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October 27, 2022

RE: Officer-involved vehicle pursuit on September 14, 2022. Case numbers: LCSO 22-8087; FCPS 22-12772; LPD 22-7176; BPD 22-9249

Dear Sheriff Smith,

The District Attorney's office has been asked to review the incident involving the vehicle pursuit and subsequent car accident involving Sergeant Michael Rairdon of the Larimer Sheriff's Office and Timothy Benefield on September 14, 2022, beginning at 3900 E. Mulberry St, and ending near 100 Block NW Frontage Rd in Fort Collins.

As this incident did not involve a shooting, it does not fit within the statutory purview of §16-2.5-301, C.R.S., or implicate the District Attorney's subsequent responsibilities pursuant to §20-1-114, C.R.S. Therefore, we are guided solely by the Eighth Judicial District's Critical Incident Protocol, which defines "critical incidents" as including: "Vehicular collisions resulting in death or serious bodily injury, including but not limited to: [] Incidents in which a police vehicle was used as a technique to apprehend a suspect (e.g., ramming, roadblock)." *See CIRT Protocol, p. 6, par. A. 7.* The Eighth Judicial District CIRT Protocol is intentionally more expansive than required by statute, in order to provide the community independent review of a more comprehensive set of actions that implicate police use of force.

In this case, Sgt. Rairdon used a PIT ("Precision Immobilization Technique") maneuver to immobilize the suspect vehicle, and the driver appears to have sustained serious bodily injury, thus the CIRT protocols were initiated.*

**Note – the CIRT investigator's attempts to secure a search warrant for medical records pertaining to the injuries suffered by Benefield was denied by a Judge, thus only limited information is available with respect to Benefield's injuries.*

I. EXECUTIVE SUMMARY

Applying the law to the facts of the incident, as described in greater detail below, I conclude Sgt. Rairdon was legally justified in his use of force to apprehend the suspect, Timothy Benefield, and to protect the public from the threat Benefield posed on September 14, 2022. Therefore, no criminal charges will be filed against Sgt. Rairdon.

II. LIMITATIONS

As Mr. Benefield was charged with crimes related to the September 14th incident, the information in this letter will be limited to ensure compliance with the legal requirements of Colorado Rules of Criminal Procedure 3.6 and 3.8. Mr. Benefield was charged with the following crimes as a result

of this incident: Vehicular Eluding, class 5 felony; Possession of a Controlled Substance, class 4 drug felony; Criminal Mischief, class 1 misdemeanor; and Obstructing a Peace Officer, class 2 misdemeanor. *

**All charges against Timothy Benefield are merely allegations and he is presumed innocent of all charges filed against him unless until proven guilty beyond a reasonable doubt.*

III. MATERIALS REVIEWED

I have been provided materials produced during the CIRT investigation into the vehicle pursuit by Sgt. Rairdon of suspect Timothy Benefield, which resulted in a single vehicle rollover crash and possible serious bodily injury to Benefield. The information I have considered includes:

- Relevant body worn camera footage of the involved peace officers
- Relevant surveillance footage of the incident, including video from Atlas Meat Company located at 4020 John Deere Dr, Ft. Collins
- Reports/summaries of the CIRT investigators, including crime scene investigator reports
- Recorded interviews of involved peace officers
- Photographic evidence, including drone photos of the crash scene

IV. APPLICABLE LAW

§ 18-1-707, C.R.S. (Use of force by peace officers—definitions), states in relevant part:

(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 nonviolent means would be ineffective in effecting an arrest, preventing an escape, or preventing an imminent threat of injury 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.

V. SUMMARY OF LEGAL STANDARD AS APPLIED TO THIS EVENT

Considering the legal framework above, in our review of this event we must determine:

- 1) Whether Sgt. Rairdon used physical force in carrying out his duties, and if so
- 2) Whether nonviolent means would have been ineffective in effecting an arrest, preventing

an escape, or preventing an imminent threat of injury to the peace officer or another person, and

- 3) Whether Sgt. Rairdon used a degree of force consistent with the minimization of injury to others, and
- 4) Whether Sgt. Rairdon or other deputies ensured that assistance and medical aid were rendered to Benefield as soon as was practicable, and
- 5) If Benefield sustained serious bodily injury, whether Sgt. Rairdon or fellow deputies ensured that Benefield's identified relatives or next of kin were notified as soon as practicable.

Note – while the result of this incident was a significant crash and injury to Benefield, it is not clear if §18-1-707 (“Use of force by peace officers”) applies to this situation, as the use of force (i.e. car to car) was not intended to cause pain to - or otherwise harm – Benefield. However, given the ambiguity in the definitions and statutory intent, I will nonetheless analyze the event presuming the threshold legal criteria has been met as this framework will be helpful in providing transparency to the community.

VI. SUMMARY OF RELEVANT FACTS

The following summary is derived from multiple credible sources of information, including the sources mentioned in section III above. The reports from the involved deputies are consistent with the body worn camera and surveillance footage I have reviewed in this case.

On September 14, 2022, at 1:18 p.m., the Larimer County Sheriff's Office received a request from Boulder Police detectives to assist them in a warrant arrest in Larimer County at 3900 E Mulberry Street. Boulder Detective N. Frankenritter initially contacted Fort Collins Police to assist in the arrest of Timothy Benefield as he had 5 active arrest warrants and was also a person of interest in a Boulder Theft investigation. Once it was determined that the location was outside of the city limits, assistance was requested from the Sheriff's Office.

Detective Frankenritter advised that he had been surveilling Benefield by use of a ping warrant on his phone and a tracker on the minivan he was driving. Sergeant Michael Rairdon, Deputy Gerald Baker and Deputy Kristin Buff of the Larimer County Sheriff's Office arrived at 3900 E. Mulberry to assist in contacting and arresting Benefield on his warrants. The three Larimer County deputies were in full uniform and driving marked patrol vehicles. Boulder Detective Frankenritter gave deputies the information regarding the warrants. Sgt. Rairdon looked up a photo of Benefield and shared it with Deputy Baker and Deputy Buff. Detective Frankenritter gave deputies a description of the blue 2005 Chrysler minivan that he knew Benefield had been driving and on which he had affixed an active court-ordered tracker. Detective Frankenritter showed Rairdon where on the property the vehicle was parked while Deputy Buff and Deputy Baker approached from the opposite direction. Benefield's blue minivan was backed into a parking spot in the Motel 6 parking lot. The deputies put their vehicles in a “V” pattern prior to attempting contact with Benefield to avoid him taking off in the minivan.

All three Larimer County deputies approached the vehicle and Deputy Buff confirmed he was in fact in the driver's seat. She gave Benefield commands to exit the vehicle. According to Deputy

Buff, Benefield opened his eyes and looked at her and she told him to step out of the vehicle. Benefield appeared as if he was about to comply as he stepped out of the vehicle and was petting his dog as if to say goodbye. Deputy Buff told Benefield to close the door, but instead he jumped back into the driver's seat and closed the door and held it shut. Buff attempted to open the door but when she was unable to so, she ran to get into her patrol vehicle anticipating Benfield would flee. Benefield immediately drove his minivan toward Sgt. Rairdon's marked vehicle, striking it on the passenger side. The estimated damage to the police vehicle is approximately \$1700.

Sgt. Rairdon's body worn camera captures the events in the parking lot clearly: the minivan lurches forward and drives out of the spot recklessly, driving between two police vehicles, ultimately striking the front passenger side of Sgt. Rairdon's vehicle with the passenger side of his minivan. He then drives over a curb as he accelerates past the police vehicles and begins to flee.

Benefield ultimately drove out of the parking lot and turned to the north on NW Frontage Road on the west side of Interstate 25. Sgt. Rairdon gave pursuit northbound on the frontage road. While Sgt. Rairdon followed Benefield with his emergency lights and siren activated he saw Benefield pass a tractor trailer crossing the double yellow line. Once Benefield passed the tractor trailer he stayed in the southbound lane driving north. This was approximately ½ mile from where Benefield was originally parked. Within less than 20 seconds of Sgt. Rairdon pursuing Benefield on the frontage road, Rairdon performs the PIT maneuver ("PIT" is short for *Precision Immobilization Technique* or *Pursuit Immobilization Technique*. It is a dynamic police tactic that is used to bring a potentially dangerous vehicle pursuit to an end by engaging/contacting the pursued vehicle with a police vehicle to accomplish a forced rotational stop of the pursued vehicle.)

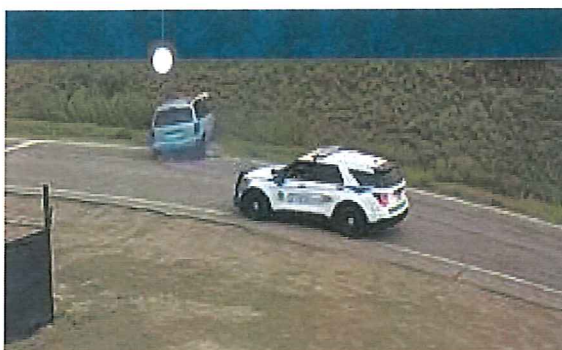


Location of the pursuit and crash, including the Motel 6 parking lot (red circle); Atlas Meat Company building (black circle); and the approximate crash location (red star)

After the PIT impact, Benefield's vehicle began to turn toward the east, then slid sideways, and rolled, and landed on its wheels, causing significant damage to the minivan. The minivan came to rest on the east shoulder of the frontage road, just north of the Atlas Meat Company property. Rairdon's patrol car was estimated to be travelling 78 miles per hour seconds before the time of impact with Benefield's vehicle. From a review of the video and recognizing that he had to reduce his speed to match speeds with the minivan before impact, it is likely that Sgt. Rairdon's speed at impact was significantly lower. While the District Attorney has not been provided data regarding the speed of Benefield's vehicle at impact, it appears from the Atlas Meat Company surveillance video that he was travelling at a similar rate of speed. The surveillance video captures the immediate aftermath of the PIT maneuver.



Minivan begins to spin toward embankment right after contact



Minivan starts sideward skid onto "soft" shoulder



Minivan begins rolling north along shoulder

In an interview with CIRT investigators, Sgt. Rairdon explained his decision to use the PIT maneuver:

“Had he turned west I wouldn't have pursued him because he would have been going into traffic, into people, lots of pedestrians in that motel corridor . . . we'd already talked about it beforehand that we weren't going to pursue him, but because he went north, and I know that that northwest frontage road is kind of wide open [inaudible] we began that pursuit. As we came around the curve to the northbound straightaway there's no other traffic – he passed the one vehicle that was on the road, which was a semi pulling a low boy trailer with some sort of equipment on it - we passed that on the double yellow and then as we went past that vehicle didn't seem like we were going very fast ... probably pretty close to the speed limit, but I'm not looking at my speedometer so I don't know. We came past the

semi and he stayed in the oncoming lane so since he was staying in the oncoming lane I moved back over; he was still there so I saw that as a perfect opportunity for a PIT, because I can PIT him on that right rear corner and spin him to the east where there's an embankment there between the frontage road and the interstate, so he's not going to go into any sort of traffic, he's not going west into the fences or businesses that are on the west side; so I can use a PIT there and end this pursuit before anybody is put into any danger."

Sgt. Rairdon described the PIT maneuver as a "Precision Immobilization Technique" wherein the officer uses one of the front corners of the police vehicle on one of the rear corners of the fleeing vehicle to dislodge the rear of the vehicle and cause it to spin and stop. He discussed having previously performed the PIT and that the maneuver is taught by the Sheriff's Office and he recertifies in proper technique annually.

After the PIT, Sgt. Rairdon immediately pulled off to the side of the road, announced "successful PIT, vehicle rolled," over his radio, then approached Benefield's vehicle with his handgun drawn as other officers can be heard shouting commands at Benefield so he can be taken into custody. On scene investigation and observations after the crash supported the conclusions that Benfield was in possession of - and was likely using - the opioid Fentanyl.

Benefield has some observable minor injuries, including a bleeding cut to his right elbow, but he was communicative and able to move on his own, thus the extent of the injuries was not known by the officers on scene. Benefield was nonetheless assessed and assisted until paramedics arrived a few minutes later. At one point, Deputy Buff saw that Benefield was possibly losing consciousness, so she put him in the "recovery position," (*i.e.* he is rolled onto his side to assist with regular breathing). Benefield was taken to the hospital for further assessment and treatment of his injuries. An on-call physician advised the police that Benefield's head injuries met the legal threshold for "serious bodily injury." At that time, the Sheriff's Office contacted the CIRT for consultation and CIRT took over the investigation. While it is unclear when Benefield's family was notified about his medical condition and location, such contact occurred within a reasonable time.

Benefield was discharged from the hospital and taken into custody at the Larimer County jail on September 16, 2022. He was subsequently charged with the crimes listed in section II above.

VII. CONCLUSIONS

This investigation comported with the CIRT protocols, and the investigation was thorough, objective, and well-resourced. The relevant materials were provided to the District Attorney in a timely manner. Finally, the investigation yielded ample evidence from which factual and legal conclusions could be reached.

Sgt. Rairdon cooperated with the CIRT investigation and provided a voluntary interview. He appeared candid and genuine in his responses. His account was consistent with the other evidence, including the body worn camera and surveillance footage. Pursuant to CIRT protocols, Sgt. Rairdon did not watch his body worn camera footage before the interview.

Question 1. Did Sgt. Rairdon use physical force in carrying out his duties?

Yes. For purposes of this review, I am assuming that the use of a patrol car in a PIT maneuver can be deemed the use of “physical force” by a peace officer, as that is discussed in §18-1-707, C.R.S.

Question 2. Would nonviolent means have been ineffective in effecting an arrest, preventing an escape, or preventing an imminent threat of injury to the peace officer or another person?

Yes. Presuming for purposes of this review that Rairdon’s use of the PIT maneuver may be considered something other than “nonviolent,” the evidence supports that nonviolent means would have been ineffective, and thus he was permitted under law to exercise the PIT maneuver here. The evidence shows that Benefield had active warrants on September 14th, and he was committing additional crimes as he fled from the police in the parking lot. Thus, Rairdon was clearly attempting to effect an arrest, and in a broad sense he was also trying to “prevent an escape.” While the question of whether Rairdon was attempting to prevent an “imminent threat of injury” to any other person is a closer call, Benefield’s behavior in recklessly driving into a police vehicle, running over a curb to escape, crossing double yellow lines, and driving on the wrong side of a divided roadway – all while being pursued by the police in the middle of the day - supports a reasonable belief that he posed an imminent threat to the public and that immobilization of his vehicle was warranted.

Question 3. Did Sgt. Rairdon use a degree of force consistent with the minimization of injury to others?

Yes. The evidence supports a conclusion that the use of the PIT maneuver here was consistent with the minimization of such injury and was the *reason* for the use of the PIT in the first place. As Sgt. Rairdon explained:

“... I saw that as a perfect opportunity for a PIT, because I can PIT him on that right rear corner and spin him to the east where there’s an embankment there between the frontage road and the interstate, so he’s not going to go into any sort of traffic, he’s not going west into the fences or businesses that are on the west side; so I can use a PIT there and end this pursuit before anybody is put into any danger.”

Given the rapidly developing events, and the danger this pursuit would have posed had it continued, Sgt. Rairdon’s judgment and behaviors must be seen as reasonable. It is worth mentioning that while PIT maneuvers always entail a certain degree of risk and vehicle pursuit and PIT policies vary significantly across law enforcement agencies the practice of engaging in pursuits and employing PIT maneuvers in certain circumstances is consistent with Larimer County Sheriff’s Office policy and practice.

Questions 4 and 5. Did Sgt. Rairdon or other deputies ensure that assistance and medical aid were rendered to Benefield as soon as was practicable, and if Benefield sustained serious bodily injury, did Sgt. Rairdon or fellow Larimer County personnel ensure that Benefield’s identified relatives or next of kin were notified as soon as practicable?

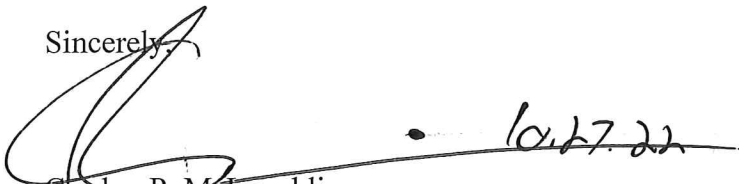
Yes. While awaiting paramedic support, deputies rendered aid and medical assistance on scene to the best of their ability. While we don't know the exact timing of the notification to the family, we know at minimum that Benefield's brother was consulted regarding his condition and other questions he had.

The totality of the evidence presented through the CIRT investigation reveals that the circumstances Larimer County deputies faced on September 14, 2022, justified Sgt. Rairdon's actions in employing the PIT maneuver to stop and arrest Timothy Benefield. As a result, I find that no charges can or will be brought against Sgt. Rairdon or any other peace officer. As stated above, criminal charges have been filed against Mr. Benefield for his alleged conduct.

Further details of the investigation will not be released at this time due to our ethical obligations pursuant to Colo. R Crim. P. 3.6 and 3.8 to limit publicity on open cases to protect an accused's presumption of innocence and right to a fair trial. All charges against Timothy Benefield are merely allegations, and he is presumed innocent of all charges filed against him unless and until he is proven guilty beyond a reasonable doubt.

The District Attorney's Office thanks the Critical Incident Response Team for conducting a thorough and expeditious investigation of this incident.

Sincerely,



Gordon P. McLaughlin
District Attorney
Eighth Judicial District

10.27.22