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February 14, 2019

Chief Alfonso Morales
Milwaukee Police Department
749 N. James Lovell Street
Wauwatosa, WI 53233

Re: Fatal critical incident involving the death of Alonzo Smith

Dear Chief Morales:

This letter summarizes the conclusions of my office regarding the October 10, 2018, critical incident involving Officers Bradley Baker and Edgar Rodriguez, which resulted in the death of Alonzo Smith. For the reasons indicated below, I find that Officers Baker and Rodriguez acted in accord with Wisconsin law and justifiably used deadly force in this incident.

On Wednesday, October 10, 2018, at approximately 5:43 a.m., Milwaukee police officers were dispatched to 6272 N. 101st Street, based on calls to 911 indicating an individual was firing gunshots outside the apartment complex located at this address. One caller, identified as JN, who lives near the apartment complex, indicated that he observed an individual later identified as Alonzo Smith point a firearm at him after JN asked him about the gunshots fired. Another caller, TC, a resident of the apartment complex, indicated that he heard gunshots and glass breaking, and observed Smith in the parking lot engaged in conversation with JW. TC observed Smith in possession of a firearm in each hand, and as TC retreated he heard additional shots fired. Witness JW observed Smith in possession of two firearms pointed at him asking him, "you ain't afraid?" and observed Smith fire three shots toward TC.

As Officers Baker and Rodriguez approached the parking lot of the apartment complex, JN informed them that the shooter (Smith) was still in the parking lot. The officers observed Smith in a vehicle and immediately shouted commands at him to surrender and show them his hands. MPD body camera video indicates that Smith fired shots toward Rodriguez before both Baker and Rodriguez returned fire. Smith exited the vehicle and continued firing shots at officers before being fatally wounded by their return fire. Smith was found in possession of a Springfield 9mm semi-automatic pistol and a Smith & Wesson .357 revolver.

Wisconsin Statutes Section 938.48(1) states as follows:

A person is privileged to threaten or intentionally use force against another for the purpose of preventing or terminating what the person reasonably believes to be an unlawful interference with his or her person by such other person. The actor may intentionally use only such force or threat thereof as the actor reasonably believes is necessary to prevent or terminate the interference. The actor may not intentionally use force which is intended or likely to cause death or great bodily harm unless the actor reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself.

This is a two-part test, with subjective and objective components.

- 1) Did the officer have an actual subjective belief that deadly force was necessary to prevent imminent death or great bodily harm to himself or others?
- 2) Was that belief objectively reasonable?

See State v. Head, 2002 WI 99, 255 Wis. 2d 194, 648 N.W.2d 413.

The evidence in this case supports the use of deadly force by Officers Rodriguez and Baker. The officers responded to multiple eyewitness calls to an active shooter in a residential area. As they arrived, one of the eyewitnesses pointed out Smith as the active shooter and his location in the parking lot of the apartment complex, so the officers had direct and specific knowledge of the active threat to others presented by a known actor. As they verbally engaged Smith, he failed to obey their repeated commands and then clearly fired shots at the officers, justifying their immediate response with deadly force.

Accordingly, the conduct of Officers Bradley Baker and Edgar Rodriguez on October 10, 2018, is justified under Wisconsin law. My office has concluded its review of this matter.

Sincerely,



Kent Lovern
Chief Deputy District Attorney

cc: Asst. Chief Steven Caballero
Capt. Tom Casper
Attorney Brendan Matthews
Wauwatosa Chief Barry Weber