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May 9, 2017

Nicholas Metz
Chief of Police
Aurora Police Department
15001 E. Alameda Parkway
Aurora, CO 80012

Robert White
Chief of Police
Denver Police Department
1331 Cherokee Street
Denver, CO 80204

RE: Investigation of the shooting death of Juan Ramos DOB 12/6/92, in which Aurora Police Sergeant Cassidee Carlson (badge #26215); Aurora Police Officer Steven Edwards (badge # 24667); and Denver Police Officer Jimmy Sheppard (badge #13059) fired shots on November 8, 2016, at 14572 E.46th Avenue Denver, Colorado.

Dear Chiefs Metz and White,

The investigation and legal analysis of the shooting death of Juan Ramos, in which shots were fired by Aurora Police Officer Steven Edwards, Aurora Police Sergeant Cassidee Carlson and Denver Police Officer Jimmy Sheppard, has been completed. I conclude that under applicable Colorado law no criminal charges are fileable against these officers. The facts show that the force used by the officers was legally justified and not unlawful under Colorado law. My decision, based on standards of criminal law, does not limit administrative action by the Aurora or Denver Police Departments where tactical issues may be reviewed, or civil actions where less-stringent laws, rules and legal levels of proof apply. A description of the protocol used in the investigation of this officer-involved shooting and the applicable Colorado law is attached to this letter. This letter will be posted on the Denver District Attorney website, and our file will be available for interested citizens to review.

STATEMENT OF FACTS

On November 8, 2016, at approximately 11:21 a.m., Aurora police officers responded to 142 Delmar Circle, Aurora CO on the report of a shooting. When officers arrived, they observed Antonio Norwood lying on the ground and being held by his girlfriend, CT¹. Mr. Norwood suffered numerous gunshot wounds and did not survive his injuries. Six .40 caliber shell casings were located at the scene. Witnesses to Mr. Norwood's murder identified a license plate for the suspect vehicle as well as a physical description of the shooter. CT identified her ex-boyfriend, Juan Ramos, as the person who shot Mr. Norwood. The license plate information corroborated the identification by CT.

Acting upon this information, officers with the Aurora Police Department (APD) determined that the shooting suspect, Juan Ramos, resided at 14572 E. 46th Avenue, in the City and County of Denver. After notifying the Denver Police Department (DPD), the APD Fugitive Apprehension Surveillance Team (FAST) and the APD Strategic Response Team (SRT) moved into the area. Their primary goal was to assist the Denver Police SWAT team upon the latter's arrival. Should the SWAT team not arrive in time, their secondary goal was to prevent Juan Ramos from fleeing in his vehicle, which could have endangered the safety of the public.

Denver officers were familiar with the address, and with Juan Ramos himself, having investigated a shooting he had allegedly committed in 2015². Officers also had prior knowledge of Ramos's vehicle, a black Monte Carlo with orange pinstripes. This was the suspect vehicle in the Norwood homicide from earlier in that day, and was parked outside the residence at 14572 E. 46th Avenue when APD and DPD officers arrived a short time after the Norwood shooting.



Overhead map of location

¹ I use initials to maintain the privacy of the citizen-witnesses.

² On March 1, 2015, Juan Ramos was arrested and charged with "Firing or Discharging Dangerous or Deadly Weapon," "Wrongs to Minors," and "Disturbing the Peace" in 15GS002764 after officers were dispatched to 15475 E. Andrews on a report of Ramos having shot a "medium length" gun and fired it into the air. Ramos had fled the scene – in the black Monte Carlo - by the time officers arrived; a .223 caliber shell casing was recovered from the area where Ramos had discharged the firearm. On February 23, 2016, the case was dismissed.

At approximately 11:55 a.m., Juan Ramos was seen walking out of the residence, carrying what appeared to be a child car seat and bags, and placing them into the passenger side of the black Monte Carlo. These actions suggested to officers that Juan Ramos was preparing to flee. Concerns for community safety dictated that officers apprehend Juan Ramos before he was able to enter his vehicle. Officers from both police departments approached Juan Ramos. APD's SRT team was in a Ford F-150 as it slowly moved eastbound down the street to attempt to block the suspect vehicle from exiting the driveway. Denver Police officers also moved in to back up the APD officers. DPD Officer Sheppard approached from the corner of E. 46th and N. Durham Court.



The final resting spot of the Aurora PD Ford F-150. Ramos's vehicle is underneath the tent.

APD Officer Erick Ortiz was the driver of the Ford F-150. APD Officer Edwards was in the front passenger seat. Sergeant Carlson was behind Officer Edwards while Officer Jenkins was behind Officer Ortiz. All were armed with their duty weapons as well as with Colt .223 caliber rifles and were wearing identifiable police gear.

At approximately 11:58 a.m., Juan Ramos had placed the child seat in the black Monte Carlo and partially closed the door when he looked up and in the direction of the approaching officers. Officer Ortiz, the driver of the F-150, and Officer Edwards believed that Ramos had spotted them. Ramos then pulled up his shirt and reached into his waistband and pulled out a handgun. He lifted his arm and fired multiple rounds at the Ford F-150 occupied by the APD officers. One of the rounds penetrated the windshield of the truck, striking Officer Ortiz in the face. APD Officer Edwards, APD Sergeant Carlson and DPD Officer Sheppard, returned fire, killing Juan Ramos. The officers did not fire their weapons before Ramos shot Officer Ortiz.



Bullet strikes on the passenger side of Aurora PD's F-150. Two of these defects originated from inside the vehicle.

Denver Police homicide detectives interviewed numerous witnesses to the incident. They interviewed not only officers who discharged their weapons, but also those witnesses who observed the exchange of gunfire. No statements were materially inconsistent with other witness statements.

Aurora Police Officer Edwards stated that he was in the front passenger seat when the F-150 traveled down E. 46th Avenue. As they approached, Juan Ramos was bent over his car after having placed the child car seat in the back seat area. When the F-150 was two to three houses away, Officer Edwards reports that Ramos:

stands back up and immediately turns to his west and stares right at our car – or our truck.... He was ... staring at our vehicle as we're making the approach. For some reason, and I don't normally do this – um – I thought this is bad. We're made – um – I thought for sure he knew who we were.... So I roll down the window and by the time I get the window rolled down – now I'm still watching him – by the time I get my window rolled down, he's pulling something out of his waist.... He turns and immediately fires on us. Um. I can't – I don't – by this time, I'm coming up on target and ... I see the haze of gun fire and I can hear a pop, a rather loud pop.... By the time I heard the first one, I immediately start firing.... I was 100% confident that he was firing on our vehicle, so at that particular time, my only thought was that I need to put him down before he shoots me.

Officer Edwards stopped firing when Ramos fell.

Denver Officer Sheppard stated that he learned from APD officers that Ramos matched the description of the Aurora shooting suspect from earlier that day. Because Juan Ramos's prior 2015 arrest had been aired over the police radio, Officer Sheppard also knew that Ramos "had been known to shoot rifles in the streets and stuff like that." He said:

As soon as we got close to the location, I exited my vehicle. I saw Aurora coming up in their blue truck and I heard a female voice saying 'drop it, drop it, drop it' and then the back rear driver's side window [of Ramos's vehicle] exploded and I just went up and targeted and took three shots – three or four.

Officer Sheppard reported that when he saw the window break, he concluded that Ramos was firing at Aurora police officers. When asked what the suspect was doing before Sheppard discharged his weapon, Sheppard replied "shooting."

Aurora Sergeant Carlson stated that she was in the rear passenger seat as the F-150 traveled down E. 46th Avenue. She heard one of the other officers exclaim that "he sees us, we've been made. He sees us. He's got a gun. He's got a gun." She continued:

It's just him standing next to this black car, garage behind him. I pull up my rifle and see he's pulling out a gun and I shoot and then – and I thought "fuck I'm not wearing my helmet" 'cause I didn't have time to put it on, so I'm just trying to get low and I get – I get real low, and I know I shoot again, and I'm laid back being low and – and I'm just trying to get as small as I can, and I just remember thinkin' "fuck this is gonna hurt." I just pictured a round coming through the door. I'm like "fuck this is gonna hurt, I'm gonna get hit" and so I think I only fired twice from there....

A short time after being shot in the face, Aurora Officer Ortiz was conscious but became unable to speak. He looked over to where his fellow officers had taken cover and he saw Sgt. Carlson lying on the ground. He believed she had been killed by the suspect. He also believed that he was about to die.³ He was placed in a Denver police vehicle and rushed to the hospital where he received treatment. Dr. VB determined that Officer Ortiz had been shot once in the face⁴ and suffered serious bodily injury as a result of the shooting.⁵

³ Officer Ortiz stated: "[w]hen I figured out that I had been shot, I thought I was gonna die and – and truly I was waiting, uh – cause I thought there was so much blood coming out of me, I felt that I was just gonna go black and pass out. Um, the other thing was, I could feel the whole right side of my throat and my mouth kinda swelling, so – my biggest fear is suffocating to death, so I was really worried that I was gonna sit there and just suffocate from that swelling...."

⁴ Officer Ortiz stated: "a bullet entered my skull and shattered my cheek bone and sinuses and uh – and went deep enough to where they won't be able to recover it, so there's still a bullet in [my head]... [T]hey had to put a metal plate in here just to – they cleaned all the broken pieces out and they um – they put a titanium plate in there and while they did that, they – they tried to look for the bullet, but according to the doctors, it was too deep in there for them to go in and cause more damage and um – take the risk of cutting an artery or something like that, they said – so we're just leaving it in.... [I]t destroyed some of my jaw muscle. It destroyed a lot of my nerves and skull – on my face here and upper part of my right mouth is still completely numb."

⁵ A physician from the University of Colorado Hospital determined that Officer Ortiz suffered bodily injury which, either at the time of the actual injury or at a later time, involved a substantial risk of death; a substantial risk of



Bullet strike through the windshield.



Closer view of bullet strike through the windshield.

The Denver Police Homicide Unit, as well as Denver crime scene investigators and detectives from the Aurora Police Department, responded to the scene of the shooting. They recovered twenty-eight spent .223 caliber casings. Those casings were consistent with the rifle rounds possessed by the Aurora and Denver Police Departments. The physical placement of those casings is consistent with the accounts of the numerous officers who witnessed this shooting unfold.

serious permanent disfigurement; a substantial risk of protracted loss or impairment of the function of any part or organ of the body; or breaks or fractures.

Further, six .40 caliber shell casings were recovered from the scene near where Juan Ramos's body lay. Each of these spent shell casings was examined and determined to be fired by the same firearm, a .40 caliber Smith and Wesson handgun. This weapon was recovered near Juan Ramos, on the floorboard of the passenger side of the car; Mr. Ramos's right hand was wedged up against the passenger side door when officers approached.



.40 caliber Smith and Wesson handgun with flashlight/laser sight recovered from near Juan Ramos' body.

That .40 caliber Smith and Wesson handgun was also determined to be the handgun Juan Ramos used to murder Antonio Norwood earlier that day in Aurora. That .40 caliber Smith and Wesson's magazine has the capacity to hold fourteen rounds, and officers recovered eight live rounds from the magazine.

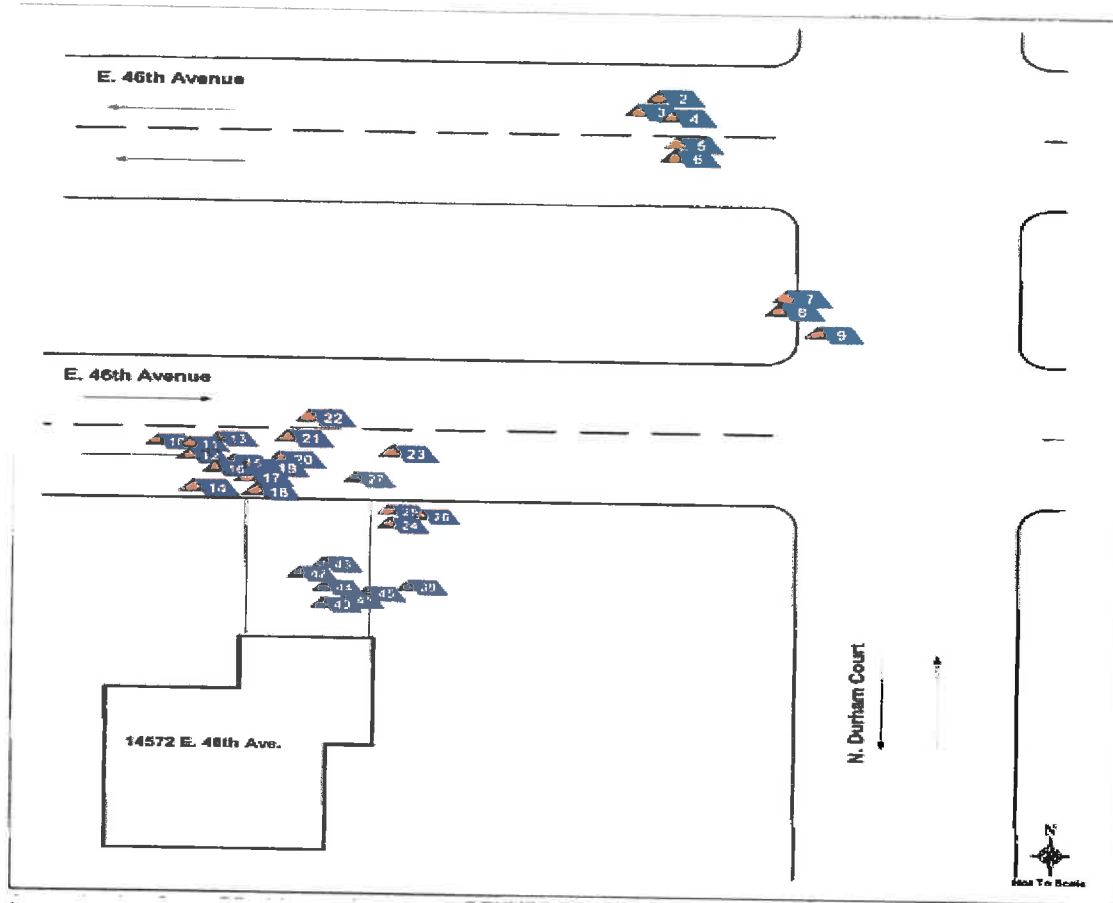
Case Number: 2016-717156 - Officer Involved Shooting

Date: 11/8/2016

Location: 14572 E. 46th Avenue - Diagram Author: Duprey, A. (B13065) - Approved By: Deadmond, A. (B13050) on 12/27/2016

Description:

Scene - Overall With Markers - No Measurements



Scene diagram:

- Markers 2-6 are spent .223 cartridge cases from the officers' rifles.
- Markers 39-42 and 44-45 are spent .40 caliber cartridge cases identified as having been fired from Juan Ramos's handgun.
- Markers 10-21 and 24-26 are spent .223 cartridge cases, also from the officers' rifles.

A forensic pathologist with the Denver Office of the Medical Examiner conducted the post-mortem examination of Juan Ramos. Twenty-three rounds of .40 caliber ammunition were collected from the suspect's left front pocket. A gunshot residue kit was performed on the body. Testing later confirmed that gunshot residue was present on Ramos's hands. The forensic pathologist removed a number of bullet fragments from Ramos's body. Those fragments were consistent with being .223 caliber bullets. The pathologist determined that the suspect died of numerous gunshot wounds to his body, none of which displayed evidence of close range discharge of a firearm. Specifically, the medical examiner observed eleven gunshot wounds, two of which were grazing.

LEGAL ANALYSIS

Criminal liability is established only if it is proved beyond a reasonable doubt that all of the elements of an offense defined by a statute have been committed and it is proved that the offense was committed without legal justification as set forth in Colorado statutes.

The justification for a peace officer's use of physical force while attempting to make an arrest is described in C.R.S. § 18-1-707. As pertinent to this case, C.R.S. § 18-1-707 (1) states:

... a peace officer is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary:

- (a) To effect an arrest ... unless he knows that the arrest is unauthorized; or
- (b) To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect such an arrest

C.R.S. § 18-1-707(2) states that

A peace officer is justified in using deadly physical force upon another person for a purpose specified in subsection (1) of this section only when he reasonably believes that it is necessary:

(a) To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or

(b) To effect an arrest, or to prevent the escape from custody, of a person whom he reasonably believes:

- (I) Has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon; or
- (II) Is attempting to escape by the use of a deadly weapon; or
- (III) Otherwise indicates, except through a motor vehicle violation, that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay.

These justifications are "affirmative defenses." This means that a person accused of a crime for using force does not need to prove that he or she was justified in using the force. Instead, the prosecution must prove, to a unanimous jury, that the force was *not* justified. Accordingly, the question I must consider is: **Is there enough evidence of criminal conduct that a jury could find, beyond a reasonable doubt, that Officers Carlson, Edwards, and Sheppard acted without lawful justification?**

CONCLUSION

The question presented in this case is whether, at the instant Officers Carlson, Edwards and Sheppard fired their weapons, the legal justifications for using deadly physical force as set forth in C.R.S. § 18-1-707(1) and § 18-1-707(2) were applicable. I conclude that they were. The officers were aware that Ramos had already shown his willingness to kill when, approximately thirty minutes before the officers approached him, he shot Antonio Norwood in broad daylight and in front of his former girlfriend, who immediately identified him. In fact, they were there to arrest him for investigation of that shooting, possible murder.

Ramos had also shown his willingness to kill others when he turned toward the officers, lifted his waistband, pulled out the same .40 caliber handgun used earlier that day in the Aurora murder and shot at the officers, not only striking Officer Ortiz in the face, but hitting the officers' vehicle at least twice. Juan Ramos's actions seriously and permanently injured Officer Ortiz, and posed a direct threat to the safety of the other officers moving in to effect his lawful arrest. When the three officers saw Ramos shoot Officer Ortiz and continue firing his handgun at them, they had reasonable grounds to believe, and did believe, they were all in imminent danger of being killed or of receiving great bodily injury. They also reasonably believed that less-than-deadly force was inadequate to defend themselves in these circumstances.

As the United States Supreme Court has instructed regarding assessing the reasonableness of an officer's beliefs when using physical force:

The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments -- in circumstances that are tense, uncertain, and rapidly evolving -- about the amount of force that is necessary in a particular situation.

Graham v. Connor, 490 U.S. 386 (1989) at pp. 396-397.

Under these dangerous circumstances, Officers Carlson, Edwards and Sheppard made split-second judgments, and their decisions to shoot Ramos in self-defense and in defense of others were justified under Colorado law.

Attached to this letter is the officer-involved shooting protocol that was followed during this investigation.

Yours truly,



Beth McCann
Denver District Attorney

Attachment: Officer-Involved Shooting Protocol

CC: Sgt. Cassidee Carlson; Officer Steven Edwards; Officer Jimmy Sheppard; Michael Hancock, Mayor; All City Council Members; Kristin Bronson, Denver City Attorney; Stephanie O'Malley, Executive Director, Department of Safety; David Quinones, Deputy Chief of Police; Matthew Murray, Deputy Chief of Police; Barb Archer, Commander of Major Crimes Division; Ron Thomas, Commander of District 5; Gregory Laberge, Crime Lab Commander; Joe Montoya, Commander of Internal Affairs; Lt. Matthew Clark, Major Crimes Division; Lt. Scott Torpen, Aurora Police Department Major Investigations Section; Sgt. Joseph Engelbert; Sgt. James Kukuris; Sgt. Thomas Rowe; Detective Aaron Lopez, Homicide; Detective Marty Smith, Homicide; and Nicholas E. Mitchell, Office of the Independent Monitor;