



## OFFICE OF THE DISTRICT ATTORNEY

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July 1, 2015

Sheriff David C. Walcher  
Arapahoe County Sheriff's Office  
13101 E. Broncos Parkway  
Centennial, Colorado 80112

Re: Officer involved shooting of Damien James Ramirez by Arapahoe County Sheriff's Deputy Edmund Doremus; ACSO case number AC15-18903

Dear Sheriff Walcher:

On June 6, 2015, the 18<sup>th</sup> Judicial District Critical Response Team (CRT) was called out on an officer-involved shooting near Strasburg, Arapahoe County, Colorado. Initial information indicated that a subject who was later identified as Damien James Ramirez, had car-jacked a citizen's vehicle, fled from police, and ultimately been fatally shot by Arapahoe County Sheriff's deputy Edmund Doremus.

I have completed my review of the officer-involved shooting. My review included Douglas County Sheriff's Detective Michael Duffy's summary, reports of officers/deputies and district attorney investigators involved, written witness statements, and dash and body camera videos. Additionally I was at the scene, which I viewed prior to any evidence being moved, as well as attending CRT briefings at the Strasburg Fire Department and the Adams County Sheriff's substation in Strasburg.

### SUMMARY OF THE FACTS

In the early morning hours of Saturday, June 6, 2015, [REDACTED] and Damien James Ramirez (hereinafter "Ramirez") were traveling eastbound on I-70 from the Denver area towards Limon, Colorado, got gas, then headed westbound on I-70. [REDACTED] was driving and Ramirez was a passenger in her car. Sometime before 6:23 am near mile marker 324 [REDACTED] fell asleep and crashed her vehicle (roll over) into a ditch on the right shoulder of the highway. There were no other vehicles involved in the accident. [REDACTED] and Ramirez both got out of the vehicle with only minor injuries. Both Ramirez and [REDACTED] left the scene of the accident on foot to find help. [REDACTED] walked one direction along I-70 while Ramirez went the other. A short time after

leaving the scene [REDACTED] was picked up by a passerby and given a ride to a gas station in Byers. Although [REDACTED] was interviewed by police she had no further role in the incident that followed.

Shortly before 6:23 am Arapahoe County Dispatch received their first call from a passerby about the crash. The passerby also reported seeing a female sitting on a guardrail in the same area. Arapahoe County Deputy Dennis Adams arrived at the scene of the crash very shortly thereafter. When he arrived neither [REDACTED] nor Ramirez were on scene. While Deputy Adams was on scene Ramirez returned to the crash site, but ran from Deputy Adams when he attempted contact. Deputy Adams did not pursue Ramirez at that time.

At about 6:26 am Arapahoe County Dispatch contacted Colorado State Patrol's Dispatch to notify them of the crash. CSP Trooper Dwayne Massner arrived in his marked patrol vehicle at the crash site at about 6:40 am and took over the vehicle crash investigation. Deputy Adams left the scene after relaying information to Trooper Massner.

At 7:25 am CSP Dispatch aired they were receiving reports of a "scruffy looking" white male with a backpack trying to flag down cars eastbound I-70 in the area of mile marker 324. Trooper Massner left the crash site in an attempt to locate that male believing he may be involved in the crash under investigation at that time.

At approximately 7:28 am Trooper Massner located Ramirez walking along eastbound I-70 near mile marker 323. Trooper Massner activated his overhead lights and pulled over to the side of the road within 10 yards of Ramirez. Trooper Massner saw Ramirez walking southbound across the eastbound lanes of traffic pointing a semi-automatic handgun to his own head. Trooper Massner immediately backed his vehicle away from Ramirez. Additional CSP units were dispatched to the area, and the Arapahoe County Sheriff's Office was also notified.

After Ramirez crossed over to the westbound lanes, Trooper Massner left his position in an attempt to cross over to westbound I-70. This caused him briefly to lose sight of Ramirez, but before he did, Trooper Massner saw Ramirez waving his gun in an attempt to stop vehicles that were traveling westbound on the highway.

At approximately 7:30 am, while Trooper Massner was turning around, Ramirez stole a red 2002 Chevy Tahoe driven by [REDACTED]. Also in the vehicle was [REDACTED]. At gunpoint Ramirez forced both men to exit the vehicle, and then left in their vehicle. This occurred in approximately the same area of I-70 where Trooper Massner last saw Ramirez. Less than a minute later Trooper Massner returned to the scene and saw that Ramirez was gone. Trooper Massner did see two vehicles (the Tahoe and a silver car) leaving that area heading westbound. He could also see [REDACTED] and [REDACTED] standing by the side of the road from near where the two vehicles had left. They were trying to waive down Trooper Massner as he passed them, but he did not stop.

Trooper Massner believed that Ramirez had "carjacked" one of the vehicles in an attempt to flee the area. Trooper Massner pulled next to the silver car and saw that Ramirez was not in that vehicle. Trooper Massner then passed the silver vehicle and began trying to catch the Tahoe. They both were heading westbound and the Tahoe was approximately ¼ mile ahead of the Trooper. The Tahoe's speeds during the pursuit were in excess of 100 mph and Trooper Massner stated that it was "swerving all over the road."

At about 7:34 a.m. CSP Trooper Derek Pollard, driving a marked patrol vehicle, radioed that he was set up with stop sticks at mile marker 316. At about 7:35 am Trooper Massner radioed that they were passing mile marker 316 at 106 mph. At about 7:36 a.m. the Tahoe swerved to the left in an attempt to avoid the stop sticks, but the stop sticks caught the front passenger tire.

At about 7:37 am the front passenger tire tread came off of the Tahoe causing it to ride on its rim. Even after the right front tire had separated from the rim the Tahoe continued at speeds of 89 to 100 mph.

The pursuit continued westbound until the Tahoe exited the highway at the Strasburg off-ramp (MM 310) at 7:38 a.m. Trooper Pollard caught the pursuit as the Tahoe exited the highway. Trooper Massner was concerned that the vehicle would try to head towards nearby populated areas so he decided to use the "TVI" or "PIT" maneuver to stop the Tahoe. At about 7:39 am Trooper Massner made contact with the driver's side rear quarter panel of the Tahoe with his front passenger side fender. This caused the rear tires of the Tahoe to lose traction and the vehicle to spin counter clockwise. The Tahoe lost control and rolled down the embankment on the south side of the westbound I-70 off-ramp at MM 310. The vehicle came to rest on its side amongst a grove of trees and bushes which restricted the troopers' visibility of the vehicle from the off-ramp. The vehicle was between the off-ramp and westbound I-70 just east of the bridge over the highway.

Both Trooper Massner and Trooper Pollard exited their vehicles in an attempt to see the vehicle and Ramirez. At about 7:39 am Trooper Massner reported that shots were fired. Trooper Massner heard one gunshot coming from the Tahoe as Massner looked over the embankment, and as he moved away from his position he heard at least one more gunshot. A later search of the vehicle by Arapahoe County and Colorado Bureau of Investigation crime scene investigators revealed three 9mm casings inside the Tahoe. Per Arapahoe County CSIs there were also 5 bullet holes exiting the vehicle at various places. There were no entry holes in the vehicle. The gun Ramirez had been holding was later determined to be a 9mm.

After hearing the shots Trooper Massner retrieved his rifle from his patrol vehicle. When Trooper Massner got back to his position north of the Tahoe overlooking the crash site he could see Ramirez crawling out of the broken rear window of the vehicle. Massner could tell it was the same person he had seen walking with a gun on the highway. Ramirez was armed with a handgun and pointed it up towards Trooper Massner. Trooper Massner fired one round at Ramirez. Massner was not sure if the round hit Ramirez (it did not) but it caused Ramirez to retreat back into the Tahoe. When Massner saw Ramirez crawl out of the Tahoe with the gun pointed at him he believed he was about to be in a "gun battle." Trooper Massner did not want Ramirez to shoot him or make it into town with that gun.

At about 7:44 a.m. after exiting the Tahoe Ramirez ran south across both directions of I-70, and up the embankment on the south side of the highway. Trooper Massner and Adams County Sheriff's Sgt. Gambrell, who had arrived on scene shortly before, shadowed Ramirez's movements on foot, but they crossed the highway using the bridge overpass. Trooper Massner and Sgt. Gambrell were trying to maintain sight of Ramirez, while keeping their distance because

Ramirez was still armed with a handgun. CSP Trooper Pollard in his patrol vehicle followed Massner and Gambrell across the bridge.

When Ramirez reached the frontage road on the south side of the highway he began to walk westbound, ending up west of the bridge. Trooper Massner and Sgt. Gambrell were on foot east of Ramirez's position and Trooper Pollard was in his vehicle east of the Ramirez's position. Other officers from various agencies started arriving on scene.

At about 7:47 am the first patrol vehicle took a position west of Ramirez on eastbound I-70. At that same time a 2005 Dodge pickup truck driven by [REDACTED] slowly approached Ramirez from the west on the frontage road. Ramirez was waving down the Dodge pickup. As the pickup truck approached, Ramirez walked over to the driver's door (still armed with a handgun). As Ramirez approached the pickup truck Trooper Pollard believed Ramirez was going to "carjack" the vehicle, thereby placing the driver at risk of injury or death. Trooper Pollard responded by accelerating his patrol vehicle at Ramirez in an attempt to strike him with the vehicle. Ramirez avoided being struck by running northbound into the grassy divide between the frontage road and the eastbound off-ramp from I-70. As Trooper Pollard passed Ramirez he was holding a handgun in his right hand.

After passing Ramirez, Trooper Pollard turned his vehicle 90 degrees to the left and parked across both lanes of the frontage road facing south. Trooper Pollard took a position near his vehicle west of Ramirez. Trooper Massner and Sgt. Gambrell took cover behind Trooper Pollard's vehicle.

At this point additional units from Arapahoe County, CSP, Adams County, and APD began to arrive. Those units set up on the frontage road both east and west of Ramirez's position. After avoiding Trooper Pollard's car, Ramirez moved south of the frontage road and took a position south of the frontage road just north of a barbed wire fence. On the south side of the fence was an open field. About 1192 feet south of the fence was a neighborhood, and about 803 feet west southwest of the fence was a single house.

For roughly the next 34 minutes Trooper Pollard and Deputy Adams attempted to negotiate with Ramirez, who was holding the gun to his head for most of the encounter. Ramirez refused to give them his name, but he did request to speak to his mother and girlfriend, and he wanted a lighter so he could smoke a cigarette. During the negotiation process Ramirez repeatedly told the Officers on scene to shoot him. Ramirez was highly agitated and was not responding to the negotiations.

While the negotiations proceeded, Arapahoe County Deputy Edmund Doremus arrived at the scene. Deputy Doremus is a SWAT sniper who happened to be working his normal patrol shift that day. He was armed with a scoped rifle and he initially took a position on the eastbound off-ramp about 90 yards north northwest of Ramirez's position. Deputy Doremus was not comfortable with his initial position because of the close proximity of other officers to his line of fire. Deputy Doremus changed his position, while maintaining the same firing angle, moving onto the frontage road about 30 yards north northwest of Ramirez's position. Deputy Doremus chose that position because it created a shooting background void of any houses or other officers.

For five years Doremus had been assigned to patrol in that area and knew it well, including the neighborhood that was clearly visible from where Ramirez was shot. At the time Ramirez was shot he was attempting to cross a barbed wire fence across a field north of the neighborhood. Doremus could see that people were out and about, garage doors were open, etc.

Officers on scene, including Doremus, discussed that if Ramirez tried to escape by crossing the barbed wire fence with the gun, it would seriously endanger the citizens in the residential subdivision directly to the south. The officers decided the danger to public safety would be too great to allow that to happen. Deputy Doremus told the negotiators to tell Ramirez that if he crossed the fence he would be shot. They relayed that information to Ramirez, and at about 8:21 a.m. Almost immediately after being informed he would be shot if he crossed the fence Ramirez bent over and attempted to step through the barbed wire fence. As Ramirez did so his gun was pointed in the direction of officers to the east. Deputy Doremus then fired one shot from his rifle. The shot struck Ramirez, causing him immediately to fall to the ground, where he died almost immediately. Doremus fired to protect the officers who were endangered by Ramirez pointing his gun in their direction as well as to protect the citizens who would be endangered if Ramirez were to have escaped into their neighborhood.

From the time Ramirez crashed the Tahoe until the time he was shot by Deputy Doremus, he had repeatedly been given loud verbal commands by multiple officers to drop his gun and surrender. The officers involved were all wearing uniforms, and most were driving marked vehicles so it would have been very clear to Ramirez that they were the police. There is no evidence of a language barrier.

Where Ramirez had been standing next to the barbed wire fence before being shot was a large field with tall grass. Once he was shot and fell to the ground he was no longer visible to officers. Not knowing Ramirez's condition, officers first sent a police dog. The dog grabbed Ramirez by his lower leg and drug him north from the fence. Approaching officers observed that Ramirez did not move while this was occurring and Ramirez was believed to be either deceased or nearly deceased when the bite occurred.

When the Officers arrived at Ramirez's position they rendered aid by placing pressure on the wound. The fire department was called and arrived on scene within 4 minutes of the fatal shot.

Based on the consistent witness statements and physical evidence in this case, had Damien James Ramirez surrendered or been captured alive at the point he was fatally shot, he would be facing, minimally, the following felony charges: Attempted Murder in the First Degree of a Peace Officer (F2), Aggravated Robbery (F3), Attempted Aggravated Robbery (F4), Aggravated Motor Vehicle Theft in the First Degree (F4), two counts of Felony Menacing (F5), Vehicular Eluding (F5), and Possession of a Controlled Substance (heroin) (DF4).

## LAW

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; 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.

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

As to CSP Trooper Dwayne Massner

Here, officers twice used or attempted to use deadly physical force by firing shots at Ramirez. First, CSP Trooper Dwayne Massner fired a single shot at Damien James Ramirez. Prior to firing that shot, Trooper Massner had seen Ramirez holding a handgun. Massner was aware that Ramirez had just committed an armed robbery by menacing two individuals, and at gunpoint taking their vehicle. Seconds after the robbery of the vehicle, Massner attempted to arrest Ramirez, who led Massner on a high-speed chase, reaching speeds in excess of 100 mph. Ramirez demonstrated his determination to avoid capture by continuing to elude Massner, still driving 100 mph after a tire had been punctured by stop sticks and the tire had separated from the rim. By this time Trooper Pollard had joined the pursuit, and was following in his patrol car immediately behind Trooper Massner. After Massner performed a TVI maneuver on Ramirez’s

vehicle, causing him to crash, Massner and Pollard immediately ran from their vehicles towards the Ramirez's crashed vehicle. At that point Ramirez fired several shots from his 9mm handgun. Trooper Massner then ran back to his vehicle to obtain his rifle. As Ramirez was crawling out of the crashed vehicle with a gun in his hand, Trooper Massner fired a single shot from his rifle, missing Ramirez. At that point Massner was in fear of imminent deadly force on him and/or Pollard by Ramirez, as well as fear for the public safety if Ramirez were to escape into nearby Strasburg to the north or a housing development immediately to the south. Massner believed that Ramirez had fired a shot at him. Ramirez was able to exit the vehicle and run south, across I-70, to a position just north of the housing development. As Ramirez ran southbound and Massner followed him from a safe distance, he declined to fire any more shots at Ramirez.

Based on the facts summarized above, including what Trooper Massner knew at the time he fired a single shot at Ramirez, I find that Trooper Massner reasonably believed, and did believe, that his life and the life of Trooper Pollard were in imminent danger. He also feared for the safety of nearby innocent individuals if Ramirez were to escape with a deadly weapon. I further find based on the facts and the law that Trooper Massner was justified in attempting to use deadly physical force to defend himself and others, and to attempt to apprehend Ramirez.

#### As to ACSO Deputy Edmund Doremus

After Ramirez had taken his position next to a barbed wire fence across a field north of the housing development, Trooper Massner and other officers on scene attempted to negotiate with Ramirez. As that process continued Arapahoe County Deputy Dwayne Doremus arrived. He had been informed of all of the facts summarized above. From positions he took during the negotiation process Doremus communicated with other officers on scene and observed Ramirez through his rifle scope. Doremus could clearly see that Ramirez was extremely agitated, was holding a semi-automatic handgun, and was refusing to surrender. Having patrolled that area for five years Doremus was familiar with the housing development across the field, that it was a Saturday morning, and that residents of the development were out-and-about, garage doors were open, etc. He was also aware of positions other officers had taken prior to and during the course of the negotiation process. He was aware that during the process Ramirez repeated to police "shoot me." He was aware that Ramirez made no indication he was significantly engaged in the negotiation process or intended to surrender.

Because of fear that Ramirez might shoot him or other on-scene officers, Deputy Doremus kept his rifle aimed at Ramirez and observed him through the scope during the entire negotiation process while Doremus was present. The officers' attempt to negotiate with Ramirez continued over 30 minutes. Because of fear that Ramirez might escape into the housing development, he communicated (through other officers) that if Ramirez crossed the barbed wire fence he would be shot. Shortly thereafter Ramirez began crossing the fence. As he did so his gun pointed at officers on scene. At that point Deputy Doremus fired a single shot, killing Ramirez. From the time of his arrival on scene Doremus had considered other means of neutralizing the threat, but based on the totality of circumstances as they existed at that time Ramirez's actions leading up to the shooting precluded use of a taser or any other non-lethal or less-lethal means.

Based on the facts summarized above, including what Deputy Doremus knew at the time he fired a single shot at Ramirez, I find that Deputy Doremus reasonably believed, and did

believe, that his life and the lives of fellow officers were in imminent danger. He also feared for the safety of nearby innocent individuals if Ramirez were to escape with a deadly weapon. I further find based on the facts, the case law, and the Colorado statutes, that Deputy Doremus was justified in using deadly physical force to defend himself and others, and to attempt to apprehend Ramirez.

## NON-SHOOTING USES OF FORCE

### Trooper Derek Pollard – Use of Stop-sticks and Vehicle

Trooper Derek Pollard learned over the police radio that Ramirez had car-jacked a vehicle at gunpoint and was leading Trooper Massner on a high-speed pursuit on I-70. Trooper Pollard deployed stop-sticks, which caused Ramirez's vehicle's right front tire to deflate and ultimately separate from the rim. Ramirez continued his attempt to elude police, reaching speeds up to 100 mph. Trooper Pollard observed Trooper Massner employ a TVI maneuver on Ramirez's vehicle, causing it to crash. Trooper Pollard heard shots fired at that point by Ramirez, observed him exit the vehicle with a gun in his hand, and fire a shot at Trooper Massner. Trooper Pollard, in his marked patrol vehicle, followed Ramirez across I-70, where Trooper Pollard observed Ramirez, with a gun still in his hand, attempt to car-jack another vehicle. To prevent the second car-jacking and to protect the potential victim, Trooper Pollard attempted to run his vehicle into Ramirez.

Based on the facts summarized above, including what Trooper Pollard knew at the time he deployed stop-sticks and when he attempted to drive his vehicle into Ramirez, I find that Trooper Pollard reasonably believed, and did believe, that his life, the life of Trooper Massner, and innocent civilians were in imminent danger. He also feared for the safety of nearby innocent civilians if Ramirez were to escape with a deadly weapon. I further find based on the facts and the law that Trooper Pollard was justified in attempting to use deadly physical force with his vehicle to defend himself and others, and to attempt to apprehend Ramirez.

### TVI Maneuver by Trooper Dwayne Massner

At the time Trooper Dwayne Massner employed the TVI maneuver on the vehicle on the vehicle driven by Ramirez, Trooper Massner knew that Ramirez had car-jacked at gun point (aggravated robbery) a vehicle and had led Trooper Massner on a high speed pursuit. Based on those events Trooper Massner knew that Ramirez was an armed and dangerous felon who clearly was willing to endanger the public in his effort to escape capture.

Based on the facts summarized above, including what Trooper Massner knew at the time he employed the TVI maneuver, I find that Trooper Massner reasonably believed, and did believe, that his life and the lives of innocent civilians were in imminent danger. He also feared for the safety of nearby innocent civilians if Ramirez were to escape with a deadly weapon. I further find based on the facts and the law that Trooper Massner was justified in using the TVI maneuver in his attempt to apprehend Ramirez.



## Deployment of K-9 by Aurora PD Officer Joe Sullivan


After Ramirez had been shot he fell into tall grass and was not visible to officers on scene. Officer Sullivan was aware of all the above facts prior to the shooting. Once Ramirez was shot and no longer visible Officer Sullivan sent his dog to ensure it was safe for officers to approach Ramirez. Upon reaching Ramirez the dog bit him on the leg.

Based on facts known to Officer Sullivan and the law I find that use of the K-9 was a justified use of force.

### FOLLOW-UP

At the time Ramirez was shot, police did not know his identity or the motive for his actions. They later learned that he was on parole in New Mexico after serving prison time for felony convictions. He had violated his parole and was being sought by officials who would have returned him to prison. Police investigating this case were contacted by Ramirez's mother, who informed them that she knew her son was running from law enforcement officials in New Mexico, that he was using illegal drugs, that he had attempted suicide by overdosing on heroin, and that he had told her police would not take him alive because he did not want to return to prison.

Sincerely,

  
Larry Bailey  
Deputy District Attorney