



DISTRICT ATTORNEY
SEVENTH JUDICIAL DISTRICT

October 7, 2015

Via U.S. Mail

Chief Justin Harlan
Olathe Police Department
420 Horton Avenue
Olathe, Colorado 81425

Re: Officer Involved Use of Force on April 25, 2015 near the Town of Olathe, Colorado

Dear Chief Harlan:

The Seventh Judicial District Attorney's Office has completed a review of the investigation conducted by the Seventh Judicial District Critical Incident Investigation Team (CIIT) into the officer-involved use of force on April 25, 2015. The investigative file consists of extensive reports and documentation contained in a 4" binder, digital information on 15 computer discs and a final autopsy report for John E. Reynolds. In addition, the undersigned has been provided with a verbal briefing regarding this case at CBI Offices in Grand Junction conducted by CBI Agent and CIIT Lead Investigator Brooks Bennett and Montrose Police Department Sergeant and CIIT Commander Ted Valerio.

SUMMARY OF FACTS

During the early morning hours of April 25, 2015, Olathe Police Department Officers initiated a traffic stop that ended with a foot pursuit and the use of force with a Taser device against John Reynolds, a subject who had an active felony warrant for his arrest from the State of Ohio. During the incident, Reynolds stabbed himself in the chest and later died as a result of his self-inflicted injuries.

Incident

At 00:14 hours on Saturday, April 25, 2015, the Montrose County Dispatch Center received a REDDI (Report Every Drunk Driver Immediately) report concerning a gray sedan with Ohio license plates traveling northbound on Townsend Avenue (US Hwy 50) in Montrose, Colorado.

At 00:23 hours, Olathe Police Officers Rogelio Pacheco and Kevan Arreola observed the suspect vehicle as it traveled north on Hwy 50 through the town limits of Olathe. The officers initiated a traffic stop of the vehicle for a speeding violation. The driver identified himself as John

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Reynolds (d/o/b 09/19/1989). The vehicle was also occupied by one passenger, in the front passenger seat, 19 year old female Hayley Hannaman.

Officers ran a check through dispatch on the driver and his license status. His driver's license returned as clear, but the officers were advised there may be a warrant for his arrest.

At 00:56 hours, Montrose County Dispatch advised the officers that the warrant was confirmed and Officers Pacheco and Arreola approached the vehicle. When Reynolds was told the warrant was confirmed and he was going to be arrested, Hannaman made a statement to the effect of "don't leave me." Reynolds then put the vehicle in gear and drove away northbound on Highway 50.

The officers returned to their police vehicle but did not chase the vehicle driven away by Reynolds. The officers drove northbound on Highway 50 and made dispatch aware of the situation. Montrose County Sheriff's Office Deputies began responding to the area. As the Olathe officers proceeded northbound, they observed Reynolds' vehicle parked on the northbound shoulder of the highway. As Officer Arreola pulled the patrol vehicle behind Reynolds' vehicle, both officers observed that Reynolds had exited the vehicle and had climbed over the highway fence on the east side of the roadway and was running into a field of sparse sagebrush.

Officer Pacheco exited the patrol vehicle and also climbed over the fence, following Reynolds. He instructed Officer Arreola, who was in training, to stay with the female at the vehicle. Officer Pacheco followed Reynolds for approximately 115 yards and caught up to Reynolds once Reynolds had reached a large irrigation ditch.

At that point, Reynolds turned around to face Officer Pacheco. Officer Pacheco immediately saw a sharp instrument in Reynolds' hands. Reynolds began telling Officer Pacheco to stay away from him and held the sharp object alternately in front of his body with both hands and at his side in his right hand. Officer Pacheco drew his Taser and began trying to talk Reynolds into complying, all the while maintaining distance from him.

Reynolds would not listen to verbal commands and eventually made an aggressive movement in the direction of Officer Pacheco, at which time Officer Pacheco fired his Taser. Both probes struck Reynolds and he fell to the ground. Officer Arreola arrived at that time and began attempting to handcuff Reynolds but he still would not comply. Officer Pacheco reported having to activate his Taser at least two more times before Reynolds was finally handcuffed.

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During the struggle to handcuff Reynolds, Officer Arreola was able to obtain control of the sharp object: a gold colored letter opener that is shaped like a sword and has a blade approximately 6 inches long.

Officer Pacheco had requested an EMS response after he had deployed his Taser and EMS was dispatched to the area.

Shortly after Reynolds was handcuffed, Montrose County Deputy Taylor arrived and the officers began assessing Reynolds for potential injuries. The officers noted blood on Reynolds' shirt and, upon examining Reynolds' body under his shirt, observed what they believed to be two stab wounds to Reynolds' chest. Deputy Taylor reports that Reynolds told him that he had stabbed himself. EMS was then immediately told to respond in an emergency response mode.

Reynolds was transported to Montrose Memorial Hospital where he died from his injuries.

Information from Passenger Hannaman

Ms. Hannaman was interviewed during the morning hours of April 25, 2015.

Hannaman stated that she had been dating Reynolds for approximately 2 years and that they have been living together since June of 2014. Hannaman said Reynolds had an appointment with an Akron, Ohio, police detective on the morning of April 22, 2015, and that after he returned from the appointment he told her he wanted to travel to Las Vegas and/or California that day.

Together, they left Ohio that evening and traveled west through several states. They stayed one night in Kansas (confirmed with a receipt located in the vehicle) and arrived in Colorado on April 24, 2015. They made their way across the state and arrived in Montrose that same evening. Hannaman stated they saw the late show of the movie "Furious 7" at a theater in Montrose (ticket stubs to the 9:40 showing of that movie were located in Reynolds' wallet).

After the movie, the couple left Montrose and Hannaman noticed Reynolds speeding. She warned him to slow down but they were contacted by police at about that time. Hannaman confirmed the officers initially took Reynolds' identifying information and then came back for hers. After an extended period of time, the officers approached the vehicle and told Reynolds he had a warrant from Ohio and they were waiting on confirmation. Reynolds told the officers he believed the warrant to be for a sex offense.

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When officers returned to the car, they told Reynolds the warrant had been confirmed. Hannaman expressed concern over being in Colorado alone and begged Reynolds not to leave her. It was at this point that Reynolds drove away. Hannaman told Reynolds he had to stop and he pulled to the side of the road and grabbed a letter opener out of the center dash compartment and exited the car. She watched as he left the roadway, climbed over the fence and headed into the field. Once the officers arrived, Reynolds began running.

Hannaman, who could see with the illumination of the flashlight being carried by the officer, saw Reynolds stop and could tell he was holding something in his hands. Hannaman heard Reynolds tell the officer to stay away from him and to leave him alone. She then saw what she believed was Reynolds "hurting himself" with what she suspected was the letter opener. It was then that she heard a "popping" noise and saw Reynolds fall. According to Hannaman, no officer was touching Reynolds when he fell.

In her interview, Hannaman stated she believed Reynolds took the letter opener when he left the car because he wanted to injure himself. She reported that the sword-shaped letter opener had been stored in the dashboard compartment of the vehicle for protection. She stated that Reynolds had made comments in the past about committing suicide. Hannaman told investigators Reynolds had not been consuming alcohol that night but he had smoked marijuana that day.

Information from Officer Kevan Arreola

Olathe Police Officer Kevan Arreola was interviewed at the Montrose Police Department on the afternoon of April 25, 2015.

Officer Arreola stated that after the Reynolds vehicle was stopped on Highway 50, he approached the passenger side of the vehicle and saw it to be occupied by a female. Officer Pacheco contacted the driver and received identification from him. The officers returned to their patrol car and, upon checking Reynolds' driving and wanted status, determined he was wanted on a warrant for a sex offense which occurred in Ohio.

Officer Pacheco had another conversation with Reynolds, during which Pacheco made Reynolds aware of the warrant and told Reynolds the officers were waiting to see if the warrant was extraditable. Once the warrant was determined to be valid and extraditable, Officers Pacheco and Arreola again approached the vehicle, with Officer Pacheco contacting Reynolds and Officer Arreola standing by on the passenger side of the vehicle. Officer Pacheco told Reynolds they were going to place him under arrest and Reynolds immediately shifted the car into drive and drove away.

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Officer Arreola was driving the patrol car that evening so he got in the driver's seat and he and Officer Pacheco drove after Reynolds' vehicle, hoping to observe a direction of travel that they could provide to other officers. Approximately one mile north, they drove around a bend and saw Reynolds' vehicle stopped on the shoulder of the road with the hazard lights on. As the officers were stopping behind Reynolds' vehicle, they observed Reynolds running through a field to their right.

Officer Arreola was instructed to stay with Hannaman and soon heard her yell to Reynolds "come back" and "why are you doing this." Officer Arreola watched as Officer Pacheco pursued Reynolds through the field but his vision was limited since the only lighting was from the flashlight Officer Pacheco was carrying.

Officer Arreola stayed with Hannaman for just a short time before he decided to join the foot pursuit. As he ran in the direction of Officer Pacheco, Officer Arreola heard Reynolds state he was going to kill himself. As he got within 10 yards of Officer Pacheco and Reynolds, he heard Reynolds state "don't come closer, I'll do it, I'll do it, I'll kill myself." He also heard Officer Pacheco giving verbal commands to Reynolds to "surrender." Officer Arreola could see that Reynolds was holding a gold colored object in his right hand. It was at about this time that Officer Pacheco deployed his Taser and Reynolds fell to the ground.

Officer Arreola approached Reynolds and tried to handcuff him but Reynolds kept his arms under him and resisted. Officer Pacheco activated the Taser at least 2 more times before Officer Arreola was able to get Reynolds arms behind him and complete the handcuffing process.

Officer Arreola then recovered the gold colored letter opener from the ground where Reynolds had been laying while he was struggling to resist being handcuffed. Officer Arreola noticed blood on Reynolds' shirt but initially thought it was from the Taser probes. Reynolds then stated "I stabbed myself twice in the chest." By this time, Montrose County Deputy Taylor had arrived and first aid was started on Reynolds.

After Reynolds had been removed from the scene by ambulance, Officer Arreola spoke with Hannaman. She volunteered to Officer Arreola that Reynolds was "depressed" and had come to Colorado to kill himself. She added Reynolds had wanted to see the mountains before he killed himself and although she didn't know when he would "do it," she was sure he was going to.

Information from Officer Pacheco

Olathe Police Officer Pacheco was also interviewed at the Montrose Police Department on the afternoon of April 25, 2015.

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On April 25, 2015, Officer Pacheco was certified to use the Taser and that is the only less than lethal weapon he had in his possession.

Officer Pacheco reported that Reynolds was cooperative during the contact and did not exhibit any unusual behavior. Reynolds provided his identification as well as the information for his vehicle. Once dispatch informed the officers of the warrant for a sex offense, Officer Pacheco had Officer Arreola obtain Hannaman's identification to confirm she was an adult.

Officer Pacheco then approached Reynolds and told him he had a warrant but that it was not yet confirmed. Once the warrant was confirmed, Officer Pacheco approached Reynolds and told him he had received confirmation and that he needed to step out of the vehicle. It was at this point that Reynolds drove off.

Officer Pacheco made dispatch aware of the situation and he and Officer Arreola drove northbound on the highway, hoping to see Reynolds' vehicle. Shortly thereafter, they saw Reynolds' vehicle on the side of the road and Officer Pacheco saw Reynolds going over the fence to his right.

Officer Pacheco told Officer Arreola to stay with the passenger and he began to pursue Reynolds on foot. While he followed Reynolds, Officer Pacheco told Reynolds to come back to talk to him. He also asked why Reynolds was running and Reynolds replied "I'm not going back to jail," "leave me alone" and "I'm going to kill myself." Reynolds travel was then blocked by an irrigation ditch and Officer Pacheco was able to close the gap between the two men.

When Officer Pacheco got closer, he could see Reynolds holding a sharp instrument in his hand in front of his chest. Officer Pacheco ordered Reynolds to drop the object but Reynolds replied "no, I'm going to kill myself." During this time, Reynolds would alternate holding the object in both hands and pointing it at his own chest or holding the object with his right hand at his side. Reynolds continued to make statements such as "I'm going to hurt myself," "I'm going to kill myself" and "I'm not going back to jail."

As Officer Pacheco continued to get closer to Reynolds, he confirmed Reynolds was holding a sharp object. As Reynolds began walking towards him, Officer Pacheco drew his Taser from his duty belt. Officer Pacheco told Reynolds to drop the weapon or he was going to deploy his Taser. Reynolds hesitated for a moment then "he went at me with it." Officer Pacheco described the movement as a "charge," an act that Officer Pacheco didn't expect, and that he believed Reynolds was going to stab him.

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Officer Pacheco deployed his Taser and Reynolds fell to the ground with his arms and the sharp object underneath him. At this point, Officer Arreola arrived and Officer Pacheco told him to handcuff Reynolds. Reynolds became combative and Officer Arreola could not pull Reynolds' arms out from underneath his body. Reynolds continued to fail to comply with verbal commands and Officer Pacheco warned him of another Taser activation. When the warning did not obtain compliance, he activated his Taser. According to Officer Pacheco, this pattern repeated itself three more times before Officer Arreola was able to get handcuffs placed on Reynolds.

Once Deputy Taylor arrived, Officer Pacheco allowed Deputy Taylor and Officer Arreola to tend to Reynolds and he picked up the fired Taser cartridge and took possession of the letter opener that Officer Arreola had secured. Officer Pacheco didn't know Reynolds had stabbed himself until after he was told by other officers. He doesn't recall seeing Reynolds stab himself and never heard him cry out in pain.

Autopsy Report

At approximately 9:00 a.m. on April 25, 2015, Dr. Michael Benziger conducted the post mortem examination of John Reynolds.

The autopsy revealed two incised wounds to the upper left chest area of Reynolds. Upon further examination, Dr. Benziger determined the two puncture wounds penetrated the pulmonary artery at the location where the artery connects with the heart. Blood leaving the artery from these wounds filled the pericardium and restricted the heart's ability to circulate blood throughout the body.

There were also two defects on the body, one on the chest and one lower on the abdomen, that were consistent with the Taser probes. In addition, there were abrasions on Reynolds' wrists consistent with marks that can occur with the application of handcuffs on a person being resistive. Observations by a seasoned detective who attended the autopsy and confirmed by the medical examiner support the conclusion that the letter opener was not still in Reynolds' chest as the officers wrestled with him while he was face down on the ground.

The cause of death was determined to be "two stab wounds to the left chest with hemocardium with early cardiac tamponade and with large left hemothorax." The manner of death, as determined by Montrose County Coroner Dr. Canfield, was suicide.

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Additional Investigation

Extensive additional investigation was conducted, including a thorough scene investigation, search of Reynolds' vehicle, review of dispatch records and recordings, a full examination of the Taser report from Officer Pacheco's Taser device, contact with Akron, Ohio law enforcement authorities, and forensic examinations of both Hannaman's and Reynolds' cellular phones.

All information gathered during this investigation supports the statements made by Officers Pacheco and Arreola regarding this incident.

APPLICABLE COLORADO REVISED STATUTES

18-1-704. Use of physical force in defense of a person.

(1) Except as provided in subsections (2) and (3) of this section, a person is justified in using physical force upon another person in order to defend himself or a third person from what he reasonably believes to be the use or imminent use of unlawful physical force by that other person, and he may use a degree of force which he reasonably believes to be necessary for that purpose.

(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; or . . .

18-1-707. Use of physical force in making an arrest or in preventing an escape.

(1) Except as provided in subsection (2) of this section, 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:

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(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; or

(III) Otherwise indicates, except through a motor vehicle violation, that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay.

(3)

(4) A peace officer who is affecting an arrest pursuant to a warrant is justified in using the physical force prescribed in subsections (1) and (2) of this section unless the warrant is invalid and is known by the officer to be invalid.

CONCLUSION

In Colorado, the criteria necessary for a person to use force in self-defense is a reasonable belief that one is defending against the use of unlawful force. Potentially lethal force may be used when a person is acting on a reasonable belief that he is in imminent danger of being killed or receiving great bodily injury and that a lesser degree of force is inadequate. The question is whether the force used was reasonable, given the situation the officer finds himself in.

In this case, it is important to note that Officer Pacheco chose to use his Taser, a less-than lethal use of force option. He was in possession of a firearm, but commendably exercised his discretion to use a lesser degree of force in this circumstance.

It is equally important to note that John Reynolds unfortunately succumbed due entirely to self-inflicted wounds. There is no evidence in this case that Officer Pacheco's use of his Taser in any way contributed to the death of Mr. Reynolds.

It is further important to recognize that Officer Arreola did not use potentially lethal force in this incident and it is not necessary to address his obviously appropriate and lawful actions involved in securing Mr. Reynolds. He is not subject to any criminal liability.

Upon identifying Reynolds, the officers learned he was wanted for a felony charge related to a sex offense and they were under a lawful duty to attempt to effect his arrest. They were then faced with Reynolds leaving the scene to avoid arrest.

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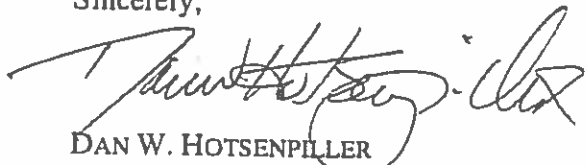
When Reynolds confronted Officer Pacheco with the letter opener in the field, Pacheco chose to deploy his less lethal option, a Taser. At the point in time when Reynolds charged Officer Pacheco with the letter opener in hand, all available evidence supports a finding that Officer Pacheco was acting on a reasonable belief that he was in imminent danger of being killed or receiving great bodily injury and that a lesser degree of force was inadequate.

As noted in the above Colorado Revised Statue, 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 to effect an arrest or 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.

Based on the known evidence and considering the totality of the circumstances, I find that the use of force by Olathe Police Officer Rogelio Pacheco was justified pursuant to Colorado law. The facts clearly show that Officer Pacheco acted to defend himself and that he used a degree of force reasonably necessary for that purpose.

Because his actions were lawful and justified under Colorado law, no criminal charges will be filed against Officer Pacheco for any actions taken on April 25, 2015, in this incident.

Sincerely,



DAN W. HOTSENPILLER
DISTRICT ATTORNEY

DWH/dwh

cc: CBI Agent Brooks Bennett, Incident Lead Investigator (via e-mail)
MPD Sgt. Ted Valerio, CIIT Commander (via e-mail)