



**OFFICE OF THE DISTRICT ATTORNEY**

Jefferson and Gilpin Counties

Peter A. Weir, District Attorney

January 16, 2020

Sheriff Jeff Shrader  
Jefferson County Sheriff's Office  
200 Jefferson County Parkway  
Golden CO 80401

Police Chief Paul Pazen  
Denver Police Department  
1331 Cherokee Street  
Denver CO 80204

Re: Jefferson County CIRT 2019-03 involving JCSO Sgt. Chase Walker, DPD Sgt. Dean Christopherson and DPD Officer Jake Odendahl

Dear Sheriff Shrader and Chief Pazen,

My office has reviewed the Jefferson County Critical Incident Response Team's (CIRT's) submitted reports regarding the July 4, 2019 fatal shooting of Leonel Mendez, DOB 6/25/85. This shooting involved JCSO Sergeant Chase Walker with additional shots fired by DPD Sgt. Dean Christopherson and DPD Officer Jake Odendahl. A Senior Chief Deputy District Attorney responded to the scene of the shooting and also observed the interviews of various officers which took place at the Lakewood Police Department on both July 4 and July 11, 2019. She also attended an officer-involved interview at the Wheat Ridge Police Department on July 8, 2019. A Chief Deputy District Attorney from my staff responded to the Jefferson County Sheriff's Office on July 4 and observed additional interviews which were being conducted there. Members of my staff and I attended a briefing presented by CIRT Commander Darrel Guadnola from Wheat Ridge PD and other members of the Jefferson County CIRT on Friday, November 22 at my office. Senior Chief Deputy District Attorney Eva Wilson reviewed the investigatory file presented by the CIRT and my office has now completed the review of Sgt. Walker's use of deadly physical force in this incident and Sgt. Christopherson and Officer Odendahl's attempted use of deadly physical force for possible criminal charges.

## **APPLICABLE LAW**

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

### **§ 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.

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

- (1) ...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 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) ...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 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 the 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 that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay.

### **SUMMARY OF OPINION**

Applying these legal standards to the facts presented through this investigation, I find that none of these three law enforcement officers are subject to criminal liability for their actions on July 4, 2019. The District Attorney's Office could not prove beyond a reasonable doubt that it was unreasonable for Sgt. Walker to perceive that the conduct of Leonel Mendez posed an imminent threat to him of serious bodily injury or death. The District Attorney's Office also could not prove beyond a reasonable doubt that it was unreasonable for Sgt. Christopherson and Officer Odendahl to attempt to utilize deadly physical force to prevent Leonel Mendez from escaping on July 4<sup>th</sup>. Based upon the totality of the circumstances known by Sgt. Christopherson and Officer Odendahl which included the information that Mendez murdered his mother on July 3<sup>rd</sup> in her home and then fled that crime scene with a gun, that he later returned to the crime scene undetected during the early morning of July 4 and left in the suspect vehicle, that he had eluded police in that vehicle at very high speeds and was only able to be stopped when Officer Odendahl deliberately crashed into his suspect vehicle to disable it, that he ignored officer commands to show his hands and that he ran away from his car carrying a gun as officers pursued him. It was reasonable at that time for Sgt. Christopherson and Officer Odendahl to believe that Mendez had committed a felony involving a deadly weapon and that he was likely to endanger human life or to inflict serious bodily injury on another if he was not apprehended without delay. Additionally, when Mendez pointed that same weapon at Sgt. Walker, he posed an imminent threat to Sgt. Walker of serious bodily injury or death. The facts of this incident would not support the filing or prosecution of any criminal charges against any of these officers.

### **BRIEF SUMMARY OF RELEVANT FACTS**

On July 3, 2019 Leonel Mendez murdered his mother and proceeded to dismember her body while in their home located at 4755 N. Pearl Street in Denver, Colorado. During this act, Mendez' sister and brother-in-law entered the home and caught Mendez. Mendez fled the residence armed with a

handgun in a 2007 GMC Sierra pickup truck. Denver PD homicide was notified and they immediately responded to investigate and process the scene.

During the investigation, DPD officers learned that a silver Mustang parked at the residence was the primary vehicle driven by Mendez and they concluded that Mendez might return to the scene and take the Mustang. Consequently, they placed a tracker on the Mustang which would provide the vehicle's location information if it was driven from the scene.

The DPD Homicide unit cleared the scene in the early morning hours of July 4th, 2019. Sgt. Dean Christopherson was the on-duty District 1 sergeant and was the acting lieutenant on-duty. At approximately 0345 hours, DPD officers were advised that a suspect wanted in a homicide was believed to be in a silver Mustang. As details emerged regarding how this information came to be known, it was learned a member of the DPD fugitive team was monitoring the tracker in Mendez's Mustang. The Mustang was westbound on Interstate 70 and efforts were undertaken to determine if the homicide suspect was in the car. DPD requested assistance from the Colorado State Patrol and the Jefferson County Sheriffs Office who located the vehicle on westbound I-70 and attempted to make a high-risk traffic stop utilizing lights and sirens. The silver Mustang pulled over but then drove off at a high rate of speed.

During these events, DPD Sgt. Christopherson responded to the 4755 N. Pearl Street address and physically confirmed that the truck in which Mendez fled the scene had been returned and the silver Mustang was missing. In addition, Sgt. Christopherson noted that there had been an attempt to force entry into the secured residence, but the entry appeared to be unsuccessful.

Concluding that Mendez was the driver of the tracked Mustang, Sgt. Christopherson authorized DPD units to pursue the Mustang outside Denver's jurisdiction if it was located. The Mustang continued to be tracked by DPD, was ultimately determined to be around the Colorado Mills mall, and the vehicle continued to elude police. Authorization to utilize a TVI or PIT maneuver was given by Sgt. Christopherson.

Officer Odendahl utilized his marked police vehicle to strike the driver's side of the Mustang. This action rendered both vehicles inoperable in the middle of the intersection of Cole Blvd. and Denver West Blvd.

After the collision, numerous law enforcement officers converged upon the scene. Officer Odendahl immediately got out of his vehicle after his air bag deployed, and maneuvered himself through the scene as the driver of the Mustang, positively identified as Mendez, extracted himself from the vehicle and fled on foot to the north.

As Mendez fled to the north from the scene of the collision, he was clearly observed carrying a handgun in his right hand. Officer Odendahl gave chase, while other law enforcement officers continued to arrive in the area.

Among those at the scene was Denver PD Sgt. Dean Christopherson. Sgt. Christopherson ran north across Cole Blvd. just east of Denver West Blvd. As he reached the north side of Cole Blvd. he took aim at the armed fleeing homicide suspect, and fired four rounds to prevent Mendez from escaping and harming others. These four rounds did not strike Mendez and he continued to flee.

Officer Odendahl also fired two rounds from his handgun at Mendez in an attempt to stop him from escaping and from harming others in the area. These rounds also failed to strike Mendez and he continued fleeing on foot in a northerly direction.

Another of the many law enforcement officers arriving on scene during this time was Sgt. Chase Walker of the Jefferson County Sheriff's Department. Sgt. Walker responded in his marked Jefferson County Sheriff's SUV and arrived as Mendez was fleeing. Sgt. Walker drove his vehicle eastbound on Cole and then turned north into the entrance of the parking lot associated with 1707 Cole Blvd. This was the lot where Mendez was fleeing on foot. As Sgt. Walker drove through the parking lot in a west by northwest direction adjacent to the building at that location, Mendez was rounding the corner of a building where he was momentarily outside the line of sight of the officers chasing him on foot. Sgt. Walker got to the end of the building in the lot, turned right, and saw Mendez in a grassy area adjacent to the building. Mendez pointed his gun at Sgt. Walker and Sgt. Walker believed Mendez was going to shoot at him. Consequently, Sgt. Walker fired four rounds from a seated position in his vehicle through his open passenger side window at Mendez. He observed Mendez bend over before popping back up. As Mendez came back up he was flailing his arms. Sgt. Walker fired an additional two rounds, and Mendez went down to the ground.

Officers chasing Mendez on foot came into the area, and placed the injured Mendez into custody. A black gun which was split into two pieces was located on the ground by Mendez. Officers immediately noted that Mendez had been shot, summoned medical care and began rendering first aid. Mendez was subsequently transported to St. Anthony Hospital via ambulance, and was later pronounced dead by Dr. Gregory Pinson at 0449 hours.

Immediately after the shooting, the scene was secured and the First Judicial District Critical Incident Response Team was notified to respond to investigate the shooting.

### **Involved Officer Statements**

#### **Sgt. Dean Christopherson – Denver PD**

The CIRT interview with Sgt. Christopherson took place at the Wheat Ridge Police Department on July 8<sup>th</sup>, 2019. Sgt. Christopherson was accompanied by his attorney Zach Wagner. The interview was conducted by CIRT investigators M. Slavsky of Wheat Ridge PD and L. Johnson of Lakewood PD.

Sgt. Christopherson was wearing a Body Worn Camera/BWC at the time of the July 4<sup>th</sup> incident. That device was removed from him at the Lakewood Police Department after the incident. At the time of the interview, Sgt. Christopherson had not reviewed any recording from his BWC. After the interview, he was given access to the video and he provided additional information as is noted in this summary.

Sgt. Christopherson began his career in 1992 in North Dakota and worked as a narcotics investigator for the North Dakota Bureau of Investigations. He has been with Denver PD for approximately 9 years. Throughout those years, he has been assigned to Patrol District 1, he has been a Community Resource Officer and worked in DPD's Public Information overseeing the

police academies. He was promoted to Sergeant in January of 2016 and currently works night shift in District 1.

Sgt. Christopherson arrived at work approximately 1920 hours. He was informed there was a homicide in his District at 4755 N. Pearl St. He learned a Hispanic male was suspected of killing his mother and dismembering her body. Her remains were found in a room in the home and it was still an active crime scene. The suspect had fled in a 2007 silver GMC Sierra. Sgt. Christopherson shared this information with both the 2000 and 2100-hour roll calls. There were approximately 11 patrol units in his district for the shift. During his shift, he learned from a Denver victim advocate that family members who had interrupted the defendant's murder of his mother were concerned for their safety and were worried the defendant might try to come to their residence and kill them. Sgt. Christopherson ordered that additional patrols be put in place to monitor that family's residence.

At approximately 0345 hours a Denver fugitive unit aired over the radio that they were tracking a homicide suspect in a vehicle westbound on I-70 from about Pecos. Sgt. Christopherson headed that way, notified surrounding jurisdictions and authorized Denver units to proceed westbound out of Denver to look for the vehicle. He learned that the suspect vehicle was a silver Mustang and was told by Denver Detective Sergeant Salas that the driver was possibly the suspect from the homicide at 4755 Pearl St. He also learned that Denver police had put a tracker on the Mustang which belonged to the suspect when it was parked in front of the house during the crime scene processing.

To ensure that the suspect had swapped vehicles, Sgt. Christopherson returned to the crime scene and confirmed the Mustang was gone and the GMC was parked on the street. The GMC's VIN registered to the homicide address. The front door of the residence had been kicked, but not breached and after making sure the suspect was not at the home, Sgt. Christopherson heard over the radio that the Mustang had been seen near Genesee and was now eastbound on I-70. He heard that CSP or JCSO had seen the vehicle and turned to contact it but the vehicle took off eastbound. He also heard that DPD Officer Odendahl spotted the Mustang and was trying to catch up to it. Sgt. Christopherson then authorized a pursuit however officers lost sight of it as it was traveling at speeds in excess of 100mph.

Sgt. Christopherson headed westbound on I-70 again and received updates that the vehicle was near Youngfield St. by the Colorado Mills Mall. As he was exiting onto Colorado Mills Parkway, he heard DPD Corporal Goodfellow air that there was a vehicle collision with the suspect vehicle. Sgt. Christopherson could see the vehicles at Cole Blvd and he drove there quickly. He parked between Corporal Goodfellow's vehicle and Officer Odendahl's vehicle, which was the vehicle involved in the crash with the suspect vehicle. He could see the driver of the suspect vehicle, who was later identified as Mendez, fidgeting with something as he was ignoring Corporal Goodfellow's commands to show them his hands. Mendez got out of the car, turned towards Corporal Goodfellow briefly, and ran the other way. Sgt. Christopherson heard Corporal Goodfellow yell that Mendez had a gun.

Mendez ran down an embankment towards the buildings between Cole Blvd. and I-70 and he continued to ignore commands to stop. Sgt. Christopherson noted that Mendez matched the description of the homicide suspect and he saw that he had a gun in his hand. Sgt. Christopherson described deciding at that point that he was not going to let Mendez get out into the public, potentially take a hostage, car jack someone or have a "Deputy Gumm" situation (referring to the Adams County homicide case where the allegations involve a deputy being ambushed and killed by a fleeing suspect). Sgt. Christopherson stated that he had information that Mendez had been strung out on methamphetamine and rat poison the day before, that he was armed with a gun and killed and dismembered his own mother. Mendez led police on at least two chases that morning

and had driven at speeds in excess of 100 mph. He described that Mendez “had blatant disregard for everything” including commands to stop after being forcibly crashed into by police. Sgt. Christopherson decided he could not let this individual get out into the community so he fired what he believed to be two shots at Mendez but Mendez kept running. His recollection was that he moved further down the hill and then fired twice again at Mendez who continued running.

Sgt. Christopherson stated that he observed other officers running down the embankment to his left creating a crossfire situation, so he stopped shooting. He ran after Mendez and recalled seeing what he believed to be Jefferson County officers on his left. He heard gunfire coming from that direction and after the suspect rounded a corner recalled hearing someone say he was down. Sgt. Christopherson then realized he had not turned his body worn camera on so he turned the camera on. He saw the suspect lying on the grass and rolling around as he saw deputies running up to secure him and handcuff him. He also saw a black handgun minus the top slide lying next to the suspect on the grass. Sgt. Christopherson indicated that he did not know whether he hit the suspect with the rounds he fired or if someone else had hit him.

He heard Mendez say he could not breathe after deputies had taken him into custody. Sgt. Christopherson aired that shots were fired and asked for more supervisors to respond. He recalled that Jefferson County deputies were administering first aid to Mendez and that he instructed an officer to get crime scene tape and begin taping off the crime scene. Det. Sergeant Salas arrived on scene, became incident commander and sequestered Christopherson in his vehicle.

After his BWC tape was reviewed by CIRT and then by Sgt. Christopherson and his attorney, it was apparent that Sgt. Christopherson’s activation of his BWC captured the shots he fired at Mendez. It also revealed that the shots were fired without a significant pause between any of the shots. Sgt. Christopherson also noted that the video showed emergency lights in the background where the suspect was running. Sgt. Christopherson stated that he did not remember those lights but that seeing them indicated that a marked police unit must have come through the parking lot as he was focused on chasing the suspect. Subsequent investigation showed four rounds missing from his fully loaded duty Smith & Wesson 9mm weapon and magazine.

### **Officer Jake Odendahl – Denver PD**

The CIRT interview with DPD Officer Odendahl took place at the Lakewood Police Department on July 11, 2019, several days after the shooting. Present with Officer Odendahl was his attorney Howard Stein.

Officer Odendahl was wearing a Body Worn Camera/BWC at the time of the July 4<sup>th</sup> incident. That device was removed from him at the Lakewood Police Department after the incident. At the time of the interview, Officer Odendahl had not reviewed any recording from his BWC. After the interview, he was given access to the video and he provided additional information as is noted in this summary.

Officer Odendahl had been working as a Denver police officer assigned to patrol since 2014 and prior to that time, he had been a JCSO Deputy assigned to the jail. On July 3<sup>rd</sup> at roll call, he was working a normal patrol shift and at the start of his shift, he attended a briefing at DPD and learned that a homicide was being investigated at a Pearl Street address. The details he recalled was that a son had killed his mother and had been dismantling the body when he was discovered and that he then fled with a gun. He heard it was a grisly scene and that the suspect was still at large. He also was told that the suspect was a heavyset Hispanic male with tattoos and that the



suspect's vehicle was a silver GMC Sierra. There were concerns that the suspect would return to the scene and Officer Odendahl was assigned to guard the rear of the residence beginning at 10:30pm. Officer Odendahl was driving a marked police vehicle and he was armed with a Springfield XDM 9-millimeter handgun. During his time at the residence, nothing suspicious occurred and Officer Odendahl was relieved of his crime scene responsibilities at approximately 3am on July 4, 2019. After leaving the scene, he returned to the Denver Police Department. He then learned that the suspect in the case had apparently returned to the scene and taken off in a silver Ford Mustang. Officer Odendahl also learned that detectives had placed a tracker on the Mustang and were monitoring the movements of the Mustang.

Based on the tracker information, Officer Odendahl responded to the area of I-70 to help locate the vehicle. Officer Odendahl heard over his radio that the suspect had eluded another agency but that JCSO was not chasing the vehicle. He also learned that DPD had given approval for the Denver officers to pursue the vehicle. Officer Odendahl indicated that it was unusual for a chase to be authorized and that circumstances would have to indicate that the person is armed and dangerous or that they had committed a crime involving a deadly weapon or that they were a threat to society if not stopped. As he was around the Lookout Mountain exit, he saw the silver Mustang and confirmed the license plate with dispatch. He then activated his lights and the vehicle sped away from him. Other cars joined in the pursuit and he lost sight of the vehicle.

Officer Odendahl drove eastbound on I-70 until he was at approximately Wadsworth Blvd. when he learned that the GPS tracker had placed the suspect vehicle in the Colorado Mills mall area. He turned in that direction and heard that the suspect was headed toward Denver West Blvd. from the area of the Colorado Mills Mall. Officer Odendahl observed the suspect vehicle and he was very concerned about the vehicle getting back on the interstate and eluding officers again. He knew that the suspect was believed to be armed and dangerous and that he had committed a homicide by killing and dismembering his mother. Based on these concerns, Officer Odendahl described that he made the decision to use his marked Denver patrol vehicle to ram the suspect vehicle to disable it. He successfully did so and the Mustang stopped. The collision caused severe damage to the front of his patrol vehicle and caused his air bags to deploy. He crashed into the suspect's car in the intersection of Denver West Blvd. and Cole Blvd.

Officer Odendahl was immediately concerned about being a sitting target if the suspect decided to open fire so he got out of his heavily damaged car as quickly as possible and sought cover from another police vehicle at the scene. While doing so, he manually activated his body worn camera. Officer Odendahl saw the male driver in the car and recognized him as the homicide suspect from the mugshot he had previously seen. He heard officers giving the suspect commands but he could not remember what they were saying and he also thought he might have yelled commands for the suspect to show his hands. During this time, he noted that the suspect appeared to be fumbling around in the Mustang reaching for something. The suspect then got out of his vehicle and ran away on foot carrying what Officer Odendahl recognized as a black handgun. He heard another officer yell that the suspect had a gun.

Officer Odendahl chased the suspect along with other officers and he heard two separate volleys of gun shots and saw the suspect looking back over his shoulder at him and other officers. Officer Odendahl stated that he was not certain if the shots had been fired by the suspect, but he believed they had been. Fearing for his safety, other officers' safety, the safety of the public, the egregious circumstances regarding the homicide and the defendant's desperate attempts to escape which were known to him at the time, Officer Odendahl stated that he decided to fire his weapon at the suspect.



Officer Odendahl took aim and fired two rounds at the fleeing suspect. The suspect did not give any indication that he had been hit and he continued running.

Officer Odendahl continued to chase the suspect down the hill into a mostly empty parking lot. The suspect ran towards the corner of a large building and Officer Odendahl thought the suspect was trying to get behind the building and possibly ambush the officers by shooting at them again. Officer Odendahl observed a marked police vehicle nearing the suspect and he heard additional gunshots at that time but he could no longer see the suspect. As Officer Odendahl and other officers turned the corner behind the building, he observed the suspect on the ground having appeared to have been shot. Officer Odendahl recalled asking where the gun was and he observed the suspect being taken into custody. He could hear the suspect saying something at that time but he could not hear what was being said. Sgt. Christopherson asked him if he had fired his gun and he was then taken from the scene by Corporal Goodfellow and was later transported to the Lakewood Police Department.

Officer Odendahl's body worn camera was active and captured the series of events beginning before he forcibly stopped the Mustang with his marked DPD vehicle, through the time he fired shots at Mendez. Officer Odendahl was permitted to view his camera footage after his interview and he had nothing to add after he viewed it.

The CIRT investigation revealed that Officer Odendahl was armed with a Springfield Armory 9mm Luger and that two rounds were missing. Officer Odendahl and Sgt. Christopherson combined fired a total of six rounds at Mendez. A total of four rounds were accounted for in the subsequent investigation. These are marked in photographs with placards A, C, G, and H.

### **Sgt. Chase Walker – Jefferson County SO**

Sergeant Chase Walker was interviewed at the Lakewood Police Department with his attorney on July 4<sup>th</sup> beginning at approximately 9am. He indicated that he had worked for the Jefferson County Sheriff's Office for 12 years and spent most of that time on patrol. He served as an FTO prior to his promotion to sergeant. At the time of these events, Sgt. Walker's schedule was from Wednesday through Saturday from 10pm until 8am.

Although normally assigned to the south precinct, during his shift working overnight from July 3, 2019 into July 4<sup>th</sup>, 2019, Sgt. Walker was in north Jefferson County to meet with another sergeant. He heard over the radio that Denver PD officers were following a homicide suspect. Sgt. Walker learned that the suspect was armed and that there was a GPS tracker that had been affixed to the suspect's vehicle which was a silver Mustang. He also learned that a high-risk stop had been attempted unsuccessfully and that a pursuit on eastbound I-70 was under way with speeds in excess of 100 miles per hour. The eluding Mustang appeared to be successfully evading the pursuing vehicles so Sgt. Walker decided to check the area around the Colorado Mills mall. As Sgt. Walker began driving north on Indiana, he saw the Mustang cross Colfax. Sgt. Walker started driving in same direction as the Mustang.

Sgt. Walker then described seeing a cloud of smoke in the intersection located at Denver West Blvd. and Cole Blvd and he believed that this smoke came from an accident which had just occurred. A moment later he heard "shots fired" over his police radio and he heard that the suspect

was running away on foot. As he was coming in to the area of the accident, he saw numerous officers on foot running into the parking lot of 1707 Cole Blvd. Sgt. Walker decided to stay in his vehicle as everyone else was on foot. He had his emergency overhead lights on and had both his driver and passenger side windows open. Sgt. Walker turned into the parking lot and heard shots being fired from an unknown direction. He saw the suspect running and he drove straight toward the suspect in order to get ahead of him and cut him off. He described driving towards the north end of the parking lot when he saw the suspect make a sharp turn to go behind the office building.

The suspect rounded the corner of the building and as Sgt. Walker was coming around the building, he described seeing the suspect standing there with his arm pointed directly at Sgt. Walker. Sgt. Walker saw a black object in the subject's hand which he believed to be a gun and he noted that the way the object was being held was in the same fashion as one would hold a gun. He described the suspect being in a "firing stance". Sgt. Walker instantly believed that the suspect was going to shoot at him. Sgt. Walker also stated that he was aware that the suspect was wanted for a homicide and that shots had already been fired. Being afraid for his safety, Sgt. Walker fired what he thought were two or three rounds through the open passenger side window of his vehicle at the suspect. The suspect then bent over for a moment before popping back up. As the suspect came back up he was flailing his arms and Sgt. Walker realized that the man was still a threat so he fired an additional two rounds. The suspect went down to the ground and was soon after held at gunpoint until being successfully cuffed. Sgt. Walker then saw a black semi-automatic firearm in the grass by the suspect. He did not get close enough to the weapon to determine its condition and he could not recall its specific location in relationship to the suspect. He heard another officer state that they needed to get a cone to mark the gun in the grass. Sgt. Walker stayed in the area until he was transported to the Lakewood Police Department. His body worn camera was collected by a JCSO Sergeant on scene. Sgt. Walker did not realize until later that he had not turned his camera on during the incident but he stated that the normal procedure is that the camera is activated once an officer exits a car because otherwise the camera would be recording the steering wheel due to its location on a person. He stated that during the shooting he was looking out the window to his right with his torso facing forward and his arm extended to the side towards the window.

In his description to CIRT of the suspect's actions, Sgt. Walker stated that when he thought back to the incident as he saw the suspect behind the building, it appeared that the suspect went around the building corner to ambush the officers that were chasing after him.

Sgt. Walker indicated he thought he fired five or six rounds. Subsequent investigation showed a total of six 45 caliber rounds missing from his fully loaded, duty-ready Glock 21 pistol.

Subsequent investigation by the CIRT team accounted for all six of Sgt. Walker's fired rounds. Two of Sgt. Walker's rounds hit the suspect and were recovered from his body. One of Sgt. Walker's rounds hit the gun the suspect was carrying. Three rounds were located and documented during the examination of the scene, one of which was labeled with placard D, a second was labeled with placards F1 and F2, and the third labeled with placards F3 and F3a.

Sgt. Walker was wearing a body worn camera at the time of the events, however, as he was in his vehicle it was not activated. CIRT investigators noted that given the angle of the shots that were apparent through the investigation, any video from the body worn camera had it been activated would provide exceptionally limited additional information to investigators.

## **Officer Statements**

The CIRT team interviewed fifteen additional law enforcement witnesses and 1 lay witness. These witnesses included 1 CSP trooper, 4 DPD officers, 1 Golden Sergeant, 7 JCSO Deputy Sheriffs and 2 JCSO Sergeants.

Portions of certain of those interviews that have particular relevance to this review are summarized below:

### **Trooper Voss**

Trooper Voss was contacted by the Denver Regional Communication Center early in the morning of July 4<sup>th</sup> notifying him that DPD was tracking a homicide suspect in a vehicle and that the suspect may be in possession of a handgun. Trooper Voss observed the attempts to stop the driver and listened to the radio traffic regarding the ongoing efforts to stop the driver. He was attempting to assist with the stop and heard the crash. He saw the suspect running from the scene and saw a Denver officer standing near the passenger side of a patrol car with his gun drawn and pointed at the suspect. He joined in the foot pursuit and arrived when the suspect was falling down on a grassy area. He handcuffed the suspect and then saw a handgun grip on the ground. He also observed gunshot wounds on the suspect.

### **DPD Corporal Gates**

Corporal Gates responded to assist with the apprehension of the homicide suspect and he became involved close to the location of the crash. He had his emergency lights activated when he saw a vehicle coming at high speed, he radioed for assistance and then observed Officer Odendahl crash into the suspect vehicle to stop it. Corporal Gates pulled in directly behind the suspect vehicle to keep it from leaving the scene. He utilized the spotlight on his vehicle to light up the suspect vehicle and he got out of his car, drew his weapon and pointed it at the driver. He gave the suspect orders to "Show us your hands" and saw the suspect moving in the vehicle. He saw the suspect jump out of the car and take off running. He saw a black object in the suspect's left hand that appeared to be a gun and he aired this information over the radio. The suspect ran down a hill and Corporal Gates started to go after him when he heard shots being fired to his right. He looked up and saw a sergeant and another officer. He stopped moving and aired shots fired. Corporal Gates indicated that he did not shoot at the suspect because he did not have a clear shot from his position. Officers continued to pursue the suspect and Corporal Gates yelled to watch the cross fire as officers were coming from multiple directions running on foot. Corporal Gates ran down the grassy slope into the parking lot when he saw the suspect go around the corner of a building out of sight. He also saw a black and white police vehicle driving through the parking lot. As Corporal Gates was running through the parking lot towards the building where the suspect had disappeared behind, he heard more shots being fired. As he got to the corner of the building, the suspect was down on the ground and officers were cuffing the suspect. Corporal Gates was outfitted with a BWC but he did not have his camera turned on during the incident. When asked about this by CIRT investigators, he indicated that the incident occurred very quickly and he did not realize that he had not manually turned his camera on until after the incident was over.

### **DPD Corporal Goodfellow**

Corporal Goodfellow was on duty that evening with a recruit officer, Jeremy Fink. He was asked to assist CSP and JCSO with the apprehension of a homicide suspect who had murdered his mother and he was chopping up her body when his sister walked in on the crime and he then fled the scene. Corporal Goodfellow headed towards Jefferson County along with other DPD police units to pursue the vehicle. They eventually lost sight of it until they learned through the tracking device that the vehicle was in the area of Denver West Parkway and Cole Blvd. He heard over the radio that the car was involved in a crash, that the suspect had a gun, that there was a foot chase and shots had been fired. When Corporal Goodfellow arrived at the intersection, several police units were on scene and more gunfire was being reported along with information that the suspect was heading north.

Corporal Goodfellow saw an officer run down an embankment towards a parking lot and he heard shots fired which sounded as if they were coming from the north part of the building in that log. He parked his car and walked down to the scene where the suspect was down. He saw DPD Sgt. Christopherson with his gun drawn and learned that DPD Officer Jake Odendahl had discharged his weapon. Officer Odendahl's face was bleeding and he indicated he had been hit in the face with his vehicle's airbag after the accident. Corporal Goodfellow took charge of Officer Odendahl and moved him away from the scene. Corporal Goodfellow asked Officer Odendahl what direction he had shot and where he had shot from so police could protect the scene. Officer Odendahl said he was standing in the area where the grass hill meets the parking lot and that he was shooting in a northerly direction. Corporal Goodfellow's recruit, Officer Fink, was with him during this entire incident until they were separated to be interviewed. Officer Fink's interview did not conflict with Corporal Goodfellow's recollection in any significant manner.

Corporal Goodfellow indicated that he had his BWC activated during the pursuit on the highway. After the suspect was lost, he turned it off. He reactivated it once he got out of his car on scene. The BWC was reviewed but it did not capture any visual images of the area of the shooting of the suspect.

#### JCSO Deputy Austin Demmel

Deputy Demmel was involved with the attempted felony traffic stop and viewed Denver's pursuit of the suspect. He arrived on scene after the crash and saw the suspect running. He heard numerous commands for the suspect to stop and also heard shots being fired which he believed came from law enforcement. He believed that DPD units were "running the show" and he was trying to not get in a crossfire situation. As he ran down the embankment, he saw a marked JCSO Ford Explorer enter the parking lot and saw it drive up to the corner where the suspect was last seen. He then heard a second volley of shots. He, Deputy Gist and Trooper Voss approached the southwest corner of the building and saw that the suspect had stopped walking and had fallen to the ground. He presumed the suspect had been shot. He pointed his gun at the suspect and Deputy Gist put his foot on the suspect's back. Other officers were arriving as Trooper Voss cuffed the suspect. The suspect was patted down for weapons but none were found. At that time, both Deputy Demmel and Deputy Greaser saw parts of a pistol lying on the ground near the suspect. A piece of an upper slide from a semiautomatic pistol was lying approximately five feet south of the suspect's head and the lower grip of what appeared to be the same pistol was lying approximately two feet north of the suspect's feet. Deputy Demmel did not touch the weapon pieces but made numerous observations about them and pointed them out to other officers.

#### Golden PD Sergeant Ryan Custer

GPD Sgt. Custer was on scene of a residential fire when he heard the radio traffic regarding various law enforcement agencies attempts to contact a homicide suspect that was armed with a gun west-bound on I-70. He eventually heard that a tracker had placed the suspect vehicle in the area of Indiana Street and Colorado Mills Parkway which was a few blocks from his location. Sgt. Custer did not continue to pursue the vehicle but attempted to get ahead of it. He heard radio traffic stating the suspect had crashed and he then saw the accident in the intersection. He saw the suspect jump out of the car and start running down the hill. Sgt. Custer saw officers on foot so he decided to drive NB on Denver West Parkway to stay parallel with the suspect. He saw that the suspect was running and that he had a gun in his hand. He tried to light the suspect up with his spotlight to show everyone that he had a gun but he could not because the suspect's location was too low in the parking lot and he was higher up on the street. He then lost sight of the suspect due to trees in the embankment and the fact that his attention was divided due to driving and talking on the radio. Sgt. Custer turned onto the on ramp to east-bound I-70, parked and got out of his car. Sgt. Custer indicated that as he was getting out of his car, he saw the suspect cross the sidewalk to go around the north side of the building. He said that the suspect slowed down, then stopped and turned to face west. He said there were a line of officers giving commands to the suspect with their weapons drawn and yelling at the suspect to show them his hands and to get down on the ground. He said it looked like the suspect said something back to the officers and then the suspect dropped to the ground. Sgt. Custer thought at first that he saw the suspect stopped with his hands in the air but as he went through what he saw in detail, he stated that he could not remember if the suspect's hands were in the air or not. He said he could not see if the suspect still had the gun but that officers were giving him commands to lay down and the suspect did. He then saw the suspect rolling around in pain and then observed officers and a CSP Trooper cuff the suspect and begin to render aid to him. At some point in time, he heard someone say there had been some sort of shooting. He stated that he did not hear any gunshots at any time during the incident but that he was talking on the radio the entire time. He stated that he did not see any cars in the parking lot but that he was hyper-focused on the suspect and that after the suspect was in custody, his "tunnel vision" opened and he saw patrol vehicles in the parking lot.

### **Crime Scene Analysis and Autopsy**

Near the body of the suspect were located a slide and body of a firearm which had been separated. Lakewood PD Senior Crime Scene Analyst Amy Laabs photographed these items on scene and then collected them. She observed a jammed live round (PMC 9mm Luger) in the ejector port of the slide. She also observed a suspected bullet impact on the slide of the firearm. A suspected bullet impact was also located on the firearm body consistent with the bullet impact on the slide. She cleared the magazine and observed one cartridge (PMC 9mm Luger) in the magazine.

Lakewood PD Crime Scene Analyst Olander photographed and searched the interior of the silver 2017 Ford Mustang driven by the suspect. She found a live round of ammunition (PMC 9mm Luger) in the front center console cup holder along with a small baggy containing suspected Methamphetamine and a Colorado ID and bank cards belonging to "Josefina Mendez". Cash and a glass pipe containing suspected narcotics residue was observed on the front passenger seat.

Dr. John Carver, forensic pathologist, conducted the autopsy of Leonel Mendez on July 5, 2019. Dr. Carver found that the suspect had sustained two gunshot wounds from an indeterminate range. One gunshot wound entered his right upper abdomen and the trajectory was front to back, upwards with no discernable right/left deviation. The other gunshot wound entered his right buttock and the trajectory was back to front, up and right to left. Two large caliber bullets were recovered from

the body. The blood toxicology report showed the presence of 870 ng/mL of methamphetamine and 51 ng/mL of amphetamine at the time of his death. The cause of death was multiple gunshot wounds and the manner of death was homicide.

The scene investigation and the autopsy identified a total of nine bullet strikes, with a total of twelve rounds being fired. Two rounds struck the suspect, one round struck the gun the suspect was holding, two rounds struck a window pane on the building located at 1707 Cole Blvd., three bullet strikes were located on the wall on the north end of the parking lot and one bullet strike was found on the side view mirror of a Dodge pickup in that same parking lot.

The handgun carried by Leonel Mendez, and the handguns fired by officers in this case were all submitted to the Jefferson County Regional Crime Lab for testing. All guns belonging to the officers involved were found to be functional and were subsequently returned to their owners.

All of the handguns fired in this matter and the handgun carried by the suspect were examined by Jefferson County Regional Crime Laboratory personnel. It should be noted that the suspect's handgun was struck by one of the rounds fired by Sgt. Walker. As a result, the handgun was recovered from the scene with the lower receiver separated from the slide. The bullet strike rendered the firearm inoperable. Rounds recovered from the scene were compared and a determination was made that none of the rounds recovered that were suitable for examination were fired from the gun Mendez was carrying. Based upon the recovery of the 45 caliber rounds in the suspect's body, it is uncontroverted that the rounds that caused the suspect's death were fired by Sgt. Walker. Neither of the Denver officers who fired at the suspect hit the suspect.

The firearm Mendez had in his possession was not stolen, and was originally purchased in 1992 by a party who appears unrelated to Mendez.

## **LEGAL ANALYSIS**

We find in our review of this shooting that the conduct of all shooting officers was not criminal.

It is the conclusion of my office, based upon the applicable law and the facts and circumstances of this case, that the fatal shooting by Sgt. Walker of Leonel Mendez during this incident meet the legal requirements of the affirmative defense of self-defense as contained in §18-1-704 (1)(2)(a).

Additionally, we conclude that the attempted use of deadly physical force by DPD Sgt. Christopherson and DPD Officer Odendahl meet the legal requirements of the affirmative defenses of defense of others and of attempting to arrest a person who they reasonably believed had committed a felony offense involving a deadly weapon and of attempting to arrest a person who they reasonably believed was likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay as contained in §18-1-704 (1)(2)(a)(b).

The underlying facts supporting this conclusion involve the information obtained from the involved officers, the numerous law enforcement witnesses to this event, the body worn camera footage, the crime scene investigation, the autopsy and the laboratory analysis.



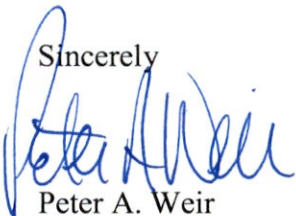
Pursuant to C.R.S. 18-1-704 and C.R.S. 18-1-707, this analysis considers whether Sgt. Walker was justified in using reasonable and deadly physical force to defend himself from the imminent use of deadly physical force by the suspect and also whether DPD Sgt. Christopherson and DPD Officer Odendahl were justified in their attempts to use deadly physical force.

Sgt. Walker knew that Denver police were actively pursuing a homicide suspect and that the suspect was likely armed. He also knew that his agency and other law enforcement agencies were involved in attempting to stop the suspect over many miles and that the suspect had sped away in his vehicle and that the chase had involved speeds of over 100 mph. Sgt. Walker drove to the area where the suspect vehicle was actively fleeing police and heard over the radio about law enforcement's efforts to stop the vehicle by crashing into it, heard that the suspect was running away and that shots had been fired. When he drove into the parking lot to get ahead of the suspect to stop him from fleeing, the suspect pointed a gun at him. Based on that action alone, Sgt. Walker was in legitimate fear of being killed by the suspect. Adding in his knowledge that this person was suspected of killing his mother the day before, that he had been actively evading police by driving at dangerous speeds and refusing to stop, that after being involved in an accident with police that the suspect ran from the scene with police clearly in pursuit, Sgt. Walker's mindset that he needed to use deadly physical force against the suspect was completely justified. Using deadly physical force was reasonable under these specific facts and circumstances and it is highly likely that the use of that force saved Sgt. Walker's life. The People would be unable to disprove the affirmative defense of self-defense beyond a reasonable doubt.

Both Sgt. Christopherson and Officer Odendahl had significant and detailed knowledge regarding the recent homicidal behavior of the suspect, his efforts to avoid being caught first by his family and then by police and his high-risk driving behavior to evade police. This knowledge resulted in Officer Odendahl making a heroic decision to put himself in peril by using his vehicle to prevent the suspect from continuing his extremely dangerous behavior. The suspect's determination to not get caught by police became even more evident when he ignored their commands to stop when he jumped out of his damaged vehicle with a gun in his hands to run away from them into a business park. Their respective decisions to attempt to stop him by using deadly physical force were reasonable and justified. The People would be unable to disprove the affirmative defenses of self-defense, defense of others and to effect the arrest of a homicide suspect armed with a deadly weapon who is running away from them and ignoring police commands to stop.

Based upon the investigation of this incident and the information provided to this office by the 1<sup>st</sup> Judicial District Critical Incident Response Team, it is the final conclusion of my office that the legal requirements of the affirmative defenses of self-defense, defense of others and the attempts to effect the arrest of the defendant by deadly physical force were satisfied by law enforcement actions on July 4, 2019, that law enforcement was justified in the use and attempted use of deadly physical force and that their conduct did not violate any criminal statutes.

Sincerely



Peter A. Weir

District Attorney

1<sup>st</sup> Judicial District Attorney's Office