



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

January 23, 2019

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

**Re: Critical Incident Team Investigation 18-03 (Officer Involved Police
Shooting of Bailey Joseph Greek DOB 05/01/2000 on October 18, 2018)**

Dear Chief Strate:

The Critical Incident Response Team (CIRT) for the First Judicial District was activated pursuant to protocol on October 18, 2018 to investigate the fatal shooting of Bailey Greek by Arvada Police Officers Peterson, Stodghill, and detectives Nelson and Grisham. 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 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 a Senior Chief Deputy District Attorney and a Chief Deputy District Attorney to respond and work in coordination with CIRT investigators and lend legal assistance as necessary. They observed key interviews of witnesses including Officers Peterson and Stodghill and Detectives Nelson and Grisham.

CIRT investigators interviewed all witnesses, law enforcement and civilian, processed the scene of the shooting, and completed a background of Bailey Greek 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, photographs, related to the incident, surveillance video obtained from businesses, and a cell phone video taken by a citizen witness.

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 Peterson and Stodghill and Detectives Nelson and Grisham 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 October 18, 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 or use of physical force in making an arrest 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 Peterson, Stodghill and Detectives Nelson and Grisham shot Bailey Greek it was reasonable to believe that Greek posed an imminent threat of death or serious bodily injury to the Officers/Detectives and Greek had committed a felony by use of a deadly weapon. The evidence also establishes that Officers Peterson, Stodghill and Detectives Nelson and Grisham were justified in using physical force upon Bailey Greek to apprehend a person they knew was evading arrest.

Therefore, there is no reasonable probability of disproving the affirmative defenses in the shooting of Bailey Greek and criminal charges against Officers Peterson, Stodghill and Detectives Nelson and Grisham 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 October 18, 2018.

On October 17, 2018 at approximately 7:35 P.M., a Caucasian male entered the Wal-Mart Store located at 9400 Ralston Road, Arvada, Colorado. The male later positively identified as the deceased Bailey Greek is observed by Wal-Mart theft prevention officers taking merchandise off the store shelves and placing the items on his body, such as white tennis style shoes. Bailey Greek was also observed loading up

a shopping cart with merchandise and proceeding past the last point of sales and attempted to leave the store when Greek is contacted by a Wal-Mart loss prevention officer. When confronted Greek pulls what can be clearly seen on video as a handgun. The confrontation is clearly caught on surveillance video and one can see that Bailey Greek pulls his and points the weapon at the prevention officer and next to a mother and her small child who can be observed walking from the store. The confrontation with the Wal-Mart loss prevention officers takes place approximately at 8:42 pm on October 17, 2018.



Bailey Greek after brandishing his weapon departs the Wal-Mart store and additional surveillance video captures Bailey Greek approaching an orange Chevrolet Cobalt with a driver in the driver seat and again Greek points his pistol at another citizen. It is unclear if the driver of the Cobalt was aware a pistol was pointed at him as the crime and the driver were not reported to law enforcement. Bailey Greek was easily identified as the same individual from the Wal-Mart store.



A search of the area around the Wal-Mart store was unsuccessful despite extensive efforts, including K9 tracking, that were put into place.

Shortly after mid-night on October 18,2018 at 9555 West 59th Avenue #228 at the Brookdale Meridian assisted living facility, Geryldean Brannon an 82-year-old resident was awakened by a light in her dwelling. Ms. Brannon learned an individual later positively identified as Bailey Greek was in her residence. Ms. Brannon confronted Greek and told him to leave her residence. In response Bailey Greek struck Ms. Brannon several times in her head with a hard object reasonably believed to be a gun.



Ms. Brannon was dragged into her bathroom where she was left until Mr. Greek departed her residence at which time Ms. Brannon was able to pull an emergency assist cord. Bailey Greek stayed in Ms. Brannon's residence helping himself to her food as she laid bleeding on her bathroom floor.

The Arvada Police Department began an extensive investigation in these series of violent crimes. Initial efforts included verifying that the same individual committed all three violent offenses. The investigative efforts included, but were not limited to, laboratory testing of items touched by Bailey Greek when he was inside Ms. Brannon's residence. The investigative efforts verified that Bailey Greek was in fact the individual sought in connection with the armed robbery at Walmart, attempted carjacking, and the home invasion, kidnapping, assault of the at-risk adult in the assisted living facility.

A records check conducted by the Arvada Police Department revealed that Bailey Greek was arrested for an aggravated motor vehicle theft but released and, after his release, was again arrested for another aggravated motor vehicle theft and felony menacing (menacing with a deadly weapon) among other charges. Greek was once

again released on his own personal recognizance. Bailey Greek failed to appear for court and a warrant issued for his arrest.

Numerous investigative tools were put in place to apprehend Bailey Greek given the threat to the community and the nature of the offenses committed. Some of these efforts included “pinging” a phone owned by the elderly victim and taken during the burglary at the assisted living facility.

Briefings were held within the Arvada Police Department advising officers of the above information and providing a photo of then suspect Bailey Greek. Crime bulletins were created and distributed for all officers to view and these bulletins included a photo and description of what Greek was wanted for and the fact that he was armed with a hand gun.

Members of the Arvada CRIT team assisted in efforts to locate Greek.

At approximately 6:40pm on the 18th of October a ping indicated the phone taken in the burglary of Ms. Brannon’s residence and now associated with Greek was in the parking lot of the American Motel on the I-70 frontage road.

The ping information lead officers to a white Ford Explorer and identification of Bailey Greek as the driver. A clearance of the white Ford Explorer driven by Greek revealed that the Ford Explorer was also an active stolen vehicle. Officers monitored Bailey Greek’s movement and followed him to the CircleK/Shell gas station. Greek parked at the far west set of pumps but on the east side of the island.

Greek was observed to be the sole occupant of the vehicle when he initially parked at the gas pumps. Greek got out of the stolen car and went into the convenience store. The store and gas station were crowded with citizens.

The decision was made to contact Bailey Greek in the gas station where he was fairly contained and before he could become mobile on the streets and highways.

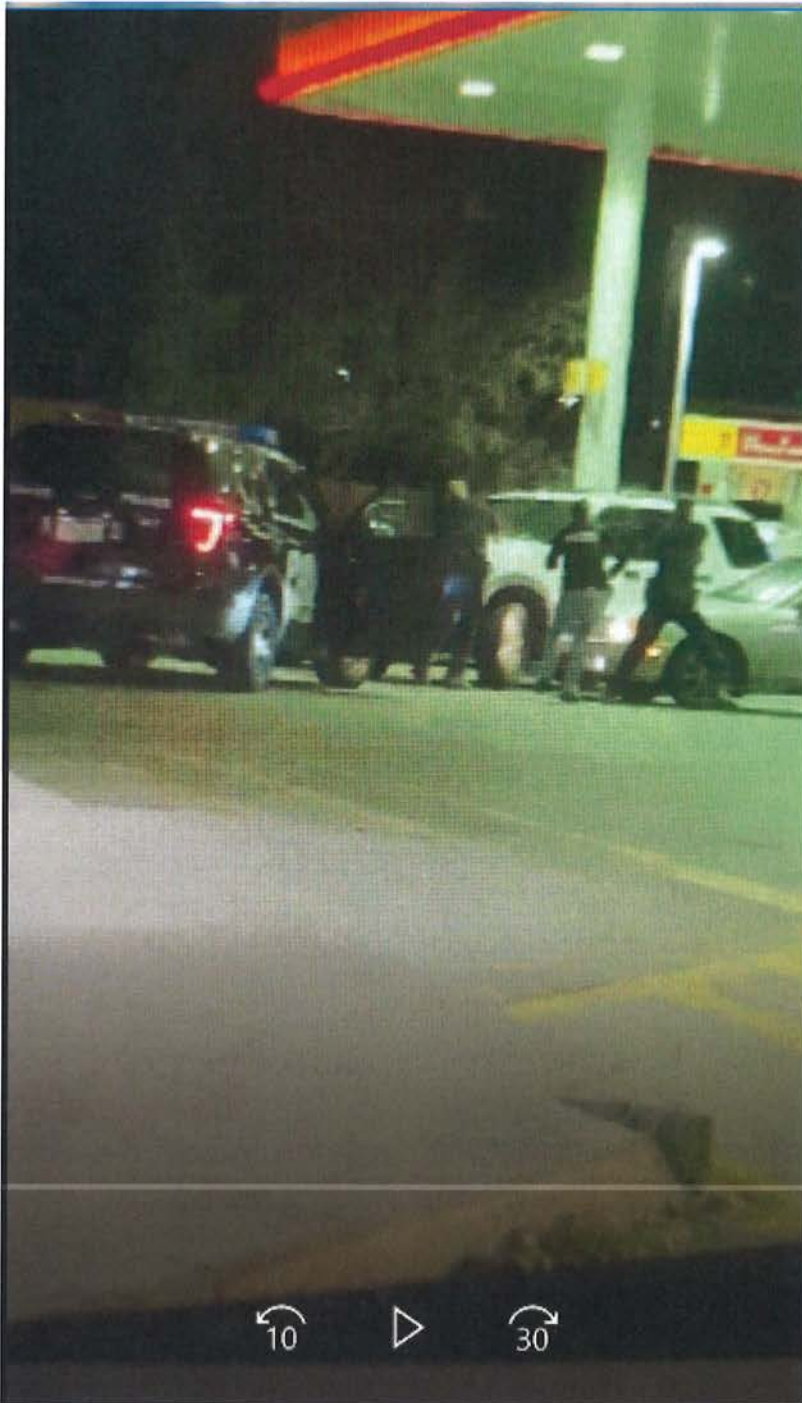
Mr. Greek was observed walking back to his car after leaving the store and in the process, Greek offered an individual a ride. The individual, John Barry, did not know Greek other than receiving two dollars the day before. Mr. Barry would play his harmonica in front of the store in exchange for money. The night of the 18th Mr. Barry was offered a ride by Bailey Greek and he accepted the offer, getting into the front passenger seat of the stolen SUV.

Arvada officers surrounded the Greek vehicle. A marked patrol vehicle attempted to pin the front of the Greek vehicle and another marked vehicle contacted and

attempted pinning in the rear of the Greek vehicle. Additional, Arvada police vehicles also surrounded the Greek vehicle and assisted in trying to place Greek into custody. The emergency blue and red lights were illuminated, and officers got out of their cars and gave direct orders for Greek to put his hands in the air. Officers were either in full uniform or, in the case of detectives, had vests on with visible markings indicating "Police".

John Barry complied with law enforcement commands by putting his arms where they could be observed by officers. Greek however, failed to comply and instead left his hands on the steering wheel. Greek did not get out of the car rather he revved the vehicle's engine. The Greek vehicle accelerated forward striking an Arvada patrol car driven by Officer Peterson. Officer Peterson was accompanied by Officer Stodghill. The Greek vehicle also reversed forcefully striking another marked Arvada patrol car driven by Officer Bern.

At this point officers continued to yell commands for Bailey Greek to comply. As commands to Greek were being given Officer Peterson was caught directly between his patrol vehicle and the stolen vehicle driven by Greek. Bailey Greek continued to ignore repeated commands and, while looking directly at Officer Peterson, accelerated directly at Officer Peterson. Officer Peterson had to jump out of the way of the Ford Explorer to avoid being hit. Officer Peterson was so close to the Ford Explorer that his hand touched the hood of the explorer.



It was at the time Greek accelerated forward and at Officer Peterson that the first shots were fired by law enforcement officers. Bailey Greek was fatality wounded as a result of the gunshot wounds he sustained.

After Bailey Greek was wounded his foot remained on the accelerator and his vehicle lurched forward and back until officers were able to remove the keys from the SUV's ignition.

Officers attempted to assess Bailey Greek's condition and noted a hand gun in the driver's side door pocket.



Medical personal were summoned to assist Mr. Greek however, as previously noted, the wounds were fatal.

The scene was secured, and all lay witnesses were contacted and interviewed, including a citizen who as the events unfolded began recording the events on his cell phone.

Interview with Detective Steve Grisham:

Detective Grisham worked on the crimes against persons team and was starting his rotation as the on-call detective. In his capacity as both the on-call detective and working in the persons crime unit, Detective Grisham began coordinating information and resources regarding the home invasion kidnapping at the Meridian Assisted living facility. Detective Grisham's efforts included putting together a bulletin regarding the crimes, reviewing Bailey Greek's criminal history, and briefing the Arvada police department. Detective Grisham also executed a warrant for the phone ping on victim Bannon's phone.

Detective Grisham received the notification of the phone pings from the cell phone company and as such he monitored the surveillance on the stolen vehicle driven by Greek.

Detective Grisham fired two rounds.

Detective Grisham responded to the CircleK and related and observed in part the following:

"The car starts now. The lights are on. I mean, like, it's gonna leave any minute. And everyone's really trying to - to get it, to stop it from leaving. So I see, uh, Officer (Burns) and I know that it's his car because our K9s drive these old gigantic SUVs, I don't know what they are. Ford Expedition or something."...

"So (Burns) comes in, he pins him from behind and it's - it's a bumper to bumper pin. It's perfect. And I park my car - I wanna say I kinda come in like this and my car is oriented some - some - some - somewhere like this. I have a strobe light that's now on. I turn it on right as I start to come up to park. So I have red and blue lights flashing. I don't recall if (Burns) had his - had his (unintelligible) headlights on or not honestly. I don't remember. But, um, so (Nelson) - I don't know who was drivin' the Equinox. I still don't know. But (Nelson)'s car - and the reason I say (Nelson), he and (Mike Romer) share this car. So the Equinox, I think it came in and I think this - this angle was very precarious to get around"...

"So within seconds, the vehicle - if I could just use this as the vehicle, the vehicle starts to sort of go forward and it's - it started - starting to shift its entire momentum. So the front driver's side is now starting to go to the southeast and the tail of the vehicle, the back of the vehicle is starting to spin towards the northwest. And it's going forward of the gas pumps. So now - so now if the gas pumps - if it started here, it's now made its way, like, out, like, this far. So I can - I can at some point tell

that it is now in contact with the front of the interceptor. (Peterson) and (Stodgehill), I don't know if they were trying to get him out of the car by opening the driver's door. But I mean, they have their guns out but they are, like, right beside the driver's door. And I can see the tires on this car, like, spinning. I can hear them spinning. I can see smoke. I mean, this guy has his foot all the way to the gas. And I mean, it just happens so fast. I'm looking at this car and as it's - as it's starting to kinda s- shift in this direction, at any moment it is going - there are people everywhere. Everyone's looking. Instead of getting out of the way, they're all just standing there lookin' to see what's going on. And I'm thinking at any second this vehicle's going to break free from the interceptor, it is going to run (Peterson) and (Stodgehill) over and it's probably gonna go like a rocket right through the damn Shell station. I mean, 'cause it's not that far. I mean, the - the gas station's, like, right about here. And there's also - a- at the same time, this guy is about to get away. I mean, he's gonna kill two officers or some citizen in the process but he is a violent felon who has committed a bunch of stuff in the last 24 hours with a handgun."...

"And we believe he still has a handgun 'cause that was talked about inside the store."...

"I just, uh, you know, a four or five-thousand pound vehicle like that is gonna kill somebody. It is gonna - it - if it would've hit (Peterson) or (Stodgehill) or a citizen - I - obviously he was dead-set on getting away and h- if he happened to miraculously miss them, there's no way he would've gotten out of that parking lot without hitting someone else."...

"It was just - I mean, it was at full acceleration. So anyway, um, so after we got the car stopped, uh, we called for an ambulance."...

"So I just came to the decision that I had to end this and I started firing. I think I fired first frankly. Um, but I gotta tell you, I - I think I fired two, maybe three rounds. But before I could get a second round off, it was like a barrage of gunfire. So if I fired first, it wasn't a microsecond after I fired that there was gunfire from everywhere. So I think I fired two or three rounds. Um, I saw the back windshield shatter. I could feel getting hit with s- with, like, glass or whatever. I mean, it turns out later I did have a cut on my face and something hit me in the stomach. I had a bruise right here underneath my vest line. But - so this is now seconds that all this is going on. Um, so I run up to the driver's door and Sergeant (Gideon) is there also. I'm not sure where Sergeant (Gideon) was. But we're all there really quickly..."

Interview Detective Ryan Nelson

Detective Nelson on October 18, 2018 was assigned to the general investigations bureau and was working when the Walmart robbery took place. Detective Nelson's assignment required him to assist with the Walmart investigation as well as the attempted carjacking of the orange Chevy Cobalt. Additionally, he was made aware of the burglary, assault and kidnapping that occurred at the Meridian. Detective Nelson was made aware first hand that Bailey Greek was known to be armed, having viewed the video surveillance from Walmart and that Greek had an active warrant for felony menacing/deadly weapon. Detective Nelson accompanied Detectives Huran and Brooks to the American Motel to determine if suspect Bailey Greek was residing at that location. Ryan Nelson was in plain clothes; however, he donned his tactical vest with his badge prominently displayed in front.

As Detective Nelson, Huran and Brooks were searching for Bailey Greek in the area around the American Motel, Detective Grisham received his first cell location "ping" from T-Mobile. The location was in fact at the American Motel.

Surveillance was established on the white stolen Ford Explorer and a positive identification of Greek was made. In addition, when Greek was walking in and out of the CircleK, observations were made of Greek keeping one of his hands in his waist band consistent with maintaining control of a hand gun. That information was disseminated to all officers.

Detective Nelson was driving a gold undercover Chevy Equinox and he proceeded to the west side of the gas station parking lot to assist in placing Greek into custody. Detective Nelson fired three rounds.

Nelson related in part the following when interviewed:

"So I am over here on this side giving orders to the driver to get out of the car. He is sitting back in his seat and he just sits there for a couple seconds. Doesn't really, he is just sitting there. And then I see him put it in reverse. And then the tires start squealing and he hits, um, you can tell it is hitting Officer Burns car. Um, and then you could just hear the engine revving, the smoke coming up. And officers screaming at this guy to get out of the car. So at this time um, I did not believe that there was any car actually touching the bumper so I was shocked that he did not, the he was going in reverse. But that's what he was doing. And then you see him put it into gear and drive forward."...

"So I noticed that there was a gap on the front of the vehicle. And um, I know, I remember Officer Burns hitting that car and the car moving. So um, he puts it in reverse and he is just revving it. You just see the car moving up and down. Hearing the tires squeal, the smoke up in the air, and to officers yelling, and the sirens, or the lights. A, he then puts it into gear and he drives forward and I, I just remember him hitting the car in front of him. I don't know if it was my car or another car. But he smashes the car in front of him. And then at that time that brought my attention from

looking this way at him where he was going in reverse, to now going forward. And I notice that there was two officers right in front of his car on the driver's side. And I just remember one of the officers um, it the one on the inside portion. So there was one on the outside, kind of, on the outside of the, how do I explain this. So if this is a car. He is going this way. There was an officer here, and an officer here, and he had hit something right here. And I just see him turning the steering wheel towards these officers. And I just remember this officer right just trying to get out of his way, like pushing the other officer." ...

"...Um, I'm backed up and right when I see him revving the engine um, I, and turning his wheels and getting momentum, and that officer couldn't get out. I then moved over here and I believe I had a shot while they were trying to get away and while the wheels were turning towards the officers. I had the opportunity right here to um, get a clear view of him. And ah, at this time he was still actively going forward towards those officers in an aggressive manor. Um, I believed that he was going to be hitting those officers and killing them so I deployed my, I shot him. "...

Officer Ian Stodghill

Officer Stodghill was assigned to the patrol division and prior to going on shift on October 18th Stodghill was provided with two separate critical incident emails detailing the investigations into the crime spree of Bailey Greek. Additionally, Stodghill viewed surveillance footage and photos from the Walmart robbery. Stodghill was in Phase II of his field training program and was assigned to Officer Peterson. Officer Peterson advised Officer Stodghill that the Walmart robbery and the assault, burglary, kidnapping cases were related, namely, committed by the same individual.

Officers Stodghill and Peterson were notified that Greek was located and they proceeded to the CircleK and Shell gas station. Officer Stodghill was initially driving but Officer Peterson took over driving responsibilities because Officer Peterson was trained in Star Chase should the suspect Greek attempt to flee. Officers Peterson and Stodghill were in a fully marked Arvada patrol vehicle.

Officer Stodghill fired six rounds.

In part Officer Stodghill related the following:

"So there's the suspect vehicle. Um this circle here, that's gonna be an additional um that was a white sedan that was parked there. And the Shell Gas I observed the Shell Gas Station was full at the time. So as we entered the Shell Gas Station from his intersection here or this entrance here, I observed that if we tried to pin the vehicle by moving around to the right, the turn would be too sharp and we wouldn't be able to get a good angle and pin the vehicle. So, Officer Peterson began to drive this way um around the long way to get into position to pin the vehicle. As we approached the rear of the vehicle, I could see his brake lights were on or taillights or break lights, I'm not sure which, but one of those was on. At that point I drew my weapon because I knew that he was armed and possibly, armed and possibly dangerous. As we approached around the southern end of the, the pumps, we approached to about, about here

facing slightly northbound. Um I observed the unmarked ah investigator car pull in in front of the vehicle. Because of the turn, they were unable to effectively pin the vehicle and because of where they parked, we were not able to move in and make contact with the vehicle as well. I observed Officer Burns' marked K9 patrol vehicle"...

"So, so I observed the ah, the unmarked detective's car, the CRIT car pull in just in front of the vehicle, but they weren't able to actually contact the vehicle ah with their vehicle. So because of where they were positioned, um my patrol vehicle would not have been able to actually pin the vehicle from the front so we stopped it here approximately. I observed Officer Burns' K9 vehicle enter and make contact with the rear bumper of the vehicle. Um I could see it because the weight transfer moved it forward slightly, however the wheels did not move. So it was still stopped but I could see the, the weight shift."...

"As I was as I continued to stand there and I observed Officer Horan ah cross in front of me and go to this white sedan here, I observed Officer Peterson go around the front of my patrol vehicle and then he stood in front of me, um effectively blocking my view of the suspect. Due to the d also Officer Peterson's position, I moved to the right of Officer Horan approximately there. I tapped her on the right shoulder and told her, I'm on your right. Once I positioned there, I could see Officer Peterson standing here between the front of this ah civilian sedan and the passenger side of my police vehicle. Ah I saw Officer."...

"...Ah the investigators were wearing um their off duty or their um investigator stuff similar to how I'm dressed, however they had ah vests on with white POLICE words written very, very visible on the front. Ah I also so I observed the suspect and I recognized him from the photos that I had seen of the Walmart, ah the Walmart surveillance videos. I also observed an older white male who was a passenger in the seat. Once I moved to the right of Officer Horan's position, um I observed I could see both of the suspect's hands on the top of the steering wheel and I then heard the engine rev and become very loud. And I saw the vehicle jolt forward and start to turn towards the left. As it began to turn towards the left, I saw that it was heading towards Officer Peterson's direction. I observed the suspect ah look in Officer Peterson's direction and turn the wheels towards where he was standing. Officer Peterson, I probably drew him a little he was, he was probably actually where this P is a little bit back here. This is, this is not to scale or anything like that."...

"And the civilian sedan. Yes. So he began to go this direction where Officer Peterson was standing. I saw him look at Officer Peterson's, in Officer Peterson's directly and he continued to move towards Officer Peterson. As Officer Peterson stepped to his right to move out of the way, I saw the suspect continue to follow Officer Peterson with his eyes. And once he had made this turn and he was my vantage point was positioned so that he could actually go straight through and escape, his I observed his the wheels were still turned hard to the left and they were following where Officer Peterson was attempting to move out of the way. Ah due to that fact, I aimed center mass of the suspect in order to stop him from running over Peterson. Um I aimed center mass of his chest and shot approximately three to eight rounds. Ah I observed the rounds my initial rounds didn't seem to take in effect and I then moved my point of aim from center mass to his head where I fired one shot, which appeared to strike him just below his left ear along the jaw line. Um at that time, at that time I observed his hands, I observed the suspect's hands were gripping the bottom of the steering wheel. And after I made the shot that hit him ah in the head, his hands dropped and he slouched over to the right at which point I stopped shooting. The vehicle then, or the suspect vehicle then ran into the front of my patrol vehicle and stopped there. I observed the male passenger in the suspect vehicle had his hands raised above his head and I could not see anything in his hands. Ah I could continue the hear the suspect, the suspect vehicle's um, the suspect vehicle's engine was revving very loudly and the tires were squealing slightly. Um as it was running into my patrol vehicle, I assumed that he was unable to take his foot off the gas, at which point Officer, I heard Officer Peterson announce over the radio with his call sign, ah shots fired, at which point he began to reach into the suspect vehicle and attempt to take I think it looked to me like he was trying to take the keys out of the ignition. He was unable to do so. He then tried to put the shift or shift it into park. He was unable to do so. He shifted it into reverse, it began to back up, at which point he finally got the vehicle into park. I don't remem- I remember the passenger was removed from the vehicle and I observed Officer Nelson standing at the passenger window um holding the suspect um at gunpoint. I don't remember the exact time that the, the passenger was removed, whether it was before we put the car into park or if it was after. Ah at that point I assisted in scene security and then was transported back to the ah, to the police department by Officer ah Stott."...

"So as I stated before because of how the, the suspect was looking directly at Peterson and the high rate of speed or and his acceleration towards Officer Peterson's direction, once Officer Peterson started to sidestep and the wheels continued to turn and follow where Officer Peterson had moved out of the way, I believed that he was in imminent danger of being that the suspect was using the vehicle as a deadly weapon and Officer Peterson was in imminent danger of being run over."...

"I fired because as he made the turn towards Officer Peterson, I observed the suspect look at Officer Peterson. I observed Officer Peterson begin to sidestep. The suspect did not attempt to slow down. The engine I could hear was still revving very highly and after Officer Peterson had moved out of the way, the suspect vehicle's front tires were still aimed in the direction of Officer Peterson."...

Interview Officer Andrew Peterson

Officer Peterson was assigned to the patrol division and was the field training officer for Officer Stodghill. Officer Peterson, as noted above, took over driving responsibilities because he was certified on the Star Chaser system.

Officer Peterson fired five rounds.

Officer Peterson related in part the following during his interview:

AP: Ah so once we were both of the vehicle, um I drew my weapon. I came around to the front to move off to the side. As I came in between the two vehicles, um I observed the suspect in the driver's seat, um we made eye contact. Um he then drove his vehicle directly at me, and I stepped off to the right, and his vehicle collided ah with my vehicle which then placed me ah at his driver's side door.

AP: Ah so once we were both of the vehicle, um I drew my weapon. I came around to the front to move off to the side. As I came in between the two vehicles, um I observed the suspect in the driver's seat, um we made eye contact. Um he then drove his vehicle directly at me, and I stepped off to the right, and his vehicle collided ah with my vehicle which then placed me ah at his driver's side door.

DS: And when you say earlier, you're referring to the Walmart robbery where you saw him with a
AP: Correct.

DS: And I guess that gets me back to a question I was gonna ask, when you made eye contact with this person, did you recognize him?

AP: Yes, I did.

DS: Where did you recognize him?

AP: I recognized him as a suspect that we were looking for related to that Walmart robbery.

DS: Is there something about him that made you recognize him?

AP: Ah just we'd um had all had photos of him.

DS: Any, any unique features about that person that stood out to you?

AP: No, just I recognized his face as the face in the photos we'd seen.

DS: So loud commands. Did you issue commands?

AP: I did.

DS: And then other officers issuing commands.

AP: Correct.

DS: Um stop the vehicle, hands up.

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AP:Ah just we'd um had all had photos of him.
DS:Any, any unique features about that person that stood out to you?
AP:No, just I recognized his face as the face in the photos we'd seen.
DS:So loud commands. Did you issue commands?
AP:I did.
DS:And then other officers issuing commands.
AP:Correct.
DS:Um stop the vehicle, hands up...

DS: to your right. As that's vehicle's coming at you, can you describe what's going through your head, your feelings, your emotions, your thoughts.
AP:Um just that we have a potentially armed um felony suspect um driving a very large SUV ah directly at me while staring directly at me.
DS:Why did you sidestep to the right?
AP:To avoid getting killed essentially.
DS:If you hadn't stepped to the right?
AP:I'd be trapped between two vehicles.
DS:
And you said ah, I don't wanna put words in your mouth, ah you were afraid that you'd be killed if you didn't get out of the way? I know that's (inaudible) what you said but I'm paraphrasing.
AP:I was afraid if I had not moved out of the way I would be killed.

AP: Andrew Peterson

DS: Detective Daniel Simpson Lakewood Police Department

Lay Witnesses present during the event and related in part the following:

Matthew Zeitlin:

From what I saw, I - I, uh, was - pulled into - to the, uh, gas station, went inside, did my thing. Then I came out and I was in that location, and then I went to pull out and I spilt my water and everything, so I pulled back in, and then that was when I - when I was on the west side of the parking lot, I would say. I was facing the building and then I saw one of your guys's patrol cars just shoot in, so I knew he was doin' somethin', so I turned over and they pulled in front of him, and the gentleman in the Explorer was at - still at the pump at that time and then I would say f- four more cars probably came in pretty quickly and they - guns were drawn right away, told 'em, you know, to, "Get out - get out," and he wasn't moving, and then all of a sudden he started moving, and then he ran into a vehi- I think it was a police cruiser and then he just kept goin', and that - was pushin' it back, and then that's when the shots were fired from there, and that's - that was it.

Lamont Hill: "...obviously he was trying to get out of there but he should have just gave up" ...

Catherine Abbott: related hearing orders to get out of the car as well as "I want to see your hands" four to five times and repeated orders to "do it".

Mario Reyes-Marques: related that he heard orders to get out of the car, but the car kept moving and continued driving towards the gas station entrance.

John Barry: was offered a ride by Bailey Greek but was not aware of who Bailey Greek was or even his name. Barry was in the vehicle with Greek at the time of the shooting. In part Barry related the following:

"he just the pedal to the metal and tried to run from the cops"

"step out of the car" and "put your hands up". Noted that he saw the police cars and knew the cars were with law enforcement and noted detectives were in plain clothes with visible "police" markings.

When Barry was asked if Greek hit any police cars at all Barry indicated "he smashed it. He hit the police car and hit while he was going by because they were trying to block if off both sides of..." go in reverse and back that driveway, too" ...

"(unintelligible) it looked like he knew he was a fugitive or was wanted for something pretty bad." ...

Parsa Movahedi Jor Shari: "Show your hands" and "get out of the car" and noted "the driver didn't listen and tried to get way"

Taron Hunzinker-Ford: was present on the eastern side of the Shell gas station and was able to video tape some of the incident. In addition to providing the video Mr. Hunzinker-Ford related that heard: "Get down. Get out of the car. Shut the truck off"

He further noted: "He was definitely trying to get way" and he was worried Greek was going to hit the officer.

Detective Archuleta

On October 18, 2018 at approximately 7:33 P.M. Detective Archuleta of the Arvada Police Department arrived at the Circle K store and Shell gas station. Detective Archuleta responded from the Jefferson County Regional Laboratory where he was working on case submissions from the burglary and assault on Ms. Bannon. Detective Archuleta was advised that the suspect whose prints he was actively developing from items of evidence was located at the Circle K/Shell gas station located at 4885 Kipling St. Wheat Ridge. Detectives with the Arvada Police Department Crime Scene Investigation Unit were requested to process the scene of the shooting in conjunction with CIRT officers.

Upon arrival Detective Archuleta noted that Bailey Greek was on a stretcher under the care of Arvada Fire Department personnel. Detective Archuleta proceeded to take photos of Bailey Greek as he was being attended to by medical personnel. Detective Archuleta ensured the entire scene was secured and all unauthorized person were excluded.

Detective Archuleta observed that a collision occurred between Bailey Greek's stolen Ford Explorer and the marked patrol unit driven by officer Peterson.



Damage was noted and documented to the front of Officer's Petersons patrol unit as well as noting Officer Peterson's vehicle was pushed backwards approximately 8 feet. Greek's vehicle also impacted a citizen's vehicle that was at an adjacent gas pump.

Spent shell casings were noted by Detective Archuleta as well as attempts by officers to place cones over shell casings.

A 9mm hand gun was found in the driver side pocket.

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, Bailey Greek, and revealed the following: a 9mm bullet was recovered from Greeks right arm having grazed the surface of the chest, a 45 caliber bullet that entered the right shoulder and lodged into the right shoulder joint, a 9-mm bullet entered into the left arm, traveled through the left arm and into the left chest coming to rest under the skin on the left chest, a 9mm bullet traveled into the left side of the body and lodged against the spine, a 9 mm bullet entered the into the left side of Greek's body and came to rest in the throat near the thyroid, two 9mm bullets entered into the left side of the skull and were removed from the brain, Greek also sustained a through-and-through wound to his throat, there were two additional through-and-through wounds to Greeks left wrist. In total seven bullets were recovered from Greeks body.

Additional significant findings from the autopsy included a distinct pattern or pseudo-stippling apparently the result of glass being broken into the passenger compartment of the vehicle after being struck by bullets. The stippling pattern was distinct and was able to be used to determine Greeks arm placement at the time shots were fired.

Greeks arm placement was consistent with his arms being on the steering wheel of the vehicle and not in a position consistent with submission to orders.

The autopsy was performed by Dr. Carver and in attendance were Detective Matthew Archuleta of the Arvada Police Department, Detective Jeremiah Root of the Lakewood Police department, and Senior Chief Deputy District Attorney Robert Weiner of my office.

Warrants, Protection Order, and Background

Bailey Greek was wanted out of Adams County Colorado for failure to appear on charges of Felony Menacing and 2nd Degree Trespass. Extradition was nationwide and no further PR bonds authorized.

Greek was also wanted for a Motor Vehicle Theft out of Wheat Ridge Colorado.

The weapon in Greek's possession was not lawfully purchased and was stolen from the owner's home.

Legal Analysis

This office's review of the shooting of Bailey Greek 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 Peterson, Stodghill, and Detectives Nelson and Grisham intentionally shot Bailey Greek. Their statements and the evidence support that conclusion. Bailey Greek refused lawful and direct commands of the officers and aggressively drove his stolen vehicle at Officer Peterson who was without cover and directly in the path of Bailey Greek. Bailey Greek's actions gave every indication he was going to run over officers or citizens and not submit to direct and unequivocal commands. 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.

Bailey Greek was armed/in control of a deadly weapon, a motor vehicle, and controlled it in a threatening manner during his advance on the Arvada police officers. Greek's actions placed not only Arvada officers in harms way but numerous citizens. At no time did Greek demonstrate a willingness to surrender. To the contrary, Greek continued to "gun" the car directly at Officer Peterson and towards the direction of the store entrance. The officers/detectives gave Greek commands to surrender and comply, which were ignored. The unwitting citizen in the Greek vehicle, John Barry, heard the police commands and fully complied with all orders. Mr. Barry received only minor injuries, most likely from broken window glass. The officers were reasonably in fear for their own lives, the lives of one another, and the lives of citizens. The officers were also attempting to apprehend Bailey Greek, having been advised there was a felony warrant for his arrest as well as being aware of the fact Bailey Greek had just committed several violent felonies that demonstrated both willingness to use violence and disregard for the lives of others. Greek 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 Detectives Grisham, Nelson and Officers Peterson and Stodghill to respond to the threats and actions by Bailey Greek 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 Peterson, Stodghill and Detectives Nelson and Grisham 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 Peterson, Stodghill, and Detectives Nelson and Grisham beyond a reasonable doubt. Therefore, I conclude that the conduct by Officers Peterson, Stodghill, and Detectives Nelson and Grisham did not violate any criminal statutes nor involve criminal conduct.

Sincerely,



Peter Weir
District Attorney
First Judicial District Attorney