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

RE: October 29, 2017 Officer Involved Shooting of Mark Bidon (dob: [REDACTED]/67)

Dear Sheriff Walcher,

On October 29, 2017, the 18th Judicial District Critical Response Team ("CRT") was called out to an officer-involved shooting in Centennial, Arapahoe County, Colorado. Mark Bidon was shot by Arapahoe County Sheriff's Office (ACSO) deputies during this incident. He died from his injuries.

EXECUTIVE SUMMARY

Applying the law to the facts of this incident, as described in detail below, I conclude that Deputies Buddy Gillespie and Matthew Schambow were justified in their use of deadly force to defend themselves, other officers, and the public from the threat posed by Mark Bidon on October 29, 2017.

MATERIALS REVIEWED AND INFORMATION CONSIDERED

My review of the officer-involved shooting event included written reports by CRT investigators, interviews of the involved officers, photographs, personal on-scene observations, body camera footage, as well as the ACSO parking lot surveillance footage. I was also partially briefed just after the event in two separate "command posts" which were set up at the jail and ACSO HQ respectively.

SUMMARY OF THE FACTS

Mark Bidon (d.o.b. [REDACTED]1967) had previously worked for the ACSO as a deputy in the detentions facility. Bidon separated from the Sheriff's Office in 2010.

On October 29, 2017 at approximately 9:36 p.m., Mark Bidon drove his vehicle into the entrance lane of the Arapahoe County Sheriff's Office employee parking lot. He then made a U-turn and backed into the exit lane of the lot (on the "public" side of the security gate). He positioned his car in a manner that blocked the exit of any vehicle attempting to leave the parking lot. As he

was beginning his patrol shift at approximately 9:43 p.m., Deputy Buddy Gillespie drove his patrol car into the parking lot exit lane (on the “employee” side of the gate) activating the security gate and arm. Bidon, apparently having seen the deputy’s car behind him, pulled his vehicle forward making room for Gillespie’s vehicle to pass him on the left. Gillespie pulled alongside Bidon’s car and made verbal contact with him through his patrol car’s front passenger window and Bidon’s driver window. Bidon’s vehicle was out of place given its location and the specific placement of his vehicle, *i.e.*, the exit lane of an obviously restricted area, and very close to the exit gate.

Gillespie reported that Bidon had a blank look in his eyes and a neutral, flat expression. When he asked Bidon if he could help him, Bidon said, “Yeah, I’m here for my orders.” Gillespie reported he believed he was dealing with someone who was having some type of mental episode. Just after this interaction with Bidon, Gillespie aired that the party (his identity had not yet been determined) was possibly a “10-96” which indicates to other officers and dispatch that the party may have mental health issues. Concerned with Bidon’s behavior, Gillespie pulled forward, parked his vehicle and exited intending to further communicate with Bidon. He then approached the driver’s door.

Gillespie asked Bidon “Are you armed right now?” He responded, “Yes.” Gillespie then reports that drew his weapon but kept it to the side. He ordered Bidon to put his hands on the steering wheel. Gillespie reported that Bidon put his right hand on the steering wheel but was hesitant to put his left hand on the wheel. He once again ordered Bidon to put his hands on the steering wheel and he complied. Gillespie observed a Glock pistol sitting in Bidon’s lap with the grip against his right leg and barrel pointed away from him (down-facing). Gillespie aired the information that Bidon was armed over his radio.

Sgt. Bruce Walker was on duty and in the parking lot when he heard the calls aired by Gillespie. Walker began to jog through the parking lot to cover Deputy Gillespie. Walker had another deputy pull up to activate the now closed gate so he could get out of the lot to assist Gillespie with the contact. Walker approached the vehicle with his service weapon drawn.

Gillespie’s body cam video shows Gillespie at the driver side window of Bidon’s car. There is a clear view of Bidon from the shoulders up, and his hands can be seen as they are both on the steering wheel. Bidon’s affect, speech and appearance (including his gaze) reflect a distant and detached demeanor. Walker told investigators that as soon as he saw “Mark” (Walker knew Bidon, as they had previously gone through the police academy together and had both worked for the ACSO) he immediately thought that he was either going to hurt them (the officers) or himself. He described the look on Bidon’s face as a “1000 yard stare.” Walker also observed Bidon was wearing a duty belt and noted how out of place he was, *i.e.*, being at the Sheriff’s Office employee entrance without apparent reason so many years after his separation from the office.

Alongside Bidon’s car, Gillespie has a flashlight in his left hand and his service weapon in his right hand. When the audio begins Gillespie is clearly heard telling Bidon “don’t move one inch – I’m serious, okay?” Bidon says “okay.” *Note:* the audio lag is a product/trait of the device and not controlled by the officer. During this interaction Bidon’s hands are on the steering wheel. Through review of all body camera evidence and interviews it is clear that while Bidon’s hands are on his steering wheel there is a loaded semi-automatic handgun on his lap. As Walker

approaches the driver side window Gillespie tells Walker calmly “he’s got a loaded pistol right in his lap.” Walker then asks, “Mark, what are you doing?” while reaching in an unthreatening manner toward his lap to grab the firearm. Walker told investigators that he took this action in attempting to secure the weapon in order to prevent Bidon from hurting himself or the officers.

When Walker’s hand is nearing Bidon’s lap, Bidon looks directly up at Walker and quickly reaches down to grab the gun. A struggle for the gun ensues, at which time Walker pleads “what are you doing?” and “please don’t do that” in an urgent tone. Almost contemporaneously, while pointing his weapon at Bidon, Gillespie repeatedly yells, “Don’t! Don’t!” more than ten times - over the span of four seconds - before firing his weapon several times. It was later determined that Bidon was hit with all seven of the rounds fired by Gillespie. In light of Gillespie’s body moving to the right during this struggle the camera angle changes and specific body positions are hard to discern. It seems that Walker is still physically engaged with Bidon, although apparently beginning to duck to the left, when Gillespie begins to shoot.

Gillespie told investigators he believed Bidon was about to kill someone. He saw Bidon get the gun back from Sgt. Walker and he observed Bidon with control of the gun arching his back to shoot Walker or him (Gillespie) when he fired his weapon at Bidon.

While Gillespie and Walker were engaging Bidon on the driver’s side of the vehicle, Deputy Matthew Schambow approached the passenger side of the vehicle. He also heard the call that Gillespie was in contact with an armed party who might be a “10-96.” Schambow opened the front passenger door believing he may be able to get the gun off Bidon’s lap while he was talking to Walker and Gillespie. He saw Walker reach for the gun in Bidon’s lap and saw Bidon reach for the gun at the same time. He watched as Bidon leaned back toward the front passenger seat and began to point the gun toward Walker. He heard Walker say “Mark, don’t. No. No.” Schambow stated he then fired his weapon at Bidon because he thought he was going to kill Walker. Schambow shot twice, hitting Bidon with both rounds. The shooting of Mark Bidon occurred at approximately 9:45 p.m.

When speaking to investigators, Walker reported that when he reached for the gun Bidon immediately grabbed it, pulling the gun away from him after a short struggle. Walker said that Bidon twisted his upper torso canting the weapon with the barrel pointing at Walker (noting it was similar to how police officers are trained – what he referred to as a “close combat position firing platform”). Walker said he no longer had control of the weapon at that point - and Bidon was in sole possession of it - as the barrel was pointed at him (Walker). Walker jumped out of the line of fire, below the driver’s door, and thought he would be shot as he was doing so. Walker stated he had no doubt about what Bidon’s intentions were, and that he was going to shoot Walker once he was able to do so. He also stated that Gillespie’s actions saved his life.

The Arapahoe County Coroner determined Mark Bidon was shot nine times and died from those injuries. Toxicologic analyses were negative for alcohol, drugs of abuse, and significant medications.

Mark Bidon did not fire his Glock 9mm handgun during the incident. Sgt. Bruce Walker did not fire his Glock model 34, 9mm handgun during the incident. Deputy Matthew Schambow fired his Smith and Wesson .40 caliber M&P handgun two times. Deputy Buddy Gillespie fired his Smith and Wesson .40 caliber M&P handgun seven times.

APPLICABLE LAW

The District Attorney's review of this event is guided by the following statutes pertaining to the use of force – both generally and by peace officers:

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

(2) 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 in relevant part:

(1) . . . 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 or to prevent the escape from custody of an arrested person 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 or while preventing or attempting to prevent such an escape.

(2) 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;

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

ANALYSIS AND CONCLUSION

In this case there is ample evidence from which dispositive conclusions can be drawn. The ACSO parking lot camera recording and the deputies' body camera footage is clear. Both of those media sources corroborate the officers' statements. The officers' statements are also corroborative of one another.

From a review of all of the relevant evidence, it is clear that Mark Bidon posed a serious and imminent threat to the public and the officers present on October 29, 2017. This conclusion is

reached based on a consideration of Bidon's strange behavior and affect when first contacted by Deputy Gillespie, Bidon's presence outside the ACSO parking lot (having no apparent reason to be there and while having a loaded handgun sitting in his lap), Bidon's statements to Gillespie, and finally, Bidon's behavior when approached by Sgt. Walker.

The evidence supports that Deputies Gillespie and Schambow both had reasonable grounds to believe that each of them, and Sgt. Walker, were in imminent danger of being shot and killed by Bidon. The evidence also supports that deputies Gillespie and Schambow reasonably believed that the use of deadly physical force was necessary to defend themselves and Sgt. Walker from the imminent use of deadly force by Bidon.

It is clear from the evidence, and specifically Deputy Gillespie's body cam video, that Sgt. Walker's conduct of reaching into Bidon's vehicle to grab the gun was reasonable, as Bidon's hands were on the steering wheel and he appeared to be cooperative at that time. Walker's approach toward relieving Bidon of his weapon was appropriate given the previously mentioned factors, and also because the threat of Bidon reaching for the weapon would not likely have diminished had a different course of action been taken. It is also apparent that when Bidon reached for the gun in his lap, the threat of his use of deadly force or infliction of great bodily injury or death against any one or more of the officers was imminent and real.

Finally, considering the totality of the evidence, including the perceptions of the officers at the time of the event, it was reasonable and appropriate for the deputies to fire their weapons to thwart the actions of Bidon. It is clear that the officers perceived that Bidon was about to shoot Sgt. Walker, and potentially Deputy Gillespie, as he was struggling for – and obtained - the gun and began to cant it upward towards Walker. It is relevant to note that the many urgent, loud, commands by Gillespie did not deter Bidon. Were the officers not to have fired upon Bidon at that time, the risk of imminent harm to all three of the officers would have escalated. The risk would have included the general public as well if Bidon were to flee from that area. Both Gillespie and Walker felt certain that their lives were in jeopardy based on Bidon's actions, and the evidence supports that perception and that Gillespie's and Schambow's actions in this case were legally justified.

Based on the law (as stated in §18-1-704 and 707, C.R.S.) and the facts summarized above, I find both officers reasonably believed that officers' lives were in imminent danger. Moreover, I find, based on the law and the facts, that both officers were justified in their use of deadly force to defend themselves and others, both known and unknown.

Matt Maillaro
Sr. Chief Deputy District Attorney
18th Judicial District