



OFFICE OF THE DISTRICT ATTORNEY
Jefferson and Gilpin Counties
Peter A. Weir, District Attorney

April 17, 2018

Arvada Police Department
Edward Brady, Interim Chief of Police
8101 Ralston Road
Arvada, CO 80002

Re: Critical Incident Team Investigation 18-02 (Officer Involved Police Shooting of Adrian Valdez on January 31, 2018)

Dear Chief Brady:

The Critical Incident Response Team (CIRT) for the First Judicial District was activated pursuant to protocol on January 31, 2018 to investigate the fatal shooting of Adrian Valdez by Arvada Police Officers Benallo, Laas, LeDoux, and Saathoff. The CIRT was formed to investigate incidents in which any law enforcement officer within the First Judicial District uses deadly force, or attempts to use deadly force, against a human being while acting under the color of official law enforcement duties. A CIRT investigation was completed for the purpose of determining whether criminal charges are warranted with respect to the conduct of any of the Arvada Officers involved in the incident.

At the time of CIRT activation in this case, I dispatched two Senior Chief Deputy District Attorneys to respond and work in coordination with CIRT investigators and lend legal assistance as necessary. They observed key interviews of witnesses including Officers Benallo, Laas, LeDoux, and Saathoff.

CIRT investigators interviewed all witnesses, law enforcement and civilian, processed the scene of the shooting, and completed a background of Adrian Valdez as part of a thorough investigation into this incident. The investigative file is voluminous and includes transcripts of witness interviews, numerous reports,

diagrams, and digital media containing recorded interviews, police communications, and photographs, related to the incident.

A review of the investigative file, including all CIRT reports and documentation has been completed by my office and I, along with members of my staff, have been fully briefed regarding this incident by CIRT Commanders in charge of the investigation.

My findings, analysis, and conclusions of law with respect to the use of deadly force in this incident by Officers Benallo, Laas, LeDoux, and Saathoff are as follows:

Applicable Law

The legal framework for analysis in this case is found in the following sections of the Colorado Revised Statutes.

§ 18-1-704, C.R.S. Use of physical force in defense of a person

(1) Except as provided in subsections (2) and (3) of this section, a person is justified in using physical force upon another person in order to defend himself or a third person from what he reasonably believes to be the use or imminent use of unlawful physical force by that other person, and he may use a degree of force which he reasonably believes to be necessary for that purpose.

(2) Deadly physical force may be used only if a person reasonably believes a lesser degree of force is inadequate and:

(a) The actor has reasonable grounds to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving great bodily injury.

§ 18-1-707, C.R.S. Use of physical force in making an arrest or in preventing an escape

(1) Except as provided in subsections (2) and (2.5) of this section, a peace officer is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary:

(a) To effect an arrest or to prevent the escape from custody of an arrested person unless he knows that the arrest is unauthorized; or

(b) To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect such an

arrest or while preventing or attempting to prevent such an escape.

(2) A peace officer is justified in using deadly physical force upon another person for a purpose specified in subsection (1) of this section only when he reasonably believes that it is necessary:

(a) To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or

(b) To effect an arrest, or to prevent the escape from custody, of a person whom he reasonably believes:

(I) Has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon; or

(II) Is attempting to escape by the use of a deadly weapon; or

(III) Otherwise indicates, except through a motor vehicle violation, that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay.

§18-1-901, C.R.S. Definitions

(3)(d) "Deadly physical force" means force, the intended, natural, and probable consequence of which is to produce death, and which does, in fact, produce death.

§ 18-1-407, C.R.S. Affirmative defense

(1) "Affirmative defense" means that unless the state's evidence raises the issue involving the alleged defense, the defendant, to raise the issue, shall present some credible evidence on that issue.

(2) If the issue involved in an affirmative defense is raised, then the guilt of the defendant must be established beyond a reasonable doubt as to that issue as well as all other elements of the offense.

§ 18-1-710, C.R.S. Affirmative defense

The issues of justification or exemption from criminal liability under sections 18-1-701 to 18-1-709 are affirmative defenses.

Summary of Opinion

Applying these statutes to the facts presented in this investigation, I find that the involved law enforcement officers are not subject to criminal prosecution for their actions on January 31, 2018.

In all cases, the law and ethical rules require that there is a reasonable probability of proving each and every element of an offense beyond a reasonable doubt in order to lodge criminal charges. Moreover, in cases where the evidence supports an affirmative defense of self-defense there must also be a reasonable probability of disproving the affirmative defense beyond a reasonable doubt before criminal charges will be brought against an individual.

The evidence in this case establishes that at the time Officers Benallo, Laas, LeDoux, and Saathoff shot Adrian Valdez it was reasonable to believe that Valdez posed an imminent threat of death or serious bodily injury to the Officers. The evidence also establishes that Officers Benallo, Laas, LeDoux, and Saathoff were justified in using physical force upon Adrian Valdez to apprehend a person they knew was evading arrest.

Therefore, there is no reasonable probability of disproving the affirmative defenses in the shooting of Adrian Valdez and criminal charges against Officers Benallo, Laas, LeDoux, and Saathoff are not warranted.

Summary of Facts

The following summary was derived from CIRT reports, interviews of witnesses, transcripts, and a briefing by CIRT command staff regarding the incident of January 31, 2018.

On January 31, 2018 at approximately 7:30 P.M., Officers Brown and Martson were dispatched to 7843 W 82nd Way, Arvada, Colorado on a report of domestic violence. The reporting party, identified as Raye Rodriguez, informed the 911 dispatcher that her daughter's ex-husband was sitting in the daughter's vehicle and was refusing to leave. She further stated that her daughter's ex-husband had a felony warrant, is restrained from having contact with her daughter, and may be in possession of a unloaded gun. Upon arrival at 7843 W 82nd Way, Officer Martson contacted Sara Santos, daughter of Raye Rodriguez. Sara Santos informed Officer Martson that she currently lived at 7843 W 82nd Way with her parents and son. Sara Santos said that Adrian Valdez (husband or ex-husband) called her to come pick him up at a nearby Safeway. Ms. Santos picked up Adrian Valdez as requested and they ultimately got into an argument. At some point during their encounter, according to Ms. Santos,

Adrian Valdez stated to her that he wanted to kill himself and if he could not, he wanted the police to kill him. Ms. Santos informed Officer Martson that Mr. Valdez told her "I'm done with life," "I hate the person I have become," and "karma is going to bite me in the ass."

The Arvada Police Department confirmed that Adrian Valdez was wanted on two warrants, one of which was for a failure to appear on a Second Degree Burglary case. Adrian Valdez was also the subject of a mandatory protection order naming Sara Santos as the protected party.

Officers Brown and Martson did not observe Adrian Valdez on scene and the car that he had been sitting in was still parked. The officers concluded that Mr. Valdez was probably on foot. Additional officers responded to the area to set up a perimeter, and with a description of Adrian Valdez they began to search for him. Officer Laas and his canine (K-9) Rudy also responded and began to track Adrian Valdez. The K-9 led officers to the area of the Castlegate Apartments and then lost the track. At approximately 8:53 P.M. officers began clearing the area having been unsuccessful in locating Adrian Valdez.

At approximately 8:57 P.M., the Arvada Police Department received a call from a citizen who reported that a person was loitering in the area of 6952 W. 84th Way, at Castlegate apartments. That location is not far from where Officer Laas had previously ended the K-9 track. The citizen who contacted the Arvada Police Department also provided a description of the person who was loitering and it was similar to Adrian Valdez. The information provided by the citizen was transmitted to patrol officers via the mobile data computer as a pending call. Officer LeDoux reviewed pending calls that appear on his patrol car's mobile data computer and saw the information as provided by the citizen. Officer LeDoux concluded the citizen's call may be related to their search for Adrian Valdez. Officer LeDoux aired this and he and Officers Benallo, Laas, and Saathoff, immediately responded to 6952 W. 84th Way and approached the apartment building.

At about 9:01 P.M. Officer LeDoux observed Adrian Valdez sitting on the north facing steps inside the door of the apartment building at 6952 W. 84th Way. Officer LeDoux drew his weapon, opened the exterior building door, and ordered Valdez to show his hands. According to Officer LeDoux, "He (Valdez) stands up and I can see now his left hand is out of his pocket but his right hand is still concealed intentionally, it's like he's keeping that in there on purpose, and then he runs away from me, he runs up the stairs." Adrian Valdez ran away from the police officers, to the opposite end of the apartment building, down a flight of stairs, and eventually into a small laundry room off a landing between the second and third floors. Officers Benallo, Laas, LeDoux, and Saathoff pursued Adrian Valdez and positioned

themselves outside the laundry room. Officer Laas and K-9 Rudy stood outside the laundry room door on the landing. Officer LeDoux positioned himself on the stairs between the landing and the third floor above the laundry room, and Officers Saathoff and Benallo stood on the stairs between the second floor and the landing below the laundry room.

The interior of the laundry room was visible through a window in the door. The officers yelled at Valdez to show his hands. According to Officer Laas, Valdez kept his right hand inside his sweatshirt or jacket pocket and raised his hand inside the jacket as if he was holding a gun. Officer Laas believed Valdez had a gun. Officer Saathoff transferred his collapsible baton to Officer Laas. Officer Laas used the baton to break out the window (approximately 18" by 24" in size) of the laundry room door. Officer Laas stated he broke the window in an attempt to get Valdez to comply with orders to surrender. Officer Laas was concerned that Valdez would start shooting and place apartment tenants in serious danger.

As Officer Laas broke the window and issued further commands to Valdez to show his hands or he would be bitten by the K-9. Valdez opened the laundry room door and stepped out onto the landing. Officer Laas stated he heard Officer LeDoux yell that Valdez had a knife and he heard shots fired. K-9 Rudy attempted to engage Valdez as he fell to the floor. Mr. Valdez raised the knife and Officer Laas believed he was going to be stabbed. Officer Laas fired one round at Adrian Valdez.

Officer LeDoux described the laundry room door as flying open and Valdez rushed out with a knife in one of his hands. Valdez made slashing movements with the knife. Officer LeDoux said he wasn't sure who Valdez intended to target with those slashes but he feared for his life and the lives of his fellow officers. He yelled that Valdez had a knife and he fired his weapon at Valdez. Valdez stumbled back briefly and then began moving forward. Officer LeDoux stated he then heard a volley of gunfire and Valdez fell onto the floor, landing on his back. The knife landed on Valdez's chest.

According to Officer Benallo, Valdez came out onto the landing after the window was broken and took up a fighter's stance. He heard Officer LeDoux yell "knife" and he saw a "pointed stainless steel object that resembled a knife" in Valdez's hand. He thought Valdez was moving quickly towards Officers Laas or LeDoux. Officer Benallo thought Valdez was "going for blood or going to kill him" and he fired twice at Valdez, aiming for the pelvic girdle region. Valdez fell to the floor and the knife landed on his chest.

According to Officer Saathoff, Valdez came out of the laundry room with a knife in his hand. He said he heard someone say Valdez had a knife. Officer Saathoff

remembered the knife as having a silver blade, about 3 to 4" long. Officer Saathoff fired his weapon. Valdez then turned and approached Officer Laas and Officer Saathoff then fired a second shot. Officer Saathoff said he feared for his life and the life of his trainee, Officer Benallo.

Adrian Valdez died on scene as a result of the shooting.

Interview of Officer Brian Laas

On January 31, 2018 Officer Laas was on duty working patrol with his K-9 Rudy. He recalled hearing on his police radio that a perimeter was needed in the area of "82nd and Webster" to locate a person for a "restraining order violation." He heard that the individual may be armed with a gun, and had possibly fled the area on foot. Officer Laas responded to the area of 7843 W 82nd Way with his K-9 and took steps to track the individual. Officer Laas and his K-9 eventually tracked Adrian Valdez to an area within the Castlegate apartment complex before his dog lost the track. After K-9 Rudy lost the track Officer Laas started to return to the area from which the track originated. On his return he heard over the police radio that the individual they were attempting to track may be in one of the Castlegate apartments, 6952 W. 84th Way, not far from where the dog track ended. Officer Laas immediately turned back and proceeded to the apartment building at 6952 W. 84th Way.

As Officer Laas approached the apartment building, he observed Officer LeDoux near the building and heard him yell "there he is." Valdez was inside the apartment building and moved from the second to the third level. The Officers, including Officer Laas entered the building. Officer Laas recalled yelling at Adrian Valdez to "stop, or I'll send the dog." Adrian Valdez did not stop but ran from the officers to the other side of the building and into a laundry room.

Officer Laas described the events as follows:

"I call Rudy (K-9) back, and we start going across to the south on the second floor, cause I want`n to cut him off, because this is an apartment, there`s people all in here. We`ve already seen that all through, people are out walking around, cause it`s early enough at night. So, I`m thinking, okay, if this guy breaks into somebody`s apartment, I don`t wanna to do that, and he`s also armed. I don`t wanna him breaking into it, getting some hostages or anything like that. So I`m thinking, I can cut him off, and then Rudy`ll engage him, if he does come down those stairs. He`s coming down the stairs, from the third floor, to the landing in between the third and second floor on the south side. There`s a laundry room, I`m yelling to him to stop, and I`m sending the dog to engage him. Because I don`t want him, didn`t realize it was a laundry room, I was

thinking it might have been an apartment that he was trying to get into, so I'm like crap, I can't let him get to an innocent. He gets in there and Rudy (sic) immediately at the door."

"He's now in the laundry room, (clears throat), he's in the sweatshirt, and I just start yelling at him, "come out, let me see your hands," cause he's got his right hand in the sweatshirt, sweat jacket, is more what it is. And I scream at him, "let me see your hands, come out." Well he raises his hand in the jacket, up like this. I'm thinking okay, if he's got a gun, so I'm backing off, and I'm screaming, "let me see your hand." Then I start thinking, well, wait a minute, there's an apartment above, and apartment below. If I leave this guy in there, and he starts cranking off rounds, somebody's gonna get hit. So I'm thinking, if I break the window, I can yell at him to come out, and he'll do so, and he'll show his hands. He doesn't, he keeps doing this and I'm yelling at him. Officer Saathoff, is about to break the window himself, but he's um, right beside, and below. So he can't really hit the window, he's kinda below it. So I'm like, I'm here in front, (pause), and Officer Ledoux's up providing cover, he's down here, so I break. I'll tell him, throw me the, I had my gun out then, because I'm thinking he's armed. I remember I've got my gun out and I'm yelling, "show me your hand" and he won't do it. So that's when I back off, and then Saathoff's reaching up to smash out the window. I was like, you can't get it, cause he's parallel to the wall, he's not gonna be able to hit it. So I yell at him, he throws me the baton after I holster. I holster, smash out the window, yelling him, "Show me your hands or you're gonna get bit." (Pause). He doesn't, as soon as I s, smash that window, he comes out. (Pause). As he's coming out, the door"

"He, was rushing officers. He wanted to either stab them or have them shoot him. He was wanting to engage one of the cops to kill him."

"And that's when he's looking at me, and that's when he starts to raise it. He doesn't raise the gun towards me, he just raises his hand up where you can see he's got it bunched up in the coat. And I think he wanted me to shoot him. And I was like, show me your hands, and I thought for sure, if he didn't have a gun, when I smashed out the window, he would pop 'em up, especially with the dog. I get, ninety five percent compliance with the K-9 and that's we have them for. We don't wanna bite, we want people to surrender, and ninety five percent of the time, people are willing to surrender to the K-9. And he didn't, um, I thought for sure, when he did that, he was gonna start shooting."

“If this would be the wall, right here, the door swings to me, it’s a wooden door, but the window is larger, so it’s about three foot high, so you could see just about the waistline, up to above. So as the door swinging, Officer Ledoux’s yelling, he’s got a knife, and they engage him. Him and Saathoff heavily fire, well, as they fire, he then turns towards me, Rudy goes to engage him. As he goes to engage him, the suspect goes down, he’s got the knife, and he starts to come up with the knife again. By that time, I yank Rudy back, and I’m standing now, his head is to me, basically right here, and he’s got the knife coming up. And I’m standing here, and I’ve got no room, so as he’s coming up with the knife, I’m thinking he’s gonna come back and get me, so I drew and fired one round. And then I was peeling away with the dog at that time, and I was able to pull away. And I think that’s when his hand went back down, with the knife.”

Interview of Officer LeDoux

On January 31, 2018 Officer LeDoux was on duty working patrol in the Baker sector of Arvada. Officer LeDoux reported that he responded to a “domestic disturbance” and received information that the male party who was involved in the situation had fled, and may be armed with an unloaded gun. He recalled other officers responded to the call as well, and one of them aired that the wanted male party may also be armed with a knife and wanted on outstanding warrants for his arrest. Officer LeDoux stated he knew one of the warrants was for a felony offense.

Officer LeDoux explained the incident as follows:

“When I arrived on scene, other officers had been down the block where they were interviewing the female half of this disturbance. And I met with Officer Saathoff and Benallo and we went up to the house where the car was left and where he may or may not still be. So the three of us went up to the house looking for him. He was not found. I ended up speaking with a woman who lives at the house who’s the mother of the female half of the domestic disturbance. Ah she gave me some information that her daughter had come inside and told her and her husband that they needed to call the police because the male half was outside and he was refusing to leave. Um as they were getting on the phone with police dispatch, they had looked outside or the girl had opened the door to go outside and the guy was gone, he was no longer there. The, the mom of the female half of this disturbance, her name’s Rae, she was able to show me a picture of him. She had a picture on her cell phone. So I saw a picture of the guy, noted he had a tattoo on his face, ah which becomes important a little bit later. From that point he wasn’t there. Ah we coordinated to get a police K9 to respond. Officer Laas responded with his K9, and he and

Officer Saathoff and Benallo ah conducted the K9 track and I stayed on scene at the house.”

“Sat on my perimeter spot until they did their K9 track, eventually they kind of gave up on the track, it wasn't working out and they cleared the perimeter cars. So I cleared, I'm getting back in service, and I'm driving southbound on Wads. at about 80th Avenue just north of there. I look at the pending log on my ah, on my computer in the car and I see a pending call up in Castle Gate, the apartment complex up there. I think it was 6952 West 84th Way, a loitering complaint. Someone had called in and said that there's this guy in there, might be homeless, he's been loitering in the, in the building and he's described as wearing a beanie cap and having a tattoo on his face. So that was the area they were tracking, it's just due north of where the house was that he had fled from, similar suspect description, I thought it's most likely our guy. So I turned around and started going back and called out to ah the K9, Brian Laas, and Saathoff and Benallo and told them 'cause dispatch hadn't even had a chance to dispatch this loitering call and I told 'em, this call just, just hit the screen and it sounds like it might be our guy, and I was coordinating with them to meet up there. So I pull in, you know I park outside, and I'm starting to walk up on the building. And as I'm walking up I can see ah kind of hustling through the parking lot is Brian Laas and Saathoff and Benallo. And I was gonna coordinate with them for me to go around to the back 'cause at Castle Gate all of the apartments have two doors where you can come in and go out. So if we were to one side and leave that other side uncovered, you know, it would be an exit point, so I'm gonna go around to the back. But as I'm walking by the door, which has a glass window in it, um it looks like the guy sees me 'cause he's sitting on the stairs just right inside of the door. So at this point I think I've been, I've been observed, he knows the police are here now. Based on the fact that he was reported to be armed with either a gun, knife, both, whatever, um that's when I got my gun out for the first time um up at the ah, the Castle Gate apartments. I pulled the door open, I issued him the first set of commands to show me his hands. I can't see either of his hands at this point, they're in his pockets. He stands up and I can see now his left hand is out of his pocket but his right hand is still concealed intentionally, it's like he's keeping that in there on purpose, and then he runs away from me, he runs up the stairs. In the Castle Gate apartment complex there's three levels for the apartment buildings. So you go into the door, you can go downstairs to a group of four apartments. You can go up the first set of stairs, another group of four apartments. You can go up the next set of stairs, you're on the third floor with another set of four apartments. So he flees up onto the third level. At this point I rendezvoused with Brian Laas, ah Trent Saathoff, and Anthony Benallo. Brian goes in the door first, he goes straight across to the other stairwell to try to isolate this guy

up on the third floor. Um at that point you know I'm obviously concerned that he's upstairs, I don't know what he's armed with. I don't know if he's, you know, taken a position to ambush us as we're coming up the stairs. I don't know what kind of a threat he's posing to the occupants of those apartments. But before anything happens up on the third floor, he comes running down the stairwell on the opposite side of the building and into a room, which I know from my, you know, experience here as a cop, it's the laundry room for the apartments. So he goes into this laundry room, ah pulls the door closed behind, and now he's barricaded himself in that room. We make it to the stairwell. Brian Laas goes up, he takes the landing because the stairwell you go up a set of stairs, there's a landing where the laundry room is, you turn around and go up another set of stairs and then you're on the third floor. So Brian's on the landing, Saathoff and Benallo are on the stairs, I walk past them and I take a position on the next set of stairs kind of looking ah at a more downward angle into the laundry room 'cause the laundry room has a big window on the door. Ah Saathoff takes his asp, his collapsible baton, out of his ah off of his belt and he gives it to Brian Laas so that Brian Laas can port the window. Brian breaks the window and we start ah giving him additional commands to show us his hands, you know show us your hands, show us your hands. Um I guess I should back up. Um before the window was ported, like I said I'm on the stairs and I'm kind of looking down ah at a different angle from the other officers and I can see him and it looks like he's standing up against the door with his foot up against the door possibly kind of barricading it and holding it closed and he's staring at me right in the eyes and he's rocking back and forth just real aggressively. Just the way I describe it was just like savage."

"Um he's rocking back and forth and he's refusing to show his hands and we're all yelling at him to show us his hands and he's just ah noncompliant with those commands. Then the window gets ported. After the window's ported, we give him additional commands to show us his hands, show us his hands, and suddenly the door comes flying open and he comes barreling out of this, this room. And I could see in one of his hands, and I can't remember if it's right or left, but he's got a knife in his hands and he's making these slashing movements in the air, like figure eight kind of slashing movements right there. Um I already had my gun out, like I told you I had it out earlier, um I fired. He kind of, kind of stumbles back just real briefly, I scream out to everybody that he has a knife, and then he's right back up moving forward again. At that point I fire, um I start to hear you know the battery of gunfire from the other officers, and eventually um he falls to the ground. At that point, you know, the threat is over. Um I should mention that because Brian Laas is the K9 officer and he's standing on that landing, he's got the dog leash in one hand and he's that baton in the other when the window gets ported and when the guy is, you know,

coming out of that room. So he doesn't have his gun out yet. Um and I don't know when Brian got his gun out, but at that moment you know he didn't have it out and he's in very close proximity on that landing from where this guy came out of the door. Trent and ah Anthony are on the stairs to my right also in extremely close proximity to him, I'm in close proximity to him and it's an apartment building stairwell. So you know operating under the fear that anyone of us officers was in eminent peril of serious injury or death by his knife attack, ah that's why I fired on him."

Interview of Officer Saathoff

Officer Saathoff was one of several officers that responded to the dispatch for service at 7843 W 82nd Way. Officer Saathoff recalled that the dispatch was concerning a domestic issue and the male involved may have an unloaded gun and possibly a knife. Officer Saathoff indicated that either as he and Officer Benallo arrived at 7843 W 82nd Way, or shortly before, they learned there were "confirmed warrants for his (Adrian Valdez) arrest." Officer Saathoff believed one arrest warrant was for a misdemeanor and one was for a felony burglary. Officer Saathoff also believed there was probable cause to believe Valdez had committed a "restraining order" violation. After obtaining background information on what had occurred between Valdez and Santos, and learning that Valdez left the area, Officer Saathoff assisted in setting a perimeter to locate Valdez.

Officer Saathoff was interviewed concerning his involvement in this critical incident and described the pertinent events after the dog track was terminated as follows:

"...LeDoux aired on the radio that he was in route to an address in Castle Gate um, reference a call that was, and again I don't know if somebody was dispatched or if it was just in pending, that there was a male that was matching the description of our suspect um, in one of the apartments."

"At that point myself, Laas and Benallo began running back across the golf course towards that direction, and I believe the apartment number was 69. It's the farthest south east apartment in Castle Gate. Um, 6952 maybe. Um, I remember seeing LeDoux approaching the farthest west side, I guess it is kind of catty corner, it doesn't face the north south, or east west. Its kind of catty corner. So he approaches the the front door."

"As we were running LeDoux was walking through the front door and at that point he said that the guy ran up to the third story."

“So he opens the door. And then he yells for the guy to, I believe he said something, I don't know exactly what he says. And then he says that the guy goes up to the third story. At that point I enter the apartment complex first. And the apartments, it goes from the front door, it goes down some stairs or it goes up. And then it goes, sorry about that, and then it goes up again to the third story. As I entered I I think Brian, or Officer Laas and the K9 run past me as I go up to the second floor and try to clear behind me. Um, as I turn around I see the suspect. There is a laundry, I believe it is a laundry room, ah, that he comes back down to the second floor. Well the, I guess it would be the landing going up to, between the second and third floor. And he goes into that laundry room. At that point Laas takes a position in corner across from the laundry room. And it, I don't know for sure how, I think then LeDoux took a position, I think a couple of stairs, again I don't know, um, I know he was on the, so Brian is here, or Officer Laas is here, LeDoux is kind of up on the stair right here. And on the stair this way was myself and Benallo.”

“Um, at that point multiple verbal commands for him to show us his hands to... show me your hands. Um, and at no point did I really have a good angle. Brian had probably the best angle. There's a, there's a window, I don't know how big it is. I mean it is a decent size window. That you can see inside the laundry room. So we had eyes on him. I should say Officer Laas had more, I could just see when he would come to the window, I could just barely see his face.”

“He was basically, he was on the landing, like directly across. Um, at that point I pulled out my baton and I was going to break out the window. Ah, I didn't have a really good vantage point so Laas, I threw my baton to him. At that point again, commands were given. He then broke out the window and I don't know. I think after the window was broken out I, I think there was still you know verbal commands to show his hands. I heard a, a shot, and I don't know exactly who shot first. Then, at that point I believe he comes out in a very frantic arms flailing um. I see a silver knife that he's, I don't know what hand he had it in. As he opens the door, the door opens right towards me. At that point he kind of comes towards me. I believe that is when I fired my first shot. Then as he's still flailing his arms round with the knife he goes towards Laas and his dog. That's when I believe I shot the second shot. Um so, as soon as suspect is on the ground, I continue to keep my weapon on him in case he moves, um, I believe at that point LeDoux and Benallo approach him and put handcuffs on him. Um. I remember, I believe LeDoux checks for his pulse. I got on the radio immediately ah, airing shots fired, suspect down. And for medical to respond emergent.”

“I was in fear for my life. For my trainee that I believe was somewhat next to me, behind me. And at the point when he went towards Brian and his dog the same thing.”

Interview of Officer Benallo

Officer Benallo was a new patrol officer and undergoing training January 31, 2018. He was being trained by Officer Saathoff. When interviewed the night of January 31st, Officer Benallo recalled hearing the dispatch regarding the domestic situation referenced in this letter. He stated that he and his training officer, Saathoff, decided to respond to the call and assist the other officers that were en route. Officer Benallo stated that he received information from other officers and dispatch that the male subject involved in the domestic had warrants and may be armed with a gun and knife. Officer Benallo obtained information from the reporting parties on scene and participated in the search for the male subject. Officer Benallo was present for the dog track and recalled the track was called off once in the vicinity of the Castlegate apartments. Officer Benallo was walking back from the dog track when he heard Officer LeDoux air that a person matching the male’s description was in building 6 of the apartment complex. He and the other officers turned around and immediately went to building 6.

Concerning the pertinent events leading up to and during the shooting Officer Benallo stated:

“Officer LeDoux ah approached the front door of the building ...and he saw the suspect, or what we think was the suspect at that time, the one that was matching the description, ah he yelled show me your hands. Um at that point I mean I think everyone had their duty weapon out other than the K9 officer. I don’t think he had his gun out ‘cause I think he was still holding onto the dog. Um once he said that, we hightailed it to the little stoop that leads up into the apartment complex.”

“Officer (inaudible) that he was up on the third floor. Um and then as he was basically soon after he said that, we saw like the suspect come back down the stairs and then take a right into a room. Um while that was going on, the K9 officer was telling us to move out of the way, it looked like he was getting ready to let go of his dog. So I kind of backed up, I had a railing to my back. So I kind of backed up ‘cause like I said I don’t wanna get bit. So I backed up so if he as gonna send the dog he could get the dog through, but due to such a confined area, he wasn’t able to let his dog off the leash to go after him.”

“Um at that point he went inside there, the door slammed shut. Um Officer LeDoux stated that he locked himself in the laundry room. I didn't know that it was a laundry room but Castle Gate is kind of a popular area for us so I think through his training and experience he knows probably what the laundry room is located at 'cause every building is pretty much set up the same way. Um as he said that we were advancing down there, um obviously keeping our guns up, wits about us to make sure just in case he did have that weapon. And in the back of our mind we're treating it like he did have a weapon on him because that was aired, there wasn't 100 percent certainly whether or not it was loaded or unloaded or if he had those weapons.”

“Ah Officer Laas, who's the K9 officer, him and his dog were in the hard corner and Officer LeDoux was standing next to him. Um meanwhile Officer Saathoff and I were on the stairs. Um you know kind of you have the landing, he had to come out and there's stairs here, there's a wall that's right here, and then there's stairs down here. So we were on these stairs while they were back up here on that landing and we were facing the ah laundry room door that was off to our right...Ah so with that we're giving him commands, you know, please show me your hands. I said please come out with our hands up twice, um identifying ourselves. We were all, you know, wearing our uniforms. It was clear that we were police officers. Um and he was seen ... first I lost sight of him 'cause it's just a small window, I don't know what the size of it is exactly, but it's a window where you could see in and see out, and I saw his head come up to the window and look down, look up, look down, look up, kind of weighing out his options there. Um definitely had that look to him like he was trying to see what his best ... where he was gonna get the most bang for his buck really. Just had that look where he wasn't going down without a fight. Ah and during that process, Officer Saathoff took out his nightstick or his asp and um we were preparing to break the window. Ah then he dropped the asp on the ground and continued to give commands and then ah Officer Laas decided to tell him, throw me your asp. He threw it to him, he grabbed it, busted out the window, he cleaned it out. Just cleaned out the glass. I didn't know if he was planning on sending his dog through there or what the deal was but he did that.”

“Um at that point we're, you know, continuing giving verbal commands. Ah he takes ... I see the door swing open and then he's coming out. You know to me it almost seemed like it was instantly but he was coming out rather quickly...Ah he came out and he had that fire stance, his hands were up here. You know he was, he was ready to go at that point...That's when he came out when he was still like right there when he opened up the door, um I believe it

was Officer LeDoux yelled knife and I looked at his hands and saw a pointed stainless steel that resembled a knife um in his hand.”

“Um at that point he was advancing pretty heavily on Officer LeDoux and Officer Laas and in my mind I said he’s going for blood, he’s going to kill ‘em. And at that point um I heard one shot rang out. Officer Saathoff bumped back into me, he’s a little bigger than I am, he bumped into me so I dropped one step down and kept my ah firearm on him the whole time. Due to the difference in elevation change, I was aiming for the pelvic girdle, which was an area that we were taught to shoot in the academy. Um and so I just aimed for the pelvic girdle. Ah I know for a fact I shot once and then I followed the pelvic girdle with my front site and then as he was coming down again, or as he kept advancing down I was just following it and I think I came out with the second shot on his pelvic girdle as well.”

“Why I shot twice? Um you shoot to stop the threat and after that first stop he was still advancing towards them.”

“And I don’t know if he wanted to die himself, I didn’t have that conversation with them, but he looked like he wanted to take somebody out. And when he came out of there, I mean that’s what I was fearing for my fellow partner’s life that he was going after him and try to take him out and kill him.”

Scene Processing

Detective Archuleta

On January 31, 2018 at approximately 9:36 P.M. Detective Archuleta of the Arvada Police Department was contacted by telephone by Detective Steiner. Detective Steiner advised that there had been an officer involved shooting involving officers from the Arvada Police Department. Detectives with the Arvada Police Department Crime Scene Investigation Unit were requested to process the scene of the shooting. Detective Archuleta received a briefing of the incident and responded to 6952 W. 84th Way.

Upon arrival Detective Archuleta noted that Adrian Valdez was on his back on the east end of the main floor. The interior hallway was well lit with fluorescent lighting and the interior temperature was approximately 65 to 70 degrees Fahrenheit. The exterior temperature was approximately 30 degrees Fahrenheit with cloudy skies.

In the stairwell adjacent to the body there were several spent casings from semiautomatic handguns. These casings had been located by officers that responded

to the scene and were marked to protect them. To the south side of the landing was the apartment building common laundry room. This room was small, approximately 8 feet by 6 feet and had a door which opened out into the landing. The door had a glass window that measured approximately 12 inches by 18 inches. The glass had been broken. The feet of the body were near the doorway into the laundry room.

Adjacent to the body were several items of potential evidence. An open folding knife that was stainless in color was located. The blade of the knife was approximately 3 inches long. To the east of the body lay several other items to include a baseball hat, a pair of knit winter gloves, a glass pipe commonly used for the consumption of marijuana, a deformed bullet projectile, and a single spent casing.

The pockets of the deceased were searched. In the right front pants pocket a Visa debit card in the name of Alicia Enriquez was located. In his left rear pant pocket was a wallet which contained a paper Colorado driver's license belonging to a Carlos Juan Montoya (01/17/82). No positive identification for the subject was located on the body.

Four Federal 9 mm+P cartridge cases, three Federal 45 Auto cartridge cases, and two 45 Auto+P cartridge cases were located and recovered. Multiple projectiles were recovered on scene and secured.

Walls and surfaces were inspected for defects, possibly caused by projectiles. The results of that inspection are included in Detective Archuleta's report.

Overall scene photographs were taken and the FARO 3D terrestrial scanner was used to document the scene.

Autopsy

An autopsy was performed on the deceased, Adrian Valdez, and revealed the following: a 9mm gunshot wound that entered the right thigh, exited inside of the thigh, entered the left groin area and embedded just under the skin; two gunshot wounds, through and through in the left upper arm; a gunshot wound to the central chest, sternum area that pierced the heart's left ventricle and exited at the left upper back near the armpit; a gunshot wound to the right lower back, which went through the kidney and spleen and exited the body on the lower left side near the elbow; a gunshot wound to the back of the head, a 45 caliber round was found at the base of the skull; and a 45 caliber gunshot wound to the lower right hip, which broke the hip bone and embedded into the spine. Three 9mm and two 45 caliber rounds were recovered from Valdez's body during the autopsy.

Warrants, Protection Order, and Background

Officer Brooks of the Arvada Police Department researched the background of Adrian Valdez and confirmed outstanding warrants and a protection order.

An active felony warrant for Adrian Valdez was located arising out of Pueblo Police Department case number is 2017-2696 (Burglary, Menacing, Violation of Protection Order). The warrant was activated September 7, 2017.

Officer Brooks located a limited extradition warrant for Adrian Valdez for a failure to appear on a traffic charge with an original case number of 17M01016. The date of the warrant is July 31, 2017. The warrant was issued by the Denver Marshall's Office.

A mandatory protection order that restrained Adrian Valdez from Sara Santos was located and in effect. The mandatory protection order included standard mandatory protection order provisions, restrained Adrian Valdez from communicating with Sara Santos and from being at the residence at 7343 West 82nd Way. The mandatory protection order was issued on July 14, 2017.

Adrian Valdez had a criminal history to include weapons offenses.

Legal Analysis

This office's review of the shooting of Adrian Valdez is limited to an analysis of applicable criminal statutes and affirmative defenses which apply to the facts.

As is frequently the case and as documented in scientific literature, individuals involved in high-stress events such as a shooting may experience wide-ranging emotions and perceptual distortions. It is not unusual for those involved to have incomplete recollections and for witness accounts to have some inconsistencies. Often, recall of particular details will differ from witness to witness, and those interviewed may not recall all of the same events in the same chronological order. Witnesses have different perspectives to an event and their statements will so reflect. In this case, each of the witnesses offered versions of the event from their perspective and some minor inconsistencies are apparent. While there are some inconsistencies regarding some recollections of this incident, there are no inconsistencies which are relevant to my determination of criminal culpability. The inconsistencies here are not consequential in the analysis.

Based upon the investigation conducted by investigators and detectives assigned to the CIRT, there is no question that Officers Benallo, Laas, LeDoux, and Saathoff intentionally shot Adrian Valdez. Their statements and the evidence supports that conclusion. Adrian Valdez refused lawful and direct commands of the officers and aggressively confronted them armed with a knife. Adrian Valdez gave every indication to the officers he was going to stab them. The legal analysis then shifts to a consideration of Colorado law regarding the affirmative defenses and self-defense.

In Colorado, all citizens including police officers have the right to self-defense, including the right to use "deadly physical force" under certain circumstances. A person may use deadly physical force in self-defense when (1) he has reasonable grounds to believe, and does believe, that he, or another, is in imminent danger of being killed or of receiving great bodily injury; and (2) he reasonably believes a lesser degree of force is inadequate. A critical issue in self-defense is whether, from the standpoint of the person exercising his right to self-defense, the belief that he was in imminent danger of being killed or receiving great bodily injury was reasonable. Absolute certainty is not required under the law and what is reasonable is based upon all known information and circumstances.


A peace officer is also justified in using deadly physical force upon another person as specified in § 18-1-707, C.R.S (2) only when he reasonably believes that it is necessary to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or to effect an arrest of a person whom he reasonably believes has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon, or is attempting to escape by the use of a deadly weapon.

Adrian Valdez was armed with a deadly weapon, an knife, and brandished it in a threatening manner during his advance on the Arvada police officers as he came out the laundry room door. Valdez remained a serious threat throughout this incident, although brief, and at no time demonstrated a willingness to surrender. The officers gave Valdez commands to surrender and comply which were ignored. The officers were reasonably in fear for their own lives and the lives of one another. The officers were also attempting to apprehend Adrian Valdez having been advised there was a felony warrant for his arrest. Valdez made it clear by his actions that the well-being and safety of those around him was not of concern. Consequently, it was not unreasonable for Officers Benallo, Laas, LeDoux, and Saathoff to respond to the threats and actions by Adrian Valdez in the manner that they did.

I find in the review of this shooting, based upon the facts as determined in the investigation and the applicable law, that the actions taken by Officers Benallo, Laas, LeDoux, and Saathoff during this incident meet the legal requirements of the

affirmative defenses as contained in C.R.S. Sections 18-1-704 and 18-1-707. I am certain there is not a reasonable likelihood that the District Attorney's office could disprove the affirmative defenses available to Officers Benallo, Laas, LeDoux, and Saathoff beyond a reasonable doubt. Therefore, I conclude that the conduct by Officers Benallo, Laas, LeDoux, and Saathoff did not violate any criminal statutes nor involve criminal conduct.

Sincerely,



Peter Weir

District Attorney

First Judicial District Attorney