



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

December 29, 2023

Chief Ed Brady  
Arvada Police Department  
8101 Ralston Road  
Arvada, Colorado 80001

Re: *CIRT 22-11, Officer Garibay & Officer Vakoff*

Dear Chief Brady,

The First Judicial District Critical Incident Response Team has completed its investigation into the attempted shooting of Sonny Almanza by Arvada Police Officer Garibay and the shooting of Sonny Almanza by Officer Vakoff, who was ultimately murdered by Mr. Almanza on September 11, 2022, in the early hours outside the apartments located at 6753 West 51<sup>st</sup> Avenue in the City of Arvada. Jefferson County Sheriff's Office Division Chief Del Kleinschmidt presented the investigation to my office on February 21, 2023, and this letter was completed after the verdict in the related criminal case where Mr. Almanza was convicted of murdering Officer Vakoff.

After a thorough review and analysis of the evidence, I find that Officers Vakoff's and Garibay's use and attempted use of deadly physical force was legally justified to defend others from the threat posed by Mr. Almanza. Given my conclusion, no criminal charges will be filed against Officer Garibay. 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 Arvada Police Department ("APD") activated the First Judicial District's CIRT team to investigate the use of deadly force by Officers Garibay and Vakoff (the "Officers"). Consistent with CIRT policy, APD did not participate in the substantive portions of the CIRT investigation. The CIRT team



promptly responded to investigate, led by Division Chief Kleinschmidt. Under his direction, the CIRT team processed the scene, completed interviews with those who saw or heard the events, and preserved necessary evidence. Officer Garibay provided a voluntary statement and submitted to questioning. These interviews were recorded, reviewed as part of the investigation, and included within the file. Division Chief Kleinschmidt briefed me, my leadership team, and CIRT team members on this investigation and provided the file for my review.

My team reviewed over 2,900 photographs and approximately 3,300 pages of reports by the Lakewood Police Department, Jefferson County Sheriff's Office, Golden Police Department, Edgewater Police Department, Mountain View Police Department, and Wheat Ridge Police Department. I reviewed the recorded interviews of the officers and witnesses who heard or saw the events and the evidence collected from the scene and evaluated by independent examiners.

As District Attorney, my role is to determine whether Officer Garibay committed a criminal offense. Despite the murder of Officer Vakoff, we endeavored to also analyze whether his actions would have been criminal as well. The key to any analysis regarding a criminal charge is that 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, neither officer acted criminally, and no criminal charges can or should be filed against Officer Garibay.

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. Generally, when a person attempts to intentionally shoot at another person, regardless of injury, they commit the crime of attempted murder unless a legally recognized justification exists. If a justification exists, the shooter is not criminally liable. Generally, acting in self-defense or self-defense of others is one such justification. These defenses are available to all Coloradoans, including officers. A peace officer is also specifically authorized to use deadly 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. Almanza 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 Officer Garibay attempted to shoot Mr. Almanza, and Officer Vakoff did shoot Mr. Almanza, both 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 or attempt to use deadly physical force to defend himself or others from Mr. Almanza? If so, the shooting is justified under Colorado law, and no criminal charges can or should be filed.

### **Facts Established by Investigation**

On September 11, 2022 at about 1:45 in the morning, Arvada Police Officers were dispatched to 6753 W. 51<sup>st</sup> Avenue on a report of a disturbance over the custody of two children. A woman reported that she had her young nieces with her in her car, along with her boyfriend and her brother, Sonny Almanza, who is the

father of the children. The woman anticipated the children's mother to be waiting at their home when they arrived with the children. The caller said the children had been left alone and the mother was intoxicated at a bar and unable to care for the children.

Officers Garibay and Officer Vakoff were dispatched to the call for service. While en route, Officer Garibay contacted the woman and instructed her that everyone should remain in their vehicle and park down the street until instructed to come to the apartment.

Officer Vakoff contacted the mother of the children and her family who were already in the 6753 W. 51<sup>st</sup> Avenue parking lot. The mother and her family had been at a bar in Denver and had left her children with her teenage brothers in their home in Northglenn. Officer Vakoff learned that Sonny Almanza had gone to the Northglenn home and walked into the apartment unannounced, pushed aside the 16-year-old uncle of the children and took his daughters from the home. While speaking with the mother, a red Toyota Corolla driven by the who had talked to Officer Garibay, arrived at the apartments.

The caller and her passengers exited the Corolla, leaving the two young children inside the vehicle. Immediately a physical fight broke out between the people who had arrived with the mother of the children and the people who arrived in the Corolla in the parking area and street in front of the apartments. Officer Vakoff attempted to break up the fight between the men while Officer Garibay attempted to control the fight between the women.

Sonny Almanza did not engage with any of the folks in the street and ran into his apartment at 6753 West 51st Avenue #1, where he reassembled an AR-15 style rifle, with a high capacity magazine. Before walking back into the parking area and street, Mr. Almanza fired a warning shot from the rifle. All of the people involved quieted as Mr. Almanza then walked towards the parking lot, armed with the rifle. Mr. Almanza then fired a second shot towards a woman who had arrived with the mother of the children. She was standing near the red Carolla. The woman started screaming that she had been shot.

Mr. Almanza then turned to his right, toward where Officer Vakoff was located between parked cars and where Officer Garibay had taken cover down the street. Officer Vakoff shot at Mr. Almanza, hitting him in the posterior. Almost simultaneously Mr. Almanza shot at Officer Vakoff, hitting him several times. Mr. Almanza's shots followed Officer Vakoff down to the ground. In the midst of the gunfire between Officer Vakoff and Mr. Almanza, Officer Garibay took a shot at Mr. Almanza and believed he had also hit Mr. Almanza, though his bullet lodged in the bumper of a Nissan truck near Mr. Almanza.

As the people in the street and parking lot reacted to the shooting of Officer Vakoff, Mr. Almanza ran to the back of the apartment and disassembled the rifle. Once Mr. Almanza was done with the rifle, he returned to the parking area. No one was responding to Officer Garibay's commands and as Mr. Almanza returned, folks started to engage with him physically so Officer Garibay protected Mr. Almanza from the other people in the crowd near the red Corolla. Officer Garibay handcuffed Almanza before locating Officer Vakoff nearby on the ground between two vehicles.

The woman who was shot in the leg was transported to the hospital. The two young children were unharmed and still in the red Corolla. Mr. Almanza received multiple gunshot wounds and was transported to the hospital. Officer Vakoff was transported to the hospital and succumbed to his gunshot wounds.

### **The Scene**

The two vehicles involved with the two groups of people were a white Mitsubishi Outlander and a red Toyota Corolla. They were located in the street, south of the building at 6753 W. 51<sup>st</sup> Avenue.



*The scene from above with police vehicles in the roadway that arrived after the event. The path to the apartment with the AR-15 style weapon is barely lit on the top right corner of the picture. The white car, facing west, with the doors open, were connected to the people who arrived with the mother. The red car on the right, with the doors open, was connected to Mr. Almanza and is where the children were found. Mr. Almanza shot the woman while she was near the red car. Mr. Almanza then turned west and encountered Officer Vakoff. Between the four cars facing north, center right, blood evidence from Officer Vakoff is visible. Officer Garibay fired from behind the dark pick-up truck, parked on the sidewalk, on the left side of the image.*

On the unlit, east side of 6753 West 51<sup>st</sup> Avenue lay an AR-style rifle in the grassy area between the building and the east fence line. North of the rifle lay the high-capacity magazine. The weapon found was a Smith and Wesson M&P .223 caliber rifle. One spent .223 casing and one live .223 cartridge were located between the rifle and the magazine.

Based on blood evidence, damage caused by bullets, and Officer Vakoff's department issued items, he was murdered between two parked vehicles in front of the apartment building. The vehicles Officer Vakoff was located between were a white Nissan Frontier pickup truck and a white Dodge Caravan.

Eight spent .223 caliber casings were found in the street south of the Dodge Caravan. Where Officer Vakoff was located, the following was observed: a suspected bullet impact to the blacktop which appeared to travel south to north, bullet projective/fragmentation impacts to the brick wall north of where Officer Vakoff fell, and potential bullet strikes to multiple vehicles are traveling from south to north.

Other items of evidence included a portion of a damaged bullet near the rear bumper of the Nissan truck which appeared to have a trajectory of west to east and one spent 9mm casing in the street near the white Mitsubishi Outlander along the curb line. This evidence is consistent with the angle at which Officer Garibay fired a shot and is depicted below.

There were also two spent 9 mm handgun casings east of the Nissan truck which are consistent with the location Officer Vakoff fired his shots.

### The Autopsy

Dr. Dawn Holmes completed the autopsy of Officer Vakoff on September 11, 2022.

1. Penetrating indeterminate-range gunshot wound to the mouth. The wound course was front to back, left to right, and downward. The wound involved the C4 vertebra including a complete transection of the underlying cervical spinal cord. A deformed small-caliber copper-jacket along with multiple small fragments of copper-jacket and lead bullet were recovered.
2. Through-and-through indeterminate-range gunshot wound to the left lower leg. The wound course was slightly front to back, left to right, and upward. No major vessels were involved.
3. Graze wound to the right parietal scalp. The wound course was left to right.
4. Cluster of multiple fragmented gunshot wounds of the left buttock and proximal posterior left thigh. The overall wound course was right to left and upward.
5. Cluster of multiple fragmented gunshot wounds of the anterior left upper extremity and posterior left 2<sup>nd</sup> through 5<sup>th</sup> digits. The overall wound course was right to left and upward.

The cause of death of Dillon Vakoff, is due to multiple gunshot wounds. The manner of death is homicide.

## The Analysis

Officer Vakoff and Officer Garibay responded to a domestic dispute that started with the wellbeing of the children shared by Mr. Almanza and one of the women the Officers met at the apartments. Upon arrival, the people Mr. Almanza was with did not follow the request of Officer Garibay to stay away from the apartments until the Officers were ready for them to arrive.

Once the red Carolla drove up, Mr. Almanza did not engage with the police, but rather, rushed to get an AR-15 style weapon with a high-capacity magazine from an apartment. The Officers became aware of Mr. Almanza as he fired a warning shot and then shot a woman in the leg, appearing to the east of the Officers with the weapon.



In that moment, both Officers had an objectively reasonable belief that everyone on scene, including themselves and the folks in the neighboring buildings, were in imminent danger of being killed or suffering serious bodily injury, as Mr. Almanza had made clear that he was willing to shoot people. Combined with the minimal amount of time between Mr. Almanza firing a warning shot and the shooting of the woman, all of the facts known to the Officers in that moment indicated that no lesser degree of force, other than deadly force, was objectively reasonable when Officer Garibay and Vakoff encountered Mr. Almanza.

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".

Alexis D. King  
District Attorney  
First Judicial District