



For Immediate Release  
August 24, 2012

District Attorney Nola Tedesco Foulston announces completion of the review of the law enforcement use of deadly force resulting in the death of DeJuan Colbert occurring on October 30, 2011, at the Dollar General Store, 2427 West Pawnee, in Wichita, Sedgwick County Kansas.

As required by protocol, the Office of the District Attorney has reviewed the results of the investigation conducted by the Kansas Bureau of Investigation, Wichita Police Department, and Investigators from the District Attorney's Office.

**SUMMARY OF EVENTS**

On Sunday, October 30, 2011, at approximately 9:57 p.m., Wichita Police Officers responded to a Robbery-In-Progress at the Dollar General Store located at 2427 W. Pawnee. The store is located on the southwest corner of Pawnee and Meridian.

At 9:57 p.m., Sedgwick County 911 received a call from the business phone inside the Dollar General Store. There was no conversation on the line; however, the call taker could hear a male in the background giving orders for someone to "open them up." Those words, along with other comments being made, led the dispatcher to believe that a robbery was occurring in the store. 911 immediately dispatched officers to the Robbery-In-Progress. Multiple officers responded and three officers arrived approximately one minute later. The first officer to approach the front glass doors of the business observed a black male at the register area with an employee. The black male had a bandana covering his face. The officer observed a second black male, also wearing a bandana over his face, moving towards the back of the store. The officer notified other officers via radio of his observations. As the three officers entered the front door of the store and confronted the suspect at the register, the suspect turned and charged towards the officers with a plastic bag outstretched towards the officers in his left hand and a knife in his right hand. All three officers fired their handguns at the suspect who was struck with multiple gunshots. The suspect was able to exit the front door of the store but fell from his injuries as he exited. Two other suspects, armed with knives and wearing bandanas, were located inside of the business and taken into custody without incident. The wounded suspect was transported by Sedgwick County EMS to Via Christi Hospital on St. Francis where he was pronounced dead. The male was subsequently identified as DeJuan Colbert, a 28 year old resident of Wichita. The other two suspects were arrested at the scene and subsequently identified as Kenneth Turner, 30, and Ajalon Johnson, 17, both from Wichita. Johnson is a younger brother of DeJuan Colbert.

## STATEMENT OF INVESTIGATION

The three Wichita Police Officers involved in the shooting death of DeJuan Colbert were immediately removed from the area and their weapons were secured. Crime Scene Investigators from the Wichita Police Department processed the scene. The body of DeJuan Colbert was transported from the hospital to the Sedgwick County Regional Forensic Science Center for autopsy. Firearm examinations were conducted by the Forensic Science Center.

Immediately following the shooting, numerous individuals with information concerning the events of the evening were identified and taken to Wichita Police Headquarters for interviews. The three officers directly involved in the incident gave voluntary, recorded statements to investigators, as did several civilian witnesses who had knowledge of some of the events of the evening.

## STATEMENT OF FACTS

The following facts are compiled from the statements of individuals involved in the incident, physical evidence recovered, and the results of forensic testing. The details of the use of deadly force by the officers are compiled from statements given by the officers, a civilian eyewitness to the shooting, physical evidence at the scene - including store surveillance video, and the results of the autopsy of DeJuan Colbert. As is generally the case, there are expected to be differences among witnesses in their perception of what they may have seen or heard from their different vantage points. The statements taken from the involved officers are consistent with the physical evidence developed during the investigation. When all of the statements are taken in concert with the totality of the evidence gathered during the investigation, a clear set of facts emerges that is consistent with the officers' descriptions of events.

## CIVILIAN WITNESS STATEMENTS

Investigators interviewed the manager who was on-duty at the Dollar General at the time of the incident. The manager stated he was working with one other employee at the time of the incident. He said he initially saw two black males with bandanas covering their faces enter the store and immediately knew it was going to be a robbery. The manager was carrying the store's cordless phone with him and dialed 911. While dialing, a third suspect wearing a bandana entered the front door. The manager placed the cordless phone with an open line to 911 in a product display case next to the register area. The first two suspects quickly moved to the rear of the store where they forced the female employee to the ground at knifepoint. The third suspect, later identified as DeJuan Colbert, confronted the manager with a steak knife and ordered him to open the registers as well as the drop safe at the register area. The manager reported hearing the first two suspects yelling, "Get down, Bitch," to the female employee and then heard the female begin crying. The manager, believing the suspects were hurting the female employee, yelled out, "Just do what they say," along with,

“Please don’t hurt her.” Colbert then raised his knife to the manager and said, “Shut the fuck up.” He then ordered the manager again to open the safe, and also began dumping the money from the register drawers into a plastic Dollar General bag. The manager told Colbert the safe was on a time delay and that it would take 10 minutes until the door would unlock. Colbert began yelling at the manager calling him a liar. Colbert then ordered the manager to empty his pockets and subsequently took the manager’s wallet and cell phone. Colbert ordered the manager several more times to open the safe but then began calling the other two suspects saying, “This bitch is lying. Let’s go.” The manager said at that point he heard the door and saw a uniformed Wichita Police Officer step inside of the store with his gun drawn and pointed toward Colbert. The manager reported the officer yelled “Drop it. Get down.” The manager said he saw Colbert head towards the officer at the door with the knife extended out in front of him at about shoulder level, at which point he heard multiple gunshots being fired. The manager said he ducked down until the shots stopped. He said he then told the officers there were other suspects towards the back of the store and saw an officer head that way. The manager then ran to the female employee’s location and escorted her out of the store.

The female employee working at the time of the incident gave the following statement to investigators:

She was working in an aisle when she felt a sharp object poke her in the back and heard a male voice yell, “Get down, Bitch.” She said two black males wearing bandanas over their faces forced her to the end of the aisle and made her lie face down on the floor. She said one of the suspects saw her cell phone in the back pocket of her pants, removed the phone, and threw it to the ground causing it to break. She said she saw the suspects with knives and believed she was going to be killed. She described both suspects as wearing hooded sweatshirts with the hoods up and bandanas over their faces. The employee said she could hear someone yelling at the manager to open the safe several times and then heard another voice yell “Get down.” The female then reported hearing multiple gunshots. She said she stayed face down on the floor until the manager grabbed her and escorted out via the front door as several police officers were entering the store. The employee did not know who fired the shots or what had taken place at the front of the store.

## LAW ENFORCEMENT WITNESS STATEMENTS

The officer who initially confronted DeJuan Colbert was interviewed after the incident. The officer is a three year veteran of the Wichita Police Department and, for the purposes of this report, will be referred to as “Officer 1.” Officer 1 gave the following statement:

Officer 1 responded to the reported Robbery-in-Progress and arrived simultaneously with the other two officers (Officers 2 and 3). Officer 1, who was dressed in a full Wichita Police Department duty uniform, parked his patrol car to the west of the Dollar General Store and approached the front doors as the other two officers approached from the east side. Officer 1 reported that as he was approaching the front of the store, he saw a black male suspect wearing a black shirt, ball cap, and a bandana covering his face

walk by the front area of the store. As Officer 1 got close enough to look in towards the register area, he saw what he believed to be an employee at the registers and a second suspect confronting the employee. He described the second suspect as a black male with a bandana covering his face, wearing a latex glove on his right hand. The officer reported he could not see the suspect's left hand as it was concealed. Officer 1 said he motioned to Officer 2 and Officer 3 that he could see a suspect and he was going to enter the store. Officer 1 then attempted to enter via the easternmost of the double front doors but found it was locked. He then entered the westernmost front door and yelled at the suspect to get down on the ground. Officer 1 reported the suspect turned towards him and then moved quickly towards him. Officer 1 further described the suspect as moving towards him aggressively and being unable to see the suspect's hands. Officer 1 reported he fired shots from his 9mm handgun at the suspect while moving laterally to his right to avoid the suspect's aggressive approach. Officer 1 said he then heard additional shots being fired from behind him and believed the shots were being fired by the officers at the front door area. Officer 1 then quickly moved further into the store to search for the second male he had first observed in the store while approaching. Officer 1 said he encountered a female employee lying on the floor. He saw she appeared to be okay so he continued through the store. He reported finding two black male suspects lying on the floor in the last aisle at the back of the store. Both suspects were wearing latex gloves and had bandanas covering their faces. Officer 1 held both suspects at gunpoint until additional officers arrived and took the two into custody.

During his statement to investigators, Officer 1 told of his knowledge of a previous robbery at the Dollar General. He stated he knew the suspects were black males wearing bandanas and that the suspects were armed with knives during that robbery.

The second officer involved in the shooting also provided a recorded, voluntary statement. "Officer 2" is a twelve year veteran of the Wichita Police Department. Officer 2 was riding in a two officer unit with the third officer involved in the shooting and they responded to the reported Robbery-in-Progress. Officer 2 reported arriving at the location and approaching the store. A fourth officer who arrived was directed to cover the back door of the business. Officer 2 reported that he saw Officer 1 approach the front windows of the store and Officer 1 motioned that he saw the robbery taking place. Officer 2 said Officer 1 made entry through the front door and Officer 2 was going to follow him in. Officer 2 said he saw Officer 1 point his handgun and yell a command towards the register area. Officer 2 said that as he stepped closer, he saw a black male wearing a bandana turn and move aggressively towards Officer 1 and Officer 1 began firing at the suspect. Officer 2 said he began backing up and believed the suspect was armed due to Officer 1's actions, so he began firing at the suspect as well. Officer 2 said he fired at the suspect through the glass doors as the suspect began exiting the store and continued to fire until the suspect fell. Officer 2 said he believed Officer 3 was firing at the suspect also. Officer 2 approached the doors again and saw the clerk motioning towards the back of the store. Officer 2 then assisted other officers with checking the condition of the suspect who was down. Officer 2 reported that the suspect was moved away from the front door and other responding officers began doing CPR on the suspect who had been shot.

The third officer involved in the shooting provided a recorded voluntary statement as well. "Officer 3" is a four year veteran of the Wichita Police Department. Officer 3 responded to the call in the same car as Officer 2. Officer 3 reported arriving at the call and approaching the front of the business. Officer 3 said that he remembered a previous robbery at the Dollar General in which the suspects were black males wearing bandanas and the suspects were all armed with knives. Officer 3 said he saw Officer 1 indicated he could see a robbery or something taking place inside. Officer 3 said Officer 1 entered the front door and he heard Officer 1 yell out something, followed quickly by a gunshot. Officer 3 said he did not know who had fired the shot and was concerned that Officer 1 was being shot at. Officer 3 stepped closer and saw Officer 1 and saw a male wearing a bandana charging at Officer 1. Officer 3 said he heard a second shot and still didn't know if Officer 1 fired or if the suspect had a gun and fired. Officer 3 then began shooting through the glass doors at the male with the bandana. Officer 3 reported that Officer 1 moved away and the suspect continued towards the front doors. Officer 3 said he continued to shoot until the suspect fell as he exited the doors. Officer 3 related that when he saw Officer 1 retreat out of his line of sight, he didn't know if the officer was shot. Officer 3 also said he initially believed the suspect may have been wearing body armor due to the fact that the suspect was not going down during the shooting. Officer 3 said when the male did go down, he observed a steak knife on the ground next to him.

## ARREST AND SUSPECT STATEMENT

DeJuan Colbert's younger brother, Ajalon Johnson, was arrested for taking part in the robbery. He was 17 years old at the time of the offense. He gave a voluntary, recorded statement to police on the night of the incident in which he told of his involvement in the robbery. Ajalon told police the robbery was planned beforehand with his brother, DeJuan Colbert, and Kenneth Turner. He stated all three armed themselves with knives and all wore plastic gloves on their hands and bandanas covering their faces during the incident. He told investigators that upon entering the store, he and Kenneth Turner found the female employee and held her at knifepoint. Ajalon then went to the back office to try and disable the camera system or stop any recording that may be going on. Ajalon said he looked at the system in the office but was unable to disable it. He returned to the front of the store and saw his brother at the registers with an employee. He said his brother was yelling that the employee was lying about the safe. Ajalon then returned to the area of the store where Kenneth was holding the female employee at knifepoint. Ajalon heard the front door open and a loud voice yell "freeze" or "hands up" or some type of command. Ajalon looked to the front and saw a police officer with his gun drawn. He described that his brother was facing the officer and had his knife out. Ajalon initially told investigators that he turned to run and didn't see what happened to cause the police officer to begin shooting. He later said he believed his brother dropped the knife by the registers but, as the interview progressed, he again claimed he didn't see what happened at the front because he was running to the back of the store. Ajalon said both he and Kenneth ran and threw their knives down as they were running. Ajalon described being arrested at the back of the store.

Kenneth Turner was arrested in the store and did not talk to the police about the incident.

## CRIME SCENE INVESTIGATION

Wichita Police Department Crime Scene Investigators processed the scene of the robbery/shooting. The scene was photographed and diagrammed. Scene Investigators located, photographed and collected multiple items of physical evidence. Investigators noted multiple cartridge casings at the front door area of the store. The casings were both inside and outside the entrance. Investigators also located US Currency on the ground around the exit, a blood stain just outside the front doors, and a steak knife with a black handle on the ground just outside the doors. Inside the front doors, investigators located a black leather wallet belonging to the male clerk, a bank bag, loose paper currency, coins, and a yellow Dollar General plastic bag containing paper currency and multiple rolls of coins that had been dropped by Colbert. Scene Investigators collected 35 expended cartridge casings and several spent bullets and bullet fragments. Investigators located two additional knives in the store (one steak knife and a large butcher knife) which were thrown down by the two suspects prior to their arrests.

The video surveillance system present in the Dollar General Store was operational at the time of the robbery. A majority of the robbery, as well as the shooting, occurred in an area of the store that was well covered by cameras. The surveillance video was recovered.



Photograph of area inside the front doors



Photograph from just outside front doors



Steak knife located outside of front door area

## FORENSIC EVIDENCE AND AUTOPSY RESULTS

The firearms evidence collected from the scene of the shooting was examined at the Sedgwick County Regional Forensic Science Center.

An autopsy was performed on the body of DeJuan Colbert on October 31, 2011, at the Sedgwick County Regional Forensic Science Center. The autopsy determined that Colbert was shot fifteen times during the incident. Colbert's wounds consisted of four gunshot wounds to his left shoulder area, one to his left side, one to his left back, one to his upper abdomen, one to his left chest, one to his right chest, one to his genitalia, two to his left thigh, and three to his left upper arm, one of which was a graze type wound. Toxicology testing was done on Colbert. The toxicology results showed Colbert's blood alcohol level was .014, and showed Colbert tested positive for the presence of Tetrahydrocannabinol, the active ingredient in Marijuana. The autopsy determined the cause of Colbert's death was multiple gunshot wounds, and the manner of his death was Homicide.

The surveillance video was examined by investigators. The video shows the three suspects entering the store armed with knives and with bandanas covering their faces. The video documents Colbert forcing the manager to open the registers and Colbert putting the money into a Dollar General sack. During the robbery, Colbert appears to put his knife down on a counter but is seen picking it back up just prior to officers arriving. A second camera view shows the WPD Officers arriving at the front door and Officer 1 making entry into the store. The video clearly shows Colbert move towards Officer 1, who has his gun pointed at Colbert and has commanded him to "get down". Colbert has his left arm holding the sack extended out in front of him, and has the knife in his right hand with his arm also extended. Officer 1 moves left as he fires at Colbert and Colbert continues forward to the front doors. The other two officers begin firing at Colbert through the glass. Colbert tries to exit the easternmost of the two front doors, which is locked. He is seen opening and starting to exit the westernmost front door, then falling to the ground from his injuries.

The review of the forensic evidence indicates that Officer 1 fired three shots, Officer 2 fired 14 or 15 shots, and Officer 3 fired 18 shots.





Still photograph taken from store surveillance video showing Turner and Johnson entering store



Still photo from surveillance video showing Colbert entering store



Photo showing position of Colbert and officers at point of incident when shooting begins

## KANSAS LAW

In Kansas all persons, including law enforcement officers, are entitled to defend themselves and others against the use of unlawful force. The law provides that a person is justified in the use of force against an aggressor when and to the extent it appears to him and he reasonably believes that such conduct is necessary to defend himself or another against such aggressor's imminent use of unlawful force. A law enforcement officer is justified in using force likely to cause death or great bodily harm only and to the extent that it appears to him and he reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or another person.

The use of deadly force in defending a person is judged on a "case by case" basis. Only such force reasonably needed to defend against another's imminent use of unlawful force will be legally permissible.

## CONCLUSION

The use of deadly force by Officer 1, Officer 2, and Officer 3 against DeJuan Colbert did not constitute an unlawful use of force.

The investigation established that the armed robbery and kidnapping of the two employees of the Dollar General Store was a planned, premeditated crime. The three suspect participants conspired before the robbery and entered the store armed with knives, wearing gloves and bandanas. Ajalon Johnson and Kenneth Turner, upon entering the store, forcibly kidnapped and restrained the female employee while DeJuan Colbert immediately approached the cash register and demanded money from the male employee at knifepoint and began the lethal encounter.

When the first three officers responded, they observed through the glass doors the active armed robbery with at least two suspects inside and at least two civilians in a life threatening situation. As Officer 1 entered the front door of the store with his firearm drawn, he yelled at DeJuan Colbert to get down. Colbert responded by going directly toward Officer 1 with his knife arm raised and coming within inches of the officer. Officer 1 began to fire his gun at Colbert who continued his aggressive behavior, moving toward the front doors and Officers 2 and 3 in an apparent attempt to escape. Officers 2 and 3, who were just outside the glass doors, heard gunfire and fired several shots at Colbert before Colbert's advance was stopped. These acts by DeJuan Colbert clearly posed a deadly and imminent threat to the officers and the civilian employees inside the Dollar General store.

Therefore, it was reasonable and justifiable, under these circumstances, for each officer to use deadly force against the aggressions of Colbert, who had engaged himself in this lethal encounter, to protect their own lives and the lives of others.

District Attorney Nola Tedesco Foulston  
*18<sup>th</sup> Judicial District of Kansas*