



Office of the District Attorney Fifth Judicial District

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Bruce I. Brown, District Attorney

February 14, 2020

Agent Brooks Bennett
Colorado Bureau of Investigation
2797 Justice Drive
Grand Junction, CO 81506

Re: Officer Involved Shooting – deceased Alvern Walker (CBI File 2019-298)
Letter of Declination

Dear Agent Bennett:

Thank you for presenting your investigative recommendations and findings regarding the officer involved shooting occurring December 5, 2019, in Avon, Colorado. I have had an opportunity to consider your findings, consult with Bruce Brown, District Attorney, and based upon that, issue this letter of declination.

On December 5, 2019, at approximately 8:15pm, Colorado State Patrol (CSP) Trooper Scott Cunningham initiated a traffic stop on westbound Interstate 70, just west of the Avon exit, involving a U-Haul truck towing a trailer. The U-Haul truck pulled off the freeway at the Avon exit, drove into the Walgreens' store parking lot, and stopped.

Trooper Cunningham contacted the occupants of the truck, later identified as Vic Harrell (driver) and Alvern Walker (passenger). Immediately, Mr. Walker verbally confronted the trooper. Much of what Mr. Walker was saying was nonsensical; making it difficult for Colorado State Patrol to discern Mr. Walker's needs. Trooper Cunningham requested back-up officers while attempting to calm Mr. Walker. Two additional CSP troopers arrived; Trooper Joel Juenke and Corporal Carrie Jackson. It was at this time Mr. Walker brandished a handgun and placed it under his chin with the barrel pointing upward.

CSP troopers then told Mr. Walker to drop the gun as they feared the deadly weapon could be used against them, others or Mr. Walker himself. Officers from the Avon Police Department and the Eagle County Sheriff's Office arrived on scene. It should be noted that the location of the incident is within the municipality of the Town of Avon and within Eagle County, all within the Fifth Judicial District.

Officers continued to repeat commands to Walker to drop the gun. Over 50 separate commands and requests were given and made by the officers in order to have Mr. Walker put down the gun, but he refused. Instead, Mr. Walker held the gun to his head, placed it under his chin and waved it about his head, walking near and around the front of the U-Haul truck very near the store entrance of the Walgreens.

Statements from multiple officers on scene, as well as video footage, support law enforcements' concerns for the safety of anyone inside the Walgreens store, as Mr. Walker was steps away from being able to enter the front door of the store while he was walking and waving the gun about his head and face.

The officers communicated with their respective dispatch centers and with each other, that if possible, less lethal force would be used in an attempt to disarm Mr. Walker. Simultaneously, public safety measures were requested by an Avon Police officer on scene including: requesting a road closure adjacent to Walgreens; requesting a community notification be sent directing members of the public away from the immediate area; summoning medical personnel to come but remain a safe distance away; and, having dispatch attempt to contact anyone inside the Walgreens store to tell them to remain sheltered.

Avon Police Sergeant Jamison was able to utilize less lethal force of beanbag rounds with the intent to disarm Mr. Walker. Simultaneous to the use of bean bag rounds being deployed, a Taser was also used in an attempt to disarm Mr. Walker. Hearing rounds fired, unsure if Mr. Walker had been the one who fired those rounds, knowing that pedestrians/civilians were in the immediate area, knowing that Mr. Walker was steps away from entering the Walgreens store, and knowing that there was an imminent threat to law enforcement on scene as well as civilians in the area, Colorado State Trooper Juenke used lethal force by firing his rifle at Mr. Walker.

When struck by one of the beanbag rounds, Mr. Walker's body immediately changed position and orientation, and continued to change as he began to turn and fall. As his body turned and fell, Walker was struck with an additional beanbag round (Sgt. Jamison) and one rifle round (Trp. Juenke). The length of time between the first bean-bag gunshot to the last gunshot (rifle round) was approximately 2.8 seconds. Requests for medical assistance were made immediately following Mr. Walker being hit by both the beanbag rounds and the lethal rifle round. Officers on scene provided immediate medical assistance to Mr. Walker until ambulance personnel arrived. Mr. Walker was taken by ambulance to Vail Valley Hospital where he later succumbed to the gunshot wound.

During the negotiations between law enforcement and Mr. Walker, and prior to utilizing any force to subdue Mr. Walker, two dispatch centers were being utilized; one by Colorado State Patrol and one by the Avon officers and the Sheriff's deputy on scene. During those negotiations, officers on scene attempted to connect two dispatch channels serving disparate agencies on scene. But, due to tactical impediments, neither set of officers could interrupt their negotiations at gunpoint which would have been required in order to physically change the radio communication channels for unified communications. Basically, the sequence of events was rapidly evolving, and the dangerousness of the situation was fast unfolding, to such a degree that responding agencies were unable to most effectively coordinate their communications because doing so would leave them and others vulnerable to the danger presented by Mr. Walker.

Additional information gathered in this investigation has shown that Mr. Walker had struggled with drug use, possible mental health issues, and difficulties associated with transitioning back into society while currently being on State of Nevada parole; the result of a 1983 murder conviction.

Mr. Walker tested positive for methamphetamine in a recent drug test as required by the conditions of his parole. The investigation also showed a recent admission to a hospital for treatment due to a self-admitted "meth binge" by Mr. Walker. Statements by Mr. Walker, observations by law enforcement on-scene, video footage on in-car and body cameras, and toxicology results of Mr. Walker all support and corroborate Mr. Walker's admission that he had used methamphetamines prior to this incident. In the hours preceding the incident, Mr. Walker was also displaying odd behavior and experiencing psychosis due to drug use and/or mental illness. During the incident, Mr. Walker had access to two different handguns which were in the cab of the U-Haul truck.

The driver of the U-Haul truck, Mr. Harrell, was also taken to the hospital and later interviewed as part of this investigation. He corroborated that both he and Mr. Walker had used methamphetamine on their trip from Las Vegas on their way to Colorado Springs. Mr. Harrell also confirmed that Mr. Walker was exhibiting odd behavior, such as stating, "the clouds were going to eat him"[sic.], and that Mr. Walker was seeing "aliens and giants" and was going to shoot them.

Mr. Harrell's account of the trooper initially approaching the U-Haul truck was consistent with the statements of the CSP officers. Mr. Harrell described Mr. Walker's actions of pointing the muzzle of the gun under his (Walker's) own chin. Mr. Harrell stated during the incident, officers were trying to calm the situation but Walker's "frame of mind" was already set, and "it did not change." Mr. Harrell recalled Mr. Walker saying, "N----- with a gun, N-----with a gun, they're going to shoot me, they're going to shoot me, I'm gonna kill them."

Additional audio from the trooper who initiated the stop was reviewed. At the time the trooper asked for documents from the driver, Mr. Walker can be heard saying, "I'm gonna blow this here mother--cker away."

The investigation also brought forward social media videos. These videos were publicly available through a Facebook post. A person filming the video can be heard narrating that the man has a "gun to his head." A few minutes later, you can hear the taker of the video state, "he's got the gun; he's waving that sh-t in the air."

In conclusion, the recollections of the events from officers on scene, Mr. Harrell and other witnesses are consistent with one another and are supported by video footage captured on in-car and body cameras, as well as Mr. Walker's own statements. Mr. Walker posed an immediate danger to himself and others, including all officers on scene and bystanders who were in the store, watching or passing nearby.

Trooper Juenke's use of lethal force by firing his rifle at Walker, who was erratically waving a loaded handgun, was justified in using such deadly physical force as he reasonably believed it was necessary to defend himself and other officers and civilians from what he reasonably believed to be the use or imminent use of deadly physical force by Mr. Walker. Trooper Juenke's actions were a justifiable self-defense and a justifiable defense of others. In light of this determination, the Office of the District Attorney hereby declines to file any criminal charges in the fatal shooting of Mr. Alvern Walker.

Please feel free to contact me with any additional questions.

With kind regards,

/s/ HSMcCollum

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cc: Captain Jared Rapp, Colorado State Patrol
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