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**Memorandum re: Guthrie County Attorney’s conclusions regarding
July 1, 2018 officer involved shooting fatality in Panora, Iowa**

Date: July 16, 2018

Prepared by: Mary Benton, Guthrie County Attorney

Below are my conclusions regarding the officer involved shooting death of Joshua Blake Reed which occurred in Panora, Iowa on the evening of July 1, 2018. This conclusion was reached after my review of all materials available to me in the days since the shooting. My review of those materials included listening to the four audio taped interviews of eye and ear witnesses present before and during the shooting, viewing two DCI laboratory reports, viewing all relevant Guthrie County Sheriff’s Office written telephone and radio dispatch logs and listening to all relevant audio recordings of 911 and other telephone calls, and all Guthrie County law enforcement recorded radio transmissions surrounding the event. I also gained oral information from D.C.I. agents Chris Swigart and Marc Ridout, paid a personal visit to the location, viewed the sole body camera video from the first uniformed officer to arrive within moments of the shooting, and personally interviewed Dr. Jon Thompson, the State Medical Examiner who performed the autopsy on the decedent. Several of the actual reports of the above including the autopsy report have not been completed, but having gained virtually all of the relevant information which will make up those reports, I saw no necessity in waiting for their completion.

The legal standard for the use of deadly force is set out in Iowa Code chapter 704. Prior to July 1, 2017, Iowa Code sections 704.1 stated that “reasonable force” is ‘that force and no more which a reasonable person, in like circumstances, would judge to be necessary to prevent an injury or loss and can include deadly force if it is reasonable to believe that such force is necessary to avoid injury or risk to one’s life or safety or the life or safety of another, or it is reasonable to believe that such force is necessary to resist a like force or threat.’ Section 704.3 stated that a person is justified in the use of reasonable force when the person reasonably believes that such force is necessary to defend oneself or another from any imminent use of unlawful force.

The 2017 General Assembly amended Chapter 704 in H.F. 517, 87th Gen. Ass.

(Iowa 2017), known as the "Stand Your Ground" law. These amendments became effective July 1, 2017. For example, section 704.2(2) was added to the statute, stating that, "A person may be wrong in the estimation of the danger or the force necessary to repel the danger as long as there is a reasonable basis for the belief of the person and the person acts reasonably in the response to that belief." A new subsection (3) was added to the statute to provide that a person not engaged in illegal activity has no duty to retreat from any place where the person is lawfully present before using force as specified in this chapter. A new section 704.13 was enacted, stating that a person justified in using reasonable force against an aggressor in defense of oneself is immune from criminal or civil liability for all damages incurred by the aggressor.

I have analyzed this matter under both the pre and post July 1, 2017 versions of chapter 704, and find that Officer Armstrong's actions were reasonable under all the facts and circumstance involved here regardless of which version of Chapter 704 is applied.

The facts as I have discerned them are that on the evening of July 1, 2018 Panora Police Officer, Rock Armstrong went on duty shortly after 7:00 P.M. Armstrong is an 18 year veteran of the Panora Police Dept. and a firearms instructor. Almost simultaneous with going on duty as the sole Panora police officer that evening, he received a radio transmission from the Guthrie County Sheriff's Office dispatch. That radio transmission was recorded by the dispatcher as having been transmitted at 7:19 P.M.. The transmission informed Armstrong of a 911 caller seeking immediate law enforcement assistance at an apartment in a building located at 502 W. Market Street, Panora. The time of that 911 call was recorded by dispatch as having been received at 7:17 P.M. The report was of a person who had "pulled a knife" on the caller and threatened to kill and stab the caller as well as threatening the caller's neighbor with a knife. The caller was identified as Jordan Kohler (first heard by dispatcher incorrectly as "Fuller") The person with the knife was identified by the caller as Josh Reed.

Armstrong, who was nearby, responded immediately and met with Kohler, outside the apartment building. Kohler described first hand to Armstrong the reasons he had phoned 911. He described Josh Reed as living in Des Moines but being at his apartment since the day before when Kohler had picked him up. Kohler described his friend, Reed as having been violent earlier that day having threatened Kohler with a knife, and thrown him down on his couch, and was in Kohler's words "going crazy". Kohler also described to Armstrong that he planned to give Reed a ride back to Des Moines but Reed wasn't happy about that. Kohler further explained that he had left his own apartment earlier to let Reed cool off and when he returned coincidentally with a neighbor, Deven Klouffer entering his apartment behind him, Reed became enraged. Kohler described that he believed Reed had apparently interpreted Kohler having Klouffer with him as threatening in some way. He said Reed pulled one or two knives on the two men, actually "holding a knife on Klouffer". Kohler explained that Reed had obtained the two knives from Kohler's kitchen. After learning the above, Armstrong and Kohler then together entered the apartment building, climbed to the third floor, and walked the length of the hallway to Kohler's apartment.

By both men's accounts, when they reach Kohler's apartment, Apt. #304, Kohler tried to open his door but found it locked. Kohler then knocked on his door and Reed

began screaming from the inside demanding to know who it was stating "Who the fuck is it?!". Kohler then backed away and Officer Armstrong replied to Reed telling him his name and that he was with the Panora Police Department. Reed responded with shouts from inside the apartment described by both Kohler and Armstrong as phrases such as "you better have your fucking gun on mother-fucker. I don't care how many of you there are, I'll take ya all on". Both Armstrong and Kohler report that Armstrong attempted, using a calm voice to reassure Reed and convey to him "I just wanna talk". Reed from behind the door continued to shout threats and use profanity as Armstrong made another plea to "let's just talk". Reed then engaged in a loud tirade from behind the door shouting obscenities and threats such as "they'd better have their guns". "You guys better have your guns out". Kohler recalled a statement his houseguest Reed said as ""You better have your gun drawn when I open this door because I have a knife and I'm man enough to use em so you better be man enough to pull that trigger on me", "I don't care how many people you bring" and "If you don't shoot me, I'll get to the next guy" . Kohler described that Armstrong took a few steps backward to about the middle of the length of the hallway as the shouts and threats continued to come from inside the apartment. He described Armstrong as continuing to attempt to de-escalate Reed by saying things like "I just want to talk" and "We don't need to do this".

Lake Panorama Security Officer and also a Reserve Guthrie County Sheriff's Deputy, Gary Freeland arrived having heard the radio traffic concerning the man with the knife. He had been driving past the building on his way home from his job at Lake Panorama and reported he saw Armstrong and Kohler walk in the door, but they did not see him. Freeland also reported hearing the same or similar threats from the top of the stairs where he stood and watched Armstrong standing in the narrow hallway backing up closer to him. Freeland's recollection of what he heard Reed say were things such as "You better be ready". "You better pull the fuckin trigger!" Unbeknownst to Armstrong, Freeland had entered the apartment building and was at the top of the stairs at the opposite end of the hallway. Somewhere behind him was Kohler. Freeland watched as Reed emerged from the apartment and peered around the wall a couple of times continuing his threats when he emerged in the hallway and charged at Armstrong.

Freeland reported hearing Reed say things like "You better shoot", "You better shoot now". Freeland and Armstrong both observed Reed charge at Armstrong very fast and Armstrong remembers shouting commands to "Put the knife down." "Put the knife down." "Drop the knife". Armstrong recalled Reed charging at him down the hallway with the large butcher knife in his hand. Kohler recalled watching as his friend Josh Reed came charging out with the knife and kept screaming at Armstrong as he did. Armstrong, who had drawn his weapon as the threats continued, then fired upon Reed as he charged at him down the hallway. He fired three quick successive rounds from his gun and Reed fell forward to the ground. Freeland also saw Reed charging down the hallway and watched as Armstrong fired on him.

Freeland, who was armed at the time had also drawn his weapon, but could not have safely fired upon Reed because of the narrowness of the hallway and the other officer between he and the assailant. He reported he couldn't have had a clear shot. Even had Armstrong known Freeland was behind him, the tight logistics of the hallway and

the speed at which Reed was upon Armstrong made it impossible for Armstrong to safely attempt any less lethal force without certainly endangering himself, all the others present, and any other innocent apartment building occupants Reed may have encountered.

Officer Armstrong then radioed at 7:25 P.M. that shots had been fired and for emergency medical assistance. He and Freeland performed CPR on Reed until the ambulance crew arrived to take over until life-saving attempts were discontinued.

The body cam video from the first such equipped Guthrie County Sheriff's Deputy to arrive very shortly following the gun fire, shows a large black-handled kitchen knife lying next to Reed's body between he and the wall in the hallway where he lay. Reed had traveled nearly the entire length of the hallway from Apt. #304, to where his body came to rest nearly to the landing next to the stairs where Freeland was. This "body cam" video also reveals spent shell casings visible in the vicinity of Reed's body. The DCI crime scene team recovered three shell casings and the black handled knife which measured 12 ½ inches in total length with a stainless steel blade measuring 8 inches in length, and 1.75 inches at the widest part. A second broken kitchen knife was also recovered from closer to Apt. #304. When interviewed by DCI Agent Swigart, Jordan Kohler recalled seeing Reed throw this knife out the door before entering the hallway and charging at Officer Armstrong. The autopsy revealed three bullet entry wounds in Reed's chest area. Reed stood 5 ft. 9 inches, roughly the same height as Officer Armstrong. The autopsy revealed the three bullets remained in Reed's body and lodged near his lower trunk, indicating an "up to down" trajectory consistent with a charging body position when the bullets struck.

The conclusions the undersigned reaches in this case are clear. Officer Armstrong was not only justified in using deadly force in this situation, but he could well have been criticized had he not. This case isn't even close. It isn't the kind where visibility was poor and an officer reasonably or unreasonably mistook an innocent object for a weapon. In this case, not only was the assailant seen charging at the police officer, knife in hand, he also announced over and over that he had the knife and intended to kill as many officers as necessary until one of them shot him. These statements were heard and recalled not just by Officer Armstrong, but importantly by Jordan Kohler, Reed's friend, at whose apartment he had been an overnight guest. In the opinion of the undersigned, Josh Reed on July 1, 2018 left Panora Officer Rock Armstrong no choice but to use deadly force to protect both himself and any others in Reed's way. Armstrong did indeed retreat as he walked backward down the hallway shouting commands to drop the knife. Armstrong could not have safely turned his back on his assailant to retreat further. Had he done so, he would have insured injury or death to himself and those behind him. Under the newly passed Chapter 704 provisions Armstrong had no duty at all to retreat. The undersigned believes it important to point out that in this instance Armstrong was justified under the law both before and after the enactment of the "stand your ground" provisions.

Armstrong's actions are to be judged from a perspective of what he knew at the time. So, while not relevant to an inquiry of whether Armstrong's actions were reasonable and justified because these facts were unknown to him at the time, it is worth noting that in his interview conducted by DCI agents, Kohler described that only the day before, in a phone conversation with his friend, Josh Reed said he wanted to jump off the freeway bridge into traffic, and on the trip from Des Moines to Panora, Reed told Kohler he just wanted to kill himself.

Sincerely,

A handwritten signature in blue ink that reads "Mary Benton". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Mary Benton
Guthrie County Attorney