STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
LAW ENFORCEMENT MISCONDUCT INVESTIGATIVE OFFICE

May 2, 2025

Via E-mail
Commissioner Alphonso Wright
Buffalo Police Department
68 Court Street
Buffalo, NY 14202

Re: Executive Law § 75(5)(b) Referral of Police Officer Majed Ottman
OAG Matter No. 1-816496548

Dear Commissioner Wright,

We have reviewed your agency's referral of Officer Majed Ottman pursuant to Executive Law Section § 75(5)(b). Based on our review, we conclude that that Officer Ottman engaged in a pattern of misconduct of escalating encounters with civilians by using excessive force in violation of departmental policies and the federal and state constitutions.

I. Overview of Investigation

On November 17, 2023, the Law Enforcement Misconduct Investigative Office ("LEMIO") received an Executive Law § 75(5)(b) referral from the Buffalo Police Department ("BPD") regarding Police Officer Majed Ottman. The referral was premised on four civilian complaints regarding incidents occurring in 2022 and 2023, and one internal investigation regarding an off-duty shooting by Officer Ottman while engaged in outside employment as a security guard on August 29, 2023. In addition to these complaints, LEMIO requested and reviewed information regarding two prior accusations of excessive force by Officer Ottman stemming from incidents that occurred in 2020 and 2021. We also reviewed a 2025 complaint that PO Ottman had improperly aided an individual in filing a false police report, which neither LEMIO nor BPD were able to substantiate.

To investigate the complaints, our office reviewed departmental rules and policies, the Internal Affairs file and related documents, and, where available, body-worn camera ("BWC") footage, audio files of interviews with officers, complainants, and witnesses, and security camera footage for incidents. OAG personnel interviewed Officer Ottman on October 18, 2024.

II. Findings

OAG's determination is based on the incidents described below.

A. IAD Case No. EC2020-39

On April 17, 2020, PO Ottman identified a vehicle that had been reported stolen and attempted to conduct a traffic stop. The driver of the stolen vehicle pulled onto a side street with a dead end. PO Ottman exited his patrol vehicle and approached the reportedly stolen vehicle. The IA Division's review of surveillance footage revealed that, as PO Ottman approached the vehicle, it drove towards him, prompting PO Ottman to fire his weapon at the vehicle. The car then swerved around PO Ottman onto a sidewalk as he continued to shoot at the passenger side window and right rear tire. The driver was struck three times in the hand. PO Ottman told OAG that there were a number of bystanders congregating on the sidewalk at the time of the shooting, though none were injured by the car or by his shots. (Ottman Tr. at 13:16-23). The driver later exited the while the vehicle was still in motion. The vehicle continued moving unoccupied until it was stopped by striking PO Ottman's vehicle. PO Ottman told OAG that he fired his weapon because he did not believe he had "any other option" to avoid being hit by the car. (Ottman Tr. at 16:1–5.) PO Ottman failed to activate his BWC during the incident. BPD charged PO Ottman with excessive force, and PO Ottman pled guilty to the charge and was suspended for five days without pay.

We agree with BPD's conclusion that PO Ottman's use of force was contrary to Chapter 4, Section 2, 2.1 of the BPD manual of procedures, which provides that "Members shall not discharge a firearm or shoulder weapon from or at a moving vehicle or its occupants unless the occupants of the other vehicle are using deadly physical force against officer(s) or another person by means other than the vehicle. Members shall not discharge their firearms at or from a moving vehicle when the consequences of so doing will jeopardize the safety of other members of the Department or innocent bystanders." Because PO Ottman's actions risked accidentally shooting innocent bystanders, they violated BPD policy.

B. IAD Case No. EC2021-23

On May 6, 2021, PO Ottman and PO Mitchell R. Thomas stopped a vehicle for improper window tints. BWC shows that the driver refused the officers' directive to produce his license and began yelling at PO Ottman, calling him a homophobic slur, and complaining that the officer repeatedly pulled him over for tints. PO Ottman opened the driver's door and told the driver to produce the license or be arrested while PO Thomas directed the driver to step out of the vehicle. The driver then refused and began tilting his body to face his passenger. PO Thomas directed the driver to "Keep your hand up," while PO Ottman grabbed the driver's jacket and attempted to spray the driver with Oleoresin Capsicum spray, which malfunctioned and did not deploy. PO Ottman then began to physically remove the driver, who pulled away from the officer's grip. PO Ottman ultimately dragged the driver out of the car, took him to the ground, and punched him in the head repeatedly before handcuffing and arresting the driver. PO Ottman told IA that he struck

the driver to prevent him from grabbing whatever he was reaching for and remove him from the car, however BWC footage shows that he struck the driver's head after he had been removed from the vehicle.

On November 10, 2021, BPD brought multiple charges against PO Ottman, including the use of unnecessary force in striking the driver in the head, failing to timely file a use of force report and arrest paperwork, and failing to properly activate his BWC. As of this writing, the charges have not been resolved. We agree with BPD's charges that PO Ottman employed excessive force by repeatedly striking the driver in the head, in violation of Chapter 1, Section 1.1b and Chapter 3, Sections 3.27 and 3.6 of the Rules and Regulations for the Government and Discipline of the City of Buffalo Police Department. Because the driver was not actively resisting when PO Ottman punched him repeatedly, PO Ottman exceeded the permissible level of force under department policy.

C. IAD Case No. EC2023-26.

On February 4, 2023, PO Ottman, PO Eric Prentiss, and PO Ahmed Abdo stopped a vehicle after it allegedly ran a red light. According to PO Abdo, the vehicle did not immediately pull over when the officers activated their vehicle lights, but rather proceeded to a gas station. BWC shows that PO Abdo instructed the driver to show his hands and he complied. When the officer directed him to turn off the car's engine, the driver did not comply and instead began recording the interaction on his phone. PO Abdo later instructed the driver to exit the vehicle, but the driver did not immediately comply and instead raised his hands and remained motionless. PO Abdo opened the door of the vehicle and unlatched the driver's seatbelt. The driver did not move. PO Ottman then placed his Taser against the driver and activated it in drive stun mode. The officers then removed the driver and arrested him, charging him with resisting arrest and obstructing governmental administration, along with Vehicle & Traffic Law offenses. BPD charged PO Ottman with violating Chapter I, Section 1.1(b) and Chapter III, Sections 3.6, 3.27, and 6.3A(2a) of the Rules and Regulations for the Government and Discipline of the Buffalo Police Department by utilizing excessive force and violating BPD's Taser policy, which permits officers to utilize Tasers only when a subject is demonstrating "assaultive" behavior toward the officer or a member of the public. (BPD Manual, Exhibit G). At the time of this writing the disciplinary process is ongoing. We agree with BPD's charges that PO Ottman violated BPD's force policy by deploying a Taser against a person who did not threaten physical harm to PO Ottman or others, but offered only passive resistance.

D. IAD Case No. IC2023-154.

On August 29, 2023, PO Ottman was working as an off-duty security guard at a local CVS store. In violation of BPD policy, PO Ottman had not obtained prior approval from BPD for this job. (BPD Manual, Chapter 10, 9.1). PO Ottman had a sidearm that was attached to his badge and was wearing clothing that identified him as a security guard. Store surveillance footage shows that a man entered the store, put on a ski mask, and placed some candy into a shopping basket. PO Ottman followed him through the store. The individual then went through an employees-only door while in possession of the candy, without having paid for the goods. PO Ottman pursued the man into the employees-only section. In his IA interview, PO Ottman stated

that he instructed the man to stop and identified himself as an off-duty officer. PO Ottman claimed that the man, whose back was to PO Ottman, reached toward the front of his belt with the hand that was not holding the shopping basket. PO Ottman stated that he was afraid the man was reaching for a weapon, so he drew his gun, but then saw the man was holding a phone and was relieved to learn it was just a phone. PO Ottman stated that the man fled through the store exit and PO Ottman pursued him. According to PO Ottman, the man turned after exiting the back door and grabbed the front of PO Ottman's gun, and PO Ottman shot the man in the hand. In his interview with OAG, PO Ottman stated that after exiting the back door, he and the man "collided" and began "wrestling," at which time the man began "reaching over to my right side, I think he was grabbing my leg or something, where my gun is on that side so that's why I was telling him . . ., "I'm an off-duty officer, just stop." (Ottman Tr. at 75:6–10.) Security video footage from outside the store shows PO Ottman running with the shopping basket in one hand and his gun in his other hand. He quickly slowed himself down, dropped the basket and turned back to the man who had fallen to the ground and was holding onto a nearby concrete post to hoist himself back up. PO Ottman then took approximately three steps towards the man, swung his right arm—and gun—around to point towards the man, and a gunshot is heard. PO Ottman then wrestled the man to the ground and, once on the ground, PO Ottman reholstered his gun and can be heard repeatedly telling the man, "Stop!" The video does not show the man reaching for PO Ottman's gun or his right side. As of this writing, the BPD's IA investigation into this incident is ongoing.

We conclude by a preponderance of the evidence that PO Ottman used excessive force in violation of the federal and state constitutions and violated BPD policy. While PO Ottman was off-duty and out of uniform, he identified himself as an officer, was attempting to apprehend the man for shoplifting, and was armed with a weapon attached to his badge.[1] Accordingly, PO Ottman's actions can be evaluated under the reasonableness standard articulated in *Graham v. Connor*, considering the severity of the underlying offense, the immediate threat posed to the safety of the officer or others, and whether the suspect is resisting or attempting to flee.[2] New York law separately limits the use of deadly force to certain circumstances, including where the offense committed was a felony or "the use of deadly physical force is necessary to defend the police officer or peace officer or another person from what the officer reasonably believes to be the use or imminent use of deadly physical force." N.Y. Penal Law § 35.30.

Here, the man who had taken goods was attempting to flee the scene. However, shoplifting is a minor offense, and there is no evidence that the man posed any immediate threat to PO Ottman or to anyone else. While it is possible that PO Ottman viewed the man reach towards his waist, and erroneously assumed the man was reaching for a gun, that may justify only PO Ottman's initial decision to draw his weapon. But his statement to IA confirms that he saw that the man had grabbed a phone rather than a weapon and registered at the time that it was

[1] "[T]here is no bright line test for distinguishing 'personal pursuits' from activities taken under color of law" and the relevant question in deciding color of law is not whether the officer "was on or off duty when the challenged incident occurred," but whether the officer "albeit off-duty, nonetheless invokes the real or apparent power of the police department" or "perform[s] duties prescribed generally for police officers." *Claudio v. Sawyer*, 675 F. Supp. 2d 403, 408 (S.D.N.Y. 2009) (*quoting Pitchell v. Callan*, 13 F.3d 545, 547 (2d Cir.1994)).

[2] *Graham v. Connor*, 490 U.S. 386, 396 (1989); *Macareno v. City of New York*, 187 A.D.3d 1164, 1166 (2d Dep't 2020) (applying Graham factors to excessive force claim under federal and state constitutions).

a phone, feeling relief once he saw it. Once the threat of deadly force dissipated, a reasonable officer would have holstered their weapon (BPD Manual, Chapter 3, 6.6 ("A member of the Department is authorized to remove his/her firearm from its holster or gun mount and have it ready for immediate use, in any circumstance in which the member reasonably believes his/her life or safety may be in danger.")). Instead, PO Ottman did not reholster his weapon and attempted to apprehend him with one hand while holding his weapon with the other hand. Contrary to PO Ottman's testimony, video evidence shows that the man did not grab at PO Ottman's gun or reach towards his right side. Although it appears from the surveillance video that the man was attempting to flee, PO Ottman's force was nevertheless unreasonable, considering the low-level underlying offense and lack of evidence that the man was armed or posed any immediate threat. *See Graham*, 490 U.S. at 396; N.Y. Penal Law § 35.30; *see also Tennessee v. Garner*, 471 U.S. 1, 11 (1984) ("Where the suspect poses no immediate threat to the officer and no threat to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so.").

III. Conclusions and Recommendations

The incidents described above constitute a pattern of misconduct, specifically, employing excessive force in violation of the Department's policies and the federal and state constitutions. Executive Law § 75(5)(b) requires that the OAG "determine whether the subject officer . . . has engaged in a pattern or practice of misconduct, use of excessive force, or acts of dishonesty." To identify a pattern of misconduct for purposes of Executive Law § 75(5)(b), we look to whether the subject officer engaged in multiple acts of similar misconduct.

Here, PO Ottman repeatedly failed to act in accordance with Department policy and his training when responding to incidents, repeatedly employing excessive force:

- PO Ottman discharged his weapon at a moving vehicle in the presence of bystanders in contravention of Department policy.
- PO Ottman employed excessive force by striking a man in the head after pulling him out of his vehicle, in violation of Department policy.
- PO Ottman used unnecessary force employing his Taser on a person who was exhibiting passive resistance and posed no threat, in violation of Department policy.
- PO Ottman, while working off-duty without permission from the Department, shot a man who was attempting to shoplift a small amount of merchandise and who posed no threat to PO Ottman or others, in violation of Department policy and federal and state law.

The Department and PO Ottman informed OAG that PO Ottman has been suspended since the off-duty shooting incident, and the Department is seeking to terminate PO Ottman's employment through the process prescribed in the collective bargaining agreement. Given the persistent pattern of misconduct, OAG recommends that the Department continue to seek PO Ottman's termination.

Pursuant to Executive Law § 75(5)(c), we request that BPD inform the OAG and other required parties within 90 days of the actions BPD is taking in connection with these recommendations.[3]

We appreciate the cooperation of you and your agency.

Thank you,

LETITIA JAMES
Attorney General of the State of New York

By: Matthew Menendez
Assistant Attorney General
Law Enforcement Misconduct Investigative Office

[3] Executive Law § 75(5)(c) provides that "[t]he head of any covered agency shall advise the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, the minority leader of the assembly and the division of criminal justice services within ninety days of the issuance of a report by the law enforcement misconduct investigative office as to the remedial action that the agency has taken in response to any recommendation for such action contained in such report."