



OFFICE OF THE DISTRICT ATTORNEY

GEORGE H. BRAUCHLER, DISTRICT ATTORNEY
18TH JUDICIAL DISTRICT
SERVING ARAPAHOE, DOUGLAS, ELBERT AND LINCOLN COUNTIES

6450 S. REVERE PARKWAY
Centennial, CO 80111
720-874-8500
FAX 720-874-8501

August 28, 2018

Chief Nick Metz
Aurora Police Department
15001 E. Alameda Parkway
Aurora, CO 80012

RE: June 27, 2018 - Officer Involved Shooting of Joey Bronson (DOB: [REDACTED], 1979)

Dear Chief Metz,

I have been asked to review the shooting of Joey Bronson by Aurora Police Department (“APD”) Officer Drew Limbaugh on June 27, 2018 at the Biltmore Motel, 8900 E. Colfax Ave, to determine whether APD personnel violated any Colorado statutes with respect to the shooting.

EXECUTIVE SUMMARY

My conclusions are:

- Joey Bronson was involved in an incident prior to the shooting. The prior incident occurred at 12:24 a.m. on June 27, 2018, where Joey Bronson pulled a handgun from his waistband and fired two rounds (apparently in the air). This occurred on the same block as the shooting incident, which occurred about 20 minutes later. No police officers were present at this prior incident, but an investigation of this prior incident resulted in a police investigation and police getting a description of Joey Bronson.
- Joey Bronson was armed with a .380 handgun when police confronted him at 12:45 a.m.
- A witness provided police with a detailed description of the man who fired two shots at 12:24 a.m., including that he wore camouflage-pattern shorts, a white shirt, and had a black backpack. Joey Bronson matched this description.
- When confronted by police, Joey Bronson ran away with a gun in his hand. Three officers each saw the gun in Joey Bronson’s hand: Officers Limbaugh, Foley, and Tubbs.
- Officers Limbaugh and Foley got out of their patrol car and quickly chased Joey Bronson on foot, giving at least three loud, forceful orders to “drop the gun.”

- Joey Bronson did not drop his gun. Instead, he ran into a secluded corner of the courtyard of the Biltmore Motel, where the shooting incident occurred.
- Joey Bronson pointed his gun in Officer Limbaugh's direction and attempted to shoot Officer Limbaugh, but could not due to a malfunction in the gun.
- Officer Limbaugh only fired his gun at Joey Bronson while Joey Bronson was pointing his gun at Officer Limbaugh, and after Officers Limbaugh and Foley ordered him at least three times to drop the gun.
- Officer Limbaugh was justifiably in fear for his life and the lives of his fellow officers when he shot Joey Bronson.

Applying the law to the facts of this incident, as described in greater detail below, I conclude Officer Limbaugh was **legally justified** in his use of deadly physical force to defend himself and other officers from the threat posed by Joey Bronson on June 27, 2018. Because I have concluded that Officer Limbaugh was legally justified in his use of deadly physical force, no criminal charges will be filed against Officer Limbaugh.

THE STATUTORY FRAMEWORK FOR INVESTIGATIONS INTO OFFICER-INVOLVED SHOOTINGS

C.R.S. § 16-2.5-301 governs investigations into peace officer-involved shooting investigations.

It provides, in relevant part:

Each police department, sheriff's office, and district attorney within the state shall develop protocols for participating in a multi-agency team, which shall include at least one other police department or sheriff's office, or the Colorado bureau of investigation, in conducting any investigation, evaluation, and review of an incident involving the discharge of a firearm by a peace officer that resulted in injury or death. The law enforcement agencies participating need not be from the same judicial district.

The investigation into this shooting incident was conducted by a multi-agency team consisting of personnel from the Aurora Police Department and the Denver Police Department.

C.R.S. § 20-1-114 provides:

The district attorney shall, if no criminal charges are filed following the completion of an investigation pursuant to section 16-2.5-301, C.R.S., release a report and publicly disclose the report explaining the district attorney's findings, including the basis for the decision not to charge the officer with any criminal conduct. The district attorney shall post the written report on its website or, if it does not have a website, make it publicly available upon request.

This document constitutes a report of the findings of the District Attorney for the 18th Judicial District, and includes the basis of the decision not to charge the officer involved with any criminal conduct.

MATERIALS REVIEWED AND INFORMATION CONSIDERED

I have been provided materials produced by the joint Aurora Police Department/Denver Police Department investigation into the shooting, and reviewed the same. The materials I reviewed include:

Over 400 pages of reports from the Aurora and Denver Police Departments.

Body-worn camera video from the following officers:

Limbaugh, Drew
Foley, Michael
Tubbs, Jacob
Peet, Grant
Perrott, Joshua
Veith, Daniel
LaCrue, Wayne
Ortiz, Jose
Holt, Timothy
Chamberlin, Jeffrey
Marker, Ryan
Exstrom, David
Torres, Michael
Kennicutt, Daniel
Kauffman, Steven
Hartman, Mark
Perrott, Joshua
Marker, Ryan
Martinez, Larry
Rivas, Cesar

Video from the Denver Halo surveillance system.

Video from the Aurora Milestone surveillance system.

Reports and audio from the Denver shot-spotter system.

Video interviews of Officer Limbaugh, Officer Foley, and Officer Tubbs.

Audio interview of MH, a civilian witness.

Audio interview of RS, a civilian witness.

721 digital photographs.

At the time of this review, no final autopsy report has been provided, as those reports mandate consideration of a toxicology report. I do have a preliminary determination of cause and manner of death, which lists cause of death as multiple gunshot wounds, and details the location of the gunshot wounds, the unavailability of a formal, final autopsy report does not prevent or alter my conclusions.

SUMMARY OF THE FACTS AND WITNESS INTERVIEWS

Officer Limbaugh was hired by the Aurora Police Department in 2015. On the date in question he was assigned to patrol in Aurora District One, working the graveyard shift, which is from 10:00 p.m. to 8:00 a.m. He was patrolling in a marked Aurora Police patrol car with Officer Foley. Both were wearing their standard Aurora Police short-sleeve uniforms, with Aurora Police arm patches, metal badge, service weapon, body-worn camera, and other equipment.

OFFICER LIMBAUGH'S INTERVIEW

Officer Limbaugh was interviewed on June 29, 2018 at the Aurora Police Department. I reviewed the entire interview recording, and the pertinent information is summarized below:

His hire date was June 15, 2015. He was assigned to APD District One patrol, patrol team #13, graveyard shift from 10:00 p.m. to 8:00 a.m. hours, with Wednesday, Thursday, and Fridays off. He did not have any prior law enforcement experience prior to working at APD, but he had four years active duty in the United States Army, where he was assigned to an infantry unit and had also worked as a sniper. He has extensive firearms experience, and is a self-defense, arrest control, and baton instructor with APD. After his time in the United States Army, he attended four years of college, and then went on to a law enforcement career. He was in a two-man patrol unit with Officer Michael Foley. The car had no dash cameras. He had his duty weapon, which was a 9 mm Glock 17, which he had on the right side of his body. This was the firearm that he fired that night. He had a backup firearm, which was a Smith & Wesson .38 special revolver, in an ankle holster. He did not use the backup firearm that night.

Prior to this incident occurring he and Officer Foley went to a verbal domestic call. While there Officer Tubbs, who was working in the same patrol area in a different car, responded to a "shots fired" call at E 16th Avenue and Boston Street. He and Officer Foley tried to finish their domestic call so they could help Officer Tubbs. He and Officer Foley were then dispatched to a theft call in a different area. While en-route to that call, he and Officer Foley heard two shots fired, which he believed sounded like they came from the approximate area of E 16th Avenue and Boston Street. He and Officer Foley preempted themselves from the theft call and went to investigate the shots. They arrived on scene and conducted an investigation, but did not find any signs of a shooting.

APD Dispatch notified them that the Denver Police Department ("DPD") found a couple of shell casings in Aurora, which had been located as a result of gunshots being detected by the DPD ShotSpotter system. They and Officer Tubbs responded to the scene where DPD had located the

shell casings. (Other records, and video, show that this location was the area directly to the East of the Biltmore Motel, in front of the 777 Gas Station, 8950 E. Colfax Ave.).

Officer Foley collected two spent shell casings and one live round in the area of the bus stop in front of the 777 Gas Station, which he believed were .380 rounds because they were smaller than a 9 mm round. While Officer Foley collected the spent shell casings, a black male approached him at the 777 gas station and told him he wanted to help and he saw the guy who shot the gun earlier. (This male is identified through other records as M.H.). The witness described the person who shot the gun as a black male, wearing camo shorts a white shirt, glasses, and a backpack. The witness described the male as being very aggressive at the bus stop, stating he had just gotten out of prison and he didn't "give a fuck." The male was in the witness's face and fired a couple of rounds into the air and then left westbound on foot into Denver. He collected the witness's information and the witness also agreed to help identify the male if officers found him.

Officer Limbaugh stated that he requested DPD to be notified and to assist in looking for the male. They decided to go into Denver to try and locate the male. The witness did not know the suspect's name.

They drove westbound towards Denver to look for the male suspect. As they were at the red light at E Colfax Avenue and Yosemite Street, he looked to his left to the south and he stated "Hey Mike, that's the guy." He saw the person matching the description they were given "to the T" and "about as clear as I've ever seen a suspect description." He observed camo shorts, a white shirt, black framed glasses, and the backpack and he knew this was the male they were looking for. He aired to Officer Tubbs (who was driving his separate car right behind them) that they found the male and Officer Tubbs acknowledged he saw him. They made a U-turn around the median at the intersection of Yosemite Street and E. Colfax Ave. Officer Foley turned on the emergency lights, and gave the male commands to stop. The male looked back at them and then ran as Officer Limbaugh was opening his door and Officer Foley was already out of the car. They began a foot pursuit of the male who ran southbound through the parking lot of the Biltmore Motel, 8900 E Colfax Ave. He and Officer Foley were running and he was staggered a few feet behind Officer Foley. About halfway through the parking lot he remembered to turn on his body camera. While running in the foot pursuit, he saw what he believed was a gun in the male's hand. He heard Officer Foley shout for the male to drop the gun. He did not recall if he gave any verbal commands at that point. The male continued running towards the motel and then rounded a blind corner heading westbound. As they approached, he remembered thinking not to rush the corner because officers are killed that way. He and Officer Foley took the corner slowly and began to "pie" the corner with their guns.

Officer Limbaugh was not sure at what point he pulled his gun from his holster. As he came around the corner, he saw the male matching the same description standing in a crouched position and pointing the gun towards him. He was not exactly sure, but he felt the male was manipulating the gun as he was pointing it towards them. He then started firing at the male. He struck the male several times. He estimated he shot 10 times, but after the round count he learned he had shot 13 times. The male went down to the ground quickly. He continued to shoot at the male as he went down and onto the ground because he could see the male was still pointing the gun at him. He remembered thinking that the male's gun was pointed below his body armor. He was still afraid for his life, which is why he continued to shoot. Everything sounded muffled but he heard Officer Foley state the male was down so he stopped shooting.

At that point, he and Officer Foley decided to try to get the gun, which was at the tips of the male's fingers. He wanted to get the gun away from the male and the male in custody. They were able to get the male away from the gun enough that he could not grab it. He put on a rubber glove and then moved the gun. He and Officer Foley put the male in handcuffs. Officer Foley applied a tourniquet to the male's leg. Rescue arrived after Officer Tubbs (who had arrived behind them) called for rescue.

When Officer Limbaugh came around the corner and saw the male standing there he thought the male was going to shoot them. He was in fear for his life and Officer Foley's life. He clearly remembered the male pointing the gun at him and thinking the male was going to shoot. He knew the male had already shot rounds off, he believed the male had the same gun he previously shot, he believed this was the same suspect who previously shot the rounds, he knew the male had talked about just getting out of prison, and he felt this was a violent suspect. He described the male as standing in a crouched and bladed position, facing him with his body partially turned to the side. Officer Limbaugh demonstrated how the male was standing during his interview. He was not sure what the male was doing at that time but the gun was pointed at him. He felt the male was "fumbling around" with the gun and possibly trying to clear a malfunction. When he recovered the gun he observed the gun had a stovepipe stoppage with a live round facing up. The only way he knew this could happen was from a misfire and then the male trying to correct the malfunction.

When they first tried to contact the male, the male looked back at them and he could tell the male was going to run based on his demeanor. The male was approximately 20-30 feet away when they first contacted him. The male gained some distance on them when he began to run and he was about 30-40 feet away. He did not hear the male say anything while running. Officer Foley gave the male multiple commands to "drop the gun" during the chase including when they rounded the corner immediately before Officer Limbaugh shot the male. Officer Limbaugh did not remember giving any verbal commands. After the shots had been fired he told the male he would shoot the male again if he reached for the gun. He remembered the male stating something like "I'm dying y'all killed me." He remembered someone telling the male not to reach for the gun again and the male stated he couldn't because he was shot. The male never tried to reach for the gun again. Because the gun was still at the male's fingertips the male could have grabbed the gun and shot quickly.

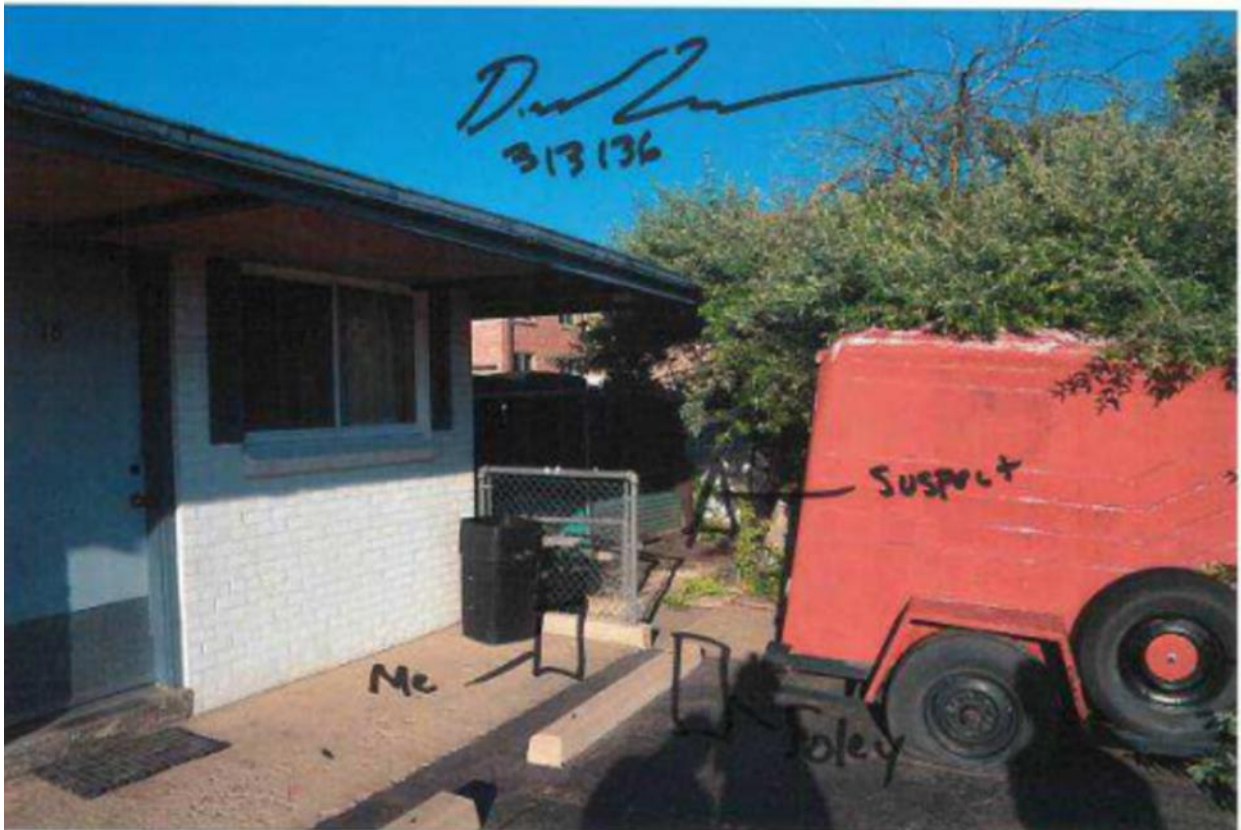
At that point, Officer Limbaugh still felt very uneasy and in fear for his life. He didn't feel comfortable until they removed the gun from the male's reach. He did not believe any other shots were fired. He did not know if the male fired and he did not see a muzzle flash. He did not know if Officer Foley shot but he didn't think he did. Officer Limbaugh was asked to clarify his interactions with the witness of the prior shots fired all and he said that the witness stated there were multiple people at the bus stop, but one person in particular who was in his face and bowing up against him. The witness did not know the male. The witness stated the male drew the gun from his waistband. It was not clear to him where the male shot the rounds and he assumed it was in the air.

Officer Limbaugh was asked to clarify what he saw in the male's hand and he said that the gun was in the male's right hand as they were running. The object in the male's hand looked like a small caliber gun. He was 99% sure the male was armed because he was the exact suspect and it looked like a gun in his hand.

He did not know if anyone yelled “police.” He yelled “drop the gun” but he did not remember giving verbal commands. Officer Foley yelled “drop the gun” multiple times. When they got out of the car the male could clearly see them and the male was looking back at them as Officer Foley began to get out of the patrol car. It was obvious they were the police. There were two police cars. The male returned to almost the exact crime scene where they had been out with DPD.

He believed the male had to have seen all of the officers where the spent shell casings were located because it was only about 30 seconds from that location to where they turned around towards Denver and then contacted the male. The male was across the Denver city line and was in Aurora when he saw the male. When he rounded the corner in the courtyard of the motel he saw with “zero hesitation” a gun in the male’s hand and he began to fire.

He kept shooting because the gun was pointed at him the entire time the male was going down and to the ground. They then went in and took the gun from the male’s hand. When the male was going down and he saw the gun still in his hand that was “still one of the scariest moments for me.” He still felt in fear for his life at that point. Officer Limbaugh marked the photograph below to show the positions of himself, Officer Foley, and Joey Bronson at the time of the shooting:



During the interview, Officer Limbaugh marked a photograph to show the location of himself, Officer Foley and the male. It should be noted that this photograph was taken during daylight hours, and the incident happened in the dark.

OFFICER FOLEY INTERVIEW

Officer Foley was also interviewed on June 29, 2018, and I reviewed the entire video interview.

Officer Foley said that prior to the incident that occurred Officers Limbaugh and Foley were dispatched to a separate call. While on that call, they heard gunshots being fired in the area. At that point, they did not know where the shots were coming from. Officer Foley said that they headed to the area where they thought the gunshots came from. Officer Foley said that they ended up in the 1600 block of Boston Street. A short time later, Aurora Communications aired that DPD had officers in the area of the 777 Mart where they had found shell casings. Officer Foley said that they proceeded to that location and met up with the Denver Police Officers.

Officer Foley said that they located 2 spent .38 shell casings and 1-live round on the ground. All three items were located in front of the bus stop in the street. Officer Foley said that he collected those items. Officer Foley said that Denver Police had left the area and Officer Foley, Officer Limbaugh, and Officer Tubbs were standing around talking. Officer Foley said that a male told them that he had seen who fired the shots. This male described the shooter as a black male, wearing camo shorts with a backpack. This male told the officers that the suspect was last seen walking west on Colfax Avenue into Denver.

Officer Foley said that they decided to drive into Denver to see if they could locate the suspect. Officer Foley said that all three of them (2 patrol cars with Officers Limbaugh, Foley and Tubbs) headed west on E. Colfax Avenue towards Denver. Officer Foley said that he observed the suspect walking east on E. Colfax Avenue towards Aurora. The suspect had crossed Yosemite Street and was in front of the Biltmore Motel (8900 East Colfax Avenue). Officer Foley said that he made a U-turn while Officer Limbaugh aired over the radio to Officer Tubbs "That was the suspect." Officer Foley said that his intention was to stop the suspect and determine if he was involved in the shooting. Officer Foley said that as the patrol vehicle came to a stop, he turned on his overhead lights and got out of the patrol car. While doing so, he turned on his body camera. Officer Foley told the suspect to stop, and the suspect immediately turned and started running towards the parking lot of the Biltmore Motel. Officer Foley began chasing the suspect on foot into the parking lot of the Motel. Officer Foley said that as he came in to the parking lot, the suspect was about 15 yards ahead of him and he could clearly see that the suspect had a gun in his right hand. Officer Foley yelled as loud as he could at the suspect to drop the gun.

Officer Foley said that they continued to chase the suspect through the parking lot until the suspect went around a corner and they lost sight of him. Officer Foley said that Officer Limbaugh was next to him when they were running. Officer Limbaugh made a point to tell Officer Foley not to run around the corner fast. Officer Foley said that, as they cleared the corner, they located the suspect who appeared to have run into a dead end. The suspect turned around towards the officers and Officer Foley could again clearly see a gun in the suspect's hand. Officer Foley said they were still yelling verbal commands at the suspect, but could not recall what commands they were.

At this point, Officer Foley started hearing shots being fired. Officer Limbaugh had fired three rounds at the suspect before Officer Foley had his sights on the suspect. The suspect started falling towards the ground. When the suspect was on the ground, Officer Foley repeated his

commands again to “drop the gun.” Officer Foley said that he was still afraid for his life because he could not tell where the gun was at and he thought that the suspect could still hurt them. Officer Foley said that the suspect finally said something to the effect of “I dropped the gun”.

Officer Foley said that they went “hands on” to take him into custody. Officer Foley tried to put his gloves on, but they kept tearing. Officer Foley had to cut the backpack off the suspect. They were able to get the suspect’s other hand out from under him and get him into handcuffs. Officer Foley then observed that the suspect was bleeding from his right leg.

Officer Foley used his tourniquet on the suspect’s leg. While doing so, Officer Foley received a spray of blood in his eyes. Another officer came in and attempted to do CPR because they thought the suspect had stopped breathing but learned after an assessment the suspect was still breathing.

Officer Foley said that other officers came and took him away. Officer Foley thinks that Officer Limbaugh fired multiple rounds. Officer Foley said that he turned his overhead lights on for 2 reasons: one, to avoid being hit while making the U-turn and two, to alert the suspect that they were there. He said that it was dark in the parking lot. Officer Foley said that it was not until he heard Officer Tubbs on the radio airing information that he knew Officer Tubbs was in the parking lot with them. Officer Foley said that as they initially approached the suspect, the suspect appeared calm and casual. They pulled up behind the suspect and he did not see them coming. Officer Foley said that once he turned his lights on and told the suspect to stop, the suspect looked back at the officers and immediately ran. While the suspect was running, he never said a word.

Officer Foley said that once he saw the gun, he yelled to the other officers that the suspect had a gun. Officer Foley said that he asked the suspect why he pulled a gun on them, but he can’t remember what the suspect said.

Officer Foley said that he did not fire his weapon during this incident. Officer Foley said that when he saw the gun, he immediately feared for his life and the life of his partners. Officer Foley believes that the suspect intended to use the gun on the officers.

Officer Foley said that he does not think they yelled “Police.” However, they were giving verbal commands. He said that when they first contacted the suspect, they were about five meters from each other. Officer Foley said that when they came around the corner, the suspect was not standing completely upright; he was slightly bent over. The suspect was facing the officers. The suspect had a silver type handgun in his hand. Officer Foley cannot recall how the suspect was holding the gun, but there was a brief command to drop the gun and then there were shots fired.

INTERVIEW OF OFFICER TUBBS

Officer Tubbs was also interviewed on June 29, 2018, and I watched the video of the interview.

Officer Tubbs said that he was on patrol in his own police car. Prior to the shooting incident, he was involved in finding the .380 shell casings and unfired round in the area of the 777 gas station on E. Colfax. Prior to the shooting incident, when they first located the individual later identified as Joey Bronson, he remembered Officer Limbaugh radioing “Hey Tubbs do you see this guy?”

Officer Tubbs indicated that the person, later identified as Joey Bronson, perfectly matched the description of the person that M.H. had described as shooting the gun. When he first observed Joey Bronson, he was in Denver, on E. Colfax Avenue, waiting to cross Yosemite Street, and was about two feet from stepping onto Yosemite Street. The man then crossed the street into Aurora, and Officers Limbaugh and Foley made a U-Turn in order to contact the male. He observed the other police car stop right next to the subject, and saw Officers Foley and Limbaugh get out of the car, and yell "Stop. Police." He saw the subject run. He hit his high beams to follow the other officers and provide extra lighting to the area. He heard an officer, he's unsure of not sure which one, yell "drop the gun." He was directly behind them, in his car, in the parking lot. As soon as he hit his high beams, he saw the subject running, and saw a gun in his hand, "clear as day I saw it." He did not recall which hand the gun was in. He saw the subject run around a corner, and was worried that if officers quickly followed around the corner, it might turn into an ambush situation. He saw the other officers go around the corner, and he put his car in park. He heard multiple commands to "drop the gun" and heard gunshots. As he approached, the subject was going down to the ground. He saw blood and called for rescue over his police radio. Once the subject was on the ground, no more shots were fired. He saw a gun was "centimeters from his hand." He saw a round sticking out of the subject's gun.

Interview of M.H.

On June 28, 2018, M.H. spoke with Detective Miller on the phone. He said that that he was at the bus stop at E. Colfax Avenue and Yosemite Street and observed two men arguing. The black male wearing camo shorts, white t-shirt, backpack, and dark glasses, pulled out a gun a fired several shots into the air. He said that there was a female who had a couple of kids who M.H. moved out of the way. He said that the male with the gun walked off towards Denver, and that that the police arrived a short time later. Later, he walked away from the bus stop and was on the corner of Yosemite Street and E. Colfax Avenue when he heard 9-10 shots. This occurred shortly after the police contacted the male with the gun. He said that the other male that the suspect was arguing with at the bus stop was a black male but M.H. did not know him. He said that this man was in his late fifties, and that said that the two men were arguing about money. The two men that were arguing were already at the bus stop when he walked up.

He said that the male pulled the gun from his waistband, paced back and forth and then stood in the street and fired off the shots, and that everyone scattered. The gun was a black handgun.

He said that people in the area were saying that the suspect just got out of prison. He contacted the officers and told them what happened and then he walked around the block and came back up on Yosemite Street to E. Colfax Avenue. There, he observed the officers going towards the suspect to contact him. He then heard someone yell "Drop it", Drop it" and then several gunshots. He did not know who was shooting. There was between 6-9 shots. He said that the suspect did not point the gun at him earlier when he fired the gunshots, and that the suspect was just brandishing it. The suspect would walk with the gun in a menacing way but he did not see him point it anyone. The suspect had the gun in his right hand. He said that he has never seen that man before.

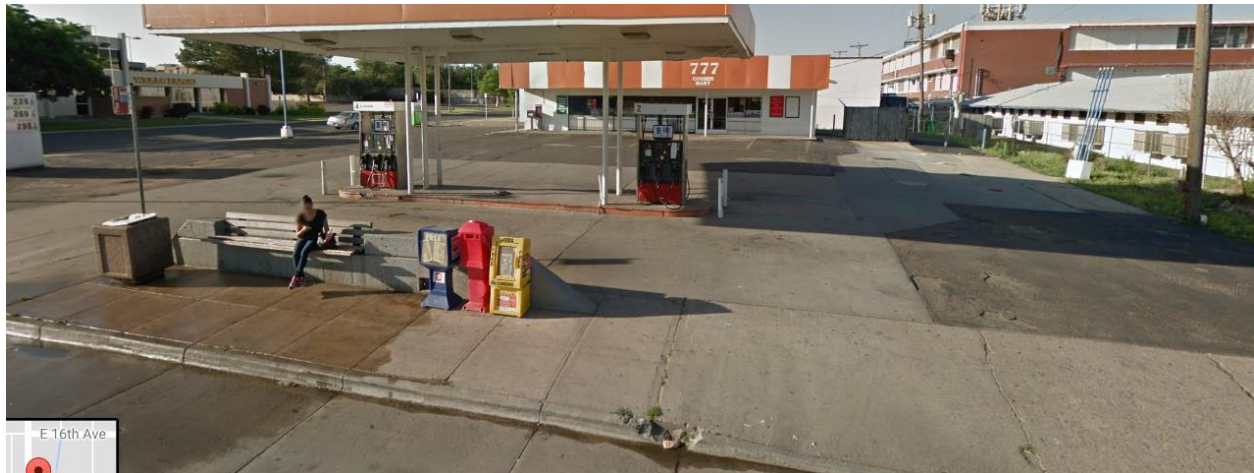
Interview of R.S.

R.S. [REDACTED] was interviewed in person by Detective Kasten on June 27, 2018 at 3:21 a.m., and I reviewed the audio recording of that interview. He was

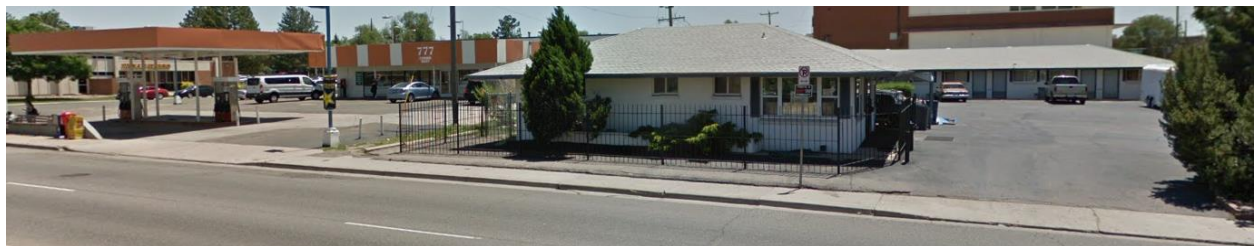
checking on his cats when he heard 4 or 5 shots. He said that all he could see was the back of a police officer. He said that he saw the officer and heard the shots at about the same time. He said that he heard someone say something “but I couldn’t make it out.” He only saw the one officer, and did not see anyone else, and the officer had his hands out in front of him. He did not see any other officers after he heard the rounds, and then went back to his room.

The Scene

This image from Google Maps Street view (daylight) shows the location of the bus stop bench and the 777 gas station.



This image shows the bus stop bench to the left and the Biltmore Motel to the right.



This image shows the Biltmore Motel and the area of the 777 gas station. The notations were made by me.



RECOVERY OF JOEY BRONSON'S HANDGUN

The Aurora Police recovered the handgun that Officers Limbaugh, Foley, and Tubbs described. The weapon is a small .380 automatic pistol. There was a magazine extended from the bottom of the handle, which appears to have tape wrapped around it. There was an unfired cartridge sticking out of the ejection port, commonly called a “stove pipe.” Normally a “stove pipe” involves a fired cartridge, where the cartridge does not eject sufficiently, causing a jam in the action of the gun. The fact that there is an *unfired round* jammed in the ejection port leads me to conclude that Joey Bronson attempted to clear a jam in the gun. It should be noted that this handgun was not in good condition. The magazine was jammed into the handle to the extent that it could not easily be removed. Considering that we know that Joey Bronson fired two shots shortly before his encounter with the police, and that two shell casings in addition to a live round were found at the location of the gunshots, there are a number of possible scenarios as to how the gun could have been in this condition:

- Prior to firing the two shots in front of the bus stop, Joey Bronson cleared a jam, which resulted in an unfired round being ejected, then proceeded to fire two shots, after which

the gun jammed, and Joey Bronson unsuccessfully attempted to clear the jam, resulting in a jammed gun.

- After firing the two shots, the gun jammed, and Joey Bronson attempted to clear the jam, ejecting the unspent round, and then subsequently attempted to cycle the gun, resulting in the stovepipe.
- After leaving the area of the two shots, Joey Bronson attempted to clear a jam, resulting in the stovepipe.
- When confronted by Officers Limbaugh and Foley, Joey Bronson attempted to shoot them, but the gun jammed, and he attempted to clear the jam, causing the stovepipe. I consider this to be the most likely scenario, as Officer Limbaugh's observations are consistent with Joey Bronson manipulating the gun in a fashion similar to clearing a jam. ***I can see no reason that Joey Bronson would have been attempting to clear a jam if he had not already attempted to fire upon Officers Limbaugh and Foley, and was actively attempting to kill them.***

The photograph of the gun as it was found by Aurora Crime Scene Investigators (inserted below) provides additional illustration of this point. I think that it is extremely unlikely that anyone would *carry* a gun with this type of jam, thus I think that it is extremely unlikely that this jam occurred around the time of the 12:24 a.m. incident. I think that it is much more likely that this jam occurred at or about the same time that Joey Bronson pointed his gun at Officer Limbaugh. Additionally, such a jam would be readily noticeable by anyone handling the gun. My conclusion, based on all of the available evidence, is that Joey Bronson laid in wait, in the darkened corner of the Biltmore Motel, with his gun at the ready, and attempted to fire on Officer Limbaugh as he approached, was unsuccessful due to the gun jamming, and was attempting to render the weapon operable when Officer Limbaugh saw Joey Bronson pointing the gun at him. Officer Limbaugh then shot Joey Bronson. This underscores the extremely dangerous situation that Officer Limbaugh was confronted with, although Officer Limbaugh was unaware that the Joey Bronson had attempted to fire the weapon and was clearing a malfunction—all Officer Limbaugh saw was that Joey Bronson was pointing a gun at him and manipulating it in some fashion.



The Aurora Police Crime Lab examined the shell casings found in front of the bus stop and determined that they were fired from Joey Bronson's gun.

Video Review

APD provided video from the Milestone system starting shortly before midnight. This is a city-owned series of surveillance cameras on the E. Colfax Ave. corridor. The person I believe to be Joey Bronson can first be seen on June 26 at 11:58:55 P.M. on the north side of E. Colfax Ave. He can be seen crossing E. Colfax Ave. and standing at the bus stop located on the south side of E. Colfax Ave in front the 777 gas station. Joey Bronson can be seen remaining in the area of the bus stop, walking away at one point, and then returning. At 12:24:41 Joey Bronson can be seen at the bus stop. The area is dark and the detail provided by the camera is not clear enough to see exactly what happened, but other people react in a manner similar to that described by witness M.H. when he described the person in the camouflage shorts, white shirt, and backpack pull the gun from his waist and fire two shots. This corresponds with the Shot Spotter detection of two gunshots at the same location at 12:24:41 a.m. Joey Bronson is then seen briskly walking west on E. Colfax Ave. The camera loses sight of him at around 12:26 a.m. Police can then be seen walking the area in front of the 777 gas station with flashlights at about 12:28 a.m. A Denver Police Department Patrol Car can be seen arriving in the area at about 12:32 a.m. Two Aurora Police Department cars can be seen entering the area of the 777 gas station at about 12:37 a.m.

At 12:44:14 a.m. Joey Bronson can again be seen, this time approaching Yosemite Street from the west, walking eastbound on the south side of E. Colfax. At this point in time the video also

shows two APD patrol cars in the 777 gas station parking lot, which corresponds to the cars of Officers Foley, Limbaugh, and Tubbs as they completed their investigation of the report of M.H. The video also shows the bus stop location where M.H. described the prior gunshots being fired, and where the Milestone camera system captured the prior event. The police cars start pulling out at 12:44:40 a.m. At 12:45:09 a.m. the video shows the two police cars pulling up to the intersection of Yosemite and E. Colfax and stopping. At this time Joey Bronson is crossing Yosemite Street from Denver to Aurora. At 12:45:18 a.m. the two police cars execute a U-turn. At 12:45:23 a.m. the car occupied by Officers Foley and Limbaugh stops near the corner of Yosemite and E. Colfax and the emergency lights can be seen to be activated. At this point Joey Bronson is about 10 feet from the police car. At 12:45:25 a.m. Joey Bronson starts running south towards the Biltmore Motel. Officer Limbaugh can be seen getting out of the car at 12:45:27 a.m., which is about the same time that Joey Bronson goes behind the structure of the Biltmore Motel and can no longer be seen. At 12:45:28 a.m. both Officers Limbaugh and Foley can both be seen out of the car and giving chase, and they quickly go out of view behind the structure of the Biltmore Motel. At 12:45:33 a.m. the camera shows Officer Tubbs's car entering the Biltmore Motel.

Body-worn Camera Review

Both Officers Limbaugh and Foley activated their body-worn cameras prior to the shooting incident. Officer Foley activated his immediately after he got out of his patrol car. Officer Limbaugh activated his a few seconds later. The body camera system has a continuous buffer mode. In this mode video, but not audio, is continuously recorded. When an officer presses the activation button, the immediate preceding 30 seconds of video is preserved, but not the audio. Both the audio and video are preserved from the time that the officer turns on the body-worn camera.

The body worn camera video shows the U-turn described by both officers Limbaugh and Foley, shows both of them getting out of the car and starting to run. Neither shows Joey Bronson prior to, or during the time that he was shot by Officer Limbaugh, although there may be a brief glimpse of his foot in Officer Foley's video. The video is shaky. Officer Limbaugh's body-worn camera was worn on his left shirt pocket. Officer Limbaugh explained in his interview (before he had seen the video) that he does this to make it easier to activate, and because it is better at preserving video of interviews he does with witnesses and others during his patrol duties. Due to the location of Officer Limbaugh's camera, the video captured during the foot chase points to the left and does not show Joey Bronson until after he had been shot and was on the ground. Officer Foley's video was similar. From listening to the videos, I discerned the following dialogue from the time the audio from review of the body-worn cameras of Officers Limbaugh, Foley, and Tubbs:

Out of car (12:45:28 a.m.),

Foley: "Drop the gun!"

Limbaugh: "Drop the gun!"

Foley: "Drop it!"

Limbaugh: "Watch it, Watch it as you come around."

Gunshots (12:45:42 a.m.)

Foley: "He's down. He's down. He's down. He's down. One Adam shots fired. One Adam shots fired."

Limbaugh: "Drop the Gun."

Foley: "Drop the gun."

Bronson: "It's dropped."

Foley: "Roll over on your stomach. Roll over on your stomach. I'm gloving up. Don't grab that gun."

Limbaugh: "Reach for that gun, you're getting shot again."

Bronson: "I'm dead, cuz."

Limbaugh: "Where's the gun. (Breathing heavily)"

Foley: "It's right there (Breathing heavily)."

Limbaugh: "Leave it. Leave it."

Foley: "Okay."

Limbaugh: "Save your breath."

Foley: "Roll over."

Limbaugh: "Roll over on your other side."

Bronson: "I can't roll over no more."

Limbaugh: "You reach for that gun, you're getting shot again. You understand me?"

Bronson: "I can't reach for nothing."

Foley: "Get . . ."

Limbaugh: "Don't reach for the gun!"

(Indecipherable)

Foley: "I know. I'm trying, man. I'm trying to get the gloving gloves on."

Bronson: "I'm trying to breathe for life, cuz."

Foley: "I get it, man."

Bronson: "Call the ETM joints."

Foley: "Roll over."

Bronson: "I'm not grabbing for nothing, what the fuck am I going to grab for? I think my arm is (indecipherable)"

Foley: "I need a glove, dude. I need a glove."

Bronson: "Please, I'm trying to live."

Foley: "I get it."

Bronson: "Can't you call somebody?"

Tubbs: "We've got rescue coming, man."

Limbaugh: "What do you need a glove for?"

Bronson: "Y'all killed me."

Foley: "Why'd you, why'd you have to pull a gun out on us?"

Bronson: "Cause I didn't want to die."

Limbaugh: (To Tubbs) "It jammed. He was trying to shoot."

Officers then place Joey Bronson in handcuffs and allow him to sit up.

At 12:48:08 a.m. Officer Tubbs returns to his police car and provides an exact address to dispatch.

Officers then render first aid, including applying a tourniquet to Joey Bronson's right leg at 12:50:15 a.m.

A fire truck can be seen pulling up to the motel at 12:50:50 a.m.

The Aurora Fire Department arrives at Joey Bronson's location at 12:52:20.

Joey Bronson was taken to a hospital for medical intervention, arriving at 1:04 a.m. He later died at the hospital.

NUMBER OF SHOTS FIRED

A count of the ammunition in Officer Limbaugh's weapon showed that he fired 13 shots, and there were 13 9 mm cartridge casings found at the location where Joey Bronson was shot.

SHOT SPOTTER

This incident occurred about a block from the Aurora-Denver municipal boundary. Denver maintains a network of microphones called a "shot spotter" network that allows the Denver Police Department to quickly identify the location of gunshots fired in Denver, and also records audio of the gunshots. Because of the proximity of this incident to the municipal boundary, the Denver Shot Spotter network was able to detect both gunshot incidents and accurately determine their locations and record the gunshots. It detected 2 gunshots at 12:24 a.m., which corresponds to the descriptions of Joey Bronson discharging a firearm in the vicinity of the bus stop near Yosemite Street and E. Colfax Ave, and 13 gunshots at 12:45 a.m., which corresponds to Officer Limbaugh shooting Joey Bronson at the Biltmore Motel. The location information provided by the Shot Spotter network for the two incidents corresponds with the known facts.

AUTOPSY

The Arapahoe County Coroner's Office conducted an autopsy and issued a preliminary anatomical diagnosis that Mr. Bronson's death was caused by multiple gunshot wounds. Specifically, Dr. Armstrong found 11 gunshot wounds:

GUNSHOT WOUND #1 - a penetrating gunshot wound of the right chest. No soot was observed near the entrance wound. The direction is right to left, downwards and slight front to back. The fired bullet from this wound was recovered from the left chest/side area of the body.

GUNSHOT WOUND #2 - a gunshot wound of the lateral right shoulder. No soot or stippling was observed. Direction is right to left and upwards.

GUNSHOT WOUND #3 - a gunshot wound of the lateral right arm. No soot or stippling was observed. Direction is right to left and upwards.

GUNSHOT WOUND #4 - a gunshot wound of the lateral right arm. No soot or stippling was observed. Direction is right to left and upwards.

GUNSHOT WOUND #5 - a penetrating gunshot wound of the right abdomen. No soot or stippling was observed. The fired bullet/projectile was reported to have been recovered at the hospital. No exit wound was observed. Direction is front to back and left to right.

GUNSHOT WOUND #6 - a perforating gunshot wound of the right hip. No soot or stippling was observed. The exit wound is of the right back. Direction is front to back, left to right and downwards.

GUNSHOT WOUND #7 - is a perforating gunshot wound of the left abdomen. No soot or stippling observed. The exit wound is of the left back. Direction is front to back, right to left and upwards.

GUNSHOT WOUND #8 - is a perforating gunshot wound of the right leg, anterior right thigh. No soot or stippling was observed. The exit wound is of the posterior right thigh. Direction is front to back, left to right and upwards. A fracture of the right femur was noted.

GUNSHOT WOUND #9 - a penetrating gunshot wound of the left leg, with the entrance to the left knee. No soot or stippling was observed. Approximately three (3) bullet fragments/fired bullet were recovered from the left femur and knee area. Direction is front to back and upwards. Fractures to both the femur and patella were noted.

GUNSHOT WOUND #10 - is a graze gunshot wound of the right shoulder. Direction is right to left and downward.

GUNSHOT WOUND #11 - is a graze gunshot wound of the left flank. Direction is right to left.

These wounds are consistent with the events described by Officers Limbaugh and Foley.

FACTUAL CONCLUSIONS:

Based on the interviews, the physical evidence, the video recordings, the audio recordings, the Shot Spotter reports, the photographs, and other evidence, I have reached the following factual conclusions:

1. Joey Bronson arrived at the area of the 777 gas station shortly before midnight on June 26, 2018. He arrived by crossing E. Colfax Ave from the north and remained in the vicinity of the bus stop bench in front of the 777 gas station until 12:24 a.m.
2. At 12:24 a.m. on June 27, 2018, Joey Bronson got into an altercation with an unidentified man in the vicinity of the bus stop, pulled a handgun from his belt, and fired two shots in the air. After this altercation he walked west on E. Colfax, crossed Yosemite Street, and went to an unknown location.
3. The 12:24 a.m. incident was detected by the Denver Police Department shot spotter network, and DPD Officers quickly responded and located two .380 shell casings and an unfired .380 round. Because this occurred in Aurora, the Denver officers contacted APD, and Officers Limbaugh, Foley, and Tubbs responded to the location of the 777 gas station and arrived at 12:37 a.m., where Officers recovered the evidence that the Denver officers located and spoke to witness M.H., who described the shots being fired, and provided a detailed description of the shooter, wearing camouflage pattern shorts, a white shirt, a black backpack, and glasses.
4. At 12:44 a.m., Officers Limbaugh, Foley, and Tubbs left the gas station and drove west on E. Colfax Ave. At the same time, Joey Bronson was walking back to the area, eastbound on E. Colfax, heading towards Yosemite Street.

5. As the officers approached Yosemite Street, Officer Limbaugh spotted Joey Bronson wearing camouflage shorts, white shirt, backpack, and glasses. Officer Limbaugh concluded that this matched the description of the shooter provided by M.H., and notified Officers Foley and Tubbs.
6. Officer Foley made a U-Turn of his police car, and Officer Tubbs followed.
7. Officer Foley activated the overhead emergency lights on his police car, stopped the car, and told Joey Bronson to stop.
8. Joey Bronson looked at the police car and started running in a southerly direction.
9. After Joey Bronson took off running, officer Foley probably yelled “stop, police,” or something to that effect, but this occurred prior to his turning the police body camera on.
10. As Joey Bronson ran south, he entered the courtyard of the Biltmore Motel.
11. Officers Limbaugh, Foley, and Tubbs all observed a handgun in Joey Bronson’s hand.
12. Officer Foley twice forcefully yelled at the male to drop the gun. Officer Limbaugh also yelled for the male to drop the gun.
13. Joey Bronson ran into a secluded, dark corner of the Biltmore Motel courtyard. Officer Limbaugh was concerned that this created a dangerous tactical situation where he and other officers could be ambushed.
14. As Officers Limbaugh and Foley approached the darkened corner, Joey Bronson pointed his gun at them and attempted to shoot, but was unsuccessful, and then tried to clear the jam.
15. Officer Limbaugh came upon Joey Bronson while Joey Bronson was facing him, turned slightly to the left, with his handgun in his right hand, pointed at Officer Limbaugh.
16. Officer Limbaugh was justifiably in fear of his life, and the lives of his fellow police officers.
17. Officer Limbaugh opened fire on Joey Bronson, and continued firing while Joey Bronson went to the ground, as Joey Bronson continued to point the gun at Officer Limbaugh.
18. Joey Bronson kept the gun in his hand as he went to the ground, and continued to hold the gun while on the ground, as is evidenced by the repeated commands to drop the gun once he is on the ground, and Joey Bronson’s later response of “it’s dropped.”
19. Officer Limbaugh fired 13 shots at Joey Bronson, striking him 11 times. When each of these shots were fired, Officer Limbaugh was justifiably in fear of his life and the lives of his fellow police officers.

20. Officers quickly handcuffed Joey Bronson, allowed him to sit up, applied a tourniquet to his leg, and called for the Aurora Fire Department to respond in order to provide medical assistance to Joey Bronson.
21. The Aurora Fire Department responded and began treating Joey Bronson within 8 minutes of Joey Bronson being shot, and he was transported to a hospital, where he died of his gunshot wounds.

APPLICABLE LAW

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

Officer Limbaugh's use of his service weapon, and firing 13 shots constituted the use of deadly physical force, as that term is defined by Colorado law. Deadly physical force "means force, the intended, natural, and probable consequence of which is to produce death, and which does, in fact, produce death." C.R.S. §18-1-901(3)(d).

C.R.S. 18-1-707 states in relevant part:

- (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;

ANALYSIS AND CONCLUSION

The question presented by law is whether Officer Limbaugh reasonably believed that the use of deadly physical force was necessary to defend himself or others from what he reasonably believed to be the imminent use of deadly physical force. If so, his use of deadly physical force was legally justified.

Officer Limbaugh was confronted with the following facts:

- He was confronted with an armed individual who was pointing a gun at him.
- The armed individual had disregarded multiple commands to drop the gun.

- The individual had fired the gun, on a public street, two times about twenty minutes prior.
- The individual had reportedly made comments about just being released from prison.
- The individual had fled the police, with a gun in his hand, and stopped in a dark, secluded corner of the Biltmore Motel.

Any police officer in that position would reasonably be in fear for his life and the lives of other officers, and would reasonably believe that firing his service weapon was necessary to defend himself and his fellow officers. The fact that Joey Bronson continued to point the gun in Officer Limbaugh's direction even after he had been shot, and even as he was going to the ground, and while on the ground, constituted grounds for Officer Limbaugh to believe that it was necessary to keep shooting until the threat was mitigated.

Thus, my conclusion is that Officer Limbaugh was legally justified in his use of deadly physical force.

Rich Orman

Richard H. Orman
Senior Chief Deputy District Attorney