



DenverDA

Mitchell R. Morrissey, District Attorney - Second Judicial District
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June 29, 2009

Kevin Paletta
Chief of Police
Lakewood Police Department
445 S. Allison Parkway
Lakewood, CO 80226

RE: Investigation of the shooting death of Eugene Paul Velarde, dob 06/18/84, DPD#656974, by Lakewood Police Department Agent Devaney Braley, on June 10, 2009 in the 1700 block of Sheridan Boulevard, Denver, Colorado.

Dear Chief Paletta:

The investigation and legal analysis of the shooting death of Eugene Paul Velarde ("Velarde") have been completed, and I conclude that, under applicable Colorado law, no criminal charges are fileable against Lakewood Agent Devaney Braley ("Agent Braley").

Velarde is deceased. Therefore, no criminal charges are necessary related to his criminal conduct in this incident. Because this shooting involved a law enforcement officer from your department, which is an agency outside the 2nd Judicial District, the administrative aspect of the shooting will be addressed by your agency. When we have been advised by you that your agency has concluded the administrative investigation and review of the shooting, we will open our Officer-Involved Shooting file in this case for in-person review at our office in compliance with our long-standing policy. This decision letter is open to the public at this time on our website at www.denverda.org. As is always the case, the physical evidence will be in the possession of the Denver Police Department. The Denver Police Department is the official custodian of records related to this case.

SYNOPSIS OF SHOOTING

On June 10, 2009, shortly before 6:30 p.m., Agent Braley was responding to a felony menacing involving a suspect with a handgun. While en route to the location, Agent Braley observed the described suspect and suspect vehicle coming toward him on Sheridan Boulevard. As the suspect passed, Agent Braley made a quick U-turn and followed him. After a few blocks during which the suspect, later identified as Eugene

Paul Velarde, ran stop signs and stop lights and made numerous evasive turns in an effort to escape, Velarde turned from westbound West 17th Avenue to northbound Sheridan Boulevard. Velarde drove recklessly in the southbound lanes before turning sharply across the southbound lanes and colliding with Agent Braley's vehicle which was traveling in the northbound lanes.¹

Velarde got out of the vehicle and began to flee. Agent Braley got out of his vehicle and began chasing Velarde. Agent Braley was running parallel to Velarde. Velarde drew a black semi-automatic pistol from his waistband with his left hand while running. He turned slightly to his right as he raised the pistol to waist height across the front of his body pointing in the direction of Agent Braley. Agent Braley fired six shots in rapid succession at Velarde. Velarde was struck by two of the six shots and fell to the ground. His semi-automatic pistol fell near him. The paths of the two gunshot wounds are consistent with the description given by Agent Braley in his statement to investigators. Velarde was pronounced deceased at St. Anthony's Hospital at 6:44 p.m.

STATEMENT OF INVESTIGATION

The attached document entitled *Officer-Involved Shooting Protocol 2009* is incorporated by this reference. It describes the manner in which these cases are investigated in Denver, Colorado. Immediately after the shooting, numerous witnesses were identified and taken to Denver Police headquarters for interviews. All cooperating witnesses provided written statements and a number were further interviewed on videotape. All directly involved law enforcement officers gave voluntary sworn videotaped statements to investigators. The crime scene was thoroughly processed by the Denver Police Department Crime Laboratory and all evidence was collected. The suspect vehicle was secured. All evidence was processed and reviewed. The Denver Police Department Crime Laboratory has conducted testing and analysis on a variety of evidence, including firearms, ballistics and other items.

We received full cooperation throughout the investigation from all officers and citizen witnesses, with the exception of Marie Estella Valles, Velarde's wife, who was in the car during the incident. After advising her of her Miranda rights she elected not to make a written or videotaped statement to investigators. However, she had asked questions and made some comments at the scene and while at Denver Police headquarters which were documented by the involved officers.

STATEMENT OF FACTS

Agent Braley is the only witness who gave a statement to investigators who was eyewitness to the entire incident. His partner, Agent Marcia Cordova was not in position to see Agent Braley fire the shots at Velarde. Agent Jimmy Torsak saw some of the final frames of the shooting, but from his vantage point initially thought Agent Braley had tased Velarde.

¹ See attached diagram and photographs.

Agent Braley's account of the shooting is consistent in pertinent part with the statements given by Agents Cordova and Torsak, the other officers and the citizen witnesses. As is generally the case, there are expected to be differences among the witnesses in their perception of what they saw and heard from their different vantage points and with varying levels of attentiveness. Agent Braley's statement is also consistent with the physical evidence developed in the investigation, including the bullet paths of the two gunshot wounds suffered by Velarde. When all of the statements are considered in concert with the totality of the evidence gathered in the investigation, a clear picture emerges that is consistent with Agent Braley's description of the shooting.

The following is a paraphrasing of the pertinent portions of Agent Braley's videotaped statement given to investigators at Denver Police headquarters after the shooting.²

Agent Braley stated he is assigned to the Special Enforcement Team (SET) and Gang Unit. He was working a plain-clothes assignment at the time of this incident which included wearing his police duty belt and his badge around his neck on a chain. He was driving his unmarked Nissan Pathfinder police vehicle. Agent Cordova was his partner and she was riding in the passenger seat.

Agent Braley stated that at about 6:30 p.m. he was on Sheridan Boulevard approaching Colfax Avenue when dispatch aired a party with a gun had menaced a victim at 1st Avenue and Sheridan Boulevard. The suspect was described as a Hispanic male armed with a gun. Agent Braley made a U-turn to go southbound on Sheridan Boulevard. Additional information was aired that the suspect was waving the gun around and had left the area driving northbound on Sheridan Boulevard in a green van with a temporary license. Agent Braley spotted the vehicle coming toward him going northbound on Sheridan Boulevard with a Hispanic male driving. He was just south of West 10th Avenue. He noticed a back window was broken out and had tape over it. Agent Cordova radioed for more information and dispatch indicated the party reporting the menacing also said a back window was taped over. Agent Braley then made a U-turn to follow the suspect northbound on Sheridan Boulevard.

Agent Braley said he began driving in the turn lane with his emergency lights on. When he reached 14th Avenue he encountered a grouping of vehicles. He turned on his siren to clear the traffic, but when he saw one of the vehicles was the suspect's green van, he turned the siren off. The suspect was preparing to turn from lane number two. Agent

2 In accordance with the Denver Officer-Involved Shooting protocol, Agent Braley was sequestered from the time of the shooting until he provided his voluntary videotaped statement to investigators.

Braley made eye contact with the female passenger. The suspect turned eastbound on West 14th Avenue. Agent Braley turned on his lights and siren. The suspect came to a stop sign and ran it at approximately 30 miles per hour with no attempt to stop. Agent Cordova advised dispatch of the pursuit. Agent Braley slowed to safely move through the intersections, then accelerated to close distance on the suspect. The suspect ran two more stop signs. The suspect ran a 3rd stop sign while turning northbound. The suspect looked over his shoulder back at Agent Braley. The suspect was a light skinned Hispanic male wearing a light blue t-shirt.

The suspect ran the red light at Colfax Avenue without slowing. Agent Braley came to a near stop because of the traffic then drove through and accelerated as the suspect turned westbound on West 16th Avenue for one block—then northbound for one block—then westbound on West 17th Avenue. The suspect drove westbound in the eastbound lane where he swerved to avoid colliding with on-coming traffic. He entered the intersection against the light at Sheridan Boulevard at a high rate of speed, almost striking a white vehicle. The suspect was now traveling northbound in the southbound lanes. Agent Braley turned and stayed in lane number one of the northbound lanes of Sheridan Boulevard. The suspect cut across the southbound lanes right into the path of Agent Braley's vehicle. Agent Braley said it created an unavoidable collision with the front right passenger side of the suspect's green van.

Both airbags in Agent Braley's vehicle deployed, striking the Agents in the face and cushioning their impact. When the airbags deflated, Agent Braley saw the female still in the front passenger seat, but could not see the male suspect. He immediately became fearful that the suspect was already out of the green van. With the information he had that the suspect was armed with a gun, he was afraid for Agent Cordova and his safety. He told Agent Cordova they needed to get out of the vehicle so they would not be sitting ducks.

She was trying without success to get out of her seatbelt. Agent Braley got his seatbelt off, but his door was locked. He started fumbling with the controls, but could not locate the button to unlock the door. He said the stress of the circumstances contributed to the delay, but he found the release with his left hand and drew his service pistol with his right hand as he got out. Agent Cordova was still stuck in vehicle.

Agent Braley went around the back of his vehicle to the passenger side to protect Agent Cordova. He then saw the suspect run out from the green van in a southeast direction toward Sloans Lake Park. Agent Braley yelled, "POLICE—STOP!" As he gave the command, he pursued the suspect. At this time, Agent Braley estimated they were approximately 20

feet apart. He ran parallel to the suspect. Agent Braley saw the suspect move his light blue t-shirt up with his left hand—exposing his waistline. He could see the grip of a black handgun which the suspect then pulled out. The suspect was making eye contact with Agent Braley as he removed the gun. Agent Braley thought the suspect had just reached the grass in Sloans Lake Park at this time. The suspect initially moved the gun down briefly to his left side and looked away from Agent Braley. They were still running in a southeast direction. The suspect then looked to the right at Agent Braley as he began bringing the gun up across the front of his body pointing it toward Agent Braley. When the gun got to the height of his waistline, Agent Braley said he thought the suspect was going to kill him.

Agent Braley said the suspect “kind of forced me into a situation where he was going to kill me. I was also concerned if he got in the park ... I was afraid for families and civilians there.” Agent Braley said he “fired 5 or 6 rounds in rapid succession at him. I had difficulty hitting him because he was moving laterally ... with roughly the 5th or 6th round he went to the ground ... I stopped shooting at that point ... he dropped the gun ... his left hand was out in front of him ... his right arm and hand were under his chest so I could not see it... he was face down ... the gun was close to him where he could reach it if he extended his arm ... I was alone ... no cover yet.” The foot chase was a very short distance and all occurred very quickly. Agent Braley said he believes he planted his feet to stop as he was firing at the suspect.

Agent Braley said he carries a Kimber .45 caliber semi-automatic pistol with 8 rounds in the weapon. He said he only has 8 rounds in his pistol and he knew he had fired most of those rounds. He wanted to do a magazine exchange in case the suspect went for his gun. He did a magazine exchange and kept his gun trained on the suspect.³ At that time, Agent Cordova came up to his side. Agent Braley said he yelled at Agent Cordova that the suspect had a gun and “I had to shoot him.” He told her and another arriving Agent, Jimmy Torsak, the location of the suspect’s gun. Agent Torsak retrieved the pistol with his left hand. Agent Braley advised Agent Torsak to go back and check on the female in the green van. Agent Cordova went to radio in the shooting. Agent Braley holstered his service pistol as there was no longer a danger.

³ As a result of the magazine exchange, the magazine in the gun had eight rounds in it when turned over to Denver Police Department Crime Laboratory personnel. Agent Braley did not fire after the magazine exchange. The magazine that was in his pistol at the time he fired the shots was recovered at the scene and it contained one live round. Therefore, six rounds were fired by Agent Braley from that magazine. See attached firearm examination report.

Agent Braley said he could see the bullet entry toward the back right side of the suspect. Because of the presence of blood, he put gloves on and knelt by the suspect. As he pulled out the suspect's right hand from under his body he could see more blood. He told the suspect he was under arrest and that he had to handcuff him, which he did. He told Agent Cordova to get an ambulance which she had already requested.

Agent Braley said he then went to the green van to secure the female passenger. She had to crawl across to the driver's side to exit. He said she asked if he was dead or dying and he replied that paramedics were on the way and everyone has medical training and would give him all the medical attention possible. She said the suspect was her husband. She then stated, "Aren't you supposed to stop chasing us if it is a danger to the public." She also asked, "Why didn't you shoot him in the legs."

Agent Braley said he was checked for injuries by the paramedics. He had an abrasion to his arm and could not hear from his left ear. The paramedics took him to Denver Health Medical Center where he was further examined. He was then taken to the Denver Police Department where he remained until giving his voluntary videotaped statement to investigators.

In response to investigator questions, Agent Braley stated he started shooting at the suspect because he thought the suspect was going to kill him. And, he stopped shooting when the suspect went down, dropped the gun and it was no longer in his immediate possession. He estimated that it was only about one and one half seconds from the start of foot chase to the start of the shooting. He said it was very quick and he did not run very far.

Velarde's wife, Marie Valles, dob 04/08/85, who was in the passenger seat during the incident, made comments that were documented in the statements of Agent Braley and Officer Ethan Aldridge. When given the opportunity to make a statement to investigators at Denver Police headquarters—Valles declined. Officer Ethan Aldridge, Denver Police Department, arrived at the scene shortly after the shooting. He was advised that Marie Valles, who was seated on the curb, was the passenger in the suspect vehicle. Officer Aldridge took her to his patrol car. In his written statement to investigators, Officer Aldridge documented the following questions and comments made by Marie Valles in his presence at the scene and later at Denver Police headquarters.

At the scene she stated, "Why didn't he just stop, he should have stopped. He got out with a gun, but the cops could have shot him in the legs, they should have shot him in the legs."

She asked, "Is he dead?" Then she stated, "They killed him, I know he is dead."

Later at Denver Police headquarters she stated, "I hope he's alive, if he is dead, I don't want to know because I'm by myself." She then said, "What's he going to get for the gun charge?" She then stated, "He told me he wanted to die, he's facing time for the old stuff and he couldn't handle it."

At a later point her mother was permitted to talk with her when she was informed Velarde had died. She told her mother that she "watched the cops kill him." She said, "He had a gun, but he didn't hurt anybody." When her mother told her the news said he "flourished a handgun," Valles stated, "That didn't give them the right to kill him—the cops kill whoever they want."

Dr. Brian Shields pronounced Velarde deceased on June 10, 2009 at 6:44 p.m. On June 11, 2009 at 9:00 a.m. an autopsy was performed on the body of Eugene Paul Velarde by Dr. James Wahe. Dr. Wahe found the death was caused by the gunshot wounds. Velarde suffered two gunshot wounds. Velarde had amphetamines, cocaine and opiates in his system at the time of the autopsy.

Lieutenant Jon Priest completed a trajectory analysis of the bullet tracks through the body of Eugene Paul Velarde. Lt. Priest stated:

In concluding this opinion, I reviewed the statement of Lakewood Agent Devaney Braley, the wound diagram completed by Detective Aaron Lopez at the Coroner's Office and had a discussion with Dr. James Wahe, the pathologist completing the autopsy on Mr. Velarde.

There are two wounds of entrance to the body of Mr. Velarde. Wound number 1 enters 49" up from the heel and 4" to the right of the posterior mid-line (toward the right lateral side of the body). Wound number 2 enters 46" up from the heel and 3" to the right of the posterior mid-line. Both bullet tracks show a right to left, back to front and upward trajectory. The wound track of bullet number 1 exits the body 54" up from the heel and on the upper left chest next to where the left arm connects to the body. The bullet continues to a point where it impacts the left bicep and causes a distinctive bruise. The overall track of bullet number 1 is through soft tissue. This bullet does not strike bone. Bullet number 2 enters the right back, strikes the 11th vertebrae (T-4) and stops in the heart of the subject.

Considering that, Agent Braley ran parallel to the subject upon initial contact, and that Agent Braley saw the subject pulling a gun from his waistband with his left hand and turning toward Agent Braley when he fired, the bullet tracks are consistent with the described positions of officer-to-subject at the time of the shooting. The upward angle of the

bullet tracks is consistent with the subject leaning slightly forward (running position) at the time the shots occurred.

At the time of shooting, Agent Braley was armed with his service weapon—a Kimber .45 caliber semi-automatic pistol. The magazine in the weapon and the three additional magazines he carries each have a capacity of eight rounds. He was carrying the weapon with seven rounds in the magazine and one round in the chamber at the time he fired. This is because when he prepares his weapon for duty, he chambers a round, but he does not “top off” the magazine with an additional bullet. Therefore, there are then seven rounds in the magazine and one round in the chamber. The recovered magazine that was in the weapon at the time he fired—contained one round. This indicates Agent Braley fired six rounds during the confrontation. There were six fired cartridges recovered at the scene which were matched to his service pistol by Denver Police Department Crime Laboratory Bureau analyst Ted Ritter. Two of Agent Braley’s shots struck Velarde. One of those shots was a through-and-through wound. The other fired bullet was recovered from Velarde’s body at autopsy by Dr. James Wahe. This bullet was microscopically identified as having been fired from Agent Braley’s pistol.⁴

Lakewood Agent Jimmy Torsak was approaching the scene driving southbound on Sheridan Boulevard when he saw Velarde turn sharply to the right and collide with Agent Braley’s vehicle. He observed Velarde exit his crashed vehicle and run into the park. He first saw Agent Braley at the point when his firearm was outstretched pointing toward Velarde. He observed Velarde turning to the right toward Agent Braley and then fall to the ground. His emergency lights and siren were activated at this time and he did not hear Agent Braley’s shots. From his vantage point he initially thought Velarde had been tased. Within seconds he exited his police car and approached Velarde as Agents Braley and Cordova had their weapons trained on Velarde, who was face down on the ground. Agent Braley was repeatedly yelling, “He has a gun; he has a gun.” Velarde was still moving and Agent Torsak then saw the gun on the ground close to Velarde. With the two agents covering him, Agent Torsak retrieved the black handgun. He held the gun down to his side in his left hand until he later removed the magazine and one bullet from the chamber of the gun to make it safe. He placed the gun, the magazine with bullets in it, and the one bullet from the chamber into a plastic bag. These items remained under his control until turned over to Denver Police Crime Laboratory personnel. At the scene, Agent Torsak placed evidence markers over the spent casings and the spot from which Velarde’s gun was retrieved.

Velarde’s gun was processed by Denver Police Crime Laboratory personnel. The firearm is a WITNESS .45 caliber semiautomatic pistol manufactured by Anfoglio in Italy. The weapon has a laser device attached in front of the trigger guard.⁵ The

4 See attached Denver Police Department, Crime Laboratory Bureau, Firearms Unit Laboratory Report for further information concerning the firearms of Agent Braley and Velarde.

5 See attached photograph of Velarde’s firearm.

magazine contained six live rounds. There is no indication the gun was fired during this incident.

Velarde is a convicted felon with multiple arrests. Therefore, he is prohibited from possessing a firearm and it is a felony criminal act to do so. He has served time in the Colorado Department of Corrections. He has also been sentenced to Community Corrections for his criminal conduct. At the time of this incident he was wanted on three active arrest warrants. An arrest warrant was issued on May 27, 2009 from Denver District Court for Contempt of Court—Failure to Comply related to a violation of C.R.S. 18-18-405 ... Distribution/Manufacture Schedule 1 Controlled Substance. A second warrant was issued on May 29, 2009 from Jefferson County for C.R.S. 18-8-208(2) ... Escape from Felony Conviction. A third arrest warrant was issued on June 8, 2009 from Denver District Court for Probation Violation—Possession of Forged Instrument—Possession of Tools for Forgery/Counterfeiting. Additionally, Velarde had a 2008 arrest for Driving Under the Influence, Driving Under Revocation of license and no insurance. At the time of this incident his license was still revoked and he had no insurance.

LEGAL ANALYSIS

Criminal liability is established in Colorado only if it is proved beyond a reasonable doubt that someone has committed all of the elements of an offense defined by Colorado statute, and it is proved beyond a reasonable doubt that the offense was committed without any statutorily-recognized justification or excuse. While knowingly or intentionally shooting another human being and causing their death is generally prohibited as homicide in Colorado, the Criminal Code specifies certain circumstances in which the use of deadly physical force by a peace officer is justified. Under those circumstances it is a “justifiable homicide.” As the evidence establishes that Velarde was shot by Agent Braley the determination of whether his conduct was criminal is primarily a question of legal justification.

Section 18-1-707(2) of the Colorado Revised Statutes defines the circumstances under which a peace officer can use **deadly physical force** in Colorado. In pertinent part, the statute reads as follows: (2) A peace officer is justified in using deadly physical force upon another person ... 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.

Section 18-1-707(2) also provides that a peace officer is justified in using deadly physical force upon another person . . . when he **reasonably believes that it is necessary 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 means of a deadly weapon; or otherwise indicates, except through motor vehicle violation, that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay.**

Section 18-1-901(3)(d) and (e) of the Colorado Revised Statutes define the terms “Deadly Physical Force” and “Deadly weapon” respectively, as follows:

(3)(d) “Deadly Physical Force” means force, the intended, natural, and probable consequence of which is to produce death, and which does, in fact, produces death.

(3)(e) “Deadly Weapon” means any of the following which in the manner it is used or intended to be used is capable of producing death or serious bodily injury: (I) A **firearm**, whether loaded or unloaded; (II) A knife; (III) A bludgeon; or (IV) Any other weapon, device, instrument, material, or substance, whether animate or inanimate.

Therefore, the question presented in this case is whether, at the instant Agent Braley fired the shots that caused the death of Velarde, he reasonably believed that Velarde was directing or was about to direct deadly physical force against him or a third person, or had committed a felony involving the use or threatened use of a deadly weapon, or was attempting to escape by the use of a deadly weapon, or was likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay. In order to establish criminal responsibility for an officer knowingly or intentionally causing the death of another, the state must prove beyond a reasonable doubt that the officer doing the shooting either did not really believe in the existence of the pertinent requisite circumstances, or, if he did hold such belief, that belief was, in light of all available facts, unreasonable. We could not disprove these sections of the statute beyond a reasonable doubt as required by law.

CONCLUSION

Agent Braley responded to cover a call in which Velarde was reported to have menaced a citizen with a handgun. When contacted by police, rather than complying with their attempt to stop him, Velarde drove recklessly through the streets of Lakewood and Denver attempting to elude apprehension while endangering officers and citizens. He caused a serious collision with Agent Braley. The autopsy showed the presence of controlled substances in Velarde’s body and his criminal record shows a prior history of driving under the influence in 2008 while his license was revoked and without insurance. In addition to being a felony for Velarde to possess a firearm, rather than leaving the firearm in the vehicle, he chose to exit the crashed vehicle in possession of the loaded semi-automatic pistol. These factors combined with three active warrants for his arrest and his wife’s statement that he wanted to die rather than face the consequences of his criminal conduct, at a minimum suggest a strong desire to escape by any means necessary. Added to those factors is his conscious decision to draw the pistol from his waistband while attempting to escape on foot and his final decision to level it at Agent Braley.

Velarde’s wife, Marie Valles, who has multiple arrests for property crimes, exhibits through her volunteered statements to officers a misguided “blame the cops” mentality. In her mind the “cops” were at fault for pursuing Velarde—you should just be

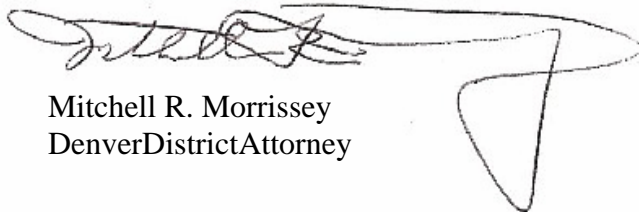
able to escape apprehension by fleeing. The “cops” should have “shot him in the legs” while being confronted by his imminent lethal threat. Apparently in her mind, “The cops kill whoever they want.” The facts of this case support the conclusion there is one person responsible for the death of Eugene Paul Velarde—Eugene Paul Velarde.

As we have indicated in prior decision letters, in these life-threatening encounters with individuals armed with firearms, if justified to use deadly physical force, officers are trained, as they should be, to shoot for center body mass to neutralize the threat. They do not attempt to “shoot the gun out of the suspect’s hand” or “shoot the suspect in the legs, arms or hands.” This case is a good example of one reason for that—Agent Braley fired six shots in rapid succession from relatively close range, but still only two shots struck Velarde. Agent Braley believes those were likely the final shots he fired. And finally, we have no doubt Agent Braley would have preferred to have had an uneventful shift and not have his life threatened by Velarde’s felonious armed criminal conduct.

Velarde represented a direct and imminent deadly threat to Agent Braley and a potential threat to everyone in the area when he was shot. Based on Velarde’s non-compliant life-threatening actions, it was reasonable for Agent Braley to fear for his life and the lives of the other citizens. He fired in response to the deadly threat posed by Velarde and stopped firing when the threat was neutralized and controlled. Agent Braley’s deadly force response was reasonable, necessary and legally justified under the specific facts of this case. Therefore, no criminal charges are fileable against Agent Devaney Braley for his conduct in causing the death of Eugene Paul Velarde.

As in every case we handle, any interested party may seek judicial review of our decision under C.R.S. 16-5-209.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mitchell R. Morrissey", written over a horizontal line. The signature is stylized and cursive.

Mitchell R. Morrissey
Denver District Attorney

cc: Lakewood Agent Devaney Braley; John Camper, Division Chief of Patrol; Ken Perry, Commander of Professional Standards; Bob Murphy, Lakewood Mayor; Chief Gerald Whitman; John W. Hickenlooper, Mayor; All City Council Members; Alvin J. LaCabe, Jr., Manager of Safety; John Lamb, Deputy Chief; Michael Battista, Deputy Chief; Dave Fisher, Division Chief; David Quinones, Division Chief; Mary Beth Klee, Division Chief; Tracie Keesee, Division Chief; Gregory LaBerge, Crime Lab Commander; Joe Montoya, Captain; Jon Priest, Lieutenant, Homicide; John Coppedge, Lieutenant; Detective M. Garcia, Homicide; Detective A. Lopez, Homicide; John Burbach, Commander, Civil Liability Bureau; Chuck Lepley, First Assistant District Attorney; Lamar Sims, Chief Deputy District Attorney; Doug Jackson, Chief Deputy District Attorney; Henry R. Reeve, General Counsel, Deputy District Attorney; Justice William Erickson, Chair, The Erickson Commission.

Partly cloudy, dry, daylight,
 asphalt roadway, 57 degrees.
 Drawn, not to scale
 by Det. D.E. Falls # 89024,
 on 06/10/09 @ 2100 Hrs.

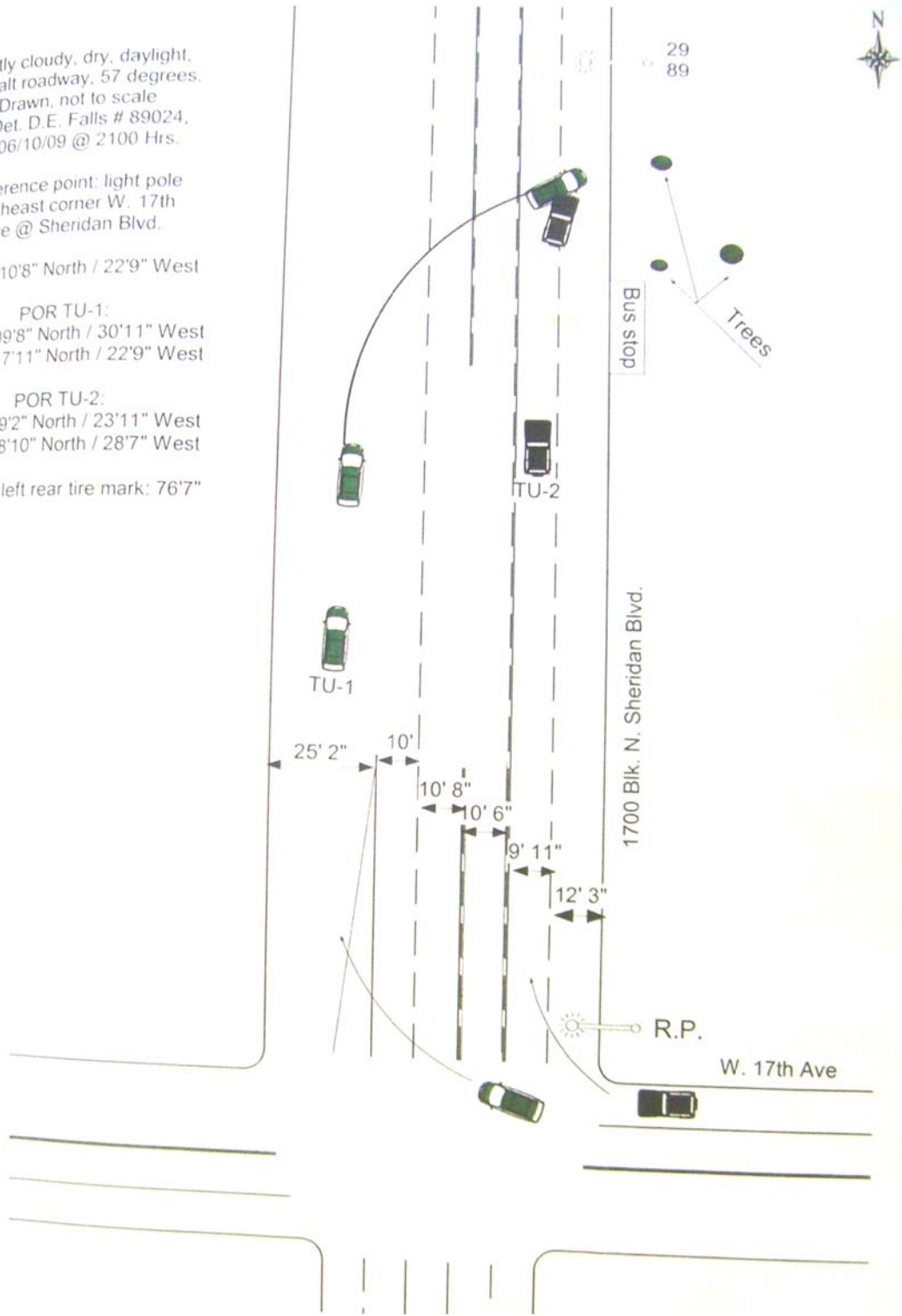
Reference point: light pole
 northeast corner W. 17th
 Ave @ Sheridan Blvd.

POI: 210'8" North / 22'9" West

POR TU-1:
 R.R. 209'8" North / 30'11" West
 L.F. 217'11" North / 22'9" West

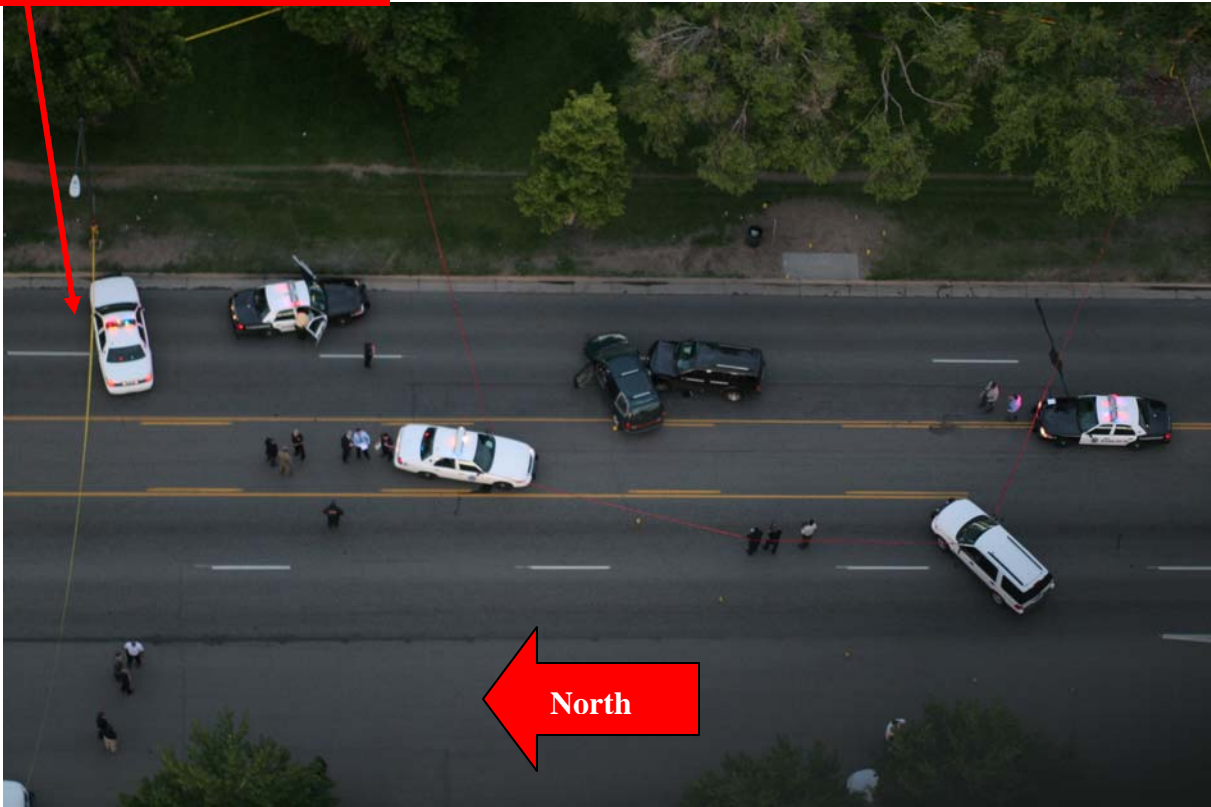
POR TU-2:
 R.R. 199'2" North / 23'11" West
 L.F. 208'10" North / 28'7" West

Length of left rear tire mark: 76'7"





Sheridan Boulevard



North











The semi-automatic pistol wielded by Velarde at the time he was shot by Agent Braley. Laser attached to trigger guard.

DENVER POLICE DEPARTMENT
 CRIME LABORATORY BUREAU
 FIREARMS UNIT
 LABORATORY REPORT

1331 CHEROKEE STREET
 DENVER, CO 80204
 CRIMELAB@DENVERGOV.ORG

GO/Case Number: 2009-340167
 Laboratory Number: 09-02404
 Submitting Officer: Det. Martin Vigil #86012 Homicide Unit

Date of Report: 06/23/2009

Offense: Police Shooting
 Suspect(s) :
 Victim(s) : Velarde, Eugene
 Location: 1700 N Sheridan Blvd

ARTICLES SUBMITTED:

Item Number	Description
300829-1	One Taufoglio Witness 45 Auto caliber semi-automatic pistol, serial #AE86563, and one empty double stack magazine.
300829-2	Seven live rounds of 45 Auto caliber ammunition removed from suspect's firearm.
300841-2	One single stack magazine containing one live round of Win 45 Auto +P JHP ammunition.
300841-3	Six fired Win 45 Auto +P cartridge cases.
300841-4	One fired copper color jacketed bullet from marker #9.
301161-1A	One fired bullet from the Office of the Medical Examiner removed from the victim at autopsy.
301161-1B	Metallic fragments in what appears to be dried tissue from the Office of the Medical Examiner removed from the victim at autopsy.
301174-1	One 45 Auto caliber Kimber semi-automatic pistol bearing serial #K118803.
301174-2	One live round of Win 45 Auto +P JHP ammunition from the chamber of Kimber 45 Auto caliber pistol of Item #301174-1.
301174-3	One single stack magazine with eight live rounds of Win 45 Auto +P JHP ammunition removed from the Kimber 45 auto s/a pistol Item #301174-1.
301174-4	One single stack magazine loaded with eight live rounds of Win 45 Auto +P JHP ammunition from ammo pouch.
301174-5	One single stack magazine loaded with eight live rounds of Win 45 Auto +P JHP ammunition from ammo pouch.

ANALYSIS AND RESULTS:

Mechanical function checks on Item #300829-1 disclosed that it is a functional firearm capable of producing serious injury or death, a deadly weapon as defined by Colorado Statutes. This firearm was test-fired for bullet and cartridge case recovery with ammunition selected from laboratory stock and it did function as designed. The test-fired ammunition and bore swab will be returned in a Test-fire packet as Item #302710-1 with the evidence submitted in this case.

The Kimber 45 Auto caliber semi-automatic pistol of Item #301174-1 was received loaded and was unloaded by this examiner. This firearm was loaded with one live round of Win 45 Auto +P JHP ammunition (Item #301174-2) in the chamber plus eight live rounds of Win 45 Auto +P JHP ammunition in a single stack magazine (Item #301174-3).

Mechanical function checks on Item #301174-1 disclosed that it is a functional firearm capable of producing serious injury or death, a deadly weapon as defined by Colorado Statutes. This firearm was test-fired for bullet and cartridge case recovery using the magazine from Item

Disposition of Articles: Property Management Bureau

Technical and Administrative

Analyst:

Reviewer:



RITTER, TED
 TECHNICAL LEAD, FSII



RENO, CHARLES
 FORENSIC SCIENTIST II

*** The results relate only to the items tested. ***

DENVER POLICE DEPARTMENT
CRIME LABORATORY BUREAU
FIREARMS UNIT
LABORATORY REPORT

1331 CHEROKEE STREET
DENVER, CO 80204
CRIMELAB@DENVERGOV.ORG

GO/Case Number: 2009-340167
Laboratory Number: 09-02404
Submitting Officer: Det. Martin Vigil #86012 Homicide Unit

Date of Report: 06/23/2009

#301174-4 with 4 live rounds of ammunition selected from Item #301174-4 and it did function as designed. The test-fired ammunition and bore swab will be returned in a separate test-fire ammunition packet under Item #302709-1.

The single stack magazines from Items 300841-2, 301174-3, 301174-4 and 301174-5 all fit and function in the Kimber pistol of Item #301174-1.


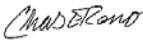
The live ammunition found in Items 300841-2, 301174-4 and 301174-5 is the same bullet type, manufacturer and caliber as the ammunition found in the Kimber pistol of Item #301174-1.

The fired bullets in Items 300841-4 and 301161-1A were microscopically identified as having been fired from the barrel of the Kimber pistol of Item #301174-1.

The fired cartridge cases in Item #300841-3 were microscopically identified as having been fired in the Kimber pistol of Item #301174-1.

The live ammunition found in Item #300829-2 was examined for inventory purposes only and no further examinations were conducted at this time.

END OF REPORT

Disposition of Articles:	Property Management Bureau	Technical and Administrative	
Analyst:		Reviewer:	
			
RITTER, TED		RENO, CHARLES	
TECHNICAL LEAD, FSII		FORENSIC SCIENTIST II	

DPD 26 (12/08)

*** The results relate only to the items tested. ***
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