



**OFFICE OF THE DISTRICT ATTORNEY**

**Jefferson and Gilpin Counties**

**Peter A. Weir, District Attorney**

September 16, 2019

Chief Link Strate  
Arvada Police Department  
8101 Ralston Road  
Arvada CO 80002

Chief Bill Kilpatrick  
Golden Police Department  
911 10<sup>th</sup> Street  
Golden CO 80401

**Re: Critical Incident Team Investigation 19-02 (Officer Involved Police Shooting of Michael Sheridan, 11/26/84 on June 18, 2019)**

Dear Chief Strate and Chief Kilpatrick,

The Critical Incident Response Team (CIRT) for the First Judicial District was activated pursuant to protocol on June 18, 2019 to investigate the shooting of Michael Sheridan by members of the Jefferson County SWAT Team. 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. In this instance, CIRT conducted a thorough investigation into the use of force by Jefferson County SWAT officers on June 18, 2019. The investigation was conducted to determine whether criminal charges are warranted with respect to the officers who used or attempted to use deadly force against Michael Sheridan.

At the time of the CIRT activation in this case, a Senior Chief Deputy District Attorney responded and worked in coordination with CIRT investigators and provided legal assistance as necessary. She observed key interviews of witnesses including the shooting officers, and has reviewed the entirety of the investigative files.

CIRT investigators completed a thorough investigation into this incident and generated detailed

reports and documentation. The file is voluminous and includes transcripts of witness interviews, numerous reports, diagrams, and digital media containing recorded interviews, police communications, photographs and audio and video recordings.

A review of the CIRT reports and documentation filed with my office has been completed 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 SWAT officers' use of force in this incident 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 through this investigation, I find that no members of the Jefferson County SWAT team are subject to criminal prosecution for their actions on June 18, 2019.

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 members of the SWAT team fired at Michael Sheridan, it was reasonable to believe that Sheridan posed an imminent threat of death or serious bodily injury to the law enforcement officers on scene.

There is no reasonable probability of disproving the affirmative defense of self-defense and defense of others in the lethal shooting of Michael Sheridan and criminal charges are not warranted.

### **Law Enforcement and Lay Witnesses**

The following is a synopsis of the information collected during the investigation. This information came from the interviews, investigation and scene analysis done by the CIRT investigators. Numerous law enforcement and lay witnesses to this incident were interviewed including the shooting officers. CIRT investigators conducted interviews of Denver Police Department Detective Micah Abrams, DPD Detective Gilberto Lucio, DPD Sgt. Phillip Bret Hinkle, and the following SWAT operators:

- GPD Sergeant Mark Donohue (deployed flash-sound diversionary device and 9mm handgun shooter)
- APD Sergeant Ian Hettrick (deployed less lethal rounds)
- JCSO Deputy Ryan Colley,
- JCSO Deputy Brian Spery,
- APD Detective Nate Neidig, (.223 rifle shooter)
- APD Officer Dean Moretti (.223 rifle shooter)
- APD Officer Paul Green,
- GPD Officer Ryan Beale, (.223 rifle shooter)
- JCSO Sergeant Joshua Garcia,
- GPD Officer Trevor Novak
- APD Officer Dean Moretti.

A number of lay witnesses from the apartment complex were also interviewed by CIRT investigators and their information was also included in this review. Additionally, JCSO and Lakewood Crime Laboratory personnel, assisted by CIRT investigators, conducted the crime scene search, documentation and analysis which are part of this review.

### **Factual Summary**

On June 18, 2019, a Denver arrest warrant was active for Michael Brian Sheridan, 11-26-84, for charges of felony menacing, possession of a weapon by a previous offender and 3d degree assault. These charges arose out a criminal incident in Denver on June 10, 2019. This incident involved Sheridan punching a female hotel manager in the head and pushing her against a wall after she asked him to leave the hotel. Sheridan then menaced the manager with a black handgun and held it to her head while asking her if “she was down to die today?” Sheridan then fled the hotel.

Pursuant to the warrant, Denver detectives sent out a wanted bulletin for Sheridan. He was listed in the bulletin as being a multi-state offender, a drug user and that he was armed with a handgun.

The bulletin also referenced a November 2018 incident where he was barricaded in Broomfield during which he fired a round.

The details of the Broomfield incident as provided by Denver detectives were that Sheridan was unlawfully in a barn on private property and police were called to remove him as an unwanted subject. Broomfield police arrived and ordered Sheridan to come out of the building. Sheridan refused which led to a nearly three-hour standoff. During the standoff, Sheridan threatened suicide several times and discussed confronting officers to make them shoot him. He also said he did not want to face lengthy time in prison. Family members confirmed to law enforcement that he was suicidal and one family member indicated he had discussed "suicide by cop". A gunshot was heard from inside the barn during this incident. After Sheridan eventually surrendered, he told police that his gun had accidentally discharged while he was attempting to climb onto a truck to get a tactical advantage on the police.

Based upon the Denver warrant for the felony menacing of the hotel manager, Denver police attempted to locate Sheridan by utilizing a court order which allowed for a phone ping trap and trace for Sheridan's cell phone. On the morning of June 19<sup>th</sup>, the phone ping indicated that the phone was located in the area of Belleview and Alkire in Jefferson County. Denver detectives Abrams and Lucio responded to that location where they located the truck in a parking lot of the Ironwood at Red Rocks Apartment Complex, 13375 W. Progress Circle. This complex is on the south side of Belleview. With the help of a maintenance person who provided them closer access to the truck, they confirmed the truck was occupied by a male matching the description of Sheridan. Sheridan appeared to be asleep in the driver's seat of the vehicle. The truck was parked west-bound on a curb line adjacent to a retaining wall.

DPD notified JCSO and the Safe Streets Fugitive Task Force of the location of the suspect. Safe Streets is a multi-jurisdictional task force including the FBI that does fugitive apprehension with a focus on violent offenders. Due to the November incident in Broomfield, Sheridan's history and the serious pending charges, the Jefferson County SWAT Team was activated. The Jeffco SWAT Team is a multi-jurisdictional task force comprised of highly-trained police officers, detectives and sergeants from Golden Police Department, Arvada Police Department and the Jefferson County Sheriff's Office. Surveillance units from DPD remained on scene to wait for the SWAT Team.

Members of the SWAT Team were briefed on Sheridan's background, the bulletin, the vehicle location and the current surveillance by DPD and Safe Streets in order to determine a plan for contacting Sheridan in the most contained, controlled environment possible. GPD Sgt. Mark Donohue and APD Sgt. Ian Hettrick agreed that, given the background of Sheridan and the location of the parked truck, a barricade tactic of pinning the truck from the front corner and the back simultaneously would be the best strategy in order to prevent the truck from being driven away. There was no access to the truck from the north due to the retaining wall between the parking lot and Belleview.

SWAT personnel responded to the scene in two separate unmarked black equipment trucks. The trucks were identified by colored symbols as a "red" truck and a "blue" truck. The red truck contained SWAT members Sgt. Ian Hetrick, Officer Ryan Colley, Detective Nate Neidig and

Officer Paul Green. The blue truck contained Sgt. Mark Donohue, Officer Ryan Beale and Officer Dean Moretti. During the planning and drive to the location, all SWAT operators were informed of suspect Sheridan's description and background as well as the details of the vehicle barricade tactic they were to deploy.

The blue SWAT truck entered the parking lot of the complex first and made a partial pass by the suspect vehicle. Upon circling the parking lot, they approached to the rear of the suspect vehicle. Meanwhile, the red SWAT truck entered the parking lot using the same entrance and remained still until the blue truck was approaching the suspect vehicle.

The drivers of both trucks then simultaneously moved into position to barricade the suspect vehicle. The red SWAT truck quickly moved and stopped at the front of Sheridan's truck making bumper-to-bumper contact to "pin" it. The blue SWAT truck made contact to the rear of Sheridan's truck and stopped upon contact with the rear bumper of Sheridan's truck. Upon pinning the truck in the front and back, operators in both trucks got out and Sgt. Donohue deployed a diversionary "flash bang" to the driver's side of Sheridan's truck. This was done to distract Sheridan so that operators from the red SWAT truck could run to the rear of the blue SWAT truck to engage the suspect from both sides of the vehicle and to avoid any potential crossfire situation.

SWAT members began issuing loud orders to Sheridan by indicating they were police and ordering him to put his hands up. Sheridan did not comply and remained in the truck, moving around in the cab. SWAT members heard Sheridan yelling expletives at them and several of them saw him hold an object, which some believed to be a handgun, to the right side of his head.

Due to not having a clear view into the truck, the knowledge that Sheridan was likely armed and his continued non-compliance, operators decided to break the rear window of the truck. SWAT team leader Sgt. Hetrick shot a 40mm less lethal gas round towards the truck from the right rear side. That round did not break the window but hit the frame of the truck. Sgt. Hetrick fired again with a less lethal round which partially shattered the rear window of the truck.

Approximately one second later, shots were fired from within Sheridan's truck, out the rear window toward the SWAT operators who were positioned at the right rear of the blue SWAT truck. A SWAT operator yelled "gun" while another yelled "He's shooting at us". Four SWAT officers responded by shooting at the suspect in the truck. Sheridan then slumped to his right and disappeared below the window. SWAT operators did not know his condition or whether he would continue shooting, so they retreated and radioed for an armored SWAT vehicle to approach the scene to determine whether the threat had been neutralized. Sgt. Garcia drove the Bearcat up to the suspect vehicle, opened the roof hatch and shot two less lethal sponge rounds at Sheridan. He indicated that Sheridan was not moving. Operators then approached the truck on foot with a shield on the driver's side but they could not see Sheridan's hands so they retreated and approached from the passenger's side. From that vantage point, they could see Sheridan. He was not moving and his hands were empty. It was observed by the SWAT officers that a black handgun was within inches of Sheridan's left hand.

Detailed interviews were conducted of all involved officers and all sight and sound law enforcement witnesses. The following information came directly from the interviews done of the four officers who utilized deadly physical force against the suspect.

Sgt. Mark Donohue is a SWAT team leader and in the morning of June 18<sup>th</sup>, he received a notification from Sgt. Ian Hetrick that Safe Streets was requesting SWAT assistance with a fugitive apprehension. Safe Streets described the suspect's location at the apartment complex and also that he had multiple felony warrants for his arrest, that he was armed with a handgun and also that he had shot at Broomfield police in the past. Sgt. Donohue then called experienced members of his team to respond to JCSO to prepare to assist with the apprehension. It was determined that they would use a barricade tactic to pin the suspect vehicle in front and in back and then station the SWAT officers behind the rear vehicle and attempt to obtain his compliance by calling him out. This plan was communicated to his SWAT personnel and he remained in radio contact with his team and Safe Streets members during their travel to the scene.

Sgt. Donohue rode to the scene in the front passenger seat of the blue SWAT truck. He was armed with a Glock 34 handgun which was loaded with 17 .9 millimeter rounds. Upon arriving at the location, they were aware that there was only one entrance into the parking lot. The vehicle he was in entered first, and passed by the suspect vehicle. They continued through the lot as planned and turned around so they could approach the suspect vehicle from the rear. They had coordinated their response with the red SWAT truck and they communicated via radio to initiate the pinch on the car. Immediately after that was done, Sgt. Donohue got out of the truck with his hand gun and a flashbang. He deployed the flash bang out into the parking lot as he ran near the driver's side of the suspect vehicle to give the SWAT operators from the other vehicle the opportunity to get past the suspect vehicle without being detected. Sgt. Donohue then ran back towards the left rear of the blue SWAT vehicle. Once the team from the red SWAT vehicle was in position on the right rear of the blue SWAT vehicle, St. Donohue began calling out commands to the suspect. He stated they were with the Jefferson County Sheriff's Office and to show his hands. He heard his team members say that the suspect was moving around the vehicle and that he was "reaching". Sgt. Donohue continued to give commands to the suspect that he was under arrest and to get out of the vehicle. He tried to vary the commands to get compliance from the suspect but he heard the suspect yell that he was not getting out of the car. He said that he could hear the suspect screaming at them, that he was using the "F word" continuously and that he was completely noncompliant. The operators on the other side of the truck deployed two less lethal rounds to break out the rear window. He then heard two to three distinct shots. He knew they were coming from in front of him and not from Officer Moretti or Officer Beale who were standing next to him. He then heard someone on the right side of his truck saying, "He's shooting at us" or "He's shooting. Donahue immediately was very concerned for his own safety and for his partners. He was concerned that the driver was trying to "acquire us in his sights" and he knew that a handgun is very easy to maneuver inside a vehicle. He fired off two separate volleys of shots from his handgun towards the upper part of the suspect's silhouette in the truck. He moved back towards his truck and he could no longer see the shooter's silhouette. There was no active gunfire any longer from the truck. He stated that the team backed off and waited for the Bearcat to arrive which was just a couple minutes out. He remained at the back of his vehicle with the other SWAT operators to maintain security. He

saw people coming out of the apartments and he yelled at them to go back inside since they were unaware if the suspect was still alive inside his vehicle and that he could still pose a threat.

Officer Beale is a SWAT assistant team leader. He was the driver of the blue SWAT truck which pinned the suspect vehicle from behind. He described seeing the male driver being noncompliant to orders from police. He got out of the SWAT truck with his rifle which was loaded with .223 ammunition. Sgt. Donahue, Officer Moretti and he were on the left rear of the blue SWAT truck as the team from the red truck moved to the right rear side of the blue SWAT truck. Officer Beale was next to the pillar of his truck and Sgt. Donahue and Officer Moretti were on his left side. He heard multiple orders from SWAT operators telling the suspect to show his hands and to put his hands up. He also shouted at the driver to put his hands up and he heard the driver repeatedly yelling "Kill me. Kill me." At one point, he saw the driver put his right hand up to the right side of his head. Officer Beale heard other SWAT officers say they were going to deploy a barricade breaching round to shoot out the rear window which occurred. He described that the driver was moving around a lot as commands were being issued to him and he then heard a two or three round volley from the truck as he saw a hand from the driver's seat reaching back with a black handgun. He stated that it was obvious to him that they were being shot at by the driver. He described the sound of the shots as coming from a handgun. He saw that the driver went down in the seat and then came back up and then went down again. Officer Beale described firing several quick rounds from his rifle at the driver. He indicated that they were in imminent danger and that the driver was "trying to kill any one of us". He described aiming his rifle slightly low because of the backdrop and towards the seat area. After the firing had stopped, the SWAT officers retreated to make sure no officers had been hit by the suspect's bullets. There was a call made by a team leader for a medic but the vehicle could not be approached by anyone until it was deemed safe to do so in case the driver was lying in wait for officers to approach. They continued to keep weapons trained on the vehicle until the Bearcat arrived and there was confirmation that the driver was no longer a threat.

Officer Moretti is a SWAT operator. He was in the back seat of the blue SWAT truck and was assigned to provide lethal cover for Officer Beale when they exited the truck after the vehicle barricade tactic was complete. Upon contact with the suspect vehicle, Officer Moretti got out of the truck with his Colt M4 rifle and ran to provide cover on the left side of the blue SWAT truck. Sgt. Donohue deployed the flash sound device as the operators from the red SWAT truck ran to their positions on the right side of the blue SWAT truck. Officer Beale was focused on the suspect vehicle and he saw a silhouette of a male moving around in the driver's seat. He yelled this information to the others and Sgt. Donohue yelled commands to the driver that they were police, he was under arrest and to step out of the vehicle. The driver was yelling expletives back at them as he moved over and leaned towards the center console of his truck. It appeared to Officer Beale that the suspect was trying to look back towards them through the rear window of his truck. Sgt. Hetrick deployed two less lethal munitions from the right side of the blue SWAT vehicle towards the suspect truck. Officer Beale saw the back window partially shatter from the less lethal munition and he then heard shots being fired from the side of the truck. He had a partial view of an arm up towards the passenger side of the vehicle towards where the less lethal munitions team was located. He described the shots as being very distinct and they sounded like handgun shots. He believed he heard three to four shots. Hearing those shots, he described immediately fearing for his life and the life of the other operators. He believed that the suspect



was shooting at the SWAT operators on the passenger side of the vehicle and he was in fear they were going to be killed. He also described being concerned for the cars on Bellevue that could have been driving by and for the occupants of the apartment complex. Based on these fears, Officer Beale took a step to his left to widen his field of view and he fired five rounds at the suspect. He moved further to his left as the suspect was still shooting, and he then shot another eight to ten rounds. He described shooting low through the rear passenger door on the driver's side of the truck in order to have his bullets go through the seat into the suspect's torso. As he moved to his left, he adjusted his target toward the top of the door into the back of the seat. He saw the suspect then slump over and he and the other team members moved back to their original location behind the blue SWAT truck. He recalled waiting for the Bearcat to arrive and after that occurred and the threat was determined to have ended, he was asked to provide lethal cover as the suspect vehicle was approached on-foot from the passenger side. As he did that, he could see into the vehicle and saw the suspect slumped over the center console. He also saw a black handgun approximately 6 - 12 inches from the suspect's hand.

Detective Neidig is a SWAT operator who was armed with a Colt M4 rifle on the day of this incident. He was assigned to the red SWAT truck that Operator Colley was driving and was seated in the rear passenger seat behind the driver. He described that their truck came up to the front of the suspect vehicle at a 45-degree angle and pinched the vehicle while the other SWAT vehicle contacted the rear. He got out of the truck with his rifle and a bat and ran past the suspect vehicle towards the other SWAT vehicle at the rear. As they were running, the flashbang was deployed and commands were being yelled at the driver. As Detective Neidig ran by the suspect truck, he saw the suspect in the driver's seat. He heard the suspect screaming in the car "Fucking kill me, you're going to have to fucking kill me, fucking kill me." As he was providing lethal cover from the rear, he saw the suspect bring a handgun up and point it at his own head and then put the handgun down. Det. Neidig relayed this to the other operators by saying "Gun, gun, gun, gun" and he heard Sgt. Hetrick relaying something similar. He described the SWAT officers on the other side of the truck giving loud commands to the suspect to get out of the car and to show his hands. He heard Sgt. Hetrick state that he was going to deploy gas into the suspect truck so as the Sgt. retrieved the 40-millimeter single launcher, Det. Neidig provided lethal cover for him. One round was fired and Det. Neidig was uncertain if it successfully entered the vehicle. He continued to hear the suspect yelling "Fucking kill me, fucking kill me" and he saw him moving back and forth in the vehicle's front seat area. Sgt. Hetrick stated that they needed to fire another round and he shot another non-lethal round into the vehicle. Det. Neidig then heard two or three rounds being fired and he saw "bullet holes coming through his window, um, he's shooting at us." Detective Neidig stated that the rounds were skipping off the retaining wall just to the side of them so he moved back and yelled "Shots fired. Shots fired" which Sgt. Hetrick repeated. Almost simultaneously, he heard multiple rounds coming from the other team and he saw the suspect moving in the car so he fired two times, aiming towards the back of the suspect's head. He stated that he was in fear for his own life and in fear for his team's lives. After he fired the two shots, it looked like the suspect fell to the side and he could no longer see any movement inside the cab. The team then assembled at the rear of the SWAT vehicle and waited for the Bearcat to arrive to determine the subject's condition. After that occurred, he assisted with the process of viewing the suspect in his vehicle from the exterior.

### Additional CIRT Investigation

CIRT investigators canvassed the apartment complex to identify any lay witnesses to the shooting. There were several people who were interviewed including some who also had recorded the incident on their cellphones.

Niki Swab resides in the apartment complex and her living room window faces north towards where this incident occurred. She was home around noon and she heard a loud bang and a bright flash. As she looked through her living room window, she saw that SWAT vehicles had surrounded a black truck that she had noticed parked along the retaining wall next to West Belleview Avenue earlier that morning. She saw SWAT officers running from west to east and saw that one SWAT truck was nose to nose with the front bumper of the truck while the other was parked perpendicular to the driver's side of the truck. She heard commands being yelled repeatedly such as "Get out of the truck" but there was no response. She then heard between one and three pops, followed by a 2-3 second pause and then she heard a barrage of gunfire. She estimated she heard about 12 gunshots during the barrage. She saw bullets ricocheting off the retaining wall behind the truck. She did not record the incident.

Iwona Andruszliewicz was in her west facing apartment a few minutes after noon and she heard a loud boom come from the parking lot. She walked outside to her balcony and looked to the north and started video recording the incident. She saw a SWAT team at the rear of a SWAT truck in the lot. They were screaming orders at the person in the black truck telling them that they were under arrest and a few seconds later, she heard shooting. She saw a puff of smoke coming out of the rear window of the truck and then the officers shot back. Sometime after the shooting, she saw the officers approach the driver's side of the truck and then the passenger side of the truck. The videos she captured on her phone are contained in the CIRT file.

Marsha Mustalo was in her third-floor apartment (east facing) to the south of Sheridan's parked truck. She said at approximately 12:15pm while she was in her kitchen, she heard a loud boom that she thought was thunder. She went out on her balcony and heard people yelling. She said she heard things like, "get out of the car." She said that several officers who were dressed like SWAT officers were yelling orders from both sides of the truck behind the suspect's truck. She described that there was a truck directly in front of the suspect truck and one directly behind it. She described both trucks as being bumper to bumper with the suspect truck. She went inside to grab her phone, returned outside and started recording the incident from her balcony. She saw the officers start shooting and then she noticed them approaching the truck and "a lot of moving around." She described first hearing a few shots, then a very brief pause and then more gunshots. She said after the last gunshots were fired, they moved forward with a shield. The videos she captured on her phone are contained in the CIRT file.

Nathanael Anderson is Mustalo's son and was in the same apartment. He heard the bang and went out onto the balcony. He video recorded the incident. He said that he heard talking and he saw that the truck was already barricaded in from the rear and the front. He said it seemed like the SWAT team was trying to figure out their "next move" when two shots came from the truck the fugitive was in. He stated that he knew the shots came out of that truck as he saw the rear glass of the truck window spray outward. He said that was when the officers "took action" and

returned fire immediately. He could see that the officers' rounds were going out through the windshield of the suspect's truck. He then went back inside the apartment. He came back out when the armored vehicle arrived and he saw that the SWAT team had stayed back until that armored vehicle arrived. The recording he captured on his phone is contained in the CIRT file.

Elaine Doyle was in her east facing third-floor apartment to the south of Sheridan's parked truck. She was in her bedroom when she heard a low thunderous boom and saw a flash outside. She looked outside and saw seven or so SWAT officers with their guns trained on a truck and one of the officers shouting commands including "You're under arrest" and "Get out of the truck". She said based upon their clothing, it was apparent to her that these were SWAT officers. After the incident, she watched the video on her son's phone and it was clear to her that the person in the truck fired the first shot as she saw something come out of the back window of the black truck. After she saw that and heard that shot, there was an "onslaught of shooting." She stated that, as a citizen, she felt that the SWAT team had given the person in the black truck ample opportunity to give up peacefully. She also felt that the SWAT team needed to protect themselves.

Paul Aguilar was the maintenance man who assisted surveillance units with identifying Sheridan initially by driving the detective closer in a golf cart. When the shooting happened, he was standing in a courtyard on the south end of buildings 10 and 11 across the long parking lot to the south of Sheridan's parked truck. Paul said he heard a loud boom. He looked to the north and saw SWAT officers with guns drawn. He described them as helmeted and wearing camouflage tactical gear marked with law enforcement patches. He heard them yell orders to "put your hands on the dash." He heard them yell this command at least three times but there was no response from the truck which was blocked in by the SWAT vehicles. He then heard a gunshot which he described as sounding like it was from a handgun and that the shot was directed toward the officers. He then heard somebody yell "gun!" and within a couple of seconds, he described that the officers returned gunfire consisting of 7-10 shots. He described these shots as sounding like they came from rifles.

### **Criminalistics**

Members of the Jefferson County Crime Lab, the Lakewood PD Crime Lab and three Arvada law enforcement officers all assisted with this crime scene investigation. Arvada personnel were primarily involved with documenting the scene through FARO 3d scanning once the initial scene had been documented by JCSO. The Lakewood PD Crime Lab was responsible for providing oversight for all crime scene processes.

Crime analyst Kathleen Ireland searched the suspect vehicle along with Specialist Esqueda. Her report stated the following:

Upon removal from the vehicle, the gun was identified as a 45 caliber Glock model 36 semi-automatic handgun. It was loaded with an empty six round magazine. One bullet was located on the passenger side rear corner of the truck bed and five fired 45 auto cartridge casings were located in Sheridan's truck. Based upon damage to the retaining wall, it appeared that the trajectory of one bullet fired by Sheridan ricocheted off the wall near SWAT operators and lodged into an interior wall of an apartment to the east of the

incident. All SWAT operators were to the east of Sheridan's truck which confirmed that rounds were fired from inside Sheridan's truck.

The investigation revealed that a total of 27-29 rounds were shot at Sheridan.

The autopsy of Michael Sheridan was conducted on June 19<sup>th</sup> by forensic pathologist Dr. Dawn Holmes. Dr. Holmes found the cause of death to be multiple gunshot wounds. There were numerous penetrating indeterminate-range gunshot wounds with five bullets recovered along with various copper jacket fragments and lead fragments. Toxicology results showed evidence of cocaine and benzoylecgonine in Sheridan's blood.

### **Legal Analysis**

In Colorado, all citizens including police officers have the right to self-defense, including the right to use "deadly physical force" under certain circumstances. Under § 18-1-704, C.R.S. (1), 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.

While each officer's conduct in this matter must be reviewed separately as a matter of law, the factual situation is identical for each of them. The analysis centers on the reasons for their use of deadly physical force based upon their own individual perceptions. However, in this matter, their perceptions were all the same.

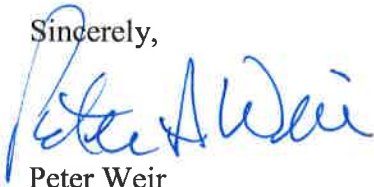
When the suspect opened fire on the SWAT officers who were attempting to gain compliance through commands and non-lethal methods, the four SWAT officers were justified in their belief that they and their fellow SWAT members were in jeopardy of being killed. The knowledge they had about this individual was that he was armed and dangerous, that he had previously been involved in a barricade situation with law enforcement, that he had recently threatened a person with a gun and that there was a felony menacing warrant out for his arrest. The very reason that the SWAT officers were present is that this was a highly dangerous situation and it required the expertise of their unit to take this person into custody. All four SWAT officers were assessing the situation as it unfolded and shifting tactics to control and minimize the risk without using deadly physical force. Unfortunately, Sheridan responded to these efforts by firing shots at the

officers which required them to defend themselves and others by firing back at him

It is the conclusion of my office, based upon the applicable law and the CIRT investigation, that Golden Police Sergeant Mark Donahue, Golden Police Officer Ryan Beale, Arvada Police Detective Nathan Neidig and Arvada Police Officer Dean Moretti's actions during this incident were justified under the law and clearly met the legal requirements of the affirmative defense as contained in § 18-1-704 C.R.S. Based upon the evidence and the interviews in this matter, there is no reasonable likelihood that the District Attorney's office could disprove the affirmative defenses available to these officers beyond a reasonable doubt.

No criminal charges are appropriate in this matter.

Sincerely,



Peter Weir  
District Attorney  
First Judicial District Attorney

cc CIRT Coordinator/Lakewood PD Commander Mark Reeves