



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

July 11, 2022

Chief of Police Chris Murtha
Wheat Ridge Police Department
7500 W. 29th Avenue
Wheat Ridge, CO 80033

Dear Chief Murtha,

The First Judicial District Critical Incident Response Team has completed its investigation into the fatal shooting of Todd Fiepke, by the Wheat Ridge Police Department on January 6, 2022, at the intersection of 29th Avenue and Sheridan Boulevard. A number of officers were involved in the shooting and this letter will address the actions of those who fired their weapons which includes Officer Samuels, Sergeant Krieger, Officer Reardon, Officer Mitchell, Corporal Schmitz, Officer Espinosa, and Officer Rezac (collectively the “Officers”). Commander Baros from the Arvada Police Department presented the investigation to my office on March 30, 2022.

After a thorough review and analysis of the evidence, I find that the Officers’ use of deadly physical force was legally justified to defend himself and others from the threat posed by Mr. Fiepke. Given my conclusion, no criminal charges will be filed against the Officers. 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 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 Wheat Ridge Police Department (“WRPD”) immediately activated the CIRT team to investigate the use of deadly force by the Officers. Consistent with CIRT policy, WRPD 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 officers 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 630 photographs, numerous body-worn cameras, and approximately 275 pages of reports by CIRT agencies including the Arvada Police Department, Jefferson County Sheriff’s Office, the Lakewood Police Department, and the Golden Police Department. We reviewed the recorded interviews of the officers and 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 Officers 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 Officers.

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. An officer 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 Officers were justified in acting in self-defense or defense of others, it does not matter whether Mr. Fiepke, was actually trying to injure the Officers 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 Officers at the time; future developments are irrelevant to the legal analysis.

Therefore, I must determine whether, at the time the Officers shot Mr. Fiepke, they 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

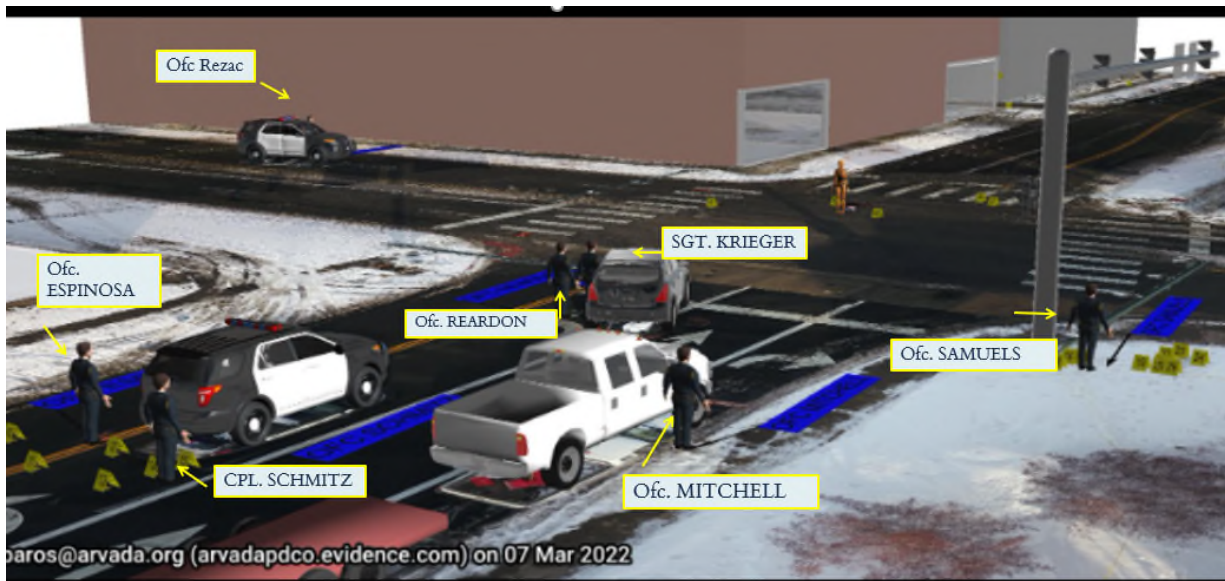
physical force to defend himself or others from Mr. Fiepke? If so, the shooting is justified under Colorado law, and no criminal charges can or should be filed.

Facts Established by Investigation

On January 6, 2022, at approximately 1:40 p.m., the Wheat Ridge Police Chief was driving westbound on 29th Avenue in an unmarked car equipped with emergency lights. In the distance, he observed a male walking in the street. Traffic slowed around the man and as the Chief passed him, people waived the Chief and other drivers away from the man.

The Chief initially thought the man had a stick in his hands and he radioed into WRPD dispatch to ask if anyone had reported a suspicious person on or near 29th Avenue. Dispatch told the Chief that they had received calls in the area about a man with gun. From his car, the Chief looked closely at the man and saw that he had a shotgun and then saw him fire a round into the air. The man continued to walk eastbound on 29th Avenue and walked into the intersection of 29th and Sheridan Boulevard. The man in the intersection was later identified as Todd Fiepke.

The Chief quickly called for officers to respond to the intersection. At the station, WRPD was changing shifts and many of the officers drove to the intersection. The Officers, all in uniform, drove to the intersection in marked and unmarked vehicles.



As the Officers arrived, they drew their firearms and pointed them at Mr. Fiepke, handguns and rifles. As the Officers gathered at the intersection, a number of people who lived and worked in the area heard the Officers repeatedly and clearly command to Mr. Fiepke to drop his shotgun, explaining and that they did not want to kill him, which officers reiterated more than once. As Mr. Fiepke moved around the intersection, the Officers yelled commands for several minutes.

Mr. Fiepke did not respond to the Officer's directions. Rather, Mr. Fiepke continuously told the Officers to kill him and to shoot him. Seven community members, at various places around the intersection, could see or hear Mr. Fiepke telling the Officers to shoot him and one of those witnesses captured Mr. Fiepke on video. Mr. Fiepke remained in the intersection and waved his

shotgun around at the Officers and nearby cars. At that point, Mr. Fiepke did not appear to aim the gun at a specific target, rather, he swung it erratically around the intersection. The only time Mr. Fiepke pointedly placed the gun was when he held it under his chin

Officer Samuels drove Sergeant Krieger in an unmarked black explorer with lights and sirens to the intersection of 29th Avenue and Sheridan Boulevard where Officer Samuels and Sergeant Krieger then separated. Officer Samuels, who has four years of experience with the WRPD, went and stood against the light post at the southeast corner of the intersection. Officer Samuels saw Mr. Fiepke switching the weapon between known shooting positions while he waived it around at WRPD and buildings around the intersection. Officer Samuels knew Mr. Fiepke had fired his shotgun and felt Mr. Fiepke's handling of the shotgun was dangerous.

Officer Samuels yelled "Police! Drop the gun!" In response, Mr. Fiepke yelled back at the Officers to shoot him and kill him. Officer Samuels heard Mr. Fiepke say something like this was his last day on earth and continued to say, "shoot me, kill me." Mr. Fiepke continued to move the shotgun around, switching his hold from one hand to two hands. At least once Mr. Fiepke pointed the muzzle of the shotgun at the Officers. Then, for the second time, Mr. Fiepke walked towards the Officers, after being told not to approach them, his gun overhead.

Officer Samuels saw Mr. Fiepke drop the gun down and swing the muzzle of the shotgun toward the Officers on 29th Avenue. Officer Samuels fired at Mr. Fiepke. In response to the force, Officer Samuels saw Mr. Fiepke's body turn away from him unsteadily. Officer Samuels saw Mr. Fiepke's body shift and Mr. Fiepke and his shotgun swung back towards the Officers. From Officer Samuels' view, Mr. Fiepke had the butt of the shotgun at his shoulder and the shotgun was aimed at the Officers. As the shotgun shifted around, Officer Samuels saw and heard Mr. Fiepke shoot towards the Officers. Then Officer Samuels heard the other Officers shoot at Mr. Fiepke.

Sergeant Krieger, a veteran officer with seventeen years of experience at WRPD, and three additional years before joining the department, drove to the intersection with Officer Samuels. Upon arrival, Sergeant Krieger and Officer Samuels separated and Sergeant Krieger joined Officer Reardon, who had three years of experience with the WRPD. They positioned themselves next to the driver's side door of the Chief's vehicle. Sergeant Krieger and Officer Reardon both told Mr. Fiepke to drop his shotgun, but Mr. Fiepke did not comply.



Mr. Fiepke's shotgun.



The position Officer Samuels observed before Mr. Fiepke brought the gun downwards and Officer Samuels fired, as shown on the Halo camera.



After Officer Samuels shot, Mr. Fiepke moved northwest and fired at the officers. This Halo image shows the puff of smoke leaving the barrel of the shotgun.

As other Officers tried to command and connect with Mr. Fiepke, Sergeant Krieger heard Officer Reardon tell Mr. Fiepke that if he did not drop his shotgun, he would be shot. Sgt. Krieger and Officer Reardon saw Mr. Fiepke fire his shotgun into the air and rack his shotgun. Mr. Fiepke yelled and screamed at the officers “shoot me.” Sergeant Krieger heard an officer to his right, presumably Officer Samuels, fire his weapon. Immediately after the shot from the right, Mr. Fiepke raised the shotgun towards the officers. Sergeant Krieger fired his handgun several times while Mr. Fiepke’s shotgun was pointed toward him and the other Officers. As Mr. Fiepke was going down to the ground, it appeared the shotgun was still raising up. Sergeant Krieger stopped firing when Mr. Fiepke was on the ground.

Like Sergeant Krieger, Officer Reardon yelled at Mr. Fiepke to drop his weapon. In response to the commands, Officer Reardon heard Mr. Fiepke yell for someone to unholster their weapon and to shoot him. Officer Reardon asked Mr. Fiepke not to make the Officers do “this,” meaning shoot at him. Mr. Fiepke’s suicidal statements continued as Officer Reardon watched him in the intersection. Officer Reardon saw Mr. Fiepke fire a shot into the air and then Mr. Fiepke kept walking towards officers with the muzzle pointed southwest and that is when Officer Reardon fired. Officer Reardon knew that there were Officers in line with Mr. Fiepke’s muzzle and that Mr. Fiepke had already fired once and could likely fire again. Officer Reardon fired one round at Mr. Fiepke who fell to the ground. While Mr. Fiepke was on the ground it appeared that Mr. Fiepke was still reaching for the shotgun, so Officer Reardon fired three to four more rounds.

Officer Mitchell has three years of experience with the WRPD and two years of service in North Carolina. That day, Officer Mitchell was in a marked car and parked west of the Chief’s car between Ames Street and Sheridan Boulevard. Officer Mitchell got out of his car and took up a position at the rear passenger side of a white truck. Like the other Officers, Officer Mitchell also heard suicidal statements from Mr. Fiepke and saw him put his shotgun under his chin with his thumb in the trigger guard. As Mr. Fiepke paced back and forth, the shotgun swung towards the officers in slow motion. That is when Officer Mitchell saw a round come out of the shotgun along with a puff of smoke. Officer Mitchell fired two rounds from his rifle and saw Mr. Fiepke drop to the ground.

Corporal Schmitz has four years of experience with the WRPD. When Corporal Schmitz arrived that day, he parked on 29th Avenue and Ames Street and met up with Officer Espinosa. Corporal Schmitz saw Mr. Fiepke in the northbound lanes of traffic on Sheridan Boulevard. Mr. Fiepke had the shotgun under his chin with one hand on the barrel and the other hand on the stock. Corporal Schmitz heard multiple officers command Mr. Fiepke to drop the gun and offering to talk to him. Corporal Schmitz saw Mr. Fiepke’s thumb on the trigger while the shotgun barrel remained tucked under his chin. Corporal Schmitz then heard what he believed to be a shot from Mr. Fiepke’s shotgun, based on the sound. After the shot, Mr. Fiepke was still yelling as he walked about ten feet northwest. As Mr. Fiepke was taking the last step, his shotgun came around and out towards the Officers, specifically Krieger, Espinosa and Schmitz. Mr. Fiepke fired a second shot and Corporal Schmitz thought Mr. Fiepke was trying to kill officers. As soon as Corporal Schmitz heard the shotgun and saw the muzzle flash, he fired two rounds towards Mr. Fiepke. Simultaneously, other Officers also shot at Mr. Fiepke.

Officer Espinosa has three years of experience with the Wheat Ridge Police Department. When he arrived on scene that day, he saw Mr. Fiepke in the middle of the intersection. Officer Espinosa stood at the rear of a patrol vehicle on the driver's side. Mr. Fiepke had a shotgun with the barrel placed under his chin with his finger on the trigger. Officers were giving Mr. Fiepke commands to drop the gun. Mr. Fiepke started walking towards Sergeant Krieger and Officer Reardon, while pointing to his head, telling officers to shoot him. Officers told Mr. Fiepke that they did not want to shoot him, rather, that they wanted to help him. Officer Espinosa lost sight of Mr. Fiepke because of cars parked between him and Mr. Fiepke. Officer Espinosa heard a "bang" that sounded like a gunshot, but he did not know which weapon fired. Multiple officers started firing their guns. Immediately after the shots, Officer Espinosa saw Mr. Fiepke again, walking or running northbound on Sheridan Boulevard with the shotgun still in his hand. Officer Espinosa believed Mr. Fiepke had fired at the Officers, Officer Espinosa made the decision to fire his gun at Mr. Fiepke.

Officer Rezac, a veteran officer with ten years of experience, heard the Chief relay, via radio, that there were shots fired into the air. Upon arrival at the intersection, Officer Rezac parked his patrol vehicle and stayed at the driver's door. Officer Rezac saw a male armed with a rifle or shotgun. The weapon was down at Mr. Fiepke's legs and then he moved the weapon up into the air and then under his chin. Officer Rezac could hear other officers giving verbal commands like "drop the gun" and warnings like "we will kill you." Mr. Fiepke replied, "shoot me, shoot me," while he pointed the gun to his head. The officers warned Mr. Fiepke not to come any closer. Officer Rezac heard a shot and then Mr. Fiepke brought the shotgun down towards Officers and fired a round. Based on the direction of Mr. Fiepke's shotgun, Officer Rezac believed Mr. Fiepke had killed an officer. Officer Rezac responded by firing his rifle once at Mr. Fiepke. As other Officers fired, Mr. Fiepke dropped the shotgun and Officer Rezac stopped shooting.

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

Firearms Processing

1. Officer Samuels was relieved of his firearm, photographed and processed. During the ammunition count of Officer Samuels' 9mm handgun, it was determined that Officer Samuels fired **seven rounds**.
2. Sergeant Krieger was relieved of his firearm, photographed and processed. During the ammunition count of Sergeant Krieger's 9mm handgun, it was determined that Sergeant Krieger fired **four rounds**.
3. Officer Reardon was relieved of his firearm, photographed and processed. During the ammunition count of Officer Reardon's .223 rifle, it was determined that Officer Reardon fired **eight rounds**.
4. Officer Mitchell was relieved of his firearm, photographed and processed. During the ammunition count of Officer Mitchell's .223 rifle, it was determined that Officer Mitchell fired **two rounds**.
5. Corporal Schmitz was relieved of his firearm, photographed and processed. During the ammunition count of Corporal Schmitz's 9mm handgun, it was determined that Corporal Schmitz fired **six rounds**.
6. Officer Espinosa was relieved of his firearm, photographed and processed. During the ammunition count of Officer Espinosa's 9mm handgun, it was determined that Officer Espinosa fired **three rounds**.
7. Officer Rezac was relieved of his firearm, photographed and processed. During the ammunition count of Officer Rezac's 223 rifle, it was determined that Officer Rezac fired **one round**.

parts of the event. The CIRT team utilized digital documentation to memorialize the scene. The CIRT Team interviewed twenty-four sight and sound lay witnesses.

The following Officers were wearing body-worn cameras during the incident: Officer Samuels, Sergeant Krieger, Officer Reardon, Officer Mitchell, and Officer Rezac. In addition to the BWC footage from the above officers, view from the Halo camera and civilian videos were also collected.

Ballistics examinations were conducted by the Jefferson County Regional Crime Laboratory (JCRCL). Though the Halo camera and cumulative evidence, including live rounds found on and near Mr. Fiepke's body, show a fully functioning shotgun, the functions test is still pending with JCRCL.

Analysis

The afternoon of January 6, 2022, all of the officers stationed around the intersection had different vantage points from which to see and hear Mr. Fiepke. The Officers responded to the scene at the same time and with the same information, a man with a gun was walking in the street. As they arrived, many of them heard him fire his shotgun into the air. They all heard or gave commands to Mr. Fiepke and saw him disregard them and make suicidal statements as the minutes ticked by. Many of the Officers observed Mr. Fiepke's unpredictable gun positioning and knew that this was a busy intersection surrounded by buildings where people lived and worked.

The Autopsy

Dr. Dawn Holmes conducted the autopsy on January 7, 2022.

1. Gunshot wound from an indeterminate range to the nose that moved front to back, slightly right to left, and along a straight path.
2. Gunshot wound from an indeterminate range to the neck that moved slightly back to front, right to left, and slightly upwards.
3. Gunshot wound from an indeterminate range to the right chest that moved front to back, right to left, and upward. A small caliber copper-jacketed lead bullet was recovered.
4. Gunshot wound from an indeterminate range to the right upper abdomen that moved from to back, right to left, and upward. A deformed small caliber copper-jacketed lead bullet was recovered.
5. Gunshot wound from an indeterminate range to the right abdomen that moved front to back, slightly left to right, and downward. A deformed medium caliber copper-jacketed lead bullet was recovered.
6. Gunshot wound from an indeterminate range to the right shoulder that moved front to back, right to left, and upward.
7. Gunshot wound from an indeterminate range to the right wrist that moved slightly front to back, right to left and downward.
8. Gunshot wound from an indeterminate range to the proximal left thigh that moved front to back, right to left, and slightly upward. A deformed small-caliber copper-jacketed lead bullet was recovered.
9. Gunshot wound from an indeterminate range to the left thigh that moved front to back, left to right, and slightly upward.
10. Gunshot wound from an indeterminate range to the lower leg that was on a straight path, moved right to left, and upward. A deformed medium-caliber copper-jacketed lead bullet was recovered.
11. Gunshot wound from an indeterminate range to the right foot that moved front to back, right to left, and downward.
12. Gunshot wound from an indeterminate range to the right foot that moved front to back, along a straight path, and downward.
13. Graze wound to the upper right chest with an indeterminate trajectory.
14. Graze wound to the right lower chest that moved upward.
15. Graze wound to the left abdomen that moved upward.
16. Graze wound to the upper right arm that moved upward.
17. Graze wound to the right forearm with an indeterminate trajectory.
18. Graze wound to the left 3-5 digits with an indeterminate trajectory.

Mr. Fiepke was positive for Caffeine, Cotinine, Metoprolol, Alprazolam, Gabapentin, Diphenhydramine, Citalopram/Escitalopram. Cause of death was multiple gunshot wounds; the manner of death was homicide.

Upon thorough review, Officer Samuels fired the first shot from the Officers when Mr. Fiepke moved his rifle from over his head, to across his body, a position from which he could fire directly at other Officers. Sergeant Krieger, who had been at the forefront of the Officers trying to communicate with Mr. Fiepke, heard Officer Samuels fire from his right side and then saw Mr. Fiepke react. In that moment, the Halo camera above the intersection showed Mr. Fiepke move towards the Officers, his shotgun swinging in line with the Officers on 29th Avenue, at which point Sergeant Krieger fired. Officer Espinosa, Reardon, and Rezac were unaware that Officer Samuels had fired but observed the change in Mr. Fiepke's stance and fired, and Mr. Fiepke, without hesitation, fired a shotgun round at the Officers, none of whom were struck. Officer Mitchell and Corporal Schmitz fired after they saw Mr. Fiepke's muzzle flash.

Of the seven Officers, each was justified in using deadly force based on what they reasonably perceived and their objectively reasonable belief that a lesser degree of force was inadequate to resolve the threat posed by Mr. Fiepke, given his willingness to fire a shotgun in the air in broad daylight on a busy street, with Officers telling him not to; and his suicidal intentions, though tragic, were made clear by his statements. When he moved the shotgun from over his head to a position where he could easily shoot at the Officers, after minutes of attempted communication, Officer Samuels use of deadly force was reasonable. Sergeant Krieger, knowing that Officer Samuels had fired and seeing Mr. Fiepke come closer with the shotgun directed towards the Officers, was reasonable use of deadly force. For Officer Espinosa, Reardon, and Rezac who did not know Officer Samuels shot but heard the sound and saw the change in Mr. Fiepke's position, their use of deadly force was also reasonable given the risk of Mr. Fiepke firing his shotgun at the Officers. And for Officer Mitchell and Corporal Schmitz, who fired after they saw the shot leave Mr. Fiepke's shotgun, their use of deadly force was also reasonable.

Because the Officers had objectively reasonable grounds to believe, and did believe, that they were in imminent danger of being killed or suffering serious bodily injury, shooting Mr. Fiepke 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. Fiepke was shot, would believe that it appeared that deadly physical force was necessary to prevent imminent deadly harm to 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 Officer Samuels, Sergeant Krieger, Officer Reardon, Officer Mitchell, Corporal Schmitz, Officer Espinosa, or Officer Rezac 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 cursive script that reads "Alexis D. King". The signature is written in black ink and includes a long horizontal flourish extending to the right.

Alexis D. King
District Attorney