



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

March 11, 2024

Jefferson County Sheriff's Department  
Regina Marinelli, Sheriff  
200 Jefferson County Parkway  
Golden, CO 80401

Dear Sheriff Marinelli,

The First Judicial District Critical Incident Report Team has completed its investigation into the shooting at Kerry Endsley, by the Jefferson County Sheriff's Department on June 17, 2022, at the Fehringer Ranch Disc Golf Park located near S. Simms Street and West Quincy Avenue. Only one deputy was involved in the shooting and this letter will address the actions of Deputy Steven FitzPatrick. Commander Baros from the Arvada Police Department presented the investigation to my office on August 24, 2022. The associated criminal case, 22CR1795, resolved on February 28, 2024.

After a thorough review of the analysis of the evidence, I find that Deputy Steven FitzPatrick's use of deadly physical force was legally justified to defend himself and others from the threat posed by Mr. Kerry Endsley. Given my conclusion, no criminal charges will be filed against Deputy Steven FitzPatrick. 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 Jefferson County Sheriff Department (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 the 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 and 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 1200 photographs, 67 media files including body worn cameras, and 485 pages of reports by CIRT investigators which included the Arvada Police Department, Lakewood Police Department, and



Jefferson County Regional Crime Laboratory. We reviewed the recorded interviews of deputies 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 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 deputies 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 at another person, resulting in no injury to the person, 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 Coloradans, including deputies. A deputy 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. 18-704(1) (2), C.R.S. By law, in deciding whether officers were justified in acting in self-defense or defense of others, it does not matter whether Mr. Endsley 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 at Mr. Endsley, he had objectively reasonable grounds to believe, and did in fact believe, that they 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. Endsley? If so, the shooting is justified under Colorado law, and no criminal charges can or should be filed.

### **Facts Established by Investigation**

On June 17, 2022, at about 8:10 a.m., Deputies were dispatched to a menacing at the Fehringer Ranch Disc Golf Park located near S. Simms St. and W. Quincy Ave. A witness identified as Glenn Tyson advised a male, later identified as Kerry Ellis Endsley, was holding a male and a female at gunpoint in the park. The two victims were later identified as Shannon Johnson and Jerry Johnson.

Deputy Steven FitzPatrick was assigned to patrol in August of 2021 and completed his patrol field training in December of 2021. He had been working as a solo deputy since December of 2021. He spent six years in the jail before moving to patrol. Before joining law enforcement, Deputy FitzPatrick served in the Army Reserve since 2014.

On June 17, 2022, Deputy FitzPatrick was working his normal shift in the South District of Jefferson County on day shift. His shift began at 6:30 a.m. and ended at 4:30 p.m. He was in uniform and driving a marked patrol car. At 8:10 a.m. Deputy FitzPatrick was on an abandoned auto call when a “priority one call” was toned out on a “menacing” in the disc golf park. Dispatch aired, “RP sees a male holding two people hostage with a gun.” The suspect with the gun was described to be a Hispanic or white male, about 40 years old, 6 ft. tall, average build, with a goatee, wearing a blue hat, blue jeans and a blue shirt.

Deputy FitzPatrick was close by and drove over immediately with his lights and sirens activated. He was first on scene and as he got closer, he deactivated his siren. Deputy FitzPatrick parked his car on the south side of Highway 285 and turned his lights down to Stage 1 before he got out. Deputy FitzPatrick's uniform consisted of tan pants and a dark green shirt that had patches on each shoulder which clearly marked that he was a Sheriff's Deputy with the Jefferson County Sheriff's Office as well as a tactical vest, a sheriff's badge, a name tag and a full duty belt. Deputy FitzPatrick ran towards the man he believed to be armed and menacing the two people in the park. Due to dispatch advising that there was a gun involved, Deputy FitzPatrick took his gun out of his holster.

Deputy FitzPatrick came upon Mr. Endsley wearing blue pants, a blue shirt and a blue FedEx hat and Jerry Johnson who was wearing running shorts, a shirt and tennis shoes and holding a gun. Deputy FitzPatrick was giving loud, clear, simple commands to Endsley and Johnson to, "Stop moving!" "Stop!" "Drop the gun!" Jerry Johnson was holding a gun in a non-threatening manner and at first told Deputy FitzPatrick, "No, I can't, he has a gun," referring to Mr. Endsley. Mr. Johnson eventually complied with Deputy FitzPatrick's orders and put the gun down. Mr. Endsley did not comply with commands and kept advancing first toward Mr. Johnson then running away. When Deputy FitzPatrick caught up to Mr. Endsley, he stopped Mr. Endsley and Mr. Endsley turned around and seemed to comply. Deputy FitzPatrick aired on the radio that he hit Mr. Endsley at gunpoint.

Mr. Endsley then quickly pulled a black object out of his right pants pocket and pointed it directly at Deputy FitzPatrick. Deputy FitzPatrick believed that based on the way Mr. Endsley was holding the black metal object in his right hand that the object was a gun. Deputy FitzPatrick believed that he was going to be shot by Mr. Endsley and in response fired one round at Mr. Endsley. Deputy FitzPatrick believed deadly physical force was being used against him and he was in fear for his life. Deputy FitzPatrick was unsure if he hit Mr. Endsley with the one round he fired at him.



*Deputy FitzPatrick's BWC showing Mr. Endsley, the black object in his hand, and the firing of Deputy FitzPatrick's firearm at Mr. Endsley as the black object came up and was pointed at the Deputy.*

Deputy FitzPatrick described that he was aware of his surroundings and what was beyond his target and fired one round center of mass at Mr. Endsley. Mr. Endsley stopped briefly and then started aggressively advancing towards Deputy FitzPatrick with the black object in his hand. Deputy FitzPatrick, observed that the item Endsley was holding was not a gun, and said, "Hey, what is that?" Mr. Endsley continued to point the item at Deputy FitzPatrick and Endsley said, "What is that? I'll show you what it is." Deputy FitzPatrick aired on his

radio, "Shots fired! Shots fired!" Mr. Endsley continued to approach Deputy FitzPatrick and said, "What, can't you hit me?" Mr. Endsley continued to advance as Deputy FitzPatrick backed up. Mr. Endsley said, "Come on!" Deputy FitzPatrick pulled his Taser out, attempted to deploy it and then cursed. Deputy FitzPatrick had his handgun in his right hand and his Taser in his left hand. Mr. Endsley said, "Shoot me mother fucker!" Mr. Endsley had his hand up and was still advancing on the Deputy who was now running backwards. Deputy FitzPatrick said, "Get on the ground!" Deputy FitzPatrick was out of breath. Mr. Endsley said, "No," and continued to advance on Deputy FitzPatrick.



Mr. Endsley's Taser



Mr. Endsley's Gun

Deputy FitzPatrick said, "Hey, stop!" At this point Deputy Fitzpatrick and Mr. Endsley were very close together, their hands were almost touching. Mr. Endsley said, "No," and then put his Taser behind his back and tested his Taser, the sound of the test was audible to the Deputy. Mr. Endsley continued to advance toward Deputy FitzPatrick as Deputy Lonnie Shultz came up behind Mr. Endsley. Deputy FitzPatrick warned, "He's got a Taser!" Mr. Endsley was tased by Deputy Shultz and dropped to the ground with his Taser in his right hand. Mr. Endsley resisted and was tased a second time by Deputy Shultz. Deputy FitzPatrick then took Mr. Endsley into custody.

### The Scene

*The cone on the left side of the picture is where the shell casing from Deputy FitzPatrick's gun was found. He fired towards Mr. Endsley and the houses on the right side of the picture were his backdrop.*



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. The CIRT team utilized digital documentation to memorialize the scene. The CIRT team interviewed six sight and sound lay witnesses.

The following deputies were wearing body-worn cameras during the incident: Deputy Steven FitzPatrick, Deputy Lonnie Shultz, and Deputy Aaron Fosler.

CIRT team criminalists determined that a bullet was located inside a home at 3680 S. Oak Street. The bullet entered from the exterior of the home, traversed through the living room, and had come to rest in the kitchen area of the residence. No one was struck or injured by the bullet. This was the round fired by Deputy FitzPatrick.

### **Analysis**

The morning of June 17, 2022, Deputy FitzPatrick and Deputy Shultz responded to the disc golf park with the same information though Deputy FitzPatrick arrived first and by himself. Specifically, dispatched advised responding officers that, “[the] RP sees a male holding two people hostage with a gun.” The suspect with the gun was described to be a Hispanic or white male, about 40 years old, 6 ft. tall, average build, with a goatee, wearing a blue hat, blue jeans and a blue shirt.”

As Deputy FitzPatrick approached the people he believed to be the folks seen by the RP, he had no cover in the open meadow. When he caught up with the people, he found one male with a gun, Mr. Johnson, and one who was said to have a gun, Mr. Endsley. While Mr. Johnson complied with Deputy FitzPatrick’s commands, Mr. Endsley did not.

Mr. Endsley’s was not only unwilling to do what Deputy FitzPatrick was asking him to do, but advanced on the Deputy FitzPatrick, openly defying and challenging him. When Mr. Endsley pulled what Deputy FitzPatrick thought to be a gun from his right front pants pocket and pointed it at him, Deputy FitzPatrick fired at Mr. Endsley as he thought he was going to be shot.

Deputy FitzPatrick was justified in using deadly force based on what he reasonably perceived and his objectively reasonable belief that a lesser degree of force was inadequate to resolve the threat posed by Mr. Endsley. Mr. Endsley posed an imminent threat giving his willingness to hold two people at gunpoint, his failure to comply with commands and his willingness to pull a Taser from his pocket and point it at Deputy Fitzpatrick. Deputy FitzPatrick firing his gun at Mr. Endsley when he believed the black metal object held by Endsley to be a gun, was reasonable use of deadly force. After Deputy FitzPatrick identified that Mr. Endsley had a Taser, Mr. Endsley continued to challenge and goad Deputy FitzPatrick into taking further action through his words and testing of the Taser behind his back.

Deputy FitzPatrick had objectively reasonable grounds to believe, and did believe that he was in imminent danger of being killed or suffering serious bodily injury, and his decision to shoot at Mr. Endsley reflects the justified use of force described in statute. No lesser use of force could reasonably ameliorate that danger posed by Mr. Endsley in that moment. Moreover, a reasonable person, under like conditions and circumstances, at the time Mr. Endsley was shot at would believe that it appeared that deadly physical force was necessary to prevent imminent deadly harm to himself or others. As there is no evidence proving, beyond a reasonable doubt, that a legally unjustified attempted homicide occurred, no criminal charges can or should be brought against Deputy FitzPatrick under Colorado Law.

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

Sincerely,



Alexis D. King  
District Attorney