



OFFICE OF THE DISTRICT ATTORNEY

GEORGE H. BRAUCHLER, DISTRICT ATTORNEY

18TH JUDICIAL DISTRICT

SERVING ARAPAHOE, DOUGLAS, ELBERT AND LINCOLN COUNTIES

June 28, 2016

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

Re: Officer Involved Shooting of Efrain Villanueva DOB July 6, 1964
APD Case #2015-48737

Chief Metz:

I have completed my review of the Officer Involved Shooting that occurred on Saturday, December 12, 2015, at 796 North Kenton Street, Aurora, Colorado. Detective Randall Hansen was the lead investigator into the shooting of Efrain Villanueva by Officer Dale Leonard. Denver Police Department members Sergeant Thomas Rowe, Detective William Saulton, and Detective Joseph Vasquez oversaw the investigation. On May 2, 2016, Detective Hanson presented this Officer Involved Shooting investigation to members of the Denver Police Department and the Aurora Police Department.¹

For the reasons set forth below, it is my opinion that Officer Leonard 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 December 12, 2016, at 19:41:58, [redacted] called 911 to report that her daughter, Mireya Ramirez-Muniz was being stabbed by Efrain Villanueva (identity unknown at the time). She was distraught and panicked in the phone call, and asked for an ambulance and officers to come to her address at 745 N. Kenton Street in Aurora. During the recorded phone call, [redacted] indicated that both she and her daughter had been stabbed and that Villanueva was getting more knives. At various points throughout the call, unintelligible screaming and heavy breathing can be heard. At one point, [redacted] yelled, "Run around the car." [redacted] can be heard asking others to call 911 and asking for help. At one point, [redacted] is heard yelling, "Shoot him! Shoot him! Don't let him stab..." after which she yells, "Don't die...! Run!" At 4 minutes 36 seconds a male voice is heard yelling something unintelligible. At 4:39, a gunshot can be heard, with a second gunshot at 4:42. Shortly thereafter, sirens are heard in the background. The phone call lasted 5 minutes and 51 seconds.

¹ Attendees at the presentation: Commander McGregor (APD), Lt. Torpen (APD), Sgt. Fyles (APD), Det. Krieger (APD), Lt. Clark (DPD), Sgt. Engelbert (DPD), and Det. Saulton (DPD).

During the same timeframe, [redacted] and an unidentified person from [redacted] house called 911. [redacted] called 911 at 19:44:14. She confirmed that a knife was involved and that Villanueva was stabbing a woman. [redacted] can be heard telling her husband not to take a gun outside and confirms with dispatch that [redacted] took a shotgun outside. Later, [redacted] confirms that he took his shotgun outside and told Villanueva to stop stabbing the woman, but Villanueva continued to stab her. This is consistent with the timing in [redacted] 911 call when she yells, "shoot him!"

[redacted] called 911 at 19:44:22. [redacted] indicated that she heard screams outside and that, "they have knives." She also indicated that neighbors were outside trying to help the victim.

At 19:45:15 an unidentified woman called from [redacted] is later contacted at that residence. She lives at that address with her mother, [redacted]. The final location of Villanueva and Ramirez-Muniz is in front of this location, giving the witnesses at this house a clear view of the final stabbing that started inside the residence at 745 N. Kenton St. The 911 caller states that a man is "beating the holy heck out of this woman in the street, and now he's going down the street to get in a fight with another man." This is consistent with the timing of [redacted] attempting to stop Villanueva from stabbing Ramirez-Muniz. The caller reports seeing Ramirez-Muniz get up and Villanueva coming back after her, beating her again. The caller reports officers were on scene. At 1 minute 23 seconds into the call, a hollow sound can be heard and the caller immediately said, "Oh, they shot him! They shot him!" After that exclamation, the line went dead.

Dispatch alert-toned the call at 19:43:03, and dispatched Officer Declaire and Officer Leonard. Officer Leonard responded to the call, Code-3 with lights and siren, from 1550 N. Havana St. Officer Clark was in his marked patrol unit at the same location as Officer Leonard. He added himself to the call and responded with lights and siren. Officers Leonard and Clark took different routes to the location of the call. Officer Leonard arrived seconds before Officer Clark.

Dispatch aired and sent via call notes on the computer information from the 911 callers to update the officers en route to the crime scene. Dispatch reported descriptions of the parties involved. Officer Clark recalled learning of the multiple 911 calls and thinking that it was a "real" stabbing. Officer Declaire recalled learning there were two victims of the stabbing, that the altercation was between a male and female, and that the altercation had moved to the street. Officer Declaire also recalled hearing someone was possibly armed with a gun. Officer Leonard recalled learning that a second person had been stabbed, that additional people were calling to report the fight, and that it appeared that someone was getting attacked or stabbed on the street. He also recalled that someone had a gun and was going to confront the suspect. Based on what Officer Leonard learned through dispatch, he expected that he was approaching an intense situation.

Officer Clark came north on N. Kenton from East 7th Avenue. Officer Leonard came south on N. Kenton. Villanueva and Ramirez-Muniz were between them. Officer Clark could

see Officer Leonard approaching from the other direction. Officer Clark saw two people in the middle of the street in a struggle. He could see a male straddling a female, the male was facing west.

Officer Leonard could see the described suspect stabbing a female in the street as he approached. He saw a female on the ground on her back with the suspect leaning over her or on top of her. The female appeared to be fighting with the suspect. At 19:46:22, Officer Leonard aired from his car, "They're fighting in the middle of the street. Get up here, hot!"

Officer Leonard perceived that Villanueva was trying to kill Ramirez-Muniz. Officer Leonard had his headlights and over-head lights on when he approached the scene. He stopped his car approximately 30 feet from where Villanueva was stabbing Ramirez-Muniz. He saw a butcher type knife with a 3-4 inch blade in Villanueva's hand. Officer Leonard described that Villanueva's arm moved like "a piston" in a stabbing motion, going up and down. Officer Leonard got out of his car and ran towards Villanueva and Ramirez-Muniz, screaming at the top of his lungs, "Drop the knife! Drop the knife!" Once he was approximately 2-3 feet from Villanueva he continued to yell, "Stop, stop." Villanueva did not respond to Officer Leonard.

When approaching the struggle in the middle of the street, Officer Leonard drew his gun and pointed it at Villanueva. Villanueva had the knife in his right hand and his arm was up in a position to stab Ramirez-Muniz again. That position created space between Villanueva and Ramirez-Muniz. Officer Leonard took that opportunity to fire one round at Villanueva. It did not stop Villanueva, who continued to stab Ramirez-Muniz. Officer Leonard realized that the threat to Ramirez-Muniz continued. He stepped to his left to get a different position because Ramirez-Muniz was behind Villanueva. Officer Leonard thought that he had to "finish this." He fired a second round at Villanueva. Villanueva fell to the ground. Officer Leonard fired no additional shots after the threat to Ramirez-Muniz ceased. At 19:46:45, Officer Leonard aired, "Shots fired!"

Officer Clark noted that when he arrived at the location of the struggle Officer Leonard had already exited his car and was approaching Villanueva and Ramirez-Muniz. He did not hear Officer Leonard give orders to Villanueva. He observed Villanueva turn toward Officer Leonard.

Officer Clark noted that Villanueva did not go down to the ground after the first shot. He watched Officer Leonard reposition himself and fire a second shot. He thought shots were a couple seconds apart, which is confirmed by the shots heard in the background of the 911 call made by (gunshots heard at 4:39 and 4:42). At 19:46:52 Officer Clark aired that shots were fired and asked for rescue, hot, for two parties.

Officer Declaire heard Officer Leonard air over the radio that more cars were needed quickly. Upon arrival, he observed a fight in the street. He thought there were four people, but no one was in a standing position. Officer Declaire reported that Officer Clark arrived first. Officer Declaire saw Officer Leonard exit his car and move towards the fight in the street. The roads were icy and he slid a bit, which took his attention away from the fight in the street. Officer Declaire indicated that his window was up, his radio was on low volume, and the police

radio was on high volume. He did not hear any commands given to Villanueva. Officer Declaire heard a gunshot while he was stopping his car on the ice. Officer Declaire was in his car, looking down when he heard the gunshot.

Officer Leonard and Officer Clark approached Villanueva and Ramirez-Muniz. The knife was still in Villanueva's hand, his body laying over part of Ramirez-Muniz's body. Officers Clark and Leonard dragged Villanueva away from Ramirez-Muniz by his arms. Officer Clark kicked the knife out of Villanueva's hand. Villanueva was still breathing. Officer Clark handcuffed Villanueva for safety.

Officer Declaire approached and was told by Officer Clark that Ramirez-Muniz had been stabbed. Officer Declaire approached Ramirez-Muniz and observed a stab wound to her left chest and noticed that her lip had been split open wide enough to see her gums. Officer Declaire put on gloves and applied pressure to the chest wound. Ramirez-Muniz had trouble breathing. Officer Declaire observed wounds to her face, side, shoulder and hand.

When the Aurora Fire Department (AFD) arrived, Officer Declaire informed them that Ramirez-Muniz had been stabbed and Villanueva had been shot. Officer Declaire assisted AFD in providing medical assistance to Ramirez-Muniz and loading her into the ambulance. She was taken to University Hospital where she underwent surgery for multiple stab wounds. Ramirez-Muniz succumbed to her injuries during surgery and was pronounced dead at 22:45 by Dr. Rothschild.

Arapahoe County Coroner's Forensic Pathologist, Dr. Garth Warren, performed the autopsy on Ramirez-Muniz. His medical opinion was that the manner of Ramirez-Muniz's death was a homicide and that the cause of death was due to a stab wound to the left chest. He found that multiple stab and incised wounds of the head and neck, and of the torso and extremities were significant contributing factors. Ramirez-Muniz had 28 different stab wounds plus multiple superficial abrasions in various locations.

Villanueva was taken to University Hospital via ambulance. He had a single gunshot wound to his chest. Dr. Musi pronounced Villanueva dead at 20:12. Arapahoe County Coroner Dr. Kelly Lear-Kaul performed the autopsy on Villanueva. Her opinion was that the manner of death was a homicide and the cause of death was a perforating gunshot wound to the chest. The gunshot entrance wound is of the right paraspinous back and the exit wound is of the right axillary chest. The trajectory is back to front, left to right and slightly downward.

Witnesses confirmed that Officer Leonard ordered Villanueva to put down the weapon, but he refused to follow orders and continued to attack Ramirez-Muniz, which ultimately led to her death. , who had the best opportunity to observe what happened, reported that she heard Officer Leonard tell Villanueva at least two times to put down the weapon, but that Villanueva refused to follow orders. reported that she heard Officer Leonard tell Villanueva to put his hands up and get down, but villanueva did not comply and continued to stab Ramirez-Muniz. It was clear that Villanueva was intent on harming Ramirez-Muniz and that he would not stop until someone stopped him.

Based on the evidence and statements obtained during the investigation, I find that Officer Leonard reasonably believed he was acting in the defense of others pursuant to 18-1-704, C.R.S. and 18-1-707, C.R.S. when he used deadly physical force against Villanueva. Further, under the facts and circumstances surrounding this incident, it was reasonable for Officer Leonard to conclude that a lesser degree of force was inadequate and that Ramirez-Muniz was in imminent danger of being killed (and was actually killed) by Villanueva when Officer Leonard arrived on scene. Accordingly, I find Officer Leonard was justified in using deadly physical force pursuant to 18-1-704 and 18-1-707, C.R.S.

Sincerely,



Cori Alcock
Senior Deputy District Attorney

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