



**OFFICE OF THE FIRST JUDICIAL  
DISTRICT ATTORNEY OF COLORADO**  
District Attorney Alexis King

April 29, 2022

Sheriff Shrader  
Jefferson County Sheriff's Office  
200 Jefferson County Parkway  
Golden, Colorado 80401

Dear Sheriff Shrader,

The First Judicial District Critical Incident Response Team has completed its investigation into the fatal shooting of Christopher Charles Derby, by Jefferson County Sheriff's Deputy Tim Dreith (the "Deputy") on September 2, 2021, at the eastbound Interstate 76 off-ramp to Sheridan Boulevard. Arvada Police Commander Anthony Baros presented the investigation to my office on November 5, 2021.

After a thorough review and analysis of the evidence, I find that the Deputy's use of deadly physical force was legally justified to defend himself and others from the threat posed by Mr. Derby. Given my conclusion, no criminal charges will be filed against the officer. I am issuing this letter to you pursuant to § 20-1-114(1), C.R.S.

The First Judicial District Critical Incident Response Team (CIRT) investigates any incident in which a law enforcement officer within the First Judicial District uses deadly force, or attempts to use deadly force, against a person while acting under the color of official law enforcement duties. The CIRT team is comprised of highly trained and skilled investigators working under my authority and appointed from multiple law enforcement agencies, including my office. This multi-jurisdictional team of objective, dispassionate professionals who protect the integrity of the investigation by exercising independent judgment in conducting a thorough investigation. To maintain transparency and reduce conflict of interest, officers from the involved agency do not perform critical duties related to the investigation.



Here, the Jefferson County Sheriff's Office ("JCSO") immediately activated the CIRT team to investigate the use of deadly force by the Deputy. Consistent with CIRT policy, JCSO did not participate in the substantive portion of the CIRT investigation. The CIRT team promptly responded to investigate, led by Commander Baros. Under his direction, the CIRT team processed the scene, completed interviews with those who saw or heard the events, and preserved necessary evidence. The involved deputies provided voluntary statements and submitted to questioning. These interviews were recorded, reviewed as part of the investigation, and included within the file. Commander Baros briefed me, my leadership team, and CIRT team members on this investigation and provided the file for my review.

My team reviewed over 1,350 photographs and approximately 575 pages of reports by the Arvada Police Department, Jefferson County Sheriff's Office, Wheat Ridge Police Department, Golden Police Department and our other CIRT agencies throughout the First Judicial District. I reviewed the recorded interviews of the officers, witnesses who heard or saw the events, and evidence collected from the scene and evaluated by independent examiners.

As District Attorney, my role is to determine whether the Deputy committed a criminal offense. No charges may be legally or ethically brought unless a crime can be proven beyond a reasonable doubt, a standard that applies to officers and civilians alike. Because this shooting was justified under Colorado law, no criminal charges can or should be filed against the Deputy.

A person may be held criminally liable under Colorado law only when the evidence proves beyond a reasonable doubt that they committed every element of an offense defined by Colorado statute. When a person intentionally shoots another person, resulting in that person's death, they commit the crime of murder, unless a legally recognized justification exists. If a justification exists, the shooter is not criminally liable. Generally, acting in self-defense or defense of others is one such justification. These defenses are available to all Coloradoans, including officers. A Deputy is also specifically authorized to use deadly physical force under certain circumstances.

As relevant here, a peace officer is justified in using deadly force if: 1) the officer has objectively reasonable grounds to believe that the officer or another person is in imminent danger of being killed or suffering serious bodily injury; 2) the officer does in fact believe that the officer or another person is in imminent danger of being killed or suffering serious bodily injury; and 3) the officer has an objectively reasonable belief that a lesser degree of force is inadequate. § 18-1-707(4.5), C.R.S. Acting in self-defense or defense of others is subject to the same analysis. § 18-1-704(1)-(2), C.R.S. By law, in deciding whether the Deputy was justified in acting in self-defense or defense of others, it does not matter whether Mr. Derby, was actually trying to injure the Deputy or another person, so long as a reasonable person, under like conditions and circumstances, would believe that it appeared that deadly physical force was necessary to prevent imminent harm. The facts must be viewed as they appeared to the Deputy at the time; future developments are irrelevant to the legal analysis.

Therefore, I must determine whether, at the time the Deputy shot Mr. Derby, he had objectively reasonable grounds to believe, and did in fact believe, that he or another person was in imminent danger of being killed or suffering great bodily injury, and whether he reasonably believed a lesser degree of force was inadequate. In other words, would a reasonable person, confronted with the

same facts and circumstances, believe that it was necessary to use deadly physical force to defend himself or others from Mr. Derby? If so, the shooting is justified under Colorado law, and no criminal charges can or should be filed.

### Facts Established by Investigation

On September 2, 2021, at approximately 11:59 in the morning, a female deputy was dispatched to a call of a man waving a pistol in the area of Eastbound I-76 at the off ramp to Sheridan Blvd. The man was associated with a motorcycle which was parked along the side of the road on the off ramp. Deputy Tim Dreith and a male deputy responded as cover units for the female deputy. Deputy Dreith and the female Deputy were dressed in standard, green and brown, JCSO uniforms including patches, badges, and duty belts and were easily identified as law enforcement. The female officer and the other responding male cover officer were operating fully marked Jefferson County Sheriff's Office vehicles. Deputy Dreith arrived in an unmarked, black Ford Expedition.

The day of the shooting, the female deputy arrived to the off ramp at 12:06 p.m. and spoke to some highway maintenance folks who were working in the intersection with Sheridan. She learned that the man waving the pistol walked away from the motorcycle and was heading northbound on Sheridan Boulevard. She also learned that the man waving the pistol was known to a highway worker because they went to high school together. He was identified as Christopher Charles Derby. The female deputy subsequently found a picture Mr. Derby through the Colorado Department of Motor Vehicle. As for the bike, it did not have license plates. The female deputy checked the motorcycle's serial number and believed it was stolen in Westminster months earlier.

At approximately 12:12 p.m. Deputy Dreith arrived. Deputy Dreith has been employed as a sheriff's deputy with the Jefferson County Sheriff's Office for sixteen years. In 2011 he began working as a patrol officer and has served as a driving instructor, a Field Training Instructor, and he has received instruction connected with the Critical Incident Team (C.I.T.). In 2015, he became a member of the Jefferson County Regional Special Weapons and Tactics (S.W.A.T.) Team and successfully completed a basic S.W.A.T. Operator's Course. As a S.W.A.T. Operative, he attends ongoing throughout the year. These sessions include training in firearms, arrest control, tactical operations, use of force and hostage negotiations among other topics that are addressed as the needs of the team dictate.



Body-worn camera footage showing Mr. Derby pulling his gun from his waistband.



Mr. Derby raising his firearm.



Mr. Derby point his firearm at Deputy Dreith.

While in route, he learned that the call involved a man waiving a gun. Deputy Dreith was briefed by the female Deputy upon arrival. He learned that the man with the pistol left, and the motorcycle was likely stolen. The female deputy also shared the picture of Mr. Derby. As they spoke, they noticed Mr. Derby was walking towards them and the motorcycle. At about 12:20 p.m., Deputy Dreith contacted Mr. Derby near the motorcycle while the female Deputy worked in her patrol car to confirm that the motorcycle was stolen.

Deputy Dreith started talking to Mr. Derby about the motorcycle. When the conversation began, Deputy Dreith did not know if Mr. Derby still possessed the pistol witnesses had seen earlier, and if he did, whether it was on his person or the motorcycle. Within the first minute of talking, Mr. Derby confirmed he was driving the motorcycle when it broke down and he could not get it started. Deputy Dreith wanted to keep talking to Mr. Derby while he waited for the female deputy to get out of her car and assist with the potential arrest of Mr. Derby.

Deputy Dreith's departmental issued body-worn camera was activated during the contact. As they spoke, Mr. Derby stepped towards the motorcycle and reached for a back-pack that was lying on the seat of the motorcycle. Deputy Dreith told Mr. Derby to leave the back-pack on the bike. At that point Mr. Derby began to walk away from Deputy Dreith and the motorcycle. Deputy Dreith told Mr. Derby that the motorcycle was stolen, and Deputy Dreith tried to grab Mr. Derby's arm to prevent him from leaving. Mr. Derby responded by pushing Deputy Dreith away and said, "it's not stolen."

As Mr. Derby backed away from Deputy Dreith, he pulled a handgun from the front of the waist band of his pants, pointed it at Deputy Dreith, and yelled, "back the fuck off."

The time stamps from Deputy Dreith's body worn camera shows the following sequence of events. The time stamps noted refer to the time that passed after the body worn camera was activated by Deputy Dreith:

- 34 seconds: Dep. Dreith advised Mr. Derby the motorcycle was stolen,
- 35 seconds: Mr. Derby pushes away from Dep. Dreith and says, "it's not stolen,"
- 36-37 seconds: Mr. Derby draws his weapon and says "Back the fuck off,"
- 38 seconds: Dep. Dreith fires his first round,
- 41 seconds: Dep. Dreith fires his last round,
- 46 seconds: Dep. Dreith airs on the radio, shots fired, that the suspect is down, and he needs medical assistance,



Still photo from body-worn camera showing the gun flying away from Mr. Derby.



View of the scene from the south looking northwest.



Mr. Derby's damaged firearm

- *54 seconds: Mr. Derby continued to move and Dep. Dreith tells him to stop moving,*
- *1 minute, 7 seconds: the female deputy assists and Dep. Dreith tells her that the gun is still in Mr. Derby's hand,*
- *1 minute, 16 seconds: a male deputy assists and Dep. Dreith tells him that Mr. Derby still has the gun,*
- *1 minute, 44 seconds: Mr. Derby is handcuffed,*
- *1 minute, 51 seconds: Mr. Derby is rolled over to look for the gun but they are unable to find it,*
- *2 minutes, 10 seconds: Dep. Dreith again requests medical, and at*
- *2 minutes, 43 seconds: Dep. Dreith finds Mr. Derby's handgun and tells the other deputies to leave it where it is, several feet away from Mr. Derby's body.*

Closer examination of the body worn camera footage shows Mr. Derby turning away from Deputy Dreith. His arms begin to tuck toward the front of his body and none of the deputies see the gun fly away from Mr. Derby. Still photos taken from the Bodycam footage show that, as Mr. Derby is turning away from Deputy Dreith, the gun is no longer in his hand but is in mid-air, flying away from him, but that is not perceived in the flash of action that just occurred.

Deputy Dreith did not have time to give commands and as the body-worn camera revealed, the time that lapsed between the time Mr. Derby pushed away from Deputy Dreith, to the time he pulled his handgun and pointed it at Deputy Dreith, was two seconds.

## The Scene

CIRT detectives processed the scene, coordinated the preservation and analysis of physical evidence, and obtained statements from all community witnesses who saw or heard parts of the event. JCSO offered criminalist support, with oversight from CIRT.

## The Autopsy

An autopsy was conducted on Mr. Derby by Forensic Pathologist Dr. Dawn Holmes Carver on September 3, 2021, and attended by CIRT investigators, with results as follows:

1. Gunshot wound, indeterminate range, right posterior shoulder. The trajectory is back to front, right to left, and upward involving the right lung, vertebra, esophagus, and thyroid gland. A deformed medium caliber copper jacketed lead bullet was found.
2. Gunshot wound, indeterminate range, right upper back. The trajectory is back to front, right to left, and upward and involves the left lung. A deformed medium caliber copper jacketed lead bullet was found.
3. Gunshot wound, indeterminate range, right lateral back. The trajectory is back to front, right to left, and upward involving the right lung and liver. A deformed medium caliber copper jacketed lead bullet was found.
4. Gunshot wound, indeterminate range, right medial back. The trajectory is back to front, right to left, and upward involving vertebrae and left lung. A deformed medium caliber copper jacketed lead bullet was found.
5. Gunshot wound, indeterminate range, left buttock. The trajectory is slightly back to front, right to left, and upward involving the right lung and liver.
6. Gunshot wound, indeterminate range, left upper back. The trajectory is back to front, left to right, and downward involving the left lung.
7. Gunshot wound, indeterminate range, right hip. The trajectory is back to front, right to left, and upward involving no organs or major vessels. A deformed medium caliber copper jacketed lead bullet was found.
8. Gunshot wound, indeterminate range, right lateral shoulder. The trajectory is slightly back to front, right to left, and downward involving the right humerus and lung. A deformed medium caliber copper jacketed lead bullet was found.
9. Gunshot wound, indeterminate range, right thigh. The trajectory is back to front, right to left, and upward involving the rectum. A deformed medium caliber copper jacketed lead bullet was found.
10. Gunshot wound, indeterminate range, right lateral foot. The trajectory is slightly back to front, right to left, and downward.
11. Graze wound, right second digit. The trajectory is slightly front to back, right to left, and upward.
12. Graze wound, right third digit. The trajectory is slightly back to front, right to left, and upward.

Blood samples were sent to NMS labs, and based on the results, Dr. Holmes found Mr. Matthews was positive for methamphetamine, cotinine, and caffeine.

Dr. Holmes found the cause of death was gunshot wounds and ruled manner of death a homicide.

The CIRT team utilized digital documentation to memorialize the scene. Ballistics examination was conducted by the Jefferson County Regional Crime Laboratory (JCRCL). When recovered, Mr. Derby's weapon was a Taurus PT709, 9-millimeter caliber with severe damage to the grip, trigger, and trigger guard. The Taurus was found to have one round chambered and 6 additional rounds in the magazine. JCRCL used the slide and barrel on a similar frame and was able to test fire it, which indicated that the weapon was functional before it was struck by Deputy Dreith's bullet. Deputy Dreith fired eleven rounds.

Closer examination of the weapon and per the results of the autopsy report, it appears at least one of the rounds fired by Deputy Dreith struck Mr. Derby's right hand and the gun. This disabled the gun and likely is the same force that propelled the gun out of Mr. Derby's hand.

### **Analysis**

The morning of September 2, 2021, Deputy Dreith arrived on scene of a possible motor vehicle theft where the suspected driver, Mr. Derby, was last seen waving a gun around by folks working at the intersection. Though Mr. Derby was not near the motorcycle when Deputy Dreith met the other deputies at the off ramp, Mr. Derby soon returned to the motorcycle. At that point, the deputies wanted to confirm the status of the stolen motorcycle, and both wanted to be present for the likely arrest. As Deputy Dreith started talking to Mr. Derby, he went for his backpack. In that moment, Deputy Dreith did not know where the pistol was located and stopped Mr. Derby. In a matter of two seconds, Mr. Derby pulled a pistol from his waistband, only feet from Deputy Dreith and turned the barrel of the gun towards Deputy Dreith.

Deputy Dreith had an objectively reasonable belief that a lesser degree of force was inadequate to resolve the threat posed by Mr. Derby, given his willingness to pull a firearm out of his waistband, and turn the barrel toward Deputy Dreith. Because the Deputy had objectively reasonable grounds to believe, and did believe, that he was in imminent danger of being killed or suffering serious bodily injury, shooting Mr. Derby was legally justified. No lesser use of force could reasonably ameliorate that danger. Moreover, a reasonable person, under like conditions and circumstances, at the time Mr. Derby was shot, would believe that it appeared that deadly physical force was necessary to prevent imminent deadly harm to the deputies or other persons. As there is no evidence proving, beyond a reasonable doubt, that a legally unjustified homicide occurred, no criminal charges can or should be brought against Deputy Dreith under Colorado law.

Please do not hesitate to contact me with questions or concerns regarding my determination of this matter.

Sincerely,

A handwritten signature in black ink that reads "Alexis D. King". The signature is written in a cursive, flowing style with a long horizontal line extending to the right.

Alexis D. King  
District Attorney  
First Judicial District