TO: PUBLIC GENERALLY
   TO BE POSTED AT DA5.US/ANSWERS AND INFO/OFFICER INVOLVED SHOOTINGS

FR: BRUCE BROWN, DA

RE: OFFICER INVOLVED SHOOTINGS PERIODIC REPORT
   SHOOTINGS 2013-2019, pursuant to CRS 20-1-114

RELEASE DATE: November 1, 2019

MEMORANDUM

To assure compliance with §CRS 20-1-114 the Office of the District Attorney makes publicly
available the following information: Where an officer involved shooting has occurred, we report
and publicly disclose the District Attorney's findings, including the basis for the decision not to
charge the officer with any criminal conduct, except in the case where a grand jury
investigation has occurred, in which case we will make an announcement at the time the
matter is referred to the grand jury and publicize any grand jury report, should one issue.

During 2013-2019, there have been the following officer involved shootings in the Fifth Judicial
District. For each, it is noted how the matter was “resolved” and the basis for that resolution in
the event that findings by the District Attorney were made. If no findings were made, the
reason for that is noted.

Each of the matters listed included an investigation conducted by the office of the District
Attorney in conjunction with the Colorado Bureau of Investigation, consistent with protocols
followed by the District Attorney, Fifth Judicial District.

January 31, 2014

Deputy Don Wilson of the Clear Creek County Sheriff’s office shot Cody Cox along Interstate 70.
Mr. Cox was fleeing from officers and his actions constituted a public safety risk to motorists
along the crowded highway as he was recklessly driving while highly intoxicated through heavy
traffic. The matter was referred to the Grand Jury for the Fifth Judicial District 2014 for
review. The Grand Jury made determinations that no probable cause existed for the charging
of any law enforcement officer, including Deputy Wilson.
A District Attorney’s declaration of charge letter, memorializing the Grand Jury’s findings, was sent to the Clear Creek County Sheriff’s office, dated June 24, 2014.

Mr. Cox later filed a civil suit in United States District Court Denver, case no. 15-cv-128-WJM against the Deputy Wilson (retired) and no liability was found by the jury, on December 15, 2016.

**December 27, 2016**

Deputy Piper of the Summit County Sheriff’s office shot Nathaniel Leisz, a habitual offender with a lengthy history of violence, as he charged several officers with a knife in Frisco, Summit County.

Criminal charges were filed by Complaint in the Summit County District Court in case 16cr319, including first degree assault against four law enforcement officers, aggravated motor vehicle theft, menacing and other charges against Leisz. Defendant Leisz’ case is pending after a lengthy restoration process and is scheduled for hearing on Monday, November 4, 2019.

The following findings, including the basis for a decision not to charge any officer with criminal conduct are as follows:

“Reports and media, such as audiotapes and State Patrol dash cam video, were reviewed in connection with the Officer Involved Shooting that occurred on December 25, 2016 at Frisco, Colorado. Personnel present at the time of the shooting were from the Summit County Sheriff’s office including Deputy’s Deputy Piper and Gafari, State Patrol Trooper Garrod and Frisco Police Department Officer Trainor. Multiple agencies have participated in the investigation including the Colorado Bureau of Investigation, Summit County Sheriff’s office, Frisco Police Department, Silverthorne Police Department, as well as the District Attorney’s office.

The purpose of this inquiry obviously included an analysis of criminal charges against Nathaniel Leisz, who has pending criminal charges in the Summit County District Court, as well as the officers involved to ascertain that their actions were within Colorado State law. Defendant Leisz has been charged with ten substantive criminal charges including, Assault in the First Degree (Peace Officers, F3), Aggravated Motor Vehicle Theft in the First Degree (F4), Theft (F4), Menacing (deadly weapon, F5), Criminal Attempt to Commit Aggravated Motor Vehicle Theft in the First Degree (F4), Obstructing a Peace Officer (M2), and Resisting Arrest (M2). Of note, two additional charges are habitual criminal charges for felonies emanating from the State of Minnesota.

On December 25, 2017, shortly before 2324 hours, defendant Leisz entered without permission and stole a Toyota Tacoma truck. The owner had left the vehicle idling with the keys inside and called 911. Among the officers who heard the call were Deputy’s Piper and Gafari. Of note, Deputy Piper was still a trainee in the third phase of his program. Deputy Gafari, an experienced law enforcement officer, was his trainer. They observed the Tacoma headed
northbound on Highway 9 within minutes of the dispatch notification and followed it to Frisco. The Toyota Tacoma was driven by Leisz and pulled into a parking spot adjacent to a retail building that was closed, nearby to a 7-11 convenience store/gas station, at approximately 2328 hours.

From review of an audio recording made by Deputy Gafari, defendant Leisz was given clear indication that he was being detained by uniformed law enforcement officers in marked police vehicles and directed to leave the Tacoma and show his hands. Officer Trainor arrived in his patrol vehicle almost immediately after Gafari and Piper. Instead, Leisz, who was previously unknown to any of these police officers, emerged from the vehicle with a knife in his hands. The knife initially was pointed at Leisz’ own head and then towards officers who were in a semi-circle approximately 30 feet from the suspect, perceiving the situation as dangerous to themselves. Mr. Leisz was at gunpoint but not surrendering instead speaking in a loud disturbing voice, described as a “growl”, and saying “shoot me”.

Deputy Gafari made clear commands to Leisz to “drop the knife” and it was apparent to officers that defendant Leisz was “getting ready to run at (them)” As this was occurring, it appears that Trooper Garrod arrived on scene at 2329 hrs. Officer Trainor retrieved a less lethal shotgun from his car.

Deputy Gafari used his Taser twice in an effort to control Leisz without success, at 2331 hours. Leisz is reported to have dropped the knife briefly and then used it to cut off Laser probes. This bizarre behavior by Leisz must be understood in the context of later blood testing that showed high levels of amphetamine and methamphetamine. Trainor fired his “less lethal” shotgun and hit Leisz but this also did not assist in detaining Leisz who remained aggressive and defiant, refusing to follow the officer’s commands.

Ultimately, the suspect in a crouched position began to run towards the officers with his knife in hand and due to the perceived danger for officers, Deputy Piper filed multiple rounds from his service weapon, wounding Leisz in the hand and causing him to fall. at 2331 hrs.. At that point, approximately three minutes after officers first attempted to detain Leisz, Leisz was able to be detained and medical assistance was given as well as summoned. Leisz said, “It is supposed to be like this.”

Leisz was transported by EMS to a local hospital. He remains detained on the indicated charges and has entered a not guilty by reason of insanity plea, with a State Hospital evaluation ordered and pending. He still remains at the Summit County Jail on these charges.

Legal analysis: Police responded to a felony call out regarding a stolen vehicle. The suspect was seen driving shortly afterwards, and may have perceived he was being followed by police, and pulled over though not to surrender instead to create a scenario of ‘suicide by cop’. Arriving officers in uniform and marked cars gave clear commands for Leisz to surrender. He did not. Officers made several attempts to use force, less than the law allows, by using a Taser and less lethal shotgun. Leisz was undeterred by these actions and charged at officers with a deadly
weapon, a knife. The knife is in evidence and was clearly capable of inflicting a wound which could cause death.

Officer Piper fired multiple rounds at the suspect and Leisz was wounded in the hand. Leisz dropped to the ground, obviously injured and no other force was applied to him. Officers summoned medical assistance.

Each officer has participated and cooperated fully with the investigation. They have been truthful in their descriptions of these events. To the degree there may be any discrepancies in versions, these are typical of any incident such as this.

In essence, the officers used reasonable force in defense of themselves or others. At all times the officers were acting within the course and scope of their duties. Had the officers not taken the actions they did, it is possible a greater harm would have resulted to themselves or the public.

The District Attorney finds that the officers’ actions were reasonable, appropriate and that criminal charges against Mr. Leisz should be pursued. No other person connected with this incident, based upon the information in our possession, summarized here, has criminal culpability."

October 30, 2018

Leadville Police Department, Lake County, Officer Eric Thorne responded to a domestic violence call. There, he was confronted by a dangerous situation with Dylan Gregg holding his wife and infant son against their will. Gregg resisted arrest and charged Officer Thorne, pinning him against a wall. Thorne then shot Gregg.

Mr. Gregg was Indicted by the Fifth Judicial District Grand Jury 2018-19 for felony and misdemeanor charges, including assault upon a peace office (2nd degree) and child abuse in Lake County District Court (see case number 18cr108).

As the matter had been referred to the Grand Jury for investigation, no District Attorney findings were necessary. The Grand Jury was charged with investigating any criminal conduct by Officer Thorne and declined to find probable cause for any offense other than those committed by defendant Gregg.

On August 30, 2018 defendant Gregg was sentenced upon his guilty plea to second degree assault, to nine years at the Colorado Department of Corrections.

January 14, 2019

On January 14, 2019 Derek Baker in Frisco, Colorado attempted to drive his car as he was fleeing from an assault that occurred inside a Whole Foods market. As his car moved towards an officer, he was shot and arrested.
On July 29, 2019 Mr. Baker pleaded guilty upon the Complaint to second degree assault upon a peace officer. He is set to be sentenced Monday, November 4, in Division T, Summit County. Mr. Baker has been accepted into Larimer County’s mental health court and his sentence in Summit County is expected to be similarly aimed at fostering treatment.

The following District Attorney findings, including the basis for a decision not to charge any officer with criminal conduct are as follows:

“On January 14, 2019, Sergeant Janelle Moore, Frisco Police Department, discharged a weapon while in the course and scope of her duties, wounding Derek Baker, in Summit County, Colorado. This matter was investigated by the Colorado Bureau of Investigation for the purpose of determining whether or not there was any criminal conduct involved. The office of the District Attorney, Fifth Judicial District, conducted a review of the incident as the appropriate prosecuting agency for State Code violations.

During the course of the investigation, it was determined that Derek Baker was the only person who bore any criminal responsibility for this incident. Mr. Baker was charged with the offenses of assault upon a peace officer, vehicular assault, felony menacing, vehicular eluding, amongst other lesser crimes, in case number 2019cr21. On July 21, 2019 in Summit County District Court, Mr. Baker pleaded guilty to assaulting Sergeant Moore, and is set to be sentenced on November 4, 2019.

During the investigation, investigators established the following facts, to the District Attorney’s satisfaction:

- Baker made repeated gestures on scene towards his waistband, as if he had a weapon;
- Officer’s made loud verbal commands to Baker to “stop”;
- Baker disregard directions of officers;
- Sergeant Moore, in full police uniform and readily visible to Baker made attempts to prevent Baker from leaving. These attempts did not initially involve the use of force;
- Sergeant Moore made clear commands to Baker to “show his hands” just prior to him driving his car at her causing her discharging a firearm in self-defense. The force employed was appropriate and was a reasonably apparent use of force.

In sum, Sergeant Moore acted in self-defense and therefore, was not in any way criminal culpable. It should be noted that at all times Sergeant Moore was cooperative and forthright with investigators.”

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ALL PERSONS CHARGED WITH CRIMES ARE PRESUMED INNOCENT UNTIL THE CONTRARY IS PROVEN IN A COURT OF LAW.