



## OFFICE OF THE DISTRICT ATTORNEY

JOHN KELLNER, DISTRICT ATTORNEY

18TH JUDICIAL DISTRICT

SERVING ARAPAHOE, DOUGLAS, ELBERT AND LINCOLN COUNTIES

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January 23, 2023

Chief Art Acevedo  
Aurora Police Department  
15001 E. Alameda Parkway  
Aurora, CO 80012

**RE: July 5, 2022, Officer Involved Shooting at 11220 East Colfax Avenue, Arapahoe County, Colorado**

Dear Chief Acevedo,

On July 5<sup>th</sup> the 18<sup>th</sup> Judicial Critical Incident Response Team (CIRT) responded to an officer involved shooting in Aurora, Arapahoe County, Colorado. Aurora Police Officers responding to a call had fired numerous rounds at Alan Ray Walker and he did not survive his injuries.

### **EXECUTIVE SUMMARY**

Members of the Aurora Police Department were asked to assist the Aurora Fire Department in accessing a structure fire at 11220 E. Colfax Ave., room number 47. The responding officers located Alan Ray Walker who was preventing firemen from extinguishing the fire in his room by blocking access to the second floor. He threatened, postured in a fighting position, with weapons and threw projectiles at responding officers. Officers attempted to negotiate with Mr. Walker for approximately 75 minutes until he exited the room where he was barricaded, and ran towards officers brandishing two large knives. During the course of this episode Officer Keith Burke fired two less lethal 12g bean bags towards Mr. Walker. When Mr. Walker rushed the officers with his knives, Officer Cody Brown fired one less lethal 40mm round from his 40 mm launcher. Officer Brad Graham fired one less lethal 40 mm round. Officer Eric Cronin fired 2 rounds from his .223 rifle and Officer Michael Neumeyer fired 4 rounds from his .223 rifle. Officer Nick Wilson fired 4 rounds from his .223 rifle.

Applying the law to the facts of this incident, as described in detail below, I conclude that Officers Burke, Brown, and Graham's use of force, by firing less-lethal rounds at Mr. Walker was a reasonable use of force consistent with the minimization of injury to others. Further, I find that Officers Neumeyer, Wilson, and Cronin reasonably believed that Alan Ray Walker posed an imminent threat of death or serious bodily injury to themselves and members of the public in the immediate area. I find that all Aurora Police officers had the legal right to defend themselves and others from the threat posed by Mr. Walker and were justified in their use of force in response to that threat.

## **MATERIALS REVIEWED AND INFORMATION CONSIDERED**

Detective Shannon Bruckbacher of the Parker Police Department was the lead CIRT investigator. I reviewed all materials provided from the CIRT investigation including police reports, interviews with involved officers, body camera footage, ballistic reports and autopsy findings.

## **APPLICABLE LAW**

The ethical obligation of prosecutors – and the policy of the District Attorney’s Office – is to only prosecute a case when: 1) there is a good faith basis to believe the individual to be prosecuted has committed the crime; and 2) there is a reasonable likelihood of conviction at trial. This is a higher standard than the probable cause standard used by police officers making initial charging and arrest decisions. Criminal liability is established when there is a good faith basis to believe the individual committed the crime, and there is sufficient evidence to prove all of the elements of the crime beyond a reasonable doubt, to include the criminal conduct and the criminal mental state. Additionally, the prosecution must disprove any statutorily recognized justification or defense beyond a reasonable doubt. The District Attorney’s review of an officer- involved shooting event is guided by the statutes pertaining to the affirmative defenses applicable to use of force by peace officers, specifically:

C.R.S. § 18-1-707(1) Peace officers, in carrying out their duties, shall apply nonviolent means, when possible, before resorting to the use of physical force. A peace officer may use physical force only if non-violent means would be ineffective in effecting an arrest, preventing an escape, or preventing an imminent threat of serious bodily injury or death to the peace officer or another person.

(2) When physical force is used, a peace officer shall: (a) Not use deadly physical force to apprehend a person who is suspected of only a minor or nonviolent offense; (b) Use only a degree of force consistent with the minimization of injury to others; (c) Ensure that assistance and medical aid are rendered to any injured or affected persons as soon as practicable; and (d) Ensure that any identified relatives or next of kin of persons who have sustained serious bodily injury or death are notified as soon as practicable.

(3) A peace officer is justified in using deadly physical force to make an arrest only when all other means of apprehension are unreasonable given the circumstances and (a) The arrest is for a felony involving conduct including the use or threatened use of deadly physical force; (b) The suspect poses an immediate threat of death or serious bodily injury to the peace officer or another person; (c) The force employed does not create a substantial risk of injury to other persons.

4) A peace officer shall identify himself or herself as a peace officer and give a clear verbal warning of his or her intent to use firearms or other deadly physical force, with sufficient time for the warning to be observed, unless to do so would unduly place peace officers at risk of injury or would create a risk of death or injury to other persons. (4.5) Notwithstanding any other provision in this section, a peace officer is justified in using deadly force if the peace officer has an objectively reasonable belief that a lesser degree of force is inadequate and the peace officer has objectively reasonable grounds to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving serious bodily injury.

As defined in Section 18-1-903(d), C.R.S., Deadly physical force “means force the intended, and natural and probable consequence of which is to produce death, and which does, in fact, produce death.”

### **SUMMARY OF THE FACTS**

Mr. Walker has a criminal history dating back to 1990 that included harassment, 1<sup>st</sup> degree criminal trespass, kidnapping, 2<sup>nd</sup> degree assault, attempted 1<sup>st</sup> degree murder, possession of a weapon by a previous offender, domestic violence and parole violations. He was sentenced to the department of corrections in 2005 to 28 years and released on parole in 2019. He was hospitalized in 2020 after a methamphetamine induced psychosis during which he was armed with a knife.

Aurora Police Department Officer Crump arrived at the scene at 11:17 am and instructed Mr. Walker to get away from his room #47 which was on fire. Mr. Walker threw a glass container at him and yelled “F\*\*\*-you.” Mr. Walker next confronted the renter in room 49, who exited and Mr. Walker entered that room. At 11:20 Mr. Walker taunted APD officers and fire-fighters asking, “What are you waiting for, I’ll be fun I promise.” Officers commanded him to come out of the apartment with his hands up and he threw knives off the balcony at them.



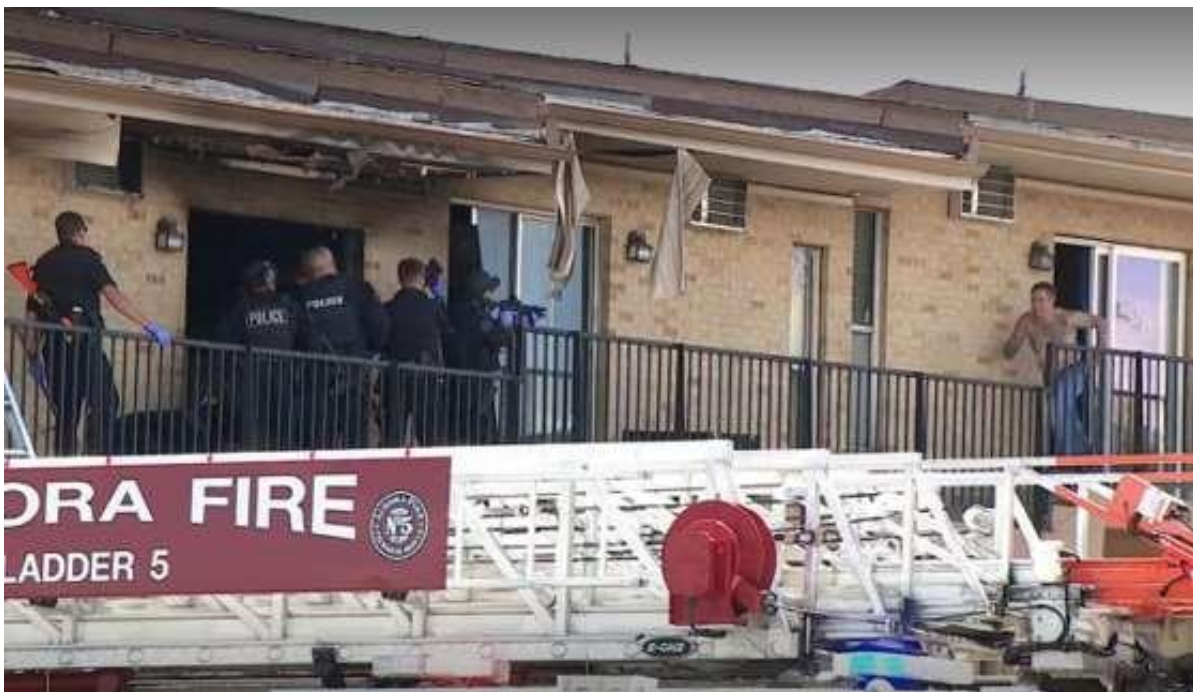
At 11:23 Mr. Walker stepped out of the room armed with kitchen knives and Officer Burke deployed two less lethal bean bag munitions at him.

At 11:26 Officer Burke arranged for Aurora fire to create a “virtual fence” with water to prevent Mr. Walker from accessing the fire-fighters who were still trying to get to the fire. Mr. Walker advised them by yelling that that he will only exit the room if officers stop using less lethal rounds as he wanted them to use lethal rounds. Officers attempted to reassure him that they had no desire to hurt him and wanted him to come out of the room which he had barricaded with furniture. He replied, “I’m asking you to get your lethal rounds.”

Officers Burke and Cronin ascended to the second floor by ladder to provide lethal and less lethal coverage for the firefighters. They placed a large storage trunk between room #48 and #49. Officers Brown and Davis joined Officers Burke and Cronin to act as the arrest team, north of the room where Mr. Walker is barricaded. Officer Timmons tried to negotiate utilizing their PA system, and multiple officers repeatedly plead with Mr. Walker to give himself up for the next twenty minutes.

At 11:52 Officer Muldoon reported seeing Mr. Walker possibly stab himself in the neck and shortly after that he removed his shirt. In addition to multiple police and fire vehicles, the Aurora Police Department had a Bear-Cat armored vehicle with a turret situated below the room in the parking lot and Officer Timmons switched to that vehicle and continued to try to calm and negotiate with Mr. Walker. Officer Cronin with the arrest team on the second floor tried to talk to Mr. Walker who advised them that he wanted to rush and stab Officer Cronin.

Mr. Walker looked out and appeared to be reviewing the location of all the officers. At 12:32:05 he exited room #49 and ran towards the arrest team. He was holding both knives in his fists in a raised arm position with the knives pointing downwards. At 12:32:06 Officers Wilson, Neumeyer and Cronin all fired their rifles at Walker and Officers Graham and Brown deployed their 40mm rounds from their 40mm launcher. It appeared that Mr. Walker was about six feet from the arrest team when they fired. He was struck by numerous rounds fired by those officers.



Mr. Walker was immediately approached by the arrest team and they began CPR. He was transported to University Hospital for treatment, but succumbed to his injuries and was pronounced deceased at the hospital. An autopsy was performed by Dr. Casey Biting at the Arapahoe County Coroner's Office on July 6, 2022 and she opined that the cause of death was multiple gunshot wounds. Mr. Walker had methamphetamines in his system at the time of the incident.

## **ANALYSIS AND CONCLUSION**

When Mr. Walker rushed the officers with knives in both hands after threatening them, Officer Cody Brown fired one less lethal 40mm round from his 40 mm launcher. Officer Brad Graham also fired one less lethal 40 mm round. Simultaneously, Officer Eric Cronin fired 2 rounds from his .223 caliber rifle and Officer Michael Neumeyer fired 4 rounds from his .223 caliber rifle. Officer Nick Wilson fired 4 rounds from his .223 rifle. A total of 10 .223 caliber rounds were fired at Mr. Walker.

The determination to be made is whether Officers Cronin, Neumeyer and Wilson reasonably believed their use of deadly physical force was necessary to defend themselves or others from what they reasonably believed to be the imminent use of deadly physical force by Mr. Walker. Based on the results of the investigation and review of all available evidence, Officers Brown, Graham, Burke, Cronin, Wilson and Neumeyer's actions were reasonable and justified based upon Mr. Walker threatening residents, firefighters and threatening the officers, and then rushing at the officers while holding two large knives poised for use. Officers were clearly in uniform, they had identified themselves as police officers and engaged in patient attempts to de-escalate Mr. Walker and to safely secure him. Each of them, independently and simultaneously, made the decision to shoot based upon the imminent, and deadly threat posed by Mr. Walker. It was reasonable for the officers to conclude the knives were capable of deadly force, especially because he was within approximately 6 feet of the officers and he was threatening and rushing towards them with the knives.

Officers Burke, Graham and Brown's actions were also reasonable under the circumstances. Mr. Walker repeatedly displayed his knives and posed a threat to the firefighters battling the fire as well as the members of the arrest team when he charged at them with weapons.

I find that Officers Cronin, Neumeyer, and Wilson reasonably believed that Mr. Walker posed an imminent threat of deadly physical force to the arrest team and others in the vicinity. As such I find that Officers Cronin, Neumeyer and Wilson were justified in using deadly physical force to defend themselves from the unlawful and imminent use of deadly physical force against them.

Based upon the investigation and applicable law, Officers Burke, Graham and Brown were justified in the use of less lethal force against the threat of physical harm to themselves and the other officers present. Officers Brown, Graham, Cronin and Neumeyer, Wilson and Burke did not commit any crime and criminal charges will not be filed against them.

***Rebecca S. Gleason***  
Chief Deputy District Attorney