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**Department of the Prosecuting Attorney
City and County of Honolulu**

Officer-Involved Shooting Report No. 2024- 2

Report Date: November 7, 2024

Independent Investigation of Officer-Involved Shooting of

Brandan Maroney

Fronting 84-696 Farrington Highway

I. OBJECTIVE.

The objective of the Department of the Prosecuting Attorney's (hereinafter, "PAT") independent investigation here is to assess the viability of a criminal prosecution of Honolulu Police Department (hereinafter, "HPD") Officer [REDACTED] (hereinafter, "Officer 1") for any criminal offense under the Hawai'i Penal Code for his intentional use of deadly force against Brandan Maroney (hereinafter, "Maroney") on January 25, 2024, fronting 84-696 Farrington Highway, Makaha, Hawai'i. In making this assessment, the PAT will use the proof beyond a reasonable doubt standard.

This investigation considered materials and information provided by HPD.¹ PAT Investigator [REDACTED] (hereinafter, "Investigator") was the PAT's primary investigator.

This investigation offers no opinion whether Officer 1 complied with any HPD policies or whether non-compliance with any HPD policy subjects him to administrative discipline.

II. FACTS.

A. General Background (Introduction).²

On January 25, 2024, at about 10:51 a.m., Officer 1 and HPD Officer [REDACTED] (hereinafter, "Officer 2") were on duty when dispatch notified them separately of a suspicious male who was jumping into traffic in the area of Moua Street and Farrington Highway (Makaha). Both officers, who were wearing their HPD issued Class A uniforms arrived at the scene in their respective vehicles at about the same time. Upon their arrival at the scene, Officer 1 and Officer 2 observed a male who was later positively identified as Maroney, standing in the middle of one of the two (2) lanes on Farrington Highway. Both officers made multiple verbal commands to Maroney to get off the middle of the road. Maroney, who was clearly agitated, ignored their instructions repeatedly.

After several minutes, Maroney pulled out a knife while both officers were approximately two (2) to three (3) feet away from him. After observing the knife in his hand, Officer 1 and Officer 2 backed away from him and drew their respective firearms. Because Maroney kept ignoring their commands and had the knife in his hand, Officer 2 reholstered her firearm and activated her taser. Officer 2 eventually deployed the taser on Maroney as he continued to ignore their instructions to get off the road. Upon being hit by the probes of the taser, Maroney fell to the ground. While rolling on the ground, the knife flew out of Maroney's hand and onto the roadway. After Officer 1 reached

¹ The key report number for the investigation of the shooting is documented under HPD Report Number [REDACTED]. The general facts here as noted hereinbelow, are taken from the reports documented under the said report number.

² *Id.*

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down to pick up the knife, Maroney got up from the ground and faced Officer 1. While Officer 1 then picked up the knife, Maroney instantly charged at him. Officer 1 backed away as quickly as he could, but Maroney closed in on him, grabbed at Officer 1's shoulder and appeared to be trying to tackle him. The shooting then occurred.

B. The Weather.

The body worn camera (hereinafter, "BWC") footage taken from the scene officers revealed that the weather was sunny and clear. Other video recorded footage recovered in this case further confirmed the weather conditions as shown on the BWC.

C. The Scene.

The HPD reports specify that the official scene of this matter is the street fronting 84-696 Farrington Highway, Makaha, Hawai'i. Below is a Google Map photo of the general area of the location of the shooting on O`ahu:³



³ https://www.google.com/maps/place/84-696+Farrington+Hwy/@21.5008515,-158.0997307,77637m/data=!3m1!1e3!4m7!3m6!1s0x7c008b75391ba881:0x5aae245eb e4d0928!4b1!8m2!3d21.4700315!4d-158.215739!16s%2Fg%2F11c17sbb_s?entry=tu&g_ep=EgoyMDI0MTAwOS4wIKXMD SoASAFQAw%3D%3D

Below is another Google Map satellite photograph of the area of the shooting:⁴



Finally, below is the street view of where the shooting occurred:⁵



⁴ *Id.*

⁵ Photograph by Evidence Specialist [REDACTED] (hereinafter, "Evidence Specialist 1").

D. Participants in the Event.

1. Maroney.⁶

Prior to the instant incident, Maroney had five (5) felony arrests and three (3) felony convictions in the State of Hawai'i. The felony convictions were for two (2) counts of Methamphetamine Trafficking in the Second Degree, in violation of **Hawai'i Revised Statutes** (hereinafter, "**H.R.S.**") **Section 712-1240.8** (2014 Repl.)⁷ and one (1) count of Promoting a Dangerous Drug in the Third Degree, in violation of **H.R.S. Section 712-1243** (2014 Repl.), in case number CR12-1-1527. He was also convicted in the same case (CR12-1-1527) for a misdemeanor count of Promoting a Detrimental Drug in the Second Degree, in violation of **H.R.S. Section 712-1248(1)(d)** (2014 Repl.). Maroney was sentenced in case number CR12-1-1527 to ten (10) years of incarceration.

Maroney also had felony convictions in the State of Washington for Robbery in the Second Degree, Controlled Substance Possession, and six (6) counts of Identity Theft in the Second Degree in 2009. The offenses that he committed in CR12-1-1527 occurred while Maroney was on parole for the aforementioned State of Washington convictions and while receiving courtesy supervision in the State of Hawai'i. He also had a felony conviction in the State of Washington for Taking a Motor Vehicle without Permission in 2003.

Maroney also had misdemeanor convictions in the State of Washington for Vehicle Trip Permit in 2009, Assault in the Fourth Degree in 2003 and Malicious Mischief in the Third Degree in 2003.

⁶ The information background regarding Maroney was retrieved from the PAT's computer data base system and the Hawai'i State Criminal Justice Inquiry System (CJIS).

⁷ The said statute was later repealed in 2016.

Below is a photograph of Maroney taken in 2023 under HPD Report Number [REDACTED].



2. Officer 1.⁸

Officer 1 has been employed as an HPD officer since [REDACTED]. His assignments at HPD have been as follows:

<u>START DATE</u>	<u>END DATE</u>	<u>LOCATION</u>
[REDACTED]	[REDACTED]	Training Academy
[REDACTED]	[REDACTED]	District 8 Desk
[REDACTED]	[REDACTED]	District 8 Patrol

⁸ This information, provided by HPD's Professional Standards Office (hereinafter, "PSO"), is as of April 9, 2024.

Based on the use of force records (UOF records) provided by PSO, Officer 1 has no prior sustained use of force or use of deadly force investigations. Officer 1 does not have a criminal record. He was investigated administratively for a domestic argument that was documented under HPD Report Number [REDACTED]. Lastly, Officer 1 is a law enforcement officer as defined by H.R.S. Section 701-118 (2017 Repl.).⁹

E. Factual Narrative for January 25, 2024.

1. Statement by Officer 1.¹⁰

In his report, Officer 1 stated that on January 25, 2024, at about 10:51 a.m., he was on duty at HPD and assigned to conduct uniform patrol in the District 8 area when he received a dispatch call. Dispatch related that there was suspicious male who was jumping into traffic at the area of Farrington Highway and Moua Street. On January 25, 2024, at about 10:57 a.m., Officer 1 arrived at the said scene in his subsidized HPD vehicle with a blue light on the roof. He was attired in his HPD Class A uniform.

Officer 1 arrived at the scene at the same time as Officer 2. Upon his arrival, he observed a male later identified as Maroney standing in the middle of the westbound lane of Farrington Highway. Maroney initially appeared to be coherent. However, when Officer 1 and Officer 2 began to issue multiple verbal commands for him to get off the road, Maroney started to become agitated. He continued to refuse to comply with the orders to move to the side of the road.

Officer 1 described the area to be a residential area and to be a major thoroughfare with traffic heading in both directions (north and south). Several residents came out of their homes and several drivers and occupants came out of their respective vehicles to observe what was happening.

After several minutes of talking to Maroney, Officer 1 heard Officer 2 say, "ho brah." He then observed Officer 2 pull out her duty firearm. Officer 1 then noticed that Maroney was holding a knife in his left hand. At this point, Officer 1 was approximately two (2) to three (3) feet away from Maroney. Upon seeing Maroney holding the knife, Officer 1 drew his duty weapon and began to create distance away from him. Both Officer 1 and Officer 2 backed up approximately fifteen (15) away from Maroney and gave him multiple commands to drop the knife. As Maroney refused to drop the knife, Officer 2 reholstered her firearm and drew her Conduct Energy Weapon (hereinafter,

⁹ "Law enforcement officer" means "any public servant, whether employed by the State or county or by the United States, vested by law with a duty to maintain public order or, to make arrests for offenses or to enforce the criminal laws, whether that duty extends to all offenses or is limited to a specific class of offenses."

¹⁰ The statement below was taken from Officer 1's report. Please further note that Officer 1 did not have a Body Worn Camera (hereinafter, "BWC") on him during the incident as he did not have the chance to grab the camera at the Waianae Police Station.

“taser”). She then pointed the taser at Maroney. After Maroney continuously refused to comply with multiple orders to drop his knife, Officer 2 deployed her taser on Maroney.

After being struck by the probes of the taser, Maroney fell to the ground and started to roll on the ground a few times. While he was rolling on the ground, the knife that he was holding flew out of his hand and landed on the roadway. Officer 1 then bent down to pick up the knife from the road. As he was doing so, Maroney got up from the ground and charged directly towards Officer 1. After picking up Maroney’s knife from the ground, Officer 1 backed up away from Maroney. However, Maroney was quickly able to close the distance between them and grab at Officer 1’s left shoulder. At this moment, Officer 1 was holding his HPD firearm in his right hand and Maroney’s knife in his left hand.

Officer 1 noted that as Maroney closed the gap between them and grabbed at his left shoulder, he feared for his own safety and the safety of Officer 2 and nearby pedestrians who were watching because he was unsure as to whether Maroney was going after his firearm or the knife. Maroney then dropped his shoulder and attempted to tackle Officer 1 to the ground. At this moment, Officer 1 discharged his firearm twice at Maroney. Maroney then proceeded to fall onto the hood of Officer 1’s subsidized vehicle. Maroney then fell off the hood and stumbled for about ten (10) to fifteen (15) feet from the car before falling to the ground. Officer 1 then immediately called dispatch to expedite an ambulance and to send a supervisor to the scene.

2. Statement by Officer 2.¹¹

Officer 2 stated that on January 25, 2024, at about 10:51 a.m., she was dispatched to the area of Farrington Highway and Moua Street on a report of a suspicious male who was running into the roadway. Officer 2, who was wearing her HPD Class A issued uniform, arrived at the scene in her blue and white vehicle on January 25, 2024 at about 10:57 a.m. Upon her arrival, Officer 2 observed a male who was later positively identified as Maroney, standing in the southbound lane of Farrington Highway and causing vehicular traffic to go around him. Due to the area being a major thoroughfare, Officer 2 noticed that traffic was starting to back up due to Maroney being in the roadway. Furthermore, people were coming out of their houses and vehicles to observe what was happening.

Officer 2 noted that Maroney initially appeared to be coherent. However, as she and Officer 1 began to give him verbal commands to get off the road, Maroney became agitated. Maroney would respond to them but was not making any sense. He also continued to pace back and forth while refusing to get off the roadway.

Officer 2, who was standing about two (2) to three (3) feet away from Maroney, continued to give him instructions to get off the roadway, but Maroney refused to do so. She then observed Maroney pull out a knife out of his left front pants pocket and use his

¹¹ The statement below was taken from Officer 2’s report.

left thumb to open and display the blade of the knife. Fearing for the safety of herself, Officer 1 and the bystanders in the area, Officer 2 then drew her HPD firearm and started to create distance between herself and Maroney. Officer 2 then observed Officer 1 also pull out his firearm.

After transitioning from her firearm to her taser, Officer 2 continued to order Maroney to get off the roadway. However, Maroney repeatedly refused to comply with the orders while still holding his knife. After walking back and forth on the Farrington Highway roadway, Maroney then made a furtive movement towards Officer 2 as if he were about to charge towards her. As a result, Officer 2 deployed her taser at Maroney. The taser appeared to be effective as Maroney fell to the ground and rolled around a few times. While rolling around, the knife that he was holding dislodged from his hand along with the taser probes.

After Officer 1 secured the knife from the ground, Maroney was able to get up quickly and charge directly towards Officer 1. Officer 2 tried to deploy her taser again but the taser had no effect on Maroney. Maroney quickly closed the gap quickly between Officer 1 and himself and he started grabbing at Officer 1 who was holding Maroney's knife in his left hand and his own firearm in his right hand. Officer 1 then discharged his firearm at Maroney who fell onto the hood of Officer 1's vehicle and stumbled about fifteen (15) feet. Maroney then fell to the ground. After handcuffing Maroney, Officer 2 began to render aid to him until an ambulance arrived.

3. Statement by [REDACTED].

[REDACTED] (hereinafter, "Witness 1") provided a written statement to HPD and noted that on January 25, 2024, at about 11:00 a.m., he observed two (2) police officers speaking to a male who was later positively identified as Maroney. Witness 1 heard the officers telling Maroney to put the knife down. However, Maroney was very aggressive and tried to attack them. Witness 1 recalled seeing the police use a taser on Maroney who still tried to attack them. Witness 1 then heard a gunshot and saw Maroney on the ground. Witness 1 also said that he did not see a knife on Maroney because Maroney's back was facing him.

4. Statement by [REDACTED].

[REDACTED] (hereinafter, "Witness 2") also provided a written statement to HPD. She noted that on January 25, 2024, at about 10:30 a.m., she was in her back yard when she observed a male pushing a cart in the middle of the roadway. The said male was a later positively identified as Maroney. Moving out further from her yard to see where Maroney was going, Witness 4 observed him walking into the lanes of the roadway. Maroney was causing traffic to stop in both directions and saying, "Hit me, go ahead . . . I'll make plenty money."

As Maroney continued to block traffic, Witness 2 told her son to call 911. While waiting for the police, Witness 2 saw that Maroney continued to block traffic and also

started to throw objects at passing vehicles. When HPD officers arrived, Witness 2 saw that Maroney had moved two (2) telephone poles further down the road. The HPD officers approached Maroney who appeared to be confrontational. The officers tried to communicate with Maroney who threw his arms up and around.

Witness 2 then saw Maroney move towards the officers. As a result, the officers activated the taser on him twice. Witness 2 did not observe Maroney fall down after being tased. Maroney then became more aggressive and started to move closer towards the officers when he was shot.

5. Statement by [REDACTED].

In a written statement, [REDACTED] (hereinafter, "Witness 3") stated that he was with Witness 2 when he observed a male, later identified as Maroney, attacking people's cars. After calling 911, Witness 3 observed the police talking with Maroney for a couple of minutes. Starting to get aggressive, Maroney approached one of the officers who appeared to deploy a taser on him twice. Because the taser did not stop him, Maroney was shot twice.

6. Statement by [REDACTED].

[REDACTED] (hereinafter, "Witness 4") stated that on January 25, 2024, at about 11:00 a.m., he was in his yard when he heard someone yelling, "Put the knife down, we can help you" twice. After hearing two (2) gunshots, Witness 4 walked to the front and observed a male who was later positively identified as Maroney, on the ground. A male police officer was next to Maroney.

7. Statement by [REDACTED].

In a written statement, [REDACTED] (hereinafter, "Witness 5") mentioned that she was with her husband. They were driving to the beach and had to stop because the road was blocked. Witness 5 saw that there was a male who was later positively identified as Maroney on the roadway with two (2) police officers. Maroney appeared to be arguing and antagonizing the said officers. After a couple of minutes, what appeared to be a stun gun was deployed on Maroney. However, Maroney continued to fight with the officers. Witness 5 then saw and heard Maroney get shot, probably two (2) or three (3) times. After getting shot, Maroney stumbled over a vehicle and out of her view. Lastly, Witness 5 noted that she made a video recording of the incident and provided the same to the police.

8. Statement by [REDACTED].

After the shooting incident involving Maroney occurred, [REDACTED] (hereinafter, "Witness 6") arrived at the HPD Pearl City police station to report that she had known Maroney. Witness 6 said that she knew Maroney as "Brandon Marshall". She said that Maroney was homeless and that a few weeks prior to the shooting in this

incident, she had seen him at a park. There, Maroney told her that he wanted to do “suicide by cop.” Witness 6 told Maroney not to do so and that there was help available to him. Maroney replied that nobody could help him and that someone had stolen all of his belongings.

9. Officer 2’s BWC Recordings.¹²

Screenshots of the relevant portions of the recordings taken from Officer 2’s BWC will be shown hereinbelow with an explanation as to what the screenshots represent. Below is a screenshot of the BWC recording that was taken near the beginning of the recording and shows Officer 1 and Officer 2 speaking to Maroney who is standing in the middle of the southbound roadway of Farrington Highway.¹³ Noticeable in the screenshot is Maroney’s left hand which is in his left pants front pocket from which he will draw his knife soon thereafter. Officer 1 can also be seen approximately two feet away from Maroney at this point.



¹² The screenshots below are taken from Officer 2’s BWC.

¹³ 2024-1-25 T10:59:54. Officer 2’s BWC starts at 2024-1-25 T10:59:41 with both officers instructing Maroney to get off the road.

The next screenshot occurs immediately after Maroney pulls out his knife.¹⁴ Officer 1 does not notice the knife at this time. He then backs up quickly after Officer 2 says, "Ho brah."



After Officer 1 and Officer 2 notice the knife in Maroney's left hand, they back away from him and draw their firearms. They then continuously instruct Maroney to drop the knife while attempting to reason with him. At one point, Officer 1 can be heard asking Maroney if he wants to be shot and Maroney replies, "Yeah, I'm down."¹⁵ Officer 1 later implores, "If you want help, drop the knife and we can help you."¹⁶ The suspect then later laughs at the officers after Officer 1 says that "we are the police."¹⁷ Finally, Officer 2 announces "taser, taser, taser" and deploys the taser on Maroney.¹⁸

¹⁴ 2024-1-25 T10:59:58.

¹⁵ 2024-1-25 T11:01:32 to 11:01-35.

¹⁶ 2024-1-25 T11:02:22-24.

¹⁷ 2024-1-25 T11:02:33.

¹⁸ 2024-1-25 T11:02:49.

The next two (2) screenshots show Maroney falling to the ground after the probes of the taser hit him.¹⁹



¹⁹ 2024-01-25 T11-02-51 and T11-02-54.

The next two (2) screenshots show: 1) the knife flying away from Maroney and landing on the roadway,²⁰ and 2) Officer 1 noticing the knife on the ground and turning away from Maroney to retrieve the said weapon.



²⁰ 2024-01-25 T11:02:54 and T11:02:56.

The next four (4) screenshots are taken in sequence and within a two (2) second span. The screenshots show: 1) Officer 1 bending down to pick up the knife from the roadway and Maroney facing towards him;²¹ 2) Maroney stepping towards Officer 1 who has just retrieved the knife;²² 3) Maroney getting closer to Officer 1 within one second after Officer 1 reached down to pick up the knife;²³ and 4) Maroney completely closing the gap between him and Officer 1 as he runs and lunges at Officer 1.²⁴ In the last of the four (4) said screenshots, Officer 1 also appears to be off-balanced and caught off-guard as Maroney approaches him so quickly.²⁵



²¹ 2024-01-25 T11:02:58.

²² *Id.*

²³ 2024-01-25 T11:02:59.

²⁴ *Id.*

²⁵ *Id.*



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The next four (4) BWC recording screenshots show Maroney closing the gap completely as he charges and lunges at Officer 1 who sidesteps away from him.²⁶ The BWC recording picks up the sound of the first shot of gunfire between the first and second screenshot and the sound of the second shot of gunfire immediately before the third screenshot. The first three (3) screenshots occur in a little more than a second.



²⁶ 2024-01-25: T11:02:59-T11:03:01.



The next three (3) screenshots²⁷ show Maroney rolling over the hood of Officer 1's vehicle after being shot.



²⁷ 2024-01-25 T11:03:01



Finally, the last three (3) screenshots taken from Officer 2's BWC reveal what happens after Maroney rolls over the hood as he lands on his feet, walks a short distance, and falls to the ground.²⁸



²⁸ 2024-01-25 T11:03:03-T11:03:09.

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10. Video recording taken by Witness 5.

As noted earlier, Witness 5 indicated that she recorded the incident with her cell phone and provided the recording to HPD. A review of her recording substantiates the statements made by Officer 1 and Officer 2 and provide a different angle of the incident that was captured on Officer 2's BWC.

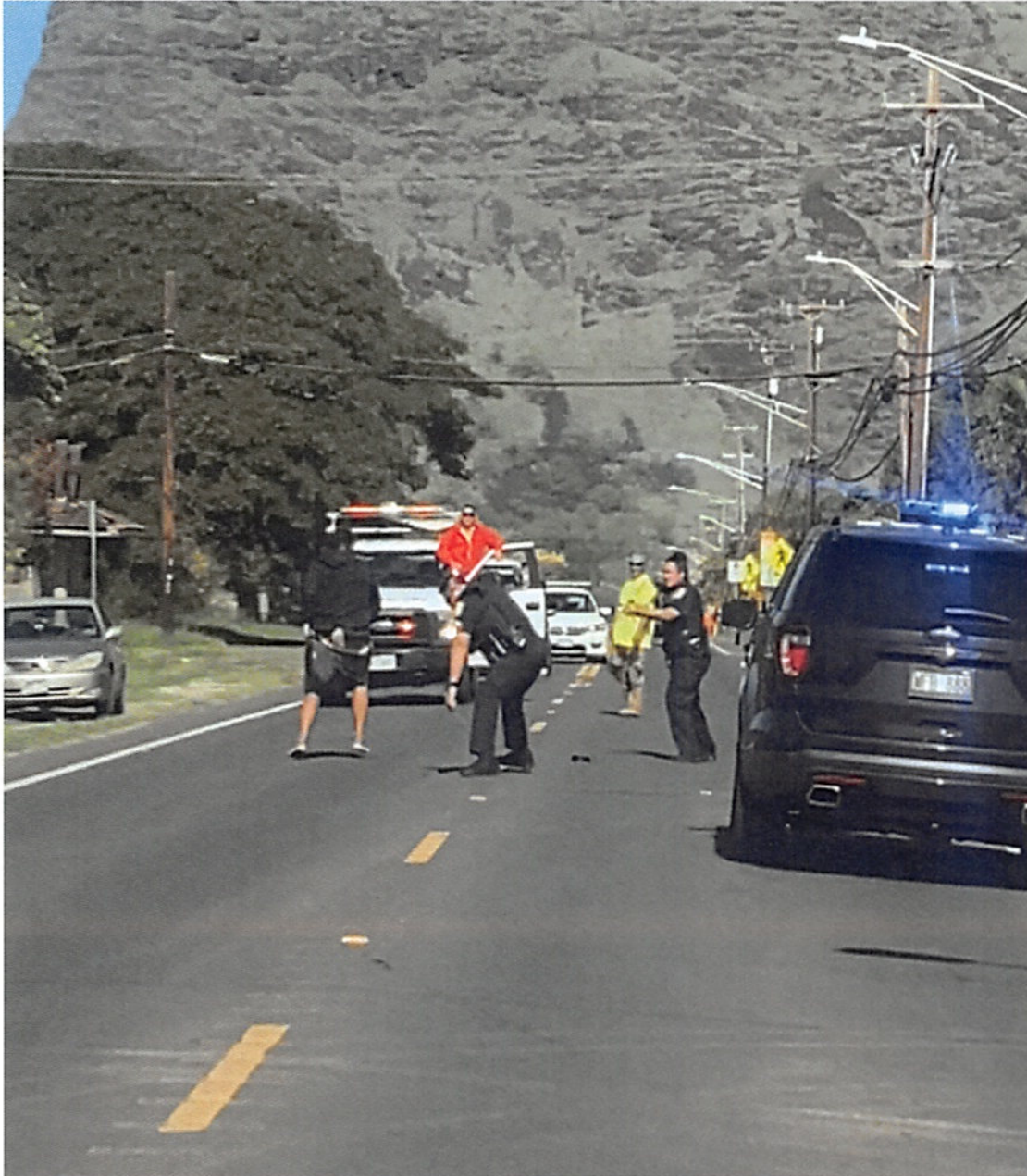
The first screenshot of the video recording is taken at one (1) second and shows Maloney on the ground after being tased.



The next screenshot is taken at the two (2) second mark. The screenshot depicts Maroney starting to get off the ground and Officer 1 looking towards the roadway where Maroney's knife landed. The screenshot further reveals traffic backed up on Farrington Highway along with bystanders watching from the roadway.



The next three (3) screenshots are taken from the four (4) second mark of the recordings. The first screenshot shows Officer 2 reaching towards the ground to pick up Maroney's knife and the second screenshot shows Maroney looking at Officer 1 who appears to have just picked the knife up from the roadway. Finally, the third screenshot shows Maroney about to charge at Officer 1.







The next screenshot is taken at five (5) seconds on the recording. Maroney is seen charging headfirst at Officer 1 who at this point has backed up and side-stepped away from Maroney.



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At the six (6) second mark, the first gunshot can be heard. The bottom screenshot shows what occurred when the said gunshot is audible. The HPD vehicle blocks the camera view of both Officer 1 and Maroney.



The next two (2) screenshots are taken within the same six (6) second timeframe as the previous screenshot. The first screenshot shows Officer 2 in view of the camera while a second gunshot is audible. The second screenshot shows Maroney tumbling toward Officer 1's vehicle.





The last three screenshots from Witness 5's cell phone recording depicts what occurs at the seven (7) second mark with Maroney tumbling onto and over the hood of Witness 1's vehicle.







11. Video Recording from Person at Residence.²⁹

HPD recovered another cell phone video recording of the incident from a person at a residence located on Farrington Highway. The video recording starts before Officer 2's BWC recording and Witness 5's cell phone recording. At eleven (11) seconds on the video, Maroney can be seen talking to Officer 1 and Officer 2. He then puts his left hand into his pocket.



²⁹ Witness [REDACTED] (hereinafter, "Witness 7") provided the said video recording.

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At fourteen (14) seconds on the video, Maroney can be seen pulling the knife out from his left pocket. Both Officer 1 and Officer 2 appear to be unaware of the knife.



The next photo, also from the fourteen (14) second mark, shows Officer 2 appearing to reach for her firearm as she apparently notices the knife in Maroney's hand. Officer 1 does not appear to notice the knife yet.



The next photo, which occurs at the fifteen (15) second mark of the video recording, portrays both officers drawing their respective firearms. They have at this point, both backed away from Maroney.



At twenty-one seconds in the video recording, Officer 1 and Officer 2 are both seen pointing their respective firearms at Maroney. At this point, Maroney now has his phone in his left hand and the knife in his right hand. Both officers have both backed away further from Maroney.



At three (3) minutes and seven (7) seconds on the video recording, Maroney can be seen flinching after Officer 2 deploys her taser on him.



At three (3) minutes and twelve (12) seconds on the video recording, the knife is visible on the roadway, as shown by the red arrow. Officer 1 has seen the knife and moves towards the said object to retrieve the item from the roadway.



At three (3) minutes and fourteen (14) seconds of the video recording, Officer 1 is seen reaching down to pick up the knife as Maroney looks directly towards him and begins moving quickly forward towards the said officer.



At three (3) minutes and fifteen (15) seconds on the video recording, Maroney starts aggressively running towards Officer 1 who appears to be off-balanced after having just retrieved the knife from the roadway.



The next five (5) screenshots at three (3) minutes and sixteen (16) seconds of the video recording show Maroney charging aggressively at Officer 1 while completely closing the gap between them. Officer 1 discharges his firearm for the first time immediately after the last of these series of screenshots.











The last of the screenshots from this video recording occurs at three (3) minutes and seventeen (17) seconds of the video recording. The first screenshot depicts Maroney still moving forward while lunging at Officer 1 while the second screenshot portrays Officer 1 immediately after he fires the second gunshot at Maroney.

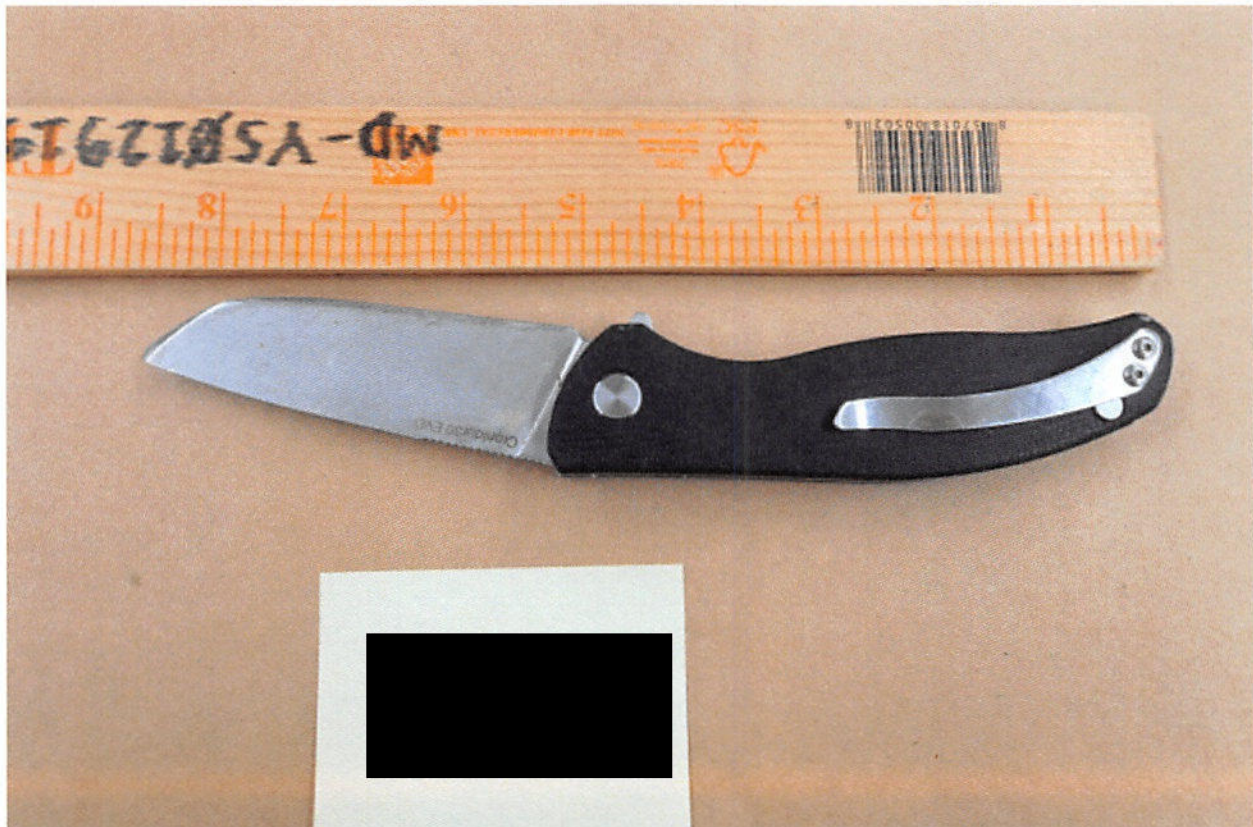




12. Miscellaneous

As mentioned in her report and as shown in her BWC, Officer 2 immediately provided aid to Maroney after Maroney fell to the ground. Personnel from the City and County of Honolulu Ocean Safety, the Honolulu Fire Department and EMS then took over to provide aid to Maroney. Maroney was later pronounced dead at the scene by Dr. [REDACTED] (hereinafter, "Doctor 1") on January 25, 2024, at about 12:03 p.m.³⁰

In addition, following the incident, Evidence Specialist 1 submitted Maroney's knife into evidence under HPD Report Number [REDACTED]. Below is a photograph of Maroney's knife.³¹



³⁰ See, report by HPD Corporal [REDACTED] (hereinafter, "Corporal 1").

³¹ Photograph by Evidence Specialist 1.

Meanwhile, HPD Evidence Specialist [REDACTED] (hereinafter, "Evidence Specialist 2") submitted Officer 1's firearm along with two (2) spent cartridge cases that were located on Farrington Highway under HPD Report Number [REDACTED].

F. Maroney's Cause of Death, Recovered Evidence, and Toxicology Results.³²

On January 26, 2024, at about 11:00 a.m., Doctor 2 performed an autopsy on Maroney. In his examination, Doctor 2 found in relevant part that Maroney had: 1) a gunshot wound to his left upper back; and 2) a gunshot wound to his left upper chest.

As to the first gunshot wound listed hereinabove, Doctor 2 noted that the trajectory of the wound path was oriented from back to front, from left to right and downward. Doctor 2 also recovered a bullet within Maroney's abdominal cavity. HPD Evidence Specialist [REDACTED] (hereinafter, "Evidence Specialist 3") submitted the same into evidence under HPD Report Number [REDACTED].³³

With respect to the second shot listed hereinabove, Doctor 2 stated that the trajectory of the wound path was from front to back, from left to right and downward. Doctor 2 recovered a bullet from within Maroney's abdominal cavity. Evidence Specialist 3 then submitted the same into evidence under HPD Report Number [REDACTED].³⁴

Doctor 2 opined that the cause of death of Maroney was multiple gunshot wounds.

Lastly, a toxicology done on Maroney confirmed the presence of methamphetamine (1000 ng/mL), amphetamine (60 ng/mL), Delta-9 Carboxy THC (24 ng/mL) and Delta-9 THC (3.3 ng/mL) in his blood.

³² The facts in this section are from City and County of Honolulu Forensic Pathologist Dr. [REDACTED] (hereinafter, "Doctor 2's") report except when otherwise noted.

³³ See, report by SIS Specialist 3.

³⁴ *Id.*

III. LEGAL PRINCIPLES.

A. Definitions.

“Believes” means reasonably believes.³⁵

“Bodily injury” means physical pain, illness, or any impairment of physical condition.³⁶

“Deadly force” means force which the actor uses with the intent of causing or which the actor knows to create a substantial risk of causing death or serious bodily harm. Intentionally firing a firearm in the direction of another person or in the direction which another person is believed to be constitutes deadly force. A threat to cause death or serious bodily injury, by the production of a weapon or otherwise, so long as the actor’s intent is limited to creating an apprehension that the actor will use deadly force if necessary, does not constitute deadly force.³⁷

“Force” means any bodily impact, restraint, or confinement, or the threat thereof.³⁸

“Unlawful force” means force which is employed without the consent of the person against whom it is directed and the employment of which constitutes an offense or would constitute an offense except for a defense not amounting to a justification to use the force. Assent constitutes consent, within the meaning of this section, whether or not it otherwise is legally effective, except assent to the infliction of death or serious or substantial bodily injury.³⁹

“Serious bodily injury” means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.⁴⁰

“Substantial bodily injury” means a major avulsion, major laceration, or major penetration of the skin; a burn of at least second degree severity; a bone fracture; a serious concussion; or a tearing, rupture, or corrosive damage to the esophagus, viscera, or other internal organs.⁴¹

³⁵ Hawai'i Revised Statutes (hereinafter, “H.R.S.”) Section 703-300 (2014 Repl.).

³⁶ H.R.S. Section 707-700 (2014 Repl.)

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

B. Potential Defenses.

The below **H.R.S. Chapter 703** (2014 Repl.) justification defense applies to this case and is referenced below.⁴²

1. Use of Force in Self-Protection.

H.R.S. Section 703-304 (2014 Repl.) states in relevant part as follows:

- (1) Subject to the provisions of this section and of section 703-308, the use of force upon or toward another person is justifiable when the actor believes that such force is immediately necessary for the purpose of protecting himself against the use of unlawful force by the other person on the present occasion.
- (2) The use of deadly force is justifiable under this section if the actor believes that deadly force is necessary to protect himself against death, serious bodily injury, kidnapping, rape, or forcible sodomy.
- (3) Except as otherwise provided in subsections (4) and (5) of this section, a person employing protective force may estimate the necessity thereof under the circumstances as he believes them to be when the force is used without retreating, surrendering possession, doing any other act which he has no legal duty to do, or abstaining from any lawful action.

...

- (5) The use of deadly force is not justifiable under this section if:
 - (a) The actor, with the intent of causing death or serious bodily injury, provoked the use of force against himself in the same encounter; or
 - (b) The actor knows that he can avoid the necessity of using such force with complete safety by retreating or by surrendering possession of a thing to a person asserting a claim of right thereto or by complying with a demand that he abstain from any action which he has no duty to take, except that:

⁴² **H.R.S. § 703-301(1)** (2014 Repl.) ("In any prosecution for an offense, justification, as defined in sections 703-302 through 703-309, is a defense.").

- (i) The actor is not obliged to retreat from his dwelling or place of work, unless he was the initial aggressor or is assailed in his place of work by another person whose place of work the actor knows it to be; and
- (ii) A public officer justified in using force in the performance of his duties, or a person justified in using force in his assistance or a person justified in using force in making an arrest or preventing an escape, is not obliged to desist from efforts to perform his duty, effect the arrest, or prevent the escape because of resistance or threatened resistance by or on behalf of the person against whom the action is directed.

The use of deadly force in self-defense involves consideration of two issues. Firstly, did the actor use deadly force? Secondly, was the use of deadly force justified?⁴³

The use of deadly force upon or toward another person is justified if the actor reasonably believes that deadly force is immediately necessary to protect himself on the present occasion against death or serious bodily injury.⁴⁴ The reasonableness of the actor's belief that the use of protective deadly force was immediately necessary shall be determined from the viewpoint of a reasonable person in the actor's position under the circumstances of which the defendant was aware or as the defendant reasonably believed them to be when the deadly force was used.⁴⁵

IV. ANALYSIS.

A. Officer 1's Use of Deadly Force in Self-Protection.

The first applicable question is whether Officer 1 was legally justified in using deadly force in self-protection when he shot Maroney. This involves a two-part inquiry: 1) Did Officer 1 use deadly force; and if so, 2) Was Officer 1's use of deadly force justified?⁴⁶

As to the first question, there is no dispute that Officer 1 used deadly force by discharging his firearm two (2) times at Maroney. Officer 1 admitted in his report that he intentionally shot Maroney twice. The recovered video recordings from Officer 2's BWC and two separate cell phones verify that Officer 1 fired two (2) distinct shots at Maroney.

⁴³ Hawai'i Pattern Jury Instructions (hereinafter, "HAWJIC") 7.01A.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

Two (2) casings were recovered from the roadway. Lastly, Maroney had two (2) bullet wounds and Doctor 2 located two (2) bullets from Maroney's body.

As to the second question, Officer 1's use of deadly force was justified if he reasonably believed that deadly force was immediately necessary to protect himself from death or serious bodily injury. The reasonableness of Officer 1's belief that the use of protective deadly force was immediately necessary is determined from the viewpoint of a reasonable person in Officer 1's position under the circumstances of which Officer 1 was aware or as the Officer 1 reasonably believed them to be when Officer 1 used deadly force.

In this matter, Maroney fell to the ground after Officer 2 deployed his taser on him. While Maroney was on the ground, his knife flew from him and landed on the roadway. Officer 1, who was holding his firearm in his right hand, quickly moved to the knife and reached down to pick up the said item from the ground with his left hand. While Officer 1 was reaching down to retrieve the knife, Maroney had already at that point, stood up and started to face Officer 1. Based on Officer 2's BWC, Officer 1 appeared to be completely surprised that Maroney stood up so quickly. Maroney then rushed at Officer 1 as Officer 1 picked up the knife. Officer 2 activated her taser again on Maroney but with no effect. As a result, Maroney was able to charge directly at Officer 1 who still appeared to be caught off-guard. As seen on the video recordings, Maroney quickly and completely closed the gap between himself and Officer 1 in approximately one (1) second after Officer 1 picked the knife up from the roadway.

Officer 1 awkwardly tried to back-up and side-step Maroney. However, as Maroney closed in on him within that second, he grabbed at Officer 1's left shoulder, and appeared to be trying to tackle him. Officer 1 was then unsure if Maroney was going after the gun or knife that Officer 1 was holding. Officer 1, who was off-balanced as he backed up and side-stepped away from Maroney, then shot Maroney. Officer 1 then fired the second shot at Maroney about a second later as Officer 1 was still trying to side-step away from Maroney.

Based on the facts and circumstances in this case, it is clear that Officer 1 had a reasonable belief that deadly force, *i.e.*, shooting Maroney, was immediately necessary to protect himself from death or serious bodily injury as: 1) Maroney exhibited extremely erratic and unlawful behavior from the beginning of their interaction; 2) Without prompting, Maroney pulled out a knife from his pocket; 3) After being tased, Maroney rushed and lunged quickly at Officer 1 who had no time to react; 4) Officer 1 was off-balanced as Maroney grabbed at his left shoulder and tried to tackle him; and 5) By tackling Officer 1, Maroney could and would have taken the gun and/or knife that Officer 1 was holding and used either of the weapons on him.

In addition, Officer 1 was not the initial aggressor. Officer 1 approached Maroney who was blocking traffic on Farrington Highway and therefore posing a danger to himself. He and Officer 2 verbally tried to get him off the crowded roadway who responded by provoking the officers by pulling out the knife from his pocket and pointing

the item up in the air while facing them. In this situation, the officers were attempting to perform their duties and had absolutely no duty to retreat.⁴⁷ More importantly, after being tased, Maroney immediately got off the ground and rushed directly at Officer 1, who had no opportunity to retreat before he was forced to shoot Maroney.

As such, under the circumstances that existed based on Officer 1's subjective belief, it was objectively reasonable here that he used deadly force to protect himself from death or serious bodily injury.

B. Use of Deadly Force for the Protection of Other Persons.

Here, Officer 1 was also justified in shooting Maroney in order to protect Officer 2 and the bystanders who were watching the event. The Use of Deadly Force for the Protection of Other Persons defense involves the consideration of two (2) questions: 1) Did the actor use "deadly force;" and 2) Was the use of deadly force justifiable?⁴⁸

As to the first question, it has already been established that Officer 1 used deadly force when he shot Maroney.

As to the second question, the use of deadly force upon or toward another person is justifiable to protect a third person if, under the circumstances as the actor reasonably believed them to be, the third person would be justified in using deadly force to protect himself against death or serious bodily injury and the actor reasonably believes that his intervention is immediately necessary to protect the third person. The reasonableness of the actor's belief that the use of deadly force was immediately necessary shall be determined from the viewpoint of the reasonable person in the actor's position under circumstances of which the actor was aware or as the actor reasonably believed them to be when the deadly force was used. The actor's belief that the use of deadly force was immediately necessary may be mistaken, but reasonable.

The facts here support the conclusion that Officer 1's use of deadly force was justifiable for Officer 2 and the bystanders who were watching the incident. As noted in Officer 1's report which was substantiated by the recovered video recordings, Maroney came very close to tackling Officer 1 who was off-balanced. Due to Maroney's

⁴⁷ **HAWJIC 7.01A**, as modified, states in relevant part:

"When the defendant is a public officer justified in using force in the performance of his duties, the defendant is not obliged to desist from efforts to perform the duty or effect the arrest or prevent the escape, because of resistance or threatened resistance by or on behalf of the person against whom the action is directed."

Compare, **H.R.S. § 703-304(5)(b)(ii)**.

⁴⁸ HAWJIC 7.02A.

extremely erratic behavior, Officer 1 had a very reasonable belief that Maroney could and would have taken the gun that Officer 1 was holding and use it on Officer 2 who was standing in very close proximity to them and/or the bystanders who were watching the events unfold nearby.

As a result, this investigation finds that Officer 1's belief that his use of deadly was immediately necessary to protect Officer 2 and the nearby bystanders was objectively reasonable. Officer 1 was therefore justified in shooting Maroney based on the Use of Deadly Force for the Protection of Other Persons defense.

C. Conclusion.

To secure a conviction for an offense under the Hawaii Penal Code, the prosecution must disprove an applicable defense—other than an affirmative defense—beyond a reasonable doubt.⁴⁹ The defenses codified in **H.R.S. Section 703-304** and

⁴⁹ See, **H.R.S. Section 701-114** (2014 Repl.), **H.R.S. Section 701-115** (2014 Repl.) and **H.R.S. Section 702-205** (2014 Repl.).

H.R.S. Section 701-114 states:

- (1) Except as otherwise provided in section 701-115, no person may be convicted of an offense unless the following are proved beyond a reasonable doubt:
 - (a) Each element of the offense;
 - (b) The state of mind required to establish each element of the offense;
 - (c) Facts establishing jurisdiction;
 - (d) Facts establishing venue; and
 - (e) Facts establishing that the offense was committed within the time period specified in section 701-108.
- (2) In the absence of the proof required by subsection (1), the innocence of the defendant is presumed.

H.R.S. Section 701-115 states:

- (1) Except as otherwise provided in section 701-115, no person may be convicted of an offense unless the following are proved beyond a reasonable doubt:
 - (a) Each element of the offense;
 - (b) The state of mind required to establish each element of the offense;
 - (c) Facts establishing jurisdiction;
 - (d) Facts establishing venue; and
 - (e) Facts establishing that the offense was committed within the time period specified in section 701-108.
- (2) In the absence of the proof required by subsection (1), the innocence of the defendant is presumed.

H.R.S. Section 703-305 are not affirmative defenses. As such, where these defenses are applicable they must be disproved (or negated) beyond a reasonable doubt.⁵⁰

Here, the PAT declines to prosecute Officer 1 for any offenses under the Hawaii Penal Code for using deadly force against Maroney. The PAT is unable to disprove beyond a reasonable doubt that Officer 1's use of deadly force was not justified for self-protection and that his use of deadly force was not justified for the protection of others. Therefore, the PAT further concludes that Officer 1 was justified in shooting Maroney.

H.R.S. Section 702-205 states:

The elements of an offense are such (1) conduct, (2) attendant circumstances, and (3) results of conduct, as:

- (a) Are specified by the definition of the offense, and
- (b) Negative a defense (other than a defense based on the statute of limitations, lack of venue, or lack of jurisdiction).

⁵⁰ **See, e.g., State v. Culk**, 97 Hawai'i 206, 215, 35 P.3d 233, 242 (Sup. 2001) (stating that "Self-defense is not an affirmative defense, and the prosecution has the burden of disproving it once evidence of justification has been adduced.").

V. MATERIALS CONSIDERED.

A. HPD Report No. [REDACTED].

1. Patrol, Support Officers, and Investigative.

- Officer 1
- Officer 2
- Officer [REDACTED]
- Officer [REDACTED]
- Officer [REDACTED]
- Officer [REDACTED]
- Officer [REDACTED]
- Officer [REDACTED]
- Officer [REDACTED]
- Corporal 1
- Corporal [REDACTED]
- Corporal [REDACTED]
- Sergeant [REDACTED]
- Sergeant [REDACTED]
- Lieutenant [REDACTED]
- Lieutenant [REDACTED]
- Lieutenant [REDACTED]
- Captain [REDACTED]

2. Scientific Investigation Section.

- Criminalist [REDACTED]

3. Evidence Specialists.

- Evidence Specialist 1
- Evidence Specialist 2
- Evidence Specialist 3

B. Written Witness Statements.

- Witness 1
- Witness 2
- Witness 3
- Witness 4
- Witness 5
- Witness 6
- Witness 7

- [REDACTED]
- [REDACTED]

C. HPD Body-Worn Camera Videos.

- Officer 2
- Officer [REDACTED]
- Officer [REDACTED]
- Officer [REDACTED]
- Officer [REDACTED]
- Officer [REDACTED]
- Officer [REDACTED]
- Corporal 1
- Sergeant [REDACTED]

D. Cellular Phone Video Recordings.

- Witness 5
- Witness 7

E. Other Materials Received from HPD.

- Personnel information for Officer 1