in like circumstances, would judge necessary to prevent an injury or loss and can include deadly force if 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 and it is reasonable to believe that such force is necessary to resist a like force or threat. Iowa Code 704.1, 704.2 and 704.3.

In Graham v. Connor, 490 U.S. 386 (1989) the United States Supreme Court held that the use of deadly force by a police officer must be evaluated from the perspective of a reasonable police officer on the scene and in the same circumstances. Under Graham reasonableness of police use of force cannot be evaluated from the perspective of a civilian nor can it be evaluated with a clearer vision afforded by 20/20 hindsight. The Court further stated that the fact law enforcement officers often are required to react quickly in tense, uncertain, and rapidly evolving situations are factors that must be considered in determining reasonableness. Since Graham, the Supreme Court has narrowed the analysis to focus on the exact moment that the force was applied.

Officers in this situation were confronted with a person who was behaving violently and repeatedly threatening to use deadly force against them. Prior to their entry into the home Lang had shot and killed one officer and was repeatedly firing at other officers who were attempting to arrest him. On multiple occasions Lang threatened to kill them. At all times during law enforcement's contact with Lang while at his home he was armed with a shotgun. Officers made efforts to end the confrontation, started by Lang, with no success. If Lang would have ceased his behavior, unarmed himself, and come out of the house there would have been no need for the use of further force. Because of Lang's actions officers had no other reasonable choice but to shoot Lang. Otherwise, responding officers or innocent by-standers would have been put in harm's way.

The actions of the officers who encountered Lang on April 9, 2021, were entirely legally justified. Lang used and continue to threaten deadly force during his entire interactions with law enforcement. Lang provided no other option to the officers who encountered him other than to utilize potentially deadly force against him. Lang was provided every opportunity to end the confrontation peacefully and chose not to do so. The decision to fire at Lang by each officer was reasonable and legally justified under the circumstances.

The Iowa Attorney General's Office considers the officer involved investigation closed. Lang will be prosecuted for numerous offenses with which he has recently been charged. If you have any questions please do not hesitate to call me at (515) 281-3648.

Sincerely,

A handwritten signature in blue ink, appearing to read "Scott D. Brown". The signature is fluid and cursive, with a large initial "S" and "B".

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

Copy to:

Iowa Division of Criminal Investigation
S/A Scott Reger