



Office of the New York State Attorney General Letitia James

Office of Special Investigation

August 12, 2025

Report on the Investigation into the Death of Allan Hoad

SUMMARY

New York Executive Law Section 70-b (Section 70-b) authorizes the New York Attorney General's Office of Special Investigation (OSI) to investigate and, if warranted, to prosecute offenses arising from any incident in which the death of a person is caused by a police officer or peace officer. When, as in this case, OSI does not seek charges, Section 70-b requires issuance of a public report. This is the public report of OSI's investigation into the death of Allan Hoad, which occurred after he was shot by Steuben County SWAT officers on October 21, 2024.

OVERVIEW

On October 21, 2024, at 12:34 a.m., Steuben County 911 received a call from Witness A, who said he was a family member of Allan Hoad. (OSI does not publish the names of civilian witnesses.) Witness A said he was worried about Mr. Hoad's recent behavior and asked for a check of Mr. Hoad's welfare, giving an address in the Town of Cameron. At 1:30 a.m. Steuben County Sheriff's Office (SCSO) deputies arrived at the address, which was a house in a rural, wooded area. After initially trying to talk to Mr. Hoad, the deputies heard two shots from a shotgun, which damaged two of their cars. During what became a thirteen-hour stand-off at the house, in calls with 911 operators and SCSO crisis negotiators, Mr. Hoad made repeated threats that he would kill police officers and others. Members of Steuben County's Special Weapons and Tactics team (SWAT), assembled near Mr. Hoad's house.

At 2:00 p.m. Mr. Hoad left his house carrying a long gun, got into a pickup truck, and drove to a house on Swale Road. SWAT officers followed and used their cars to block the roadway. Officers yelled at Mr. Hoad, who was standing by the pickup truck, to show his hands, put his hands up, stop moving, and stay away from the truck.

Mr. Hoad got into the pickup truck and drove it forcefully in reverse toward the officers, crashing it into one of the SCSO cars, and then got out. Three officers fired at Mr. Hoad as he drove backward and as he got out of the truck. Mr. Hoad was struck by gunfire, and later died of his wounds. A shotgun and three imitation pistols were recovered from the cab of the pickup truck.

Having thoroughly investigated the facts and analyzed the law, OSI concludes that a prosecutor would not be able to disprove beyond a reasonable doubt that the firing officers were justified when they shot and killed Mr. Hoad and will close the matter with the issuance of this report.

FACTS

911 call

On October 21, 2024, at 12:34 a.m., Witness A called 911 requesting a check of Mr. Hoad's welfare. During a ten-minute call to 911, Witness A, who was a family member of Mr. Hoad's, gave the operator Mr. Hoad's address and details of the family's concerns, saying:

"Our whole family believes he's having a like a psychosis episode or something, he has not sleep in like three days, [] he's gotten very aggressive [] posted all sorts of things on Facebook

that he's planning something and we're just worried that he's going to hurt himself or hurt somebody else [giving an address in Cameron]. He's up at that house alone because he's kicked everybody out [] He's just not himself at all. [We are] worried he's going to be very aggressive when they get up there. [] He does [have] hunting shotguns and hunting rifles. [] We're just worried he's gonna do something, cause he's never acted, this is so unlike him, it's, we're just worried he's going to make a mistake.”

OSI interviewed Witness A, who said the family had tried to get Mr. Hoad, whom they affectionately referred to as Moose, to go to a doctor. Witness A said Moose had never acted the way he was behaving and did not recognize he was experiencing a problem. Witness A said the family discussed how to get Moose to a hospital and decided calling the police was the last option left to them. Witness A said that based on the conversation with the 911 operator he expected the officers to call back to get more information but that no one called back before the police went to the house.

Welfare Check

At 12:44 a.m. 911 sent out a dispatch for a welfare check, including details of the 911 call.

On October 21, 2024, at 1:30 a.m., the weather was clear when SCSO deputies arrived at Mr. Hoad's address, which was a house up a hill in a wooded area, off a rural road with no streetlights.

The first responding officers were Deputy Robert Shepherd, Deputy Rachael Hedges, and Deputy Nathan Donahue, followed shortly by Sergeant Andrew Hawk. All were wearing standard SCSO uniforms and driving marked SCSO cars. Deputies Shepherd, Hedges, and Donahue got out of their cars and called out to a man, later identified as Mr. Hoad, who was at the house's elevated front porch. The deputies asked Mr. Hoad to come out and meet with them. Mr. Hoad yelled back and directed a spotlight toward them; the deputies activated their BWCs. Due to the darkness, the BWCs did not clearly show the people or environment. BWC captured Deputy Donahue telling the others that he heard the “racking” of a shotgun. BWC audio, at 1:33 a.m., captured the sound of a firearm being discharged. Sgt. Hawk radioed that a shot had been fired. The deputies withdrew and set up a safety perimeter with roadblocks. At 2:12 a.m. BWC audio captured a second shot. Hours later, in the daylight, Shepherd and Hawk would find apparent shotgun damage to their cars, as shown in the photos below.



Apparent shotgun damage to Sgt. Hawk's SCSO car.



Apparent shotgun damage to Deputy Shepherd's SCSO car.

Allan Hoad's Statements

Over a period of more than 12 hours, beginning at 1:35 a.m., Mr. Hoad stayed in or near his house and used voice calls, video calls, text messages, and social media to communicate with friends and family, operators at 911, and SCSO deputies and negotiators. His initial 911 call, at 1:35 a.m., was typical of the statements he made during this period:

“Them two sheriffs [] somebody better get ‘em off my road [] this ain’t a joke [] and if they come back up here [] it’s going to get them shot in the face [] I’m not crazy, and I’m not killing myself. I’m going to Fox News to kill corporate America, and if their fucking asshole cop, guess what [] you tell them cops [] I’m going to end the world. I’m going to show the world tomorrow [] if don’t get these sheriffs, we’re going to attend their fucking funeral because I’m shooting them for coming at my house at 130 in the morning and trying to sneak up on [me] you can tell them sheriffs if they think they’re coming up here with a swat team to kill me, somebody’s dying if I’m dying.”

Mr. Hoad continued to make threats of this kind in recorded calls at 2:02 a.m., 2:24 a.m., 2:36 a.m., 4:32 a.m., 5:24 a.m., 5:33 a.m., 8:55 a.m., and 11:11 a.m.

According to a statement he gave to SCSO and an interview with OSI, Witness B, a long-time friend of Mr. Hoad’s who had communicated with him in the early morning hours of October 21, 2024, drove to Mr. Hoad’s house, spoke with SWAT members, and offered to assist, as he believed he could talk Mr. Hoad into peacefully ending the stand-off. At the scene at 11:22 a.m. Witness B phoned Mr. Hoad and placed the call on speaker so officers could hear the conversation. In two conversations Witness B tried to convince Mr. Hoad to come out of the house peacefully, but according to Witness B, Mr. Hoad said, “he was going to kill the cops and ram their cars, he would kill anybody that got into his way,” and hung up.

Mr. Hoad continued to make similar threats in recorded calls at 12:17 p.m., 12:28 p.m., 1:26 p.m., and 1:33 p.m.

The Shooting

Using a drone and a scope, members of the SWAT team were observing Mr. Hoad’s house. SWAT members were using an encrypted radio channel, for which we do not have recordings or exact times, but, based on interviews OSI conducted with SWAT members, at approximately 2:00 p.m. SWAT members radioed that Mr. Hoad was leaving his house carrying a long gun and getting into his pickup truck. They saw him drive from through a field toward Swale Road. SWAT members got into their patrol cars and pursued Mr. Hoad.

The SWAT members who went to Swale Road were SCSO members Sergeant Matthew Wood, Sergeant Joshua Day, Deputy Micah Swarthout, Deputy Brian Kidder, and Investigator Stephen Ellison, and City of Corning Police Department members Officer Emily Waite and Sergeant Christopher Waite.

Deputy Swarthout and Officer Waite activated their BWCs, and a SWAT drone captured the incident visually from overhead.

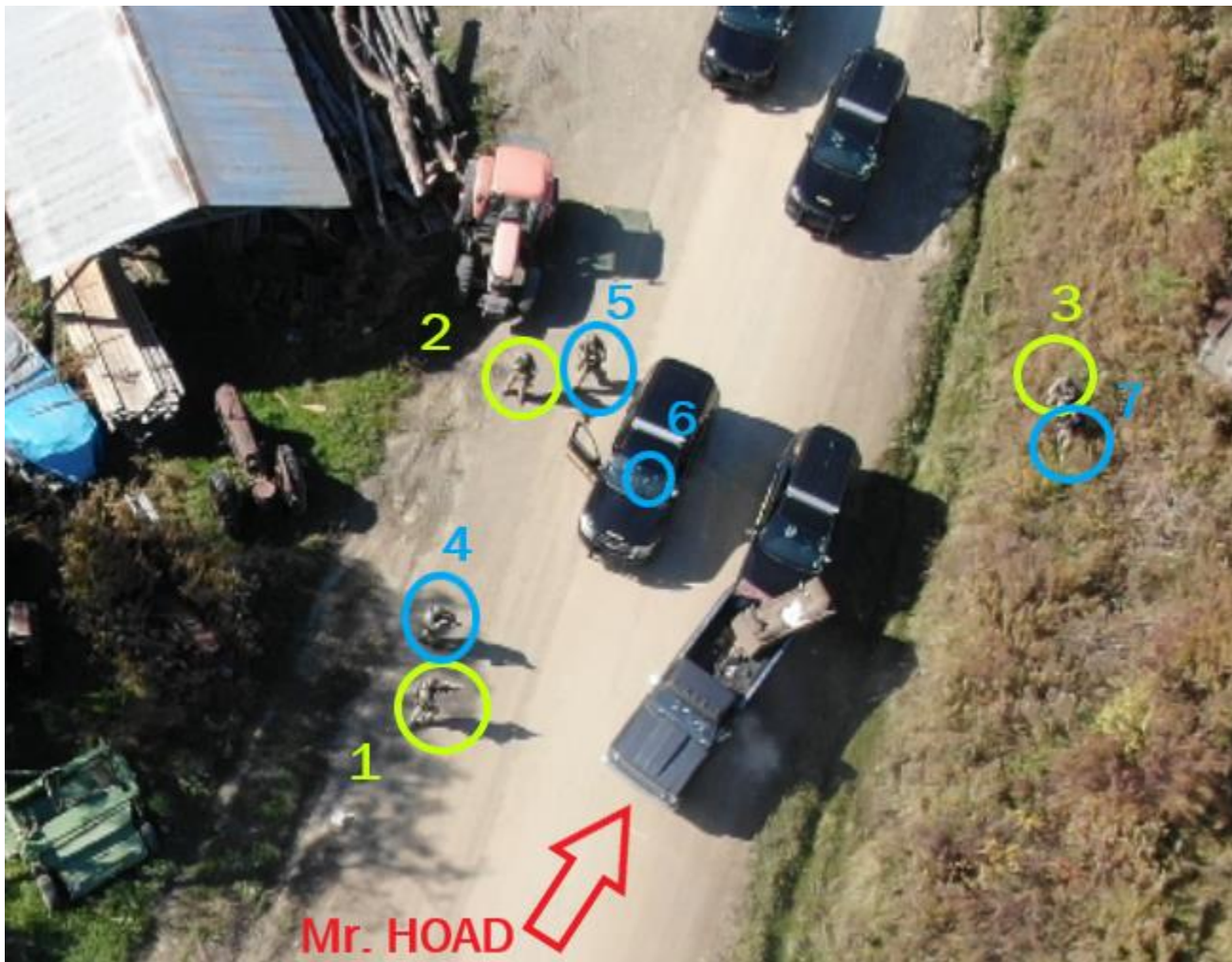
The BWCs and the drone showed that Mr. Hoad was outside his pickup truck, near the entrance to a house on Swale Road. The SWAT officers got out of their cars, and yelled at Mr. Hoad, directing him to show his hands, to put his hands up, to stop moving, and to stay away from the truck. The officers and their four SCSO marked patrol cars blocked most of the roadway to the west of Mr. Hoad and the pickup truck, but Swale Road to the east was open.

As shown by the BWCs and the drone, at 2:20 to 2:21 p.m. Mr. Hoad got into the pickup truck, started the engine, and drove the truck in reverse toward the SWAT officers and their cars, crashed into one of the SCSO cars, and got out of the truck. Sergeant Day, Sergeant Waite, and Officer Waite fired their weapons at Mr. Hoad as he drove backward and as he got out of the truck, striking him. He fell to the ground. Officers radioed, "Shots fired," went to Mr. Hoad, handcuffed him, radioed for an ambulance, and started to aid him.

The relevant BWC and the drone video, previously publicly released by the Attorney General's Office, are available in the following link, redacted according to the Office's published video release policy: [Video Compilation](#).



Annotated photo from the drone video, before Mr. Hoad began to drive in reverse. (1) Sergeant Day, (2) Sergeant Waite, (3) Officer Waite, (4) Deputy Kidder, (5) Deputy Swarthout, (6) Investigator Ellison, (7) Sergeant Wood. The positions of firing officers are in green, the non-firing officers in blue.



Annotated and zoomed-in photo from the drone video at the time of the crash: (1) Sergeant Day, (2) Sergeant Waite, (3) Officer Waite, (4) Deputy Kidder, (5) Deputy Swarthout, (6) Investigator Ellison (inside car), (7) Sergeant Wood. The positions of the shooting officers are in green, non-shooting officers in blue.

Medical Response

Immediately after the shooting SWAT officers radioed for an ambulance and started to render aid. BWC showed that the first paramedics arrived at 2:27 p.m. According to Steuben County Emergency Medical Service's records, Mr. Hoad was "combative and uncooperative," "alert, oriented, talking, and appeared to not be in any respiratory distress [with] multiple gun shot wounds to his upper body....The patient was extremely uncooperative with the crew, striking and spitting on multiple responders as they rendered treatment." EMTs sedated Mr. Hoad for transport, and his heart stopped. He was taken to St. James Mercy Hospital, arriving at 3:55 p.m. The records said Mr. Hoad had no heart sounds or breath sounds on arrival. Dr. J.J. Trenkamp declared death at 4:09 p.m.

Medical Examiner

On October 22, 2024, Dr. Robert Stoppacher, at Guthrie Lourdes Hospital in Binghamton, performed an autopsy on the body of Mr. Hoad and determined that he died of gunshot wounds.

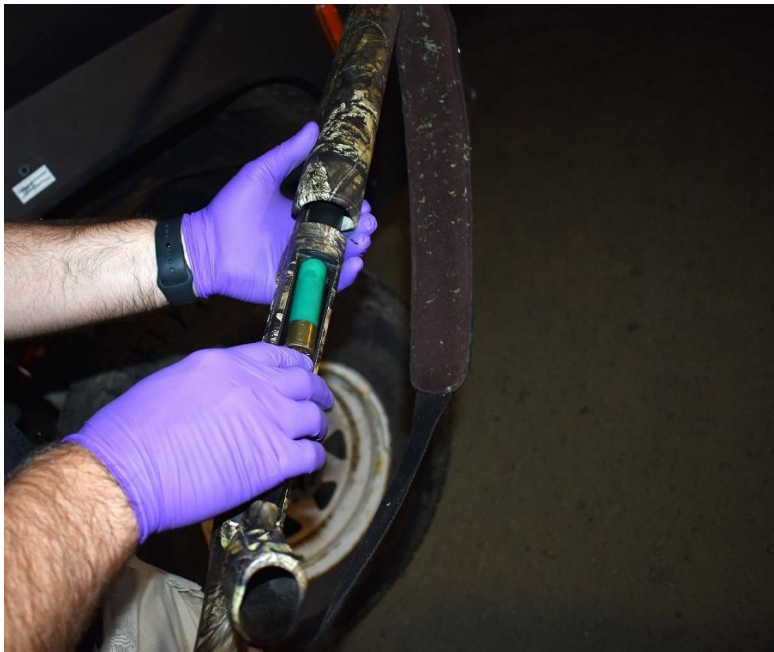
Dr. Stoppacher's report listed eight gunshots. (1) A "penetrating gunshot wound to (the) torso," which traveled "back to front" and perforated a "right rib," the "lower lobe of right lung, and diaphragm," and the "right lobe of liver." (2) A "penetrating gunshot wound to mid back," which traveled "back to front," and into the "lower lobe of (the) left lung." (3) A "gunshot wound to left upper arm," with a "penetrating injury, (to the) lower lobe of left lung," which traveled "left to right and downward." (4) A "perforating gunshot wound," which entered the "right upper back" with a wound path under the skin, "left to right," and which exited by the right arm pit area with "no associated injury." (5) A "penetrating gunshot to left upper arm," which traveled down the arm, below the skin. (6) A "perforating gunshot wound to (the) left hand." (7) A "tangential" or grazing gunshot wound to the back of the left "upper arm." (8) A "penetrating gunshot to right forearm," halfway "between the elbow and wrist."

Evidence from the Scene of the Shooting

According to New York State Police (NYSP) and SCSO records, NYSP crime scene investigators found and collected 11 expended 5.56 caliber cartridge casings from the area where Dep. Day fired his rifle; 14 expended 5.56 caliber cartridge casings from the area of where Sgt. Waite fired his rifle; and two expended .40 caliber cartridge casings from where Officer Waite fired her handgun. NYSP recovered from inside the pickup truck's driver's compartment a loaded 12-gauge shotgun, and three silver-colored imitation handguns.



Photograph of the loaded 12-gauge shotgun in Mr. Hoad's truck.



Photograph of Hoad's shotgun being unloaded by NYSP Investigator Devin Bacon.



NYSP photographs of silver-colored imitation handguns #1, on the truck's seat; and #2, on driver's side floorboard.



NYSP photograph of silver-colored imitation handgun #3, on the truck's seat.

Statements from Shooting Officers

The three shooting officers, SCSO Sergeant Joshua Day, Corning City Police Department Sergeant Christopher Waite, and Corning City Police Department Officer Emily Waite, refused OSI's requests for interviews. They provided written statements to SCSO, as described below:

SCSO Sergeant Joshua Day

In a signed written statement provided to SCSO, Sergeant Day said he heard Mr. Hoad's threats during the calls with Witness B. and "started to think" he was "really looking to harm someone." Of the scene at Swale Road Sergeant Day said:

"I saw Investigator Ellison outside the patrol car and on the driver's side and I saw Deputy Kidder up behind a piece of farming equipment. I then could see Mr. Hoad on the front porch of the house, and he was pounding on the door. At this point, I believed he was trying to break into the house, [] I began yelling at him to show me his hands, but he turned towards his truck and started speed walking to his truck [] I then moved up to Deputy Kidder's location and continued to yell commands to Mr. Hoad, which he did not comply to. Mr. Hoad got into his [] truck [] and began revving his engine. I thought he was going to take off down the opposite way down the road because at this time, there weren't any Law Enforcement personnel that way and he would have had a clear way out and away from us. [] I saw Sgt Wood on the driver side of his patrol car, and it looked like he was moving to the front of his patrol car [and] Investigator Ellison was in between his patrol car and Sgt Wood's patrol car and towards the front of the car. The truck began moving in reverse at a high rate of speed. [I believed] that Mr. Hoad's intention was to plow his truck into my fellow SWAT members, [and] I remembered what Mr. Hoad had said on the phone [] about running them all down with his truck and shooting us all. As the truck was backing up, and when I realized Mr. Hoad's intentions, [] I heard a few shots from another SWAT member, but I didn't know who, but as soon as I had a clear shot, I began firing my patrol rifle at Mr. Hoad, [] in an attempt to save Sgt Wood's and Inv Ellison's lives. I got approximately two rounds off, just before he ran into Sgt Woods patrol car. At this point, I wasn't sure if Sgt Wood had gotten out of the way or not. Just as the truck hit Sgt Wood's patrol vehicle, I could see Mr. Hoad very clearly [] I could see a shiny silver object that looked like a short barrel of a silver or metal pistol and he was moving his hand in a way, that looked like he was going to point it towards me. Because I believed Mr. Hoad was about to point a gun at me and was going to start firing at me, I continued firing my patrol rifle until he dropped his hand. [] Mr. Hoad was looking at me and yelling [] that I shot him in the hand. I yelled back to Mr. Hoad to put his hands in the air. He refused my command and turned to exit out the driver side door. Just as he was getting out, I heard one more shot."

Corning Police Department Sergeant Christopher Waite

Sergeant Waite provided an unsigned typewritten statement to SCSO. Sergeant Waite said he was aware of the threats made by Mr. Hoad and believed he “was about to assault us” with the truck and fired his rifle “in order to stop Mr. Hoad from killing or causing serious physical injury” to other officers.

Corning City Police Department Officer Emily Waite

Officer Waite provided an unsigned typewritten statement to SCSO. Officer Waite said she was aware Mr. Hoad had made “multiple threats of shooting any cop that tried to stop him” and that he would “run over anyone with his truck that tried to stop him.” She said,

“I saw Mr. Hoad was backing up at a high rate of speed and continuing to get faster. He was headed right at Sgt Wood and me. If we didn’t run the opposite direction, Mr. Hoad would have run us over and seriously injured or killed us. [] I saw Mr. Hoad’s hand with a silver object, what I believed to be a gun, [] It looked like he was shooting at them, trying to kill them. I could see Mr. Hoad’s left upper back, shoulder, and head. I took one shot with my pistol, aiming at Mr. Hoad’s left upper back/shoulder area, in order to stop him from shooting my team members. [] Mr. Hoad [] then started to get out of the truck. [] Mr. Hoad was being given verbal commands to stop moving and he did not comply. He started to turn away from his truck and I saw a black object that appeared to be a gun, in his hand. It looked like his head was turned towards my team members, and the way his body was positioned was like he was about to turn the corner of his truck door, towards my team members, to shoot them. I then took a second shot, [] He took a step, and I saw him fall with his arms tucked under him. He continued to move around on the ground yelling at us. I told him, “Stay on the ground” as I thought he still had a gun.”



Still of Officer Emily Waite’s BWC, showing Mr. Hoad getting out of the truck after the crash.

Statements from Other Officers at the Scene of the Shooting

SCSO Investigator Stephen Ellison

OSI interviewed Investigator Ellison, who also provided a signed written statement to the SCSO. In his written statement Inv. Ellison said he saw Mr. Hoad in a field driving toward Swale Road, and then “located the truck pulled into the driveway.” He saw Mr. Hoad outside the pickup truck. Inv. Ellison said he got out of his police car “and I went toward the front of [the SCSO car] and I was giving [Mr. Hoad] verbal commands to get onto the ground but he did not comply. [Mr. Hoad] entered the driver seat of the truck at which time I entered the driver seat” of the SCSO car. Inv. Ellison said Mr. Hoad “began revving his engine and put the vehicle into reverse, spinning his tires as he was coming towards [me] and another patrol vehicle [and] as the truck was reversing in my direction I heard gunfire from my right side.” In OSI’s interview, Inv. Ellison said it was a little after 2:00 p.m. when other officers said Mr. Hoad was leaving his house in his truck. Inv. Ellison said he knew Mr. Hoad had a weapon and said he saw the truck driving in the field. Inv. Ellison said that when he first saw Mr. Hoad at the house on Swale Road he was “like coming off the steps [] his truck was facing the house.” Ellison said, “When I exited my vehicle and went to the front of it, and I was ordering him to get on the ground and he was just facing me.” Then, Mr. Hoad “goes to the driver’s side and opens the door [] he gets in, starts revving his engine, and then just puts it in reverse and comes right directly toward myself and the other patrol car that was parked on my driver’s side.” Ellison said he had got back into the car and was ready to pursue Hoad if he had driven the opposite direction, away on Swale Road. Ellison said, “I thought he was going to hit my vehicle. But [in] the last couple of seconds, it kind of went to the other vehicle. [That] could have been from the shooting, could have been whatever, [] I was like, oh, it’s not stopping.”

SCSO Deputy Brian Kidder

Deputy Kidder refused to be interviewed by OSI. In a signed written statement provided to SCSO, Deputy Kidder stated he arrived at Mr. Hoad’s house at 2:00 a.m. and was told what had happened during the welfare check. Deputy Kidder wrote, “We were going to set up for a possible vehicle takedown if Mr. Hoad left the residence. [The observation] team advised Mr. Hoad exited the residence with what appeared to be a camouflage long gun, and got into his truck.” Kidder wrote, “I observed the vehicle driving across a field south of our position. [We] ran back to [the SCSO] marked patrol [car]s to attempt to intercept Mr. Hoad.” Deputy Kidder wrote that on Swale Road he saw “Mr. Hoad’s vehicle, a lifted and older style pickup truck, in the driveway of the residence” and that he as he got out of his car, he “started giving commands to Mr. Hoad to show his hands. As I proceeded behind farm equipment for cover, I continued to give verbal commands to Mr. Hoad to keep his hands up and not walk towards the truck. Mr. Hoad approached the driver’s side and got back into his truck.” Dep. Kidder wrote that Mr. Hoad revved the truck’s engine and then put the truck in reverse. Dep. Kidder wrote:

“Mr. Hoad accelerated the truck towards Investigator Ellison and [] it appeared Mr. Hoad was intending on striking the patrol [car] or law enforcement [officers] on the scene because he could have driven away from our position as there were no [car]s blocking that route. I had my patrol rifle aimed directly at Mr. Hoad as he was accelerating and at that time, I heard a shot

from Sergeant Day's rifle who was to my right. [] During this time I heard multiple shots directed towards Mr. Hoad and his truck. After the shots stopped [and] after Mr. Hoad was handcuffed first aid was administered immediately."

SCSO Sergeant Matthew Wood

Sgt. Wood refused to be interviewed by OSI. In a signed written statement provided to SCSO, Sgt. Wood, stated he was part of the SWAT response at Mr. Hoad's house. Sgt. Wood wrote that he understood the plan was "to talk with Alan and attempt to get him to calm down, and turn himself over peacefully to law enforcement for a mental health evaluation/treatment." Sgt. Wood wrote that he heard the threats made by Mr. Hoad during the phone call with Witness B. Sgt. Wood wrote, "Sheriff Allard and Lieutenant Logsdon stated that deputies cars were shot at in the morning [and] advised that there were criminal charges now [and we were also told] Alan placed his shotgun, along with other items and his two dogs into his lifted Chevrolet pickup truck." Sgt. Wood wrote that after he watched Hoad travel through the field "south towards Swale Road [] I ran to my marked patrol vehicle. [] I saw Alan's truck parked" at a farmhouse on Swale Road and I "stopped our vehicle on the roadway and conducted a felony traffic stop." Sgt. Wood wrote that three police cars "were blocking the roadway west" of Hoad's location, and as "Officer Chris Waite, Officer Emily Waite and I exited my patrol vehicle I watched as Alan ran from the front door of the house to his truck." Sgt. Wood wrote that as Hoad got into the truck "and started revving his engine. I could hear yelling from SWAT Team Member's that it looked like Alan was going to leave, and heard commands to get ready for a pursuit." Sgt. Wood wrote, "Alan put his truck in gear and slammed on the gas, intentionally backing up at Officer Emily Waite and me at a high speed. At that moment I thought Alan was going to run us over. I yelled out to Officer Emily Waite to run, [and we] ran through the ditch and up the embankment." Sgt. Wood wrote, he heard gunfire behind him and he "turned around on the embankment and drew my handgun from its holster and pointed it on Alan's vehicle." Sgt. Wood wrote, "Alan fumbled for something on the seat and swung open the driver[']s side door. I believed while Alan was grabbing at his seat, that he was possibly retrieving a firearm. Alan exited his truck and fell to the ground. I heard more gunshots as Alan exited his truck. I did not discharge my duty weapon."

SCSO Deputy Micah Swarthout

Dep. Swarthout refused to be interviewed by OSI. In a signed written statement provided to SCSO, Dep. Swarthout stated he was aware that Mr. Hoad had made threats against law enforcement and was leaving his house with a weapon, and driving through a field, "in what appeared to be an attempt to flee." Deputy Swarthout wrote that he and other members of the SWAT team drove to Swale Road to catch up to Mr. Hoad and as "I exited my patrol vehicle and took cover [] I was aware of the shotgun in the vehicle and the threats made earlier in the day to run cops over and shoot them" if they tried "to stop Mr. Hoad." Swarthout wrote, "I was able to see Mr. Hoad in his truck and then was able to hear the engine of the vehicle rev. [] Mr. Hoad was pushing his vehicle as fast as it could go in reverse." Swarthout wrote that Mr. Hoad "was driving directly towards the 2 marked cars on scene that had members of the SWAT team both in and around them. Mr. Hoad drove directly into the other marked car [which] had two members [] in its close proximity." Swarthout wrote, "I perceived [Hoad's actions] as an attempt to seriously injure or kill members of the SWAT team." Swarthout wrote,

“Shots from members of the SWAT team were fired at Mr. Hoad. [] I called for a cease fire [and advanced toward] Hoad and his vehicle with my patrol rifle aimed at Mr. Hoad [not knowing] what his status was and there was a shotgun in the vehicle with him. I observed Mr. Hoad then exit the vehicle where I was giving commands to stop moving several times to which he did not listen to [] when he exited the vehicle.”

LEGAL ANALYSIS

Article 35 of the New York Penal Law governs the circumstances under which a person may be justified in using deadly force against another. Justification is a defense, not an affirmative defense, Penal Law Section (PL) 35.00. To obtain a conviction at trial, a prosecutor must disprove a defense beyond a reasonable doubt, PL 25.00(1).

As the Court of Appeals recently stated in *People v Jairo Castillo*, 42 NY3d 628, 631 (2024):

“The defense of justification provides that a person may use physical force to defend himself against an assailant’s ‘imminent use of unlawful physical force,’ but does not authorize the use of ‘deadly physical force . . . unless . . . [the person] reasonably believes that [the assailant] . . . is using or about to use deadly physical force’ (Penal Law § 35.15). When considering a request for a justification charge, courts examine the evidence in the light most favorable to the defendant, and must provide the instruction if there is any reasonable view of the evidence that defendant was justified in his actions (see *People v Heiserman*, 39 NY3d 988, 990 [2022]). Justification has both a subjective requirement, that ‘defendant . . . actually believed . . . he [was] . . . threatened with the imminent use of deadly physical force,’ and an objective requirement, that defendant’s ‘reactions were . . . those of a reasonable man acting in self-defense’ (*People v Collice*, 41 NY2d 906, 907 [1977]).” (Square brackets and ellipses in the original.)

Article 35 contains a provision, PL 35.30, defining justification when a police officer uses deadly force while effecting or attempting to effect an arrest for an offense. Based on the investigation, the officers reasonably believed that Mr. Hoad had fired at them and was willing to fire at them again and that he therefore could be arrested for offenses including Attempted Murder in the Second Degree, PL 110/125.25 (1). When attempting to effect an arrest, and confronting the use or imminent use of deadly physical force, a police officer need not retreat before using deadly force to defend him/herself or others, PL 35.15(2)(a)(ii)

PL 35.30(1) provides, in pertinent part:

“A police officer or a peace officer, in the course of effecting or attempting to effect an arrest, or of preventing or attempting to prevent the escape from custody, of a person whom he or she reasonably believes to have committed an offense, may use physical force when and to the extent he or she reasonably believes such to be necessary to effect the arrest, or to prevent the escape from custody, or in self-defense or to defend a third person from what he

or she reasonably believes to be the use or imminent use of physical force; except that deadly physical force may be used for such purposes only when he or she reasonably believes that...(c) regardless of the particular offense which is the subject of the arrest...the use of deadly physical force is necessary to defend the police officer...or another person from what the officer reasonably believes to be the use or imminent use of deadly physical force.”

Deadly physical force is defined as “physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury.” PL 10.00(11). Serious physical injury means “impairment of a person’s physical condition which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.” PL 10.00(10). The Penal Law defines a deadly weapon as “any loaded weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged....” PL 10.00(12).

Based on the evidence in this investigation, OSI concludes that a prosecutor would not be able to disprove beyond a reasonable doubt that Sgt. Day, Officer Waite, and Sgt. Waite were justified when they shot and killed Allan Hoad. Under PL 35.30, the officers could use the physical force they reasonably believed to be necessary to effectuate the arrest of Mr. Hoad and could use deadly force if they reasonably believed it was necessary to defend themselves or others against Mr. Hoad’s use or imminent use of deadly force.

SCSO deputies responded to a 911 call, and when they arrived at Mr. Hoad’s house he fired a shotgun at them, twice. Mr. Hoad repeatedly made statements threatening to shoot and kill police officers and others. He drove away from his home, and, when he was located nearby on Swale Road, he did not comply with officers’ orders to stop and surrender. He drove the pickup truck forcefully toward officers and pointed what officers believed was a silver handgun at them. Officers present said they believed Mr. Hoad’s actions in driving the pickup truck at the officers and pointing what appeared to be a silver handgun at them were threats to their lives. The three firing officers said they fired their weapons to prevent Mr. Hoad from killing or seriously injuring other officers.

In sum, OSI concludes that a prosecutor would not be able to disprove beyond a reasonable doubt that the officers’ actions were justified under New York law. Therefore, OSI will not seek charges and closes the matter with the issuance of this report.

Dated: August 12, 2025