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Chief Robert C. White
Denver Police Department
1331 Cherokee Street
Denver, CO 80204-4507

Chief Nick Metz
Aurora Police Department
15151 E. Alameda Parkway
Aurora, CO 80012

RE: Officer Involved Shooting of Keith Alfounso Roberts

Dear Chiefs White and Metz,

On June 18, 2017, the 18th Judicial District Critical Response Team ("CRT") was called out on an officer-involved shooting in Aurora, Arapahoe County, Colorado. Keith Alfounso Roberts was shot by Denver police officers and survived after being transported to the hospital.

EXECUTIVE SUMMARY

Based on the law and the facts of this incident, I conclude that Denver Police Officers Christopher L. Baird and Corporal Joey Gasca were justified in attempting to use deadly force to defend themselves, other officers, and the public.

MATERIALS REVIEWED AND INFORMATION CONSIDERED

My review of the officer-involved shooting included Aurora Police Detective Steve Conner's summary, all police reports, all witness statements, scene photographs, Denver Police Corporal Joey Gasca's body camera video, and video interviews of Corporal Gasca and Officer Christopher Baird.

Additionally, I was personally present at the scene, which I viewed prior to any evidence being moved. I also attended a police briefing in the mobile command post, at which were police officers from the Aurora and Denver Police Departments.

SUMMARY OF THE FACTS

Shortly after noon on June 18th, 2017, the Denver Police received a report from [REDACTED] that a black male had menaced him with a handgun near the intersection of East Elmendorf Place and North Tulsa Way, City and County of Denver. Denver police quickly arrived in the area and found the suspect vehicle, which was being driven by the sole occupant, later identified as Keith Alfounso Roberts (“Roberts”). Roberts was driving a silver Chevrolet Impala, as had been described by [REDACTED].

The first Denver officer who attempted contact with Roberts was Officer J. Sandoval (“Sandoval”), who was driving a marked police vehicle. Roberts menaced Sandoval with a rifle as Roberts fled in the Impala from Sandoval. Sandoval initiated a vehicle pursuit, at times reaching speeds exceeding 80 mph. Shortly after the Impala began to elude Sandoval, Denver Officer Christopher Baird (“Baird”) and Corporal Joey Gasca (“Gasca”) joined the pursuit. Each of the Denver officers were in separate vehicles and all three had their emergency lights and sirens activated as they pursued Roberts. Roberts continued his efforts to elude officers, driving recklessly, feigning an exit off Interstate 225 southbound, and ultimately fleeing into Aurora. Roberts and pursuing police officers exited I-225 at E. Alameda Avenue, eastbound. Roberts drove over the median at Alameda Ave. and for a short distance drove westbound in the eastbound lanes.

During the pursuit by Denver officers Roberts displayed a rifle, a handgun, and a red bandanna¹ out the window of the Impala, at times pointing the handgun at pursuing officers.

As the Impala continued eastbound on E. Alameda Avenue, the suspect vehicle turned sharply into the apartment complex (E. Alameda Avenue and E. Ohio Avenue). Gasca was unable to make the turn into the apartment complex safely. Baird, who was driving a marked Denver Police Department Ford Expedition, impacted (broadside) the passenger side of the Impala as it was attempting to negotiate the turn. That maneuver pinned the Impala next to a pickup truck that was parked at the location, effectively ending the vehicle pursuit. Gasca stopped quickly near the Baird patrol vehicle. At this point, Corporal Gasca believed the suspect had them “outgunned.” The suspect was armed with a rifle, and at this point the officers had only their duty pistols.

Once all the vehicles came to rest Gasca exited his patrol vehicle with his pistol as quickly as possible. He observed Officer Baird outside of his vehicle positioned at the rear passenger corner of his Ford Expedition. Gasca joined Baird at this position, however they took a few steps to the right (away from Baird’s vehicle). Gasca was to Baird’s immediate left.

Gasca stated the sun was at “high noon” which created significant glare especially from the suspect vehicle’s windshield which prevented Gasca from clearly seeing Roberts. Both Officers yelled commands to the suspect. Gasca recalled the lower left corner of the Impala’s windshield “exploding” or “shattering” and thought Roberts was “engaging” them. During this time Gasca heard gun fire. Gasca said he believed that both he and Baird were going to be shot. Gasca said at no time did he and Baird have cover. Gasca then shot at the direction of the driver of the

¹ Red clothing, particularly bandannas, are known by police officers to symbolize the wearer’s affiliation with the violent criminal street gang commonly known as “Bloods.” Once identified, Roberts was found to be a documented member of the Inglewood Family Gangster Bloods.

vehicle. He does not know how many times he shot at the suspect inside of the vehicle. Gasca stopped shooting when he thought the threat was “neutralized.”

As Denver officers were entering the city of Aurora, Aurora police were notified and responded. They did not participate in the pursuit and arrived at the scene of the shooting after the shooting had stopped.

Interview of Christopher Baird

On June 20th, 2017, Aurora Police Detective Steve Conner interviewed Christopher Baird at the Aurora Police Department. Present for the interview was Baird’s attorney, John Davis, and Aurora Detective Craig Appel. Baird stated the following:

When the initial menacing call was broadcast on the Denver Police radio, he headed in the direction of where he expected the suspect vehicle to be. Shortly thereafter, he heard Denver Officer Sandoval air on the radio that he was behind the suspect vehicle, westbound on E. 51st Avenue approaching Peoria Street. Almost immediately he observed the suspect vehicle, and even made eye contact with the driver. Baird was driving a marked police vehicle and was in full police uniform. As Baird began to assume a position to stop the suspect vehicle, he observed the driver of the vehicle begin to move around within his vehicle. The driver of the suspect vehicle appeared to drop something out the window and held a red bandanna out the window. Baird activated his siren and emergency lights and the Impala driver failed to yield to the emergency equipment.

The Impala driver then pulled into the Conoco gas station on the southwest corner of E. 45th Avenue and Peoria Street. As the driver again motioned for officers to pull forward, Baird observed the muzzle of an AR-15 (assault rifle). At that time there was a heavy volume of radio traffic, that Baird was unable to warn other officers that the driver possessed an assault rifle. Baird expected an armed confrontation in the parking lot of the gas station. He described the driver of the Impala as operating the vehicle slowly and deliberately. The driver of the Impala then pointed the rifle out the window of the driver side. Baird believed that the driver was prepared to shoot at officers. After observing this, Baird opted to collide (impact) with the rear of vehicle. He believed that this maneuver would incapacitate the driver and prevent him from discharging the firearm.

After the impact, Roberts brought the weapon back inside the driver compartment of the vehicle. He then sped off, attempting to elude pursuing Denver police cars. Baird stated he believed the suspect was going to shoot either him or other Denver officers. In addition, he feared for the safety of bystanders in the parking lot of the Conoco gas station. He felt by impacting the rear of the Impala, it was the best option for neutralizing / incapacitating the driver of the vehicle. In addition, Baird felt that Roberts had superior firepower at that time.

Roberts then again began driving. He was driving “all over the road, from one lane to the next” creating hazards for other drivers. Several times Roberts motioned for officers to pull up beside him. Roberts’s driving became increasingly erratic and dangerous to other motorists.

After Roberts took the Alameda exit from I-225 and continued eluding officers, Roberts attempted a sharp turn into an apartment complex. Baird accelerated and impacted the Impala on the passenger side. Just prior to impact Baird observed that Roberts held a gun in his hand.

Once the vehicles were stopped Baird immediately exited his vehicle and proceeded to the rear of the vehicle in an effort to approach the suspect vehicle. Prior to getting out of his car the last time he saw Roberts, Roberts was looking over his shoulder at Baird with a rifle in his hand. Immediately after getting out of his car Baird heard three muffled sounds which he thought were shots from the AR-15 inside the suspect vehicle. Following the apparent gunshots was a short pause (about 3 seconds). When Baird came around from behind his own car and got a clear view of the suspect vehicle, he observed "glass shatters coming from his windshield." Baird was unsure who was firing, but "started returning fire at that point in time, until the threat was neutralized." As he had gone behind his own vehicle to where he could see Roberts's vehicle, Baird could see Roberts's head and upper torso, but could not see his right arm, so Baird thought Roberts was shooting with his right hand. After firing shots Baird saw Roberts raise his hands and cover his face, and that is when Baird ceased firing. He and other officers had been yelling "show us your hands!" He did not know how many times he had fired, but was aware of other officers' presence at the scene. He felt he had been in a "fight for his life."

Interview of Joey Gasca

On June 20, 2017, Aurora Police Detectives Steve Conner and Craig Appel interviewed Joey Gasca. Gasca stated the following:

On June 18th, Gasca heard Denver Police dispatch air a call for felony menacing with weapons. He was driving a marked Denver Police Ford Explorer and was in full police uniform. He heard Denver Officer Sandoval air that Sandoval had the suspect vehicle, and the driver was waving a red rag out the window as he was being followed by Sandoval.

Gasca then heard officers were attempting to stop the suspect vehicle, an Impala. The radio traffic included officers advising that the Impala driver pointed a rifle out the window towards pursuing officers. Gasca continued trying to join the pursuit, he heard other officers describing the suspect vehicle's erratic driving, and specifically heard Officer Sandoval say the suspect was motioning for officers to drive alongside his vehicle. Gasca believed Roberts was attempting to lure officers into an ambush.

By the time Officer Baird impacted the Impala, Gasca had caught up and joined the pursuit. After the impact as quickly as possible he got out of his vehicle with his duty handgun. He observed Baird outside of his Ford Expedition and joined Baird there, a few steps to the right. Gasca was to Baird's immediate left. Because of the position of the sun (it was shortly after noon) significant glare on the Impala's windshield prevented Gasca from clearly seeing the driver. Gasca and Baird yelled commands to the suspect. Gasca saw the lower left corner of the Impala's windshield "exploding" or "shattering" and thought the suspect was shooting at them. Gasca also heard gunshots. Believing both he and Baird were being shot at, he fired at the suspect. He does not know how many times he fired. At no time did either he or Baird have cover.

Interview of Jesse Sandoval

On June 18th, 2017, Aurora Police Detective Matt Ingui and Denver Police Detective Joe Vasquez interviewed Denver Police Officer Jesse Sandoval at the Aurora Police Department. Sandoval stated the following:

Officer Sandoval was the first officer to make visual contact with a menacing suspect after the Denver Police Department received a call from the victim. Sandoval saw that the suspect vehicle, a Chevrolet Impala, was occupied by only one person, a black male. Sandoval first passed the Impala going in the opposite direction, but turned around and approached the vehicle from behind as it travelled at the intersection of Scranton and Elmendorf. At that point the Impala driver displayed an AR-15 assault rifle outside his window. Initially Sandoval did not feel threatened and did not activate his emergency lights and siren. He provided dispatch with information so that other officers could respond as backup. Once Officer Baird appeared as backup, Baird activated his emergency equipment in an attempt to pull over the Impala. The Impala driver was then driving erratically, side-to-side to avoid traffic. The driver was not pulling over, but pointed out the window towards a Conoco gas station. As Sandoval pulled near the Impala he saw the barrel of a rifle pointing up in the driver's hand when he was driving. Sandoval then notified other officers of the rifle. He advised other officers to back off to a safe distance because of the rifle.

Before officers could contact the driver of the Impala, he sped out of the Conoco lot and went southbound on Peoria Street. As he drove, he stuck the rifle out the window, initially pointing upwards, and then attempting to turn it in the direction of the pursuing officers. Sandoval then feared for his life.

Police pursued the Impala onto Interstate 70, and then to Interstate 225. Sandoval was the lead police vehicle in the pursuit after entering I-70. He remained in pursuit until Baird rammed the Impala, thereby terminating the pursuit. The entire time the Impala was being driven very recklessly and erratically, and police used their emergency lights and siren the entire time.

As the Impala attempted to turn into an apartment complex, Sandoval's car was sideswiped by Baird's patrol car as he attempted to pin the Impala against a pickup truck. Sandoval saw Baird exit and run around to the passenger side of his (Baird's) vehicle. Sandoval got out of his vehicle and drew his service weapon. He could see the Impala driver's head, but because of his position behind the suspect vehicle, he could not see a weapon, so he did not fire his weapon. After hearing several shots, he heard other officers giving the suspect verbal commands. Sandoval could see the suspect breathing and how he was slumped over on the driver's side door. Sandoval described the suspect having his hand up by his face and knew he previously had a gun in that hand in front of him during the pursuit, noting the suspect was not responding to the officers' verbal commands.

FOLLOW UP

After the shooting stopped Corporal Gasca approached the Impala. He reached through the front driver's window and grabbed Roberts's hand in a twist lock. Roberts "jerked" and Gasca yelled for him not to move. Gasca observed an assault rifle (AR-15) between Roberts's legs. Gasca reached in and removed the rifle, removed the magazine and ejected a live round from the rifle's

chamber. He was then assisted by Aurora Police Officers in the removal of Roberts from the vehicle. Roberts was subsequently handcuffed and first aid was rendered. He suffered only minor wounds and was released from the hospital two days later.

In addition to the AR-15 that Gasca removed from the Impala, police also found a Glock 9mm pistol with one round in the chamber and four rounds in the magazine. In the Impala was also an unloaded Llama 9mm pistol. The AR-15 was legally purchased earlier in June by a known associate of Roberts. That individual refused to consent to an interview, and as of the time of the shooting incident had not reported his AR-15 lost or stolen. The history of both pistols is still under investigation. A red bandanna was also found in the Impala.

Evidence at the scene of the shooting indicates that at least 27, possibly 28, rounds were fired by officers. Evidence indicates Officer Baird fired 16 rounds and Corporal Gasca fired as many as 12 rounds. A total of 27 cartridge cases were recovered at the scene; it is possible that one cartridge case was not found. Neither officer reloaded his weapon.

A single witness, [REDACTED], came forward to advise that he believed Roberts had fired at least one round in the direction of the officers, when the pursuit was in the area of 4400 block of Peoria Street.

Another witness at the scene ([REDACTED]) said she heard police yelling at Roberts to "show us your hands!" prior to police shots being fired. She could not see what Roberts was doing at that time because she was approximately 75 yards from his car.

[REDACTED], Keith Roberts's mother, was on scene and commented to police that Roberts was supposed to be on medication but had not taken it for 4-5 days and had been acting strangely. APD Officer Willice Littlefield, who responded to the emergency room at the Medical Center of Aurora where Roberts was being treated, overheard Roberts tell someone it was his plan to "die by cop today."

Aurora police executed a search warrant on the Impala. Based on evidence recovered from the Impala, Aurora police believe that at least one round was discharged from the AR-15 by Roberts. That discharged round was recovered from the passenger side front door of the Impala. It is not known when that round was fired. One cartridge case (Remington .223) was also recovered from the Impala.²

Detective Conner attempted to interview Roberts, who declined to make any statement.

Keith Alfounso Roberts is a documented member of the Inglewood Family Gangster Bloods, a violent criminal street gang. He has a criminal history as a juvenile and as an adult. His arrests include Aggravated Robbery (with a gun), Possession of a Weapon by a Previous Offender, Burglary, Possession of a Controlled Substance, Possession of a Handgun by a Juvenile, and Protection Order Violation.

Upon release from the hospital Roberts was arrested and charged with multiple felonies,

² AR-15 assault rifles fire .223 cartridges.

including First Degree Assault on a Peace Officer, Felony Menacing, Vehicular Eluding, and Possession of a Weapon by a Previous Offender.

APPLICABLE LAW

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Section 18-1-704(2) C.R.S. states:

Deadly physical force may be used only if a person reasonably believes a lesser degree of force is inadequate and:

(a) The actor has reasonable ground to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving great bodily injury.

Section 18-1-707 C.R.S. states:

(2) A peace officer is justified in using deadly physical force upon another person...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;

Deadly physical force “means force, the intended, natural, and probable consequence of which is to produce death, and which does, in fact, produce death.” Section 18-9-901(3)(d) C.R.S.

ANALYSIS AND CONCLUSION

Here, Denver police received a 911 call from a citizen who had been menaced by Keith Roberts with an assault rifle. Officer Jesse Sandoval first observed Roberts in the immediate area driving the vehicle described by the original menacing victim. As Sandoval followed Roberts, Roberts displayed an assault rifle out the window of his car. Sandoval followed Roberts for a short distance until Officer Christopher Baird also responded as back-up. Baird then attempted to stop Roberts by activating his emergency lights and siren. Roberts pulled into a Conoco parking lot, stopped momentarily, and reached out his window attempting to point the assault rifle at Baird. Baird intentionally rammed the rear of Roberts’s vehicle hoping to prevent Roberts from firing the vehicle. At this point many private citizens were in the area, both pedestrians and in vehicles. Roberts then accelerated out of the parking lot and fled.

Officers Sandoval and Baird, joined by Corporal Joey Gasca, pursued Roberts as he eluded police. All three officers were driving fully marked police vehicles with their emergency

equipment activated. The pursuit led to Interstate 225 and into Aurora. At all times Roberts drove recklessly, swerving across lanes and onto shoulders, without regard for the safety of himself, pursuing officers, or the general public. Roberts had also motioned out his window for Baird to approach his vehicle, as though attempting to lure Baird into a position where Roberts could shoot Baird. The evidence supports as reasonable the perception by both Baird and Gasca that Roberts was luring them into such a scenario.

Roberts exited I-225 at Alameda in Aurora. Denver officers continued the pursuit until Roberts attempted to turn into an apartment complex, where he lost control of his vehicle and came to rest next to a pickup truck. At that point Baird rammed Roberts's vehicle in an effort to immobilize it and end the pursuit. As Baird was getting out of his car he saw Roberts sitting in his driver's seat looking over his shoulder with a rifle in his hand. Baird heard three sounds he thought were gunshots coming from inside of Roberts's vehicle. Baird moved around to the rear of his car, where he was joined by Gasca. Just as Baird rounded the right rear of his vehicle, he observed "glass shatters coming from his windshield." Thinking Roberts was shooting from inside the vehicle, Baird fired until he saw Roberts raise his hands to his face. Gasca was the officer who had joined Baird, and was standing to his immediate left. Gasca and Baird yelled commands to the suspect to show his hands. Gasca saw the lower left corner of the Impala's windshield "exploding" or "shattering" and thought the suspect was shooting at them. Gasca also heard gunshots. Believing both he and Baird were being shot at, he fired at the suspect.

Based on the law and the facts summarized above, including what Officer Baird and Corporal Gasca knew at the time they fired at Roberts, I find that both officers reasonably believed that officers' lives and the public were in imminent danger. Moreover, I find, based on the law and the facts, that both officers were justified in attempting to use deadly force to defend themselves and others.

Larry Bailey,
Deputy District Attorney
18th Judicial District