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FOR IMMEDIATE RELEASE: OCT. 25, 2012

SALT LAKE COUNTY DISTRICT ATTORNEY DETERMINES SALT LAKE CITY POLICE DEPARTMENT OFFICER-INVOLVED SHOOTING “JUSTIFIED” UNDER UTAH LAW

SALT LAKE CITY, UT — Today, Salt Lake County District Attorney Sim Gill informed Salt Lake City Police Chief Chris Burbank that the DA’s Office determined that Salt Lake City Police Officer Alma Sweeny’s use of deadly force against Anthony Kenshiro Mayhew during an incident that occurred Sept. 27, 2012 at 200 S., Main St. in Salt Lake City, Utah was justified under Utah state law.

The Office of the Salt Lake County District Attorney is required by Utah State law—and operates pursuant to an agreement with participating law enforcement agencies, consistent with established protocols and applicable law—to perform joint investigations and independent reviews of officer involved critical incidents, including police officers’ use of deadly (including potentially deadly) force used in the scope of police officers’ official duties.

The findings and conclusions of the above referenced incident, as supported by the facts developed during the joint investigation of the incident are contained in the attached letter to Police Chief Burbank.

Inquiries regarding this matter should be directed to District Attorney Sim Gill via the contact information above.

All persons accused of a criminal offense are presumed innocent unless and until proven guilty in a court of law.

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HAND DELIVER

October 25, 2012

Chief Chris Burbank
Salt Lake City Police Department
P.O. Box 145497
Salt Lake City, UT 84114-5497

RE: *Investigation of Officer Alma Sweeny's Use of Deadly Force*
SLCPD Case No.: 2012-170146
Incident Date: September 27, 2012
Incident Location: 200 South Main Street, Salt Lake City, Utah

Dear Chief Burbank:

After independently reviewing the Salt Lake City Police reports, as well as audio and video footage of the incident, the Salt Lake County District Attorney's Office has completed its review concerning Salt Lake City Police Officer Alma Sweeny's use of deadly force against Anthony Kenshiro Mayhew during an incident that occurred September 27, 2012 at approximately 200 South Main Street in Salt Lake City, Utah.

As you know, the Office of the Salt Lake County District Attorney's Office, Sim Gill, Salt Lake County District Attorney, (hereinafter, the "DA's Office" or the "Office") is required by Utah State law, and operates pursuant to an agreement with participating law enforcement agencies and consistent with established protocols and applicable law, to perform joint investigations and independent reviews of officer involved critical incidents ("OICI") including police officers' use of deadly (including potentially deadly) force used in the scope of police officers' official duties.

The opinions and conclusions set forth in this letter are based upon the following facts obtained from the investigation. Should additional or different materials or facts subsequently come to light, the opinions and conclusions contained herein may be materially different

On the evening of September 27, 2012, suspect Anthony Kenshiro Mayhew (date of birth August 7, 1973) contacted 911 as well as KUTV News and reported that he was armed with a

suicide bomb on the Trax platform directly west of the KUTV Newsroom. Mayhew indicated that he would detonate the bomb if the Chief of Police did not respond to his location to discuss allegations that federal agents had been in Mayhew's home and were monitoring him. Mayhew described the bomb as an electric ignition shotgun explosive device, also referred to as a "zip ripper." Specifically, Mayhew stated that the device included a battery attached by wires to 10-15 shotgun shells in his backpack which were also attached to a trigger he held in his hand, and that the device carried a blast radius of forty yards.

Salt Lake City Police Officer U. Downes initially responded and made contact with Mayhew on the Trax platform. Mayhew confirmed the same information he had previously conveyed to dispatch and further stated that he did not want to hurt anyone but he needed help to "figure this shit out." Officer Downes and other responding officers stopped traffic in every direction as well as all Trax trains in the area. Officer Downes confirmed Mayhew had the red backpack in his possession and had a black cord coming out of the backpack which ran to his right hand. Officer Downes further observed a black device in Mayhew's right hand with a button on top which Mayhew held in a closed fist with his thumb over the button. Officer Downes convinced Mayhew to remove his thumb to ensure there would be no accidental detonation at that time. Salt Lake City Police Officer Hartney arrived on scene and relieved Officer Downes to begin negotiations with Mayhew.

Officer M. Lealaogata, responded to the scene while Officer Downes was calling out to Mayhew. Officer Lealaogata heard Mayhew responding to Officer Downes, saying "don't you fuckin' come any closer I have an explosive device with me." Officer Lealaogata further observed Mayhew to be very aggressive, upset, and belligerent. Officer Lealaogata asked Mayhew his name and asked why he wanted the Salt Lake Police to look into the federal government. Mayhew described what he had in his backpack and stated "If you do not take me seriously and do an investigation on the feds, I will blow this bag up." Officer Lealaogata asked Mayhew not to do that. Mayhew then walked a few steps toward the cover area of the platform and sat down on a concrete block.

SWAT Officers arrived shortly thereafter with Officer L. Smith and Detective Willis assigned to Containment 1 location; Officers Alma Sweeny and Voorhees assigned to Containment 2 location; Sergeants Webb and McBride assigned to Containment 3 location; and Sergeant Jackson (Containment Team Leader) and Deputy Ditolla (Davis County Sheriff's Office) assigned to Containment 4 location. All SWAT officers were notified by Tactical Operations Commander Lieutenant Brede of the perimeter for safe distance from the potential device and were instructed that they were not to allow Mayhew to "go mobile," meaning would not be allowed to pass the established perimeter with the explosive device. Officers Smith and Willis at Containment 1 indicated that the black light pole on the Trax platform was the last point Mayhew could cross before they would engage.

Officer C. Steed, Bomb Squad Response Team and Certified Bomb Technician, was also called to the scene. Officer Steed spoke with Lieutenant Brede by phone to ensure that officers understood that given the information available regarding the explosive device, Mayhew would be a threat to officers if he approached them and proper force should be used to stop Mayhew from approaching officers or others. In addition, Officer Steed indicated that the blast radius

could be as much as eight hundred, fifty feet; a distance much greater than the forty yards estimated by Mayhew.

Given the danger of the device and Officer Hartney's close proximity to Mayhew, Officer Hartney was instructed to withdraw from his proximity to Mayhew. Officer Hartney told Mayhew that he was going to investigate the information Mayhew had provided and also explained that the officers establishing the containment perimeter would not allow him to leave the area.

Mayhew responded that he understood he could not leave the area and acknowledged he could see the officers. After Officer Hartney withdrew, Mayhew initially sat down but became visibly more upset and aggressive. Mayhew then stood up, collected all of his belongings and turned and took a few steps north, toward the containment line. Officer Smith called out loudly, "Police, Don't Move!" The directions were loud enough that they echoed throughout the street with the other officers hearing Officer Smith's directions. Mayhew did not stop, however, and instead turned towards Officers Smith and Willis at Containment 1 location. Although Mayhew had not crossed the lines of engagement, Mayhew lunged in the direction of Officers Smith and Willis as he was yelling. Mayhew was visibly angry and his arms were out to his sides, as though he was gesturing to "come on." Neither Officer Smith nor Willis used any force against Mayhew at this time, but both were preparing to as they heard and observed Officer Sweeny shoot Mayhew from the Containment 2 location. Sergeant Jackson at Containment 4 location, as well as Officer Voorhees at Containment 2 location, both indicated that they were preparing to fire when Officer Sweeny discharged his weapon.

Officer D. Steenblik had also responded to the scene and was positioned at One Utah Center at about 215 South Main Street when he observed the incident. Officer Steenblik observed Mayhew stand up with his hand still inside the backpack. Officer Steenblik indicated that he feared for the safety of officers as he observed Mayhew's demeanor. Officer Steenblik observed Mayhew pick up what appeared to be some papers and then begin to walk north down the platform. Officer Steenblik also heard very clear commands of, "Don't move! Police!" Officer Steenblik also heard Mayhew shout "Shoot me mother fucker!" and watched as Mayhew continued to walk north on the platform despite clear orders to the contrary. Officer Steenblik then heard a single gunshot and observed Mayhew fall to the ground.

Officer Sweeny is a current member of the Salt Lake City SWAT team, has been a police officer for 7 years, and is currently certified on his SWAT M4 Rifle. Officer Sweeny responded to the call and established his post at Containment 2 along with Officer Voorhees just prior to 10:00 p.m. on the night in question. Officer Sweeny observed the actions of Mayhew consistent with the descriptions other officers provided above. Officer Sweeny noted that he heard that the device would hurt people within one hundred feet and that he was thirty yards away from the suspect, placing him within the danger zone. Officer Sweeny held his position because civilians in the area would not leave (despite being instructed to do so) placing them in the danger zone as well. Officer Sweeny noticed Mayhew's reaction when the decision was made to pull Officer Hartney back. Mayhew became upset and agitated, began tapping his foot, his back was shaking, and he wiped his eyes as though he was crying. Officer Sweeny then overheard that officers were clearing the area up to eight hundred feet (as opposed to one hundred feet as

previously indicated as the blast radius) and that people within the greater distance were actually in danger.

Officer Sweeny stated that Mayhew then appeared to “prepare himself for something” or was “squaring himself away” as he gathered all of his belongings and began to walk north. Officer Sweeny was informed that if Mayhew walked five feet past the established perimeter, being the pillar on the North near Containment 1, snipers would lose sight of him and they would not be able to intervene if needed. At approximately ten feet away from the pillar, Officer Sweeny said he heard Officer Smith shout to Mayhew, “Police Stop! Do not move any further! Do not come any closer!” Officer Sweeny said he observed Mayhew turn and advance towards Officer Smith yelling, “You’re going to have to fucking shoot me, just fuckin shoot me!” As Mayhew’s left arm made a movement towards the backpack, Officer Sweeny said he feared for his safety, along with the safety of the other officers and the public within the blast radius. Officer Sweeny stated he feared death or serious bodily injury to all persons within the blast radius if he did not act. Officer Sweeny then fired one round from his M-4 SWAT issued rifle, striking Mayhew in the chest once.

Bomb Squad Response Team Officer T. Hyatt had arrived in order to retrieve the device. Officer Steed indicated to on-scene personnel that the robot should be used to move the potential explosive device away from Mayhew in order to prevent Mayhew from injuring approaching officers. Officer Steed’s concern stemmed in part from his training and experience regarding suicide bombers. Officer Hyatt activated a robot which approached Mayhew, who was still holding onto the red backpack and holding the firing switch in his hand. Officer Hyatt was able to use the robot to safely remove the bag and the firing switch out of Mayhew’s hands and then move the bag away from Mayhew. Officer Steed verified through the robot camera that the backpack had contained wiring, a potential switch or trigger which had been in the right hand of Mayhew, a power source, and at least four PVC pipe sections with end caps. The caps had been modified with wire running into each cap. Subsequent investigation confirmed the combined components would constitute an explosive device under Utah Code Ann. §76-10-306.

Medical personnel then arrived to provide attention to Mayhew, who was transported to University of Utah Hospital. Mayhew was pronounced dead upon arrival at the hospital. An autopsy of Mayhew was performed by Dr. White, State of Utah Medical Examiner, on September 28, 2012. Dr. White observed one bullet wound to the right upper chest area tracking from right to left, front to back. The bullet was lodged in a back muscle near the left scapula with extensive damage to the chest cavity. The full report is pending.

After Mayhew had been safely removed from the scene, Officer Hyatt conducted “render safe” procedures. Officer Hyatt observed items that were in the backpack that appeared to be PVC pipe bombs, remnants of broken PVC, wiring, and a power source. Officer Hyatt then approached the scene wearing protective gear and did a final check of the area for any other items that may have contained explosives and/or explosive components.

As part of the OICI investigation, Salt Lake City Police Officer J. Hudson responded to process involved officers’ weapons. Officer Hudson determined that Officers L. Willis, J. Sayes, R. McBride, M. Voorhees, and L. Smith did not discharge their weapons. The weapons of other

officers on scene were also processed and determined not to have been fired. Officer Sweeny indicated that he had shot Mayhew with his Colt M4LE carbine rifle and Officer Hudson's investigation confirmed this.

During a subsequent search of Mayhew's bedroom in his residence, officers located PVC pipes with a diagram of a bullet and other markings related to the construction of the explosive devices used in this incident. They also located a metal pipe, shotgun rounds and a spool of wire.

We have concluded that Officer Sweeny's use of lethal force was justified given the danger Mayhew presented at the time. Specifically, the force employed by Officer Sweeny was legally justified under Title 76, Chapter 2, Part 4 (1953 as amended); both under 76-2-404 (1)(b)(ii) and 76-2-404 (1)(c). Officer Sweeny had probable cause to believe that Mayhew posed a threat of death or serious bodily injury to the officers or to others if apprehension was delayed. In addition, Officer Sweeny was justified in using deadly force because he reasonably believed that the use of such force was necessary to prevent death or serious bodily injury to the officers or other persons.

If you have any questions or concerns regarding the determination made in this case, or otherwise wish to discuss the matter, please feel free to contact our office to set up a personal meeting.

Sincerely,

SIM GILL,
Salt Lake County District Attorney

SG/JV/JWH/jh