



OFFICE OF THE DISTRICT ATTORNEY

GEORGE H. BRAUCHLER, DISTRICT ATTORNEY

18TH JUDICIAL DISTRICT

SERVING ARAPAHOE, DOUGLAS, ELBERT AND LINCOLN COUNTIES

April 12, 2016

Chief Nicholas Metz
Aurora Police Department
15151 E. Alameda Parkway
Aurora, Colorado 80012

Re: Officer Involved Shooting of Tuan Quoc Hoang DOB [REDACTED] 1990
APD Case number 2015 - 46959

Chief Metz:

I have completed my review of the Officer Involved Shooting that occurred on November 30, 2015 on the off ramp of southbound I-225 at Alameda Parkway and at South Alameda Parkway and Kentucky, in Aurora, Colorado.

For the reasons set forth below, it is my opinion that Officers Edward Clements, Officer Jeremiah Miles and Sgt. Jacob Stull acted in accordance with the laws governing use of force in self-defense and defense of others, and use of deadly force by law enforcement.

On November 30, 2015 at 3:42 am Officer Edward Clements was traveling southbound on the off ramp of I-225 toward East Alameda Parkway in a marked Aurora Police Department patrol car when he saw two men standing outside a 2013 silver Honda Civic parked on the off ramp. Officer Clements approached the two men and determined that Tuan Hoang was the driver, Garrett Hubbard was the passenger and that the vehicle was inoperable. It was about 20 degrees out and there was snow on the ground.

Officer Clements was wearing his standard issue Aurora Police Department uniform with a visibly attached Aurora Police Department metal badge on the left breast, two Aurora Police Department shoulder patches on either shoulder, and a navy blue fleece beanie hat with "Police" embroidered on the front.

At 3:44 am Officer Clements aired that the car's occupants were uninjured and requested a tow truck. As he was walking back to his patrol car to wait for the tow truck, he turned around and saw that Hoang was two to three feet away and walking toward him. Officer Clements saw Hoang pull his right hand back as though he was going to strike him and Officer Clements put his hands up defensively and ducked. Officer Clements did not see a weapon but felt something hit his head and he fell to the ground. Officer Clements felt that Hoang was trying to kill him.

Officer Clements then saw Hoang running toward his police car and knew that there was a shotgun inside and thought that Hoang would use it to shoot him. At 3:53 am Officer Clements

aired over the police radio “He’s inside, get out” indicating that Hoang was in the marked police car. Officer Clements approached the car with his weapon drawn and fired several rounds at the police car.

At 3:54 am Officer Clements aired that shots had been fired and then saw his police car back up and realized the headlights were now pointed in his direction. He saw the police car coming at him and fired at the vehicle again as he thought that Hoang was trying to kill him. Officer Clements jumped over the guardrail to avoid being hit by the police car. He saw his patrol car drive eastbound on East Alameda Parkway.

At 3:56 am Officer Clements aired that a party was in his car and noticed that Garrett Hubbard was now seated in the driver’s seat of the disabled Honda Civic on the off ramp. Officer Clements was transported by ambulance to the Medical Center of Aurora where he was found to have suffered a skull fracture and had a large laceration to his head.

Sgt. Jacob Stull was at his desk in District 2, which is located on Alameda near I-225, when he heard a transmission from Officer Clements on the radio that he described as “screaming” and “chaotic” and that it sounded like Officer Clements needed help. He headed to his patrol car and heard a second transmission from Officer Clements stating he was bleeding from the head, had been shot or hit by a car, that shots were fired and his police car stolen and was headed eastbound on Alameda.

As Sgt. Stull was about to turn on to Alameda he saw a police car with lights on, no siren, headed eastbound on Alameda at a high rate of speed, approximately 55 to 60 miles per hour and concluded the suspect was driving it. He asked dispatch to check the GPS readings for Officer Clements’ car and confirmed it was the car he saw headed eastbound on Alameda so he began to pursue it with lights and siren on. He was driving a fully marked Aurora Police Department vehicle.

Sgt. Stull saw the suspect drive through several red lights and slow down to 25 to 30 miles per hour once they passed Buckley. Sgt. Stull attempted a PIT maneuver, which is when a pursuing vehicle makes contact with the rear quarter panel of a fleeing vehicle in order to try to stop the fleeing vehicle.

He tried this maneuver twice unsuccessfully, but the third attempt, near Alameda and Kentucky at 3:58 am, caused the suspect’s car to spin and Sgt. Stull continued to ram the right rear quarter panel with his patrol car until the car being driven by the suspect stopped.

Sgt. Stull, who was wearing his standard issue navy blue Aurora Police Department uniform with a visible metal Aurora Police Department badge on the left breast, a metal name plate, Aurora Police Department shoulder patches on each shoulder and a duty belt, got out of his vehicle and drew his weapon. The suspect, later identified as Tuan Hoang, got out of Officer Clements’ car and glanced back at Sgt. Stull. Sgt. Stull identified himself as Aurora Police and ordered Hoang to stop.

Hoang ran about 30-40 feet away into a field and then turned around toward Sgt. Stull. Sgt. Stull saw a black object in Hoang's right hand which he thought was a gun. There was ambient light from the police cars and it was about 4 a.m. Hoang started to raise the object toward Sgt. Stull and Sgt. Stull thought Hoang was going to shoot and try to kill him so he fired his weapon three to four times. Sgt. Stull said Hoang stopped and he ordered him to get on the ground.

Hoang did not comply and instead turned and faced Sgt. Stull and started walking fast toward him with the black object still in his hand. As he was walking Hoang raised his right hand with the object in it and Sgt. Stull fired again. He felt he fired five to seven rounds. Hoang fell face first to the ground approximately 20 feet from Sgt. Stull. About 30 seconds after the car Hoang was driving was stopped, Sgt. Stull aired that shots had been fired and requested rescue.

Sgt. Stull stated that he was in fear for his life and thought that Hoang was going to kill him. From what he had heard on the radio Sgt. Stull thought Officer Clements had either been shot by Hoang or run over by a car, he had heard Officer Clements screaming for help and saying he was bleeding from the head, and he thought Hoang was armed with a gun.

Officer Jeremiah Miles was at the Aurora Police Department on Alameda finishing up paperwork from an earlier call that evening when he heard Officer Clements say over the radio "They've got my car. I've been hit. I'm bleeding. Shots fired. He's trying to ram me." He does not recall the order of those statements but said that Officer Clements sounded very panicked and stressed. He interpreted this to mean that Officer Clements had either been shot or a suspect was trying to kill him. He knew that the suspect would have access to a shotgun in Officer Clements' car and did not know whether Officer Clements also carried a rifle.

Officer Miles got into his patrol car and headed west on Alameda toward I-225 when he saw a patrol car with its rear only red and blue lights flashing traveling very fast eastbound. He estimated about it was going about 70 miles per hour in icy and snowy road conditions. He concluded it was Officer Clements' car and that the suspect was driving. He made a U-turn and begin to follow the car. He saw a patrol supervisor's vehicle also start to follow and later learned it was Sgt. Stull.

He estimates the suspect was going between 45 and 65 miles per hour. Officer Miles was behind Sgt. Stull and provided the pursuit updates to dispatch. He saw Sgt. Stull attempt to stop the suspect's vehicle several times before successfully stopping him at Alameda and Kentucky, next to a field.

Officer Miles got out of his car and drew his weapon. The area was lit by ambient lighting from the three cars and the snow. Officer Miles saw the suspect, later identified as Tuan Hoang, get out of Officer Clements' car and head toward a residential area. Officer Miles then heard gunshots but did not know if Sgt. Stull or Hoang was shooting. He did not hear orders prior to the shots nor did he hear Hoang say anything.

Officer Miles saw Hoang stop walking after the gunshots. He could not see Hoang's right hand but could tell it was at his side. He saw Hoang turn to his right and raise his right hand and saw that an object was in it. He believed Hoang was armed with a gun and was going to shoot him or Sgt. Stull.

Officer Miles saw Hoang walk quickly toward Sgt. Stull and bring the object in his right hand upward, holding it like he was pointing it at Sgt. Stull. He estimates that Hoang was eight to 20 feet from Sgt. Stull. Officer Miles thought that he or Sgt. Stull would be shot and possibly killed and fired his weapon three times. Hoang fell face down to the ground with his hands underneath him.

Officer Miles approached Hoang to check for weapons and pulled his right hand out underneath him and found a black Mag-Lite flashlight underneath him. Hoang was pronounced dead on scene at 4:11 am.

Police officers located several witnesses to some of the events. A snow plow driver, [REDACTED], told police that he was operating a snow plow just east of the intersection of Alameda and I-225 and saw a police car speeding north bound up the south bound off ramp. He saw an officer chasing the vehicle and heard the officer yelling for the vehicle to stop. He then saw the police car make a U-turn and drive directly toward the officer, trying to run the officer over. The officer got out of the way and fired several shots at the driver. He then saw the police car speed off eastbound on Alameda.

[REDACTED] was driving westbound on Alameda at about 3:55 am when he saw a police car stopped on the southbound off ramp of I-225 behind a silver car. [REDACTED] was about to turn onto the northbound I-225 on ramp but he slowed down and looked over to see what was going on and saw the police car whip around in a U-turn and start fishtailing and then quickly accelerate up the off ramp. He saw a police officer moving up the ramp on foot. [REDACTED] said the lighting was poor and he couldn't see the officer clearly.

It was [REDACTED]'s impression that a police officer was not driving the car because of the erratic way it was being driven in slick road conditions but he couldn't see the driver. He saw the police car make another U-turn back southbound on the off ramp and saw the officer get into position and fire his weapon. [REDACTED] thought there were six to eight shots. He did not think the car was driving toward the officer and said it was on the west lane of the off ramp.

The southbound off ramp at I-225 and Alameda was searched and a large knife that was missing a handle and had bloodstains on it was found north of the Honda Civic in the snow near an area of bloodstains. The knife handle was found on the on the other side of the guard rail. Based on the location of the knife, the handle, the area of blood and the appearance of Officer Clements' injuries, it is believed to be the knife that was used to strike Officer Clements' head.

During the investigation it was determined that Officer Clements fired 13 rounds of Winchester brand 9mm ammunition from his Glock Model 17 handgun; Sgt. Stull fired 13 rounds of Winchester brand 9mm ammunition from his Glock model 34 handgun; and, Officer

Miles filed three rounds of Winchester brand .40 caliber ammunition from his Glock Model 22 handgun.

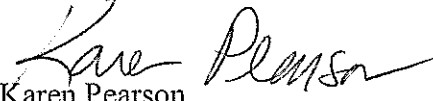
All 16 casings from the rounds fired by Sgt. Stull and Officer Miles at the Alameda and Kentucky location were recovered. Due to the weather conditions and active drainage on the I-225 off ramp, only six casings were recovered, but an examination and bullet count of Officer Clements' handgun confirmed that 13 rounds were fired.

Hoang's car was searched and 1 gram of cocaine, .35 gram of methamphetamine and 3.24 grams of marijuana were found.

An autopsy was performed on Tuan Hoang on December 1, 2015 by Dr. Garth Warren. Dr. Warren determined that Hoang had 11 gunshot wounds to the head, torso and extremities, resulting in lethal injuries to the head and torso. Toxicology tests detected methamphetamine and cocaine metabolites in the peripheral blood; and, methamphetamine, cocaine metabolites, marijuana metabolites and nicotine metabolites in the urine.

Based on the evidence and statements obtained during the investigation I find that Officer Edward Clements, Sgt. Jacob Stull, and Officer Jeremiah Miles reasonably believed that their lives were in imminent danger and that they were acting in self-defense and defense of others, and that all three law enforcement officers were justified in eliminating the threat of further harm pursuant to 18-1-704, C.R.S. Further, I find that Tuan Hoang's actions assaulting Officer Clements, stealing his patrol car, eluding police officers and his actions toward Sgt. Stull and Office Miles constituted an imminent threat of deadly physical force and that Officer Edward Clements, Sgt. Jacob Stull, and Officer Jeremiah Miles were justified in eliminating the threat of further harm. Accordingly, I find Officer Edward Clements, Sgt. Jacob Stull, and Officer Jeremiah Miles were justified in using deadly physical force pursuant to 18-1-704, C.R.S.

Sincerely,


Karen Pearson
Chief Deputy District Attorney

