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April 2, 2019

Sheriff Tony G. Spurlock
Douglas County Sheriff's Office
4000 Justice Way
Castle Rock, Colorado 80109

RE: Officer-involved shooting – Nicholas Ryan and Jason Sutton

Dear Sheriff Spurlock:

I reviewed the shooting by Douglas County Sheriff's deputies of Nicholas Ryan and Jason Sutton on November 27, 2018.

EXECUTIVE SUMMARY

On November 27, 2018, Douglas County Sheriff's Deputies Nicholas Arnone, Anthony Weiss, Joshua Anderson, Justin Ruisi, and Blake Davis fired at an Infinity SUV and occupants of the Infinity during and after a protracted high-speed pursuit. Applying the law to the facts of this incident, as summarized below, I conclude that all five deputies' use of force was a reasonable, justified, and appropriate use of force in order for the deputies to defend themselves and the public from the extreme danger posed by the occupants of the Infinity.

THE STATUTORY FRAMEWORK FOR INVESTIGATIONS INTO OFFICER-INVOLVED SHOOTINGS

Section 16-2.5-301 C.R.S. governs investigations into peace officer-involved shootings.

This statute 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.

Section 16-2.5-301(1) C.R.S.

The investigation into this shooting incident was conducted by a multi-agency team consisting of personnel from the Arapahoe, Douglas, and Elbert County Sheriff's Offices, the Lone Tree, Littleton, Parker, and Sheridan police departments, and the 18th Judicial District Attorney's Office.

Section 20-1-114 C.R.S. provides, in relevant part:

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.

Section 20-1-114(1) C.R.S.

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 involved deputies with any criminal conduct.

MATERIALS REVIEWED AND INFORMATION CONSIDERED

I was provided materials produced by the multi-agency team investigation into the shooting, including body camera footage, and reviewed the same. The materials I reviewed also include: investigator reports, dash camera videos, dispatch notes, autopsy report, and ballistic report. Additionally prior to any evidence being moved I was at the scene where the pursuit terminated and was present for the interviews of all five deputies who fired shots.

SUMMARY OF THE FACTS AND WITNESS INTERVIEWS

At approximately 3:02 a.m. on Tuesday, November 27th, Douglas County Sheriff's Office Deputy Nicholas Arnone observed a suspicious vehicle run a red light on S. Broadway. Earlier in the evening Deputy Arnone had heard that several rental vehicles had recently been stolen in the area. The gray Infinity was bearing a fleet license plate¹. Based on training and experience, together with the information received earlier in the evening about stolen rental cars Deputy Arnone suspected that the gray SUV was stolen.² Deputy Arnone began to follow the suspicious

¹ Colorado fleet license plates have red markings on a white background. Deputy Arnone knew that many rental agencies use fleet plates for their rental vehicles.

² The Infinity was later confirmed to have been stolen but at the time of contact in the early morning hours of November 27, 2018, the rental agency had not yet discovered the theft, hence the vehicle had not yet been reported stolen.

vehicle. Apparently the occupants of the Infinity saw Deputy Arnone's marked patrol vehicle, and the Infinity began significant weaving.

After following the Infinity from S. Broadway onto C470, Deputy Arnone activated his emergency equipment in an attempt to pull over the Infinity. The Infinity failed to yield to the lights and siren. Soon after the Infinity entered C470 it reached speeds over 100 mph, and possibly up to 120 mph. Deputy Arnone notified dispatch and other deputies of the pursuit. Other deputies began converging on the Infinity and joined the pursuit from various locations within Douglas County. The Infinity then exited C470 onto S. Quebec Street, heading south in the northbound lane at speeds up to 80 mph. Having called in the fleet plate when he initially observed the *gray* Infinity, Deputy Arnone heard back from dispatch that the plate was registered to a *black* Infinity. The Infinity led Deputy Arnone to northbound Yosemite Street and turned eastbound onto County Line Road. As the Infinity approached the intersection of County Line and Park Meadows Center Drive the rear passenger pointed a gun at Deputy Arnone. Deputy Arnone had pulled nearly beside the Infinity to its right in the adjoining lane. Deputy Arnone took evasive action. The Infinity made an immediate right turn onto Park Meadows Drive. While on Park Meadows Drive an occupant of the Infinity began shooting at Deputy Arnone through the back window of the Infinity. Deputy Arnone then backed off of the Infinity.

As the suspects were being pursued by Deputy Arnone, Deputies Anthony Weiss and Joshua Anderson, both in the same patrol car, took a stationary position outside their patrol car on Park Meadows Center Drive, along the pursuit route ahead of the Infinity. They had heard Deputy Arnone air on the radio that there were three suspects in the Infinity, and someone in the Infinity was firing shots at Deputy Arnone. As the Infinity approached and passed their location, using their patrol car as cover, both deputies fired their handguns at the Infinity. Those shots did not stop or deter the suspects' efforts to elude deputies, and the pursuit continued. Deputies Weiss and Anderson, knowing the reckless manner in which the Infinity was being driven, together with information that shots were being fired from the Infinity, feared that if they did not stop the vehicle that either they, other deputies, or the public would remain in serious danger. Deputy Weiss fired seven times and Deputy Anderson fired three times at the Infinity. The Infinity continued to elude pursuing deputies at a high rate of speed.

After Deputies Weiss and Anderson fired at the Infinity, Deputy Shawn Irvin assumed the lead in the pursuit. The pursuit continued on a circuitous route, including through a residential area, Deputy Irvin aired that someone in the Infinity was shooting at him. At this point the pursuit led deputies onto E. Dry Creek Road. Deputy Matthew Hondorf had set up³ on the north side of the intersection at S. Alton Ct. Deputy Justin Ruisi set up on the south side of E. Dry Creek Rd., across from Deputy Hondorf, which is S. Chester St.⁴ Deputy Ruisi was parked in an unmarked Douglas County patrol vehicle in the turn lane from northbound S. Chester St. to eastbound E. Dry Creek Road. Deputy Ruisi had turned off all of his emergency equipment and lights to lower his profile so the suspects would not shoot at him. As the Infinity approached Deputy Ruisi's position, with his patrol rifle⁵ he fired four shots at the Infinity. As the Infinity passed him he fired four more shots at the rear of the Infinity. Immediately after Deputy Ruisi fired at

³ Deputies got outside their patrol vehicle and used the vehicle as cover in case someone in the Infinity shot at them.

⁴ North of Dry Creek it is S. Alton Ct. and south of Dry Creek the same street is S. Chester Street. That is the first intersection west of I-25 on Dry Creek.

⁵ All other deputies who fired did so with their duty handgun.

the Infinity, Deputy Arnone heard Deputy Hondorf, in an alarmed voice, calling out on the police radio that the suspects were shooting at him.

The Infinity continued until it was eastbound on Dry Creek Road beneath the I-25 overpass. At that point the Infinity slowed nearly to a stop and Deputy Irvin, who was driving the lead pursuit vehicle, intentionally crashed into the rear of the Infinity in an attempt to immobilize it. Deputy Irvin's patrol car came to rest on the south side of eastbound Dry Creek Road, facing south up the embankment of the overpass. Deputy Arnone, who was immediately following Deputy Irvin in the pursuit, also intentionally crashed into the Infinity, which still was in the roadway on Dry Creek Road. That crash caused the Infinity to come to rest on a raised median between the eastbound and westbound lanes of Dry Creek Road. The Infinity was high centered on the raised median facing south.

As Deputy Blake Davis, who was third in the pursuit, arrived at the crash site, the occupants of the Infinity were still inside the vehicle. Three occupants were in the Infinity and were later identified to be the driver, Nicholas Ryan, the front passenger, Jason Sutton, and the rear passenger, Peirce Langewisch. Peirce Langewisch, the rear passenger who had been shooting at the pursuing deputies, was attempting to exit the vehicle from the right rear. The front passenger, Jason Sutton, was bleeding from his face. He was conscious and appeared somewhat dazed, but repeatedly moved his hands from a visible position to below the window where deputies could not see them. The deputies initially could not see the driver, Nicholas Ryan. Deputy Davis had a clear view of both passengers. During the pursuit Deputy Davis heard several deputies on the radio saying the suspects were shooting at deputies. Deputy Davis was outside of his vehicle to the west of the south-facing Infinity. Neither passenger was complying with loud verbal commands issued by Deputies Davis and Arnone to show their hands and appeared to be trying to get out of the Infinity. Fearing that the passengers were going to shoot him or other deputies at the scene, Deputy Davis fired one shot at each of the passengers in the Infinity. Deputy Arnone, who was positioned outside of his car to Deputy Davis's left, also fired one shot towards the Infinity because he feared that the passengers in the Infinity had a clear shot at him.

None of the three Infinity occupants fired at deputies once the Infinity was immobilized. At 3:17 a.m. deputies requested that dispatch send medical assistance. After shots were fired at them, Peirce Langewisch and Jason Sutton were ordered out of the vehicle by Deputy Davis. Langewisch was uninjured. Sutton was transported to the hospital. Nicholas Ryan was found to be unresponsive and slumped against the steering wheel. His wounds were fatal.⁶ The ballistic report indicates that Deputy Ruisi's rifle fired the shot that struck Jason Sutton. None of the shots fired by Deputies Davis and Arnone appeared to have hit either of the other suspects. Evidence as to which of the deputies' shots hit Nicholas Ryan is inconclusive because no bullets were recovered in Ryan's body⁷.

⁶ The autopsy report indicates that the cause of Ryan's death was multiple (2) gunshot wounds, one entering from the back of his body and one from the front, and that one of Ryan's conditions was "acute methamphetamine use."

⁷ Two copper jacket fragments were recovered from Nicholas Ryan's body. All cartridges fired by all deputies who fired had copper jackets, so which gun(s) that fired the bullets from which the fragments originated was unable to be determined.

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:

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 18-1-901(3)(d) C.R.S.

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

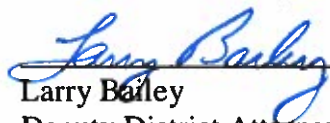
ANALYSIS AND CONCLUSION

The question presented by law is whether each of the five Douglas County deputies 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, or reasonable grounds to believe, and did believe, that he or another person was in imminent danger of being killed or of receiving great bodily injury. If so, his use or attempted use of deadly physical force was legally justified.

Here, Douglas County deputies engaged in a pursuit of a stolen Infinity reaching speeds in excess of 100 mph. The Infinity led deputies through various areas including commercial and residential areas. Along the route the Infinity itself posed an extreme danger to the deputies as well as to the public. An occupant of the Infinity fired multiple shots from a handgun from the Infinity at pursuing deputies. Prior to the termination of the pursuit three deputies fired at the Infinity. Upon termination of the pursuit, two deputies fired at passengers who were attempting to get out of the vehicle, either to escape or engage the deputies with deadly force. Neither of the two passengers initially followed loud verbal commands, both refusing to display their hands which might have held or had access to a gun.

All five deputies who fired during or immediately following the pursuit had reasonable grounds to believe, and did believe, that he or another person was in imminent danger of being killed or of receiving great bodily injury because of the Infinity's occupants' actions. Therefore I find,

based on the law and the facts, that Douglas County Sheriff's Deputies Nicholas Arnone, Anthony Weiss, Joshua Anderson, Justin Ruisi, and Blake Davis all were justified in using or attempting to use deadly force to terminate the pursuit and arrest the suspects involved. As such, no charges against any of the five deputies are warranted.


Larry Bailey
Deputy District Attorney
18th Judicial District of Colorado