



# DenverDA

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October 3, 2007

Grayson Robinson, Sheriff  
Arapahoe County Sheriff's Department  
13101 East Broncos Parkway  
Centennial, CO 80112

RE: Investigation of the shooting death of Carlos Jesus Becerra, dob 11/21/81, DPD#0530961, FBI#769408 by Arapahoe County Deputy Sheriff Louis Guida, 98062, on July 26, 2007, in the 1000 block of Federal Boulevard, Denver, Colorado.

Dear Sheriff Robinson:

The investigation and legal analysis of the shooting death of Carlos Jesus Becerra have been completed, and I conclude that, under applicable Colorado law, no criminal charges are fileable against Arapahoe County Deputy Sheriff Louis Guida. The release of this decision letter has, of necessity, been delayed in order to complete a variety of crime laboratory testing on evidence recovered during the crime scene investigation. While this testing was not necessary in order to make the determination that Deputy Guida's actions were justified, it was necessary in order to assess ancillary issues.

Carlos Becerra is deceased. Therefore, no criminal charges are necessary related to his criminal conduct in this incident. This shooting involved a law enforcement officer from your agency which is an agency outside the 2<sup>nd</sup> Judicial District. Therefore, the administrative aspect of the shooting will be addressed by your agency—the Arapahoe County Sheriff's Department. When we have been advised by you that your agency has concluded the administrative investigation and review, we will open our Officer-Involved Shooting file in this case for in-person review at our office. 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 July 26, 2007, the Denver Police Department, Arapahoe County Sheriff's Department, Wheat Ridge Police Department, and the Colorado State Patrol were involved in a multi-agency DUI Task Force action conducting traffic enforcement in Denver. Colorado State

Patrol Trooper Dennis Wilder initiated a stop of Julius Poorman in the vicinity of 6<sup>th</sup> Avenue and Federal Boulevard. Poorman continued down Federal Boulevard until he pulled into the parking lot of the 7-Eleven store at 10<sup>th</sup> Avenue and Federal Boulevard. He was driving his white, 1997, four-door Suzuki Side-Kick. When he parked in a space to the left of the front door, Trooper Wilder positioned his marked CSP vehicle behind him. In addition to determining whether he was driving under the influence, a record check revealed that he had a warrant for his arrest.<sup>1</sup>



Pursuant to the DUI Task Force policy, Denver Police Officer Ryan Kobernick, 01-54, was called to the scene to conduct the arrest on the outstanding arrest warrant. Officer Kobernick did so and then went to have the passenger, Carlos Jesus Becerra, exit the front passenger door. Becerra came out while reaching down quickly to the right behind the passenger seat and grabbing a Smith & Wesson chrome .357 revolver with his right hand. Officer Kobernick grasped Becerra by the right arm and was quickly joined by Arapahoe County Deputy Sheriff Louis Guida and Lieutenant Steve Curti. Colorado State Trooper Dennis Wilder also ran quickly to the location of the confrontation. Becerra was firing shots as the officers attempted to wrestle him to the ground and control the firearm. Becerra fired three shots during the incident, but pulled the trigger multiple times attempting to fire more shots—the weapon contained only 3-live rounds because the other 3 chambers of the 6-shot revolver were empty. As he ran toward the melee, Trooper Wilder was struck by one of Becerra's shots.

Lieutenant Steve Curti was shot in the lower arm/wrist area during the struggle to control the gun-wielding Becerra. As the shots were being fired by Becerra, Officer Kobernick was struck in the face by the firearm causing injury to his face and breaking his nose. He was bleeding profusely. During the struggle Becerra was bending his right arm at the elbow in an effort to aim the barrel back at Lieutenant Curti who was on top of him attempting to control the .357 revolver. Police and citizen witnesses perceived Becerra was attempting to kill the officers by his actions. As Officer Kobernick and Lieutenant Curti grappled with him, Becerra was still pulling the trigger of the firearm. With Officer Kobernick and Lieutenant Curti still in direct contact with Becerra, Deputy Guida fired four shots from close range, two of which struck Becerra in the head—killing him and ending the deadly threat.

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<sup>1</sup> Julius Poorman has an extensive criminal record including multiple felony and misdemeanor arrests. He has multiple felony possession of controlled substance arrests, as well as arrests for felony assault and menacing, domestic violence and harassment, and DUI. He has served sentences in the Department of Corrections and has violated parole in the past. Carlos Jesus Becerra also has an extensive criminal history as described later in this letter.

## STATEMENT OF INVESTIGATION

The attached document entitled *Officer-Involved Shooting Protocol 2007* is incorporated by this reference.<sup>2</sup> 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 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 two officers who were shot were unable to provide statements at that time because of their wounds, surgery, hospitalization, and medications associated with the medical treatment. They responded to Denver Police headquarters on July 31, 2007, and gave voluntary statements to investigators. The crime scene was thoroughly processed by the Denver Police Department Crime Laboratory and all evidence was collected.<sup>3</sup> The suspect vehicle was secured and later searched pursuant to a search warrant. 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, DNA, fiber, and other items.

We received full cooperation throughout the investigation from all citizen witnesses; all officers; the Arapahoe County Sheriff's Department; Wheat Ridge Police Department; the Colorado State Patrol; and the Colorado Department of Public Safety.

## STATEMENT OF FACTS

First we will briefly describe the events that led to the contact with Carlos Jesus Becerra. Then we will focus on the contact with Becerra that resulted in his death.

On July 26, 2007, the Denver Police Department, Arapahoe County Sheriff's Department, Wheat Ridge Police Department, and the Colorado State Patrol were involved in a multi-agency DUI Task Force action conducting traffic enforcement in the area. Lieutenant Steve Curti and Deputy Sheriff Louis Guida of the Arapahoe County Sheriff's Department had stopped at the 7-Eleven in the 1000 block of Federal Boulevard. While at that location they observed members of the D.U.I. Task Force follow a white, 1997, four-door Suzuki Side-Kick into the parking lot.<sup>4</sup> The vehicle was driven by Julius Poorman (dob-3/15/77). Poorman was being stopped for investigation of driving under the influence. Colorado State Patrol Trooper Dennis Wilder had his over-head lights activated as he followed Poorman into the parking lot. He parked his police car directly behind Poorman who had pulled into a parking spot to the left of the entrance door to the 7-Eleven. In addition to determining whether Poorman was driving under the influence, a criminal record check was done. Lieutenant Curti and Deputy Guida moved from where they were standing on the south side of the store by their police car to the area of Poorman's vehicle to provide back-up cover for the officers.

After standard testing procedures were conducted on Poorman by Trooper Wilder, it was determined he would not be arrested for driving under the influence. However, the criminal

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2 See Attachment.

3 See Attachments.

4 See attached photo of the location. This photo shows the location of the pertinent vehicles and witnesses to this incident.

record check revealed an active outstanding arrest warrant. Pursuant to the D.U.I. Task Force procedures, Denver Police Officer Ryan Kobernick was called to the scene to place Poorman in custody for the outstanding arrest warrant. While waiting for Officer Kobernick to arrive, Poorman called his father on his cell phone to come to pick up his vehicle. After arresting Poorman and placing him in the backseat of his police car, Officer Kobernick returned to Poorman's vehicle to have the passenger, Carlos Jesus Becerra, exit. Officer Kobernick intended to advise Becerra he would have to find another means of transportation because of the arrest of Poorman.

The description of the events that led to Becerra assaulting the officers and Officer Guida in turn killing him will be presented through the following officer and citizen witness accounts of the incident.

Deputy Guida has worked for the Arapahoe County Sheriff's Department for approximately nine years. He has served as a patrol deputy in District 5. In addition to his general duties, he is a Field Training Officer, a Firearms Trainer, and teaches Officer Safety courses at the Training Academy. At the time of this incident, he was in full uniform in a fully marked Sheriff Department vehicle. He was on special assignment to the multi-agency D.U.I. Task Force conducting enforcement in Denver.

The following is a paraphrasing of the pertinent portions of Deputy Guida's video-taped statement given to investigators at Denver Police headquarters after the shooting.<sup>5</sup>

Deputy Guida stated he saw the Colorado State Patrol Trooper (Dennis Wilder) enter the parking lot from south to north ... his emergency overheads were activated ... there was a white Suzuki in front of him ... he (Deputy Guida) and Lieutenant Curti followed the cars on foot as they came to a stop ... they took a position to the back right to cover the officers ... he (Deputy Guida) was behind the Suzuki ... the Trooper was by the driver's door making contact with the driver ... the passenger was looking all around ... 360 degrees ... suspicious ... he was thinking why is this guy so nervous ... looking over left and right shoulder ... making eye contact with him (Deputy Guida) ... looking at the Denver officer ... really looking all around ... he saw him with his hand way down low ... made movement toward the back of the vehicle to reach for something ... he (Deputy Guida) looked, but didn't see anything ... he asked him if there were any weapons in the vehicle ... the suspect said very quickly "no" ... he wrote the time of the contact on the palm of his right hand—"22:14"<sup>6</sup> ... he approached and asked the passenger for his name ... he then dropped back to his cover position ... the Trooper got the driver out and ran roadside tests ... heel/toe ... one-leg stand ... the Trooper then told him "I'm not going to arrest you ... I don't believe you are intoxicated." ... the Trooper cleared driver ... he had a \$950 arrest warrant on a domestic incident ... he then gave the information he obtained from the passenger

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<sup>5</sup> This paraphrasing of the statement is from typed notes taken while viewing the statement.

<sup>6</sup> The Denver Police Department dispatch record shows the "shots fired" call was received at 22:31 hours. If Deputy Guida's time is set the same as the Denver Police dispatch time, the total time from Deputy Guida going to assist with this stop until the call that shots had been fired was 17 minutes.

to the Trooper ... the date of birth came back as being incorrect to the name given ... he (Deputy Guida) approached passenger again ... he noticed his right hand was down low ... too low to feel safe ... he told him to put his hands on the dashboard so he could see them ... he began speaking to him ... he told him he lied to him about his date of birth ... the suspect replied, "yes—my license is under suspension" ... he (Deputy Guida) replied that "You aren't even driving the car ... I can't site you anyway ... in the future don't lie when asked for this information." ... he said this was said in a conversational tone.

Deputy Guida said while waiting for a Denver Officer to come for the driver who had an arrest warrant ... he saw the passenger reaching back of the front seat ... he told him to put his hands back on dashboard ... he asked to check a couple of t-shirts in the vehicle ... there was nothing in them ... the Denver Officer arrived and placed the driver in custody on the warrant by the drivers side of car ... there were no problems ... we were going to get the passenger out to send him on his way ... he was going to move to the passenger door, but then decided the Denver Officer should do these functions.

The Denver officer came by and said "okay lets get this guy out." The Denver officer attempted to open the door ... he thinks it was the officer ... as soon as the door started to open ... he heard a metal-on-metal sound ... the door flew open ... the suspect ran directly at the Denver officer ... he saw a large chrome revolver ... thought it was a .357 ... he doesn't recall which hand ... the gun was up high ... he ran out of the car ... ran right at the Denver officer ... ran right into the officer ... (demonstrates on video about head high pointed in a southwest direction with his body facing south) ... he heard shots ... this occurred as he (Deputy Guida) and the Trooper (Wilder) immediately went to join in the vertical struggle ... he lost his watch and has a scratch on his arm in that area ... at some point in time he heard another shot ... he thinks it was the suspect shooting ... as he joined the struggle he was "blown off this pile by someone who came from my back side (this was Lieutenant Curti attempting to tackle the suspect and control his firearm) ... he then looked over to his right and saw the suspect on his back with his head facing toward the 7-Eleven ... he saw the suspect ... he cannot remember which hand the gun was in ... (he demonstrates on the video—shows his arm was in a circular position bent at the elbow over his head trying to point the gun at an officer who was on top of him ... used a huge sweeping motion to get gun aimed at the head of the officer)... he saw a "chunk" of the suspects chest ... he had on a white/orange/yellowish shirt ... he could see the upper center mass area of his chest ... he drew his gun and fired at that center mass area from waist high in perpendicular direction ... the shot did not seem to have any impact on the suspect or his continuing to struggle with the officers ... the suspect continued to try to get his gun into a position to shoot the officer in the head ... (he shows in the photo that all this was occurring at the location where the suspect was ultimately shot) ... he said it was a "dog pile so to speak" ... he was to the left of the dog pile ...the suspect continued to try to shoot the officer ... he stepped up on the sidewalk to the head end of the suspect ... he fired two

shots from fairly close range into his head as he was moving his gun downward ... at that time the officers were still in contact with the suspect trying to control the firearm ... he said someone aired shots fired ... he looked to his left and saw Lieutenant Curti holding his arm ... he saw a Trooper to the south with his boot off ... he saw the suspect's gun over to the left ... he started to touch it but did not want to do so ... instead he kicked it further away from the suspect... (he shows on photo—says he kicked it to where it is shown in the photo)<sup>7</sup> ... he handcuffed the suspect in front of his body and went to assist Lieutenant Curti by putting pressure on his left-arm wound.

In answer to follow-up questions by investigators, Deputy Guida said he told one of the officers to have whoever from the Denver Police Department would be in charge to come see him as he was the one who shot the suspect ... he stayed with Lieutenant Curti until he was placed in the ambulance and taken to the hospital for treatment of the gunshot wound.

Deputy Guida stated he thought he fired 3 shots.<sup>8</sup> He said he knew the suspect fired once while standing ... he then heard a second shot ... he does not know if the suspect fired more shots. He is not aware of any other officer firing. He said his firearm is a .45 caliber semi-automatic pistol. He was using department issue ammunition. He carries the weapon with the 13-round magazine fully loaded and has an additional round in the chamber. His weapon and his extra magazines were given to a Denver Police Department Sergeant from the Crime Laboratory.

He said he shot the suspect because he fired his weapon in the midst of a scuffle with officers ... and when taken to the ground he (Deputy Guida) looked over and saw him still armed with the gun with another officer (Lieutenant Curti) on top of him ...with his head on his chest and he (Becerra) was actively doing everything in his power to create an angle to shoot what "I feared to be downward into the officer's head who was on him ... I fired once into upper center mass ... I felt like nothing happened ... except for the fact he was still trying to create the circle angle to fire his weapon and kill an officer ... I took two steps forward and fired two shots into his head to keep him from killing an officer. I stopped firing because he was no longer a threat."

The following is a paraphrasing of the pertinent portions of Arapahoe County Sheriff Lieutenant Steve Curti's video-taped statement given to investigators at Denver Police headquarters after the shooting.<sup>9</sup> Lieutenant Curti is a 27-year veteran of the force and is currently a Patrol Division Watch Commander supervising Arapahoe County Deputy Sheriffs on the "grave-yard shift."

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7 See attached photos showing Becerra's chrome .357 revolver.

8 Deputy Guida, in fact, fired 4 shots. It is not unusual for officers and citizens to be inaccurate in this regard. We know from the firearms examination that Deputy Guida fired 4 shots and Becerra fired 3 shots.

9 This paraphrasing of the statement is from typed notes taken while viewing the statement.

Lieutenant Curti said he was riding with Deputy Louis Guida while working with the multi-jurisdictional D.U.I. Task Force. He acts as the coordinator for his department. Deputy Guida and he were by their marked vehicle in full uniform when they saw a Colorado State Patrol Trooper coming in the parking lot at the 7-Eleven. They decided to cover the Trooper on the stop. There were two subjects in the car ... the Trooper contacted the driver ... he was standing over by the curb line on the left side of the suspect's vehicle ... Deputy Guida was behind the car ... the suspect passed the roadside which took five or ten minutes ... then he was checked on the MDT ... he had a harassment warrant out of Littleton ... the Denver Police car came to take the guy ... if Task Force members have contact with someone for anything other than a DUI, a Denver officer was to be called in to handle it ... after arresting and placing the suspect in the police vehicle, the Denver officer came over to the passenger side ... he told the passenger someone was coming for the car ... the passenger was animated ... he reached around to the back area of the vehicle ... he reached around and got a t-shirt and put it on over his other shirt ... maybe angry is a better description ... the passenger caught his attention because of his body language ... that caused him (Lieutenant Curti) to walk over behind the vehicle ... "the next thing I remember I am on this guy ... I was on him trying to push his arm and hand up over his head ... I was on top of him on the ground trying to push on him ... I don't have a clear picture ... I'm trying to push his arm up over his head ... believe the gun was in his right hand ... I did not see it ... I did not so much hear the shots ... I felt the shots ... I felt the pressure from the gun ... I thought if I can bulldog him down and push on his arm to keep the gun up I'm not going to get shot ... I tried to hold his arm over and pointed away ... he was fighting and then he quit fighting ... as I stood up I could see I was shot ... I think I walked toward the right (south) area of the store."

In answer to follow-up questions by investigators, Lieutenant Curti said he stood up and grabbed his wrist ... Deputy Guida came over to help him ... the Trooper was shot and did not look good ... they were over to the right of the entry door to the 7-Eleven ... the Trooper was further to the right ... he had been kneeling down and a Denver officer came and helped move him further to the south.

Lieutenant Curti said his service pistol is a Sig Sauer, 226, 9mm semi-automatic ... he carries his weapon with 15 rounds in the magazine and one round in the chamber. He did not draw his weapon and did not fire any shots during the confrontation. He said he knew the suspect was firing shots. He said he never saw any officers firing any shots because he was in the struggle with the suspect.

He stated that the suspect was one of these guys when you looked at him you know that he is going to be trouble ... the way he looks around ... the way he acts ... his body language ... all I remember is going to the back right corner of the car ... an officer was standing there (by passenger door) ... the door is open ... this guy has his back to the officer with his hands down ... he is getting out of

the car ... then something happens ... I remember being on the ground ... I do not remember seeing the weapon ... cannot recall when he (Lieutenant Curti) heard the shots ... he thinks 3 or 4 shots ... not certain when they started ... he actually physically remembers feeling 2 or 3 rounds ... the pressure ... the shock wave that comes out of the weapon ... he believes the weapon was in suspect's right hand ... he was trying to move the suspect's arm up over his head to keep the weapon away ... he thought if he kept the suspect's arm up in the air he wouldn't be able to shoot him ... he felt a shot ... they were struggling ... then the suspect went limp ... other than feeling rounds go off he doesn't remember hearing them.

The following is a paraphrasing of the observations by two citizen witnesses to the incident—Edward Jones and Enrique Hernandez-Pineda.

Edward Jones was parked two vacant spaces from Poorman's vehicle in front of the 7-Eleven.<sup>10</sup> He had an unobstructed view of the incident. In his videotaped statement to investigators he stated in following:

He works at Robinson Dairy ...he got off work and was taking his daughter and two of her friends to the 7-Eleven ... the officers were talking to the driver of the car next to him who was handcuffed at the back of the car ... he was watching the passenger ... the officers were watching the passenger also ... an officer walked up to passenger to get him out ...opened the door ... the passenger reached back to the right and behind the front seat real quick ...you could see he had a gun ... he came out ... officer grabbed his right arm to hold him from shooting it ... you could see the gun ...they were on their feet when they were first in contact ... they spun in a little circle ...he (Becerra) kind of got away from the one officer (Officer Kobernick) and the other officer (Lieutenant Curti) got him and pulled him down on the ground by the curb ... he (Lieutenant Curti) put his arms all the way around the guy and took him to the ground ... the guy was reaching up shooting like this (on the video he shows right arm up in the air bowed at the elbow in effort to point the gun back down at the officer) ... he was shooting the officer in the back ... I'm thinking the vest is doing its job ... he was reaching over the officer and shooting him in the back ... it was quite amazing really ... where they ended up by the curb is where the shots were going into the officers back ...it all went kind of quick.

In response to follow-up questions by investigators, Mr. Jones stated he thought the passenger seemed nervous because of the way he was taking drinks out of the water bottle and looking around a lot. When the officer approached the vehicle he said, "Police—step out of the car." When he came out he reached back down behind the right side of the seat and grabbed a chrome revolver. One officer was holding his right arm and hand area. The officer was on it quick ... they struggled ... the guy fired once or twice during the struggle. He got his one leg out of the car as he reached for the gun ... the officer had no time to do anything but grab his arm ... they get him down ... he is on his back and the

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<sup>10</sup> See attached photo of scene.

officer is trying to hold onto him ... he is shooting ... turning his arm to aim the gun back down at the officers ... I'm thinking I hope his vest protects him ... he was trying to kill them ... no doubt in my mind ... he is shooting into the officer ... I see the bullets hitting his vest ... I was afraid for the officers and for me ... 3 or 4 shots fired into the officers. The officer in the brown pants (Trooper Dennis Wilder) got shot in the leg and was in pain against the wall of the store. The officer who got him first (Denver Officer Ryan Kobernick) was bleeding from the face like he got a head butt. The guy wasn't going down easily.

When asked if he knew why the struggle stopped, Mr. Jones said he didn't know for sure. He thought it might have been from his (Becerra) own bullet or something ... could have been the curb ... so much so fast ... he doesn't know how the guy got shot ... did not see an officer fire a gun ... I didn't see that ... didn't know if the officers fired ... don't know if they did. He thinks he heard 8 total shots ... he thinks the guy fired 8 shots ... definitely 3 to 4 initially ... it was fast ... these guys were trying to do what they could.

Mr. Jones said when he saw the gun pulled by the guy he knew the officers were fighting for their lives ... I think the guy was planning this before he came out of the car ... it was clear that the officers wanted him to drop his gun ... it was clear they were going to get assaulted by the gun ... He believed the officers were afraid for their lives.

Enrique Hernandez-Pineda was parked to the right of Edward Jones' vehicle in front of the 7-Eleven.<sup>11</sup> He is Spanish speaking only. He gave a videotaped statement to investigators in Spanish. The following is the pertinent portion of his written statement—written in English by a bilingual investigator. He stated in following:

“The officer then opened the door and asked the passenger to step out of the vehicle. As soon as the door was opened by the officer the passenger pointed a gun at the officer's direction and began shooting. He (suspect) seemed to reach toward the rear where the officer was standing and shot once. Before the suspect could shoot another round officers at the scene (I recall three police vehicles) grabbed the suspect and tried to keep him from shooting again. Officers took the suspect to the ground and suspect continued to struggle trying to point the gun at the officers and shot two other shots hitting two of the officers. Another officer came over and tried to assist the other two officers struggling with the suspect who was still trying to point the gun and shoot the officers again, when the suspect was shot by the third officer. I believe the suspect was shot twice. The suspect was shooting with his right hand with a silver and gray gun.”

The following is a paraphrasing of the videotaped statement taken by investigators from Julius Poorman.

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<sup>11</sup> See attached photo of scene.

Prior to starting the interview he indicated he had consumed some alcohol and smoked some marijuana the night before but was now okay to make the statement. In pertinent part he stated Carlos Becerra came over about 9:30 p.m. ... he wanted him (Poorman) to take him over to a friend's house ... he has known Carlos for about 4 months but does not know his last name ... he met him at the parole office ... he said Carlos showed up with a bottle of vodka ... Carlos had a few shots at the house ... then they called his friend to let him know they were coming ... Carlos sat in the back and his (Poorman) girlfriend was in the front ... he dropped her off at her house ... he went in and got a couple of beers ... Carlos moved into the front seat ... officer got behind them as they pulled off 6<sup>th</sup> Avenue going eastbound at Federal Boulevard ... Carlos told him to "pull off" ... beer cans were in the console area ... one beer open and one not open ... Carlos told me to get away from the cop ... Carlos "wasn't freaking out or anything." ... when we were getting off the cop turned on his lights ... Carlos told him (Poorman) to pull over ... Carlos said he was cool ... he did not see Carlos reach anywhere or do anything ... he continued to drive to the 7-Eleven and park by the pay phone ... Carlos wanted him to go down the street ... but when he pulled into the 7-Eleven Carlos said "oh no!" ... Carlos wanted him to go straight ... Carlos was directing him ... he (Poorman) said "I'm already here." ... Carlos wanted him to go down the street so he (Becerra) could get out and run ... the officer came and said he pulled him over because of the cracked windshield ... the officer checked him out ... asked for his driver's license and registration ... officer asked Carlos for his name and he said "Kevin" ... he lied to the officer ... when cop went back to the cop car, the discussion they had was that he (Poorman) was going to jail because he had a warrant out ... he would need to contact his dad to get his car ... Carlos didn't say anything ... the cop came back and said he smelled alcohol on his breath ... he showed the officer the beer in the car ... the cop had him do roadside tests ... he (Trooper Wilder) told him he passed them ... told him to sit back in his (Poorman) car ...

Poorman said there was an officer by Carlos' passenger door ... they sit in the car ... an officer (Officer Kobernick) then comes and removes him (Poorman) from the car ... the cop took him from the car and handcuffed him ...he said he was treated fine by the police ... then the cop put him in the backseat of one of the cruisers ... there was a car between the police car and his car ... he could not see them ... he thought they would probably just let Carlos go ... he heard what sounded like one or two backfires ... there was a cop car in front of him ... he saw someone get taken out of a car (Edward Jones) ... then cops come from everywhere ... he heard on the police radio that shots had been fired.

In answer to investigator questions, Poorman said he did not know that Carlos had a gun ...he maintained he didn't know he had a gun ... he said he had never seen him with a gun ... he said he had no idea how Carlos got in his car with a gun and he doesn't know it ... he claimed he had no idea ... he sticks with this claim ... [he just continues to repeatedly deny having any knowledge of the gun in response to every question asked by the investigator concerning that issue]

... after continued questioning he admitted that about 8:30 or 9:00 p.m., he and Carlos smoked some “meth” ... Carlos brought it to his house ... smoked it in a pipe in the back of his mom’s house<sup>12</sup> ... they smoked a “bowl” ... Carlos had pulled it out of his pocket ... [The investigator goes back to the gun-knowledge issue—asking if he is sure his fingerprints will not be on the gun. Poorman sticks with his claim he didn’t know about the gun.]

Apparently after reflecting on whether his fingerprints might be found on Becerra’s gun, he decided to tell the truth ... “I just wanted to drop him off and go home dude” ... “I just wanted to drop him off” ... “I don’t want to get in trouble over this” ... “I don’t want nothing to do with this” ... “I don’t want to catch no case over this” ... “I first saw him with the gun days ago ... he said look what I got ... it was at Harvey Park ... look what I got ... he had it in a bag ... a revolver ... black and silver ... top was silver ... the handle was black ... saw him with it on Monday or Tuesday ... I did touch it ... he gave it to me and I gave it back ... I did not shoot it ... I held the handle ... held it just real quick and gave it back to him ... I swear to God I did not see it in the car ... I saw it earlier in the day at my house ... he had it in his pocket ... he didn’t pull it out ... he had it in his pocket ... it was in his right pocket ... saw the butt of it ... I didn’t say anything ... I didn’t know he was going to do anything [he is now crying] ... he maintained, “I didn’t know he was going to do what he was going to do.” He stated he (Poorman) did about 4 or 5 years in prison for a felony menacing with a knife.

The following is a paraphrasing of the pertinent portions of Denver Police Officer Ryan Kobernick’s video-taped statement given to investigators at Denver Police headquarters after the shooting. Officer Ryan Kobernick is a Patrolman assigned to the Traffic Operations Bureau. He was dressed in full Denver Police uniform and driving a Denver Police Department marked vehicle.

Officer Kobernick stated that he responded to the 7-Eleven store because a Colorado State Trooper had a car stopped and the driver had a warrant out of Littleton ... the Trooper requested a Denver officer to respond ... he responded ... he talked to the State Trooper who said the driver was wanted ... driver was on cell phone to his father to pick up the car ... the suspect hung up the cell phone ... the suspect came out of the car and he handcuffed him ... he searched him ... there was nothing on him ... he put him in his police car ... he went to the State Trooper and asked about the passenger ... he had no warrants, but his license was revoked ... therefore he could not drive ... he was not subject to arrest ... he determined he could not drive the vehicle ... he was going to have him step out to be patted down and then let him walk from the scene ... he walked up to the passenger side and spoke through the window to the passenger ... told him to come on out ... passenger opened the door ... reached down in between the seat with his right hand and came up with a silver colored semi-automatic ... as soon as he saw him (Becerra) bring the gun up he (Officer Kobernick) lunged with his right hand for his (Becerra’s) right hand ... gun was straight up in the air at first ... he fired one or two shots ... Officer

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<sup>12</sup> See attachment of “Diagram Legend” and photos of evidentiary items recovered by the Denver Police Department Crime Laboratory. Item (Marker) #19 is described as a “suspected methamphetamine pipe.” It was recovered next to Poorman’s body position.

Kobernick continued to try to keep the gun up in the air ... other officers came in ... he thinks the Trooper and two more officers came in ... he was attempting to keep the gun up in the air and wrestle it out of his hand ... he has never had this happen before ... he said he was surprised ... he thought he was going to be shot by him and other people were going to be shot ... he felt fear ... anger ... he knew he needed to get the gun out of his hand ... he (Becerra) fired once or twice and then they were on him ... the State Trooper was in the Colorado State Patrol standard uniform ... he did not know where the third officer was from ... all of the officers were in uniforms ...

The suspect never said a word to him ... he (Becerra) was able to bring the gun down and fire one or two more times ... the officers were able to spin him around and throw him into the side of the car ... he (Officer Kobernick) still had a hold on his right wrist ... his main concern was to get the gun out of his hand ... they pushed him into the car ... he was still able to hold the gun ... they pulled him away from the vehicle ... he thinks he (Becerra) shot another round ... Officer Kobernick said that some how he ends up lying on the ground ... they fall to the ground ... he still has a hold of him ... when he hits the ground ... at some point he hears one or two more shots ... he then sees he (Becerra) has been shot in the head ...

Officer Kobernick said he then walked to the right of front doors to 7-Eleven ... then out into the parking lot back by his car ... he radioed and then saw blood on his face ... he didn't know if he had been shot ... he was bleeding from the nose ... he looked over and there was an Arapahoe County Deputy Sheriff (Lieutenant Curti) holding his wrist ... he figure he had been shot ... he told dispatch that there was another officer who had been shot ... he sat on the bumper of his police car ... officers came and started checking him for wounds ... he didn't know if had been shot ... he didn't think so, but he felt a sharp pain in his hip area ... the officers checked and told him to lie down on the ground ... then the ambulance came and took him to the hospital. He described his injuries as a broken nose ... lump on the back of his head ... his knees were scraped up ... a scrape across the bridge of his nose.

In answer to follow-up questions by investigator Officer Kobernick said he yelled, as soon as he saw the gun, "I yelled gun." He (Becerra) never said a word. He didn't remember what anyone else said ... he guessed he (Becerra) shot 5 or 6 times. Officer Kobernick stated that he never drew his weapon. He said the reason was that when he saw him bring the gun up ... he just saw the gun ... he didn't think he had time to get his gun drawn ... he just went for the suspect's gun to prevent him (Officer Kobernick) from getting shot or anyone else ... he said there were people in the store ... people pumping gas ... at least 3 or 4 officers around ... he was concerned for their safety. Officer Kobernick said that from the time he asked him (Becerra) to open the door until he was on the ground was about 10 or 15 seconds. He said all he was using during the struggle was his hands. He concluded by saying that he was just thankful that no officers were killed and stated the other guys (officers) did a great job.

The statements of Colorado State Patrol Trooper Dennis Wilder, Wheat Ridge Police Officers Barry Malloy and Keith Priest, and other citizen witnesses are consistent in pertinent part with the above account of the incident. As is generally the case, there are expected to be differences among the witnesses in their perception of what they saw and heard. The witnesses made their observations from different vantage points and with varying levels of attentiveness.

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 Deputy Sheriff Louis Guida's statement.

Dr. Coby Frank pronounced Becerra dead on July 27, 2007, at 1:43 a.m. On July 27, 2007, at 9:45 a.m. an autopsy was performed on the body of Carlos Jesus Becerra by Dr. Amy Martin. Dr. Martin's Autopsy Report states "death is due to complications of gunshot wounds (two) to the head. The manner of death is homicide." Becerra suffered two gunshot wounds to the head. Wound number one was a "perforating gunshot wound, top of the head, with apparent reentry back into the exit wound." Wound number two was a "penetrating gunshot wound, back of head, with a small retained fragment consistent with partial exit wound." A "deformed, large caliber lead slug, flattened on one side, was recovered in relation to wound number one, and "two fragments of a large-caliber slug, the deformed jacket and a markedly deformed slug, were recovered in relation to wound number two by Dr. Martin for testing by the Denver Police Department Crime Laboratory. The Toxicology section of the Autopsy Report indicates that Becerra tested positive for Ethanol, Benzoylcegonine, Delta-9 THC, Delta-9 carboxy THC, Methamphetamine, and Amphetamine.<sup>13</sup> Detective Brian Cotter recovered a "crack or methamphetamine pipe" in Becerra's right front pants pocket at the scene.<sup>14</sup>

Becerra's firearm was recovered by members of the Denver Police Department Crime Laboratory who processed the scene. The firearm is a Smith and Wesson, model 586, 6-shot, chrome .357 magnum revolver. When the weapon was unloaded, cylinder positions 1, 2, and 6 contained fired empty cartridge cases and cylinder positions 3, 4, and 5 were empty—no live rounds or fired empty cartridge cases. The cylinder has a counter-clockwise rotation. Cylinder position 1 is under the hammer with position 2 to its right and position 6 to its left. Unless the cylinder was manipulated in a manner other than by pulling the trigger, the cylinder position of the three fired empty cartridge cases (1, 2, and 6) vis a vis the empty cylinder positions (3, 4, and 5) supports the conclusion that Becerra pulled the trigger a minimum of six times and an unlimited maximum number of trigger pulls. This is consistent with officer statements that Becerra continued to pull the trigger during the struggle. Additionally, four live .357 bullets were recovered "on the passenger side floor board and under the passenger seat" during the search of Poorman's vehicle pursuant to a search warrant.<sup>15</sup>

The three (3) fired empty cartridge cases were recovered in and were matched to Becerra's firearm. The fired bullet recovered from Trooper Dennis Wilder's boot, which traveled through his foot before lodging in the sole, was examined by DPD Crime Laboratory Firearm Examiner Ted Ritter who identified the bullet as having been fired from Becerra's .357 magnum revolver.

At the time of shooting, Deputy Guida was armed with his service weapon—a .45 caliber Glock, model 21, semi-automatic pistol. Sergeant Kevin Frazer, Denver Police Department

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<sup>13</sup> This is consistent with the statement of Julius Poorman concerning Becerra's use of alcohol and controlled substances.

<sup>14</sup> Also, see attachment of "Diagram Legend" and photos of evidentiary items recovered by the Denver Police Department Crime Laboratory. Item (Marker) #19 is described as a "suspected methamphetamine pipe." It was recovered next to Becerra's body position.

<sup>15</sup> This is the general area into which Becerra reached to get the .357 revolver as he was coming out of the vehicle—according to witness statements.

Crime Laboratory, indicated on the “firearms unloading work sheet” that his firearm had one live round in the chamber and nine (9) live rounds in the magazine. The magazine has a capacity of thirteen (13) rounds. He was carrying the weapon with thirteen (13) rounds in magazine and one (1) round in the chamber. This indicates Deputy Guida **fired four rounds** during the confrontation. The four (4) fired cartridges recovered at the scene were matched to his service pistol. Two of his shots struck Becerra in the head. Mr. Ted Ritter examined the fired bullet and bullet jacket fragments recovered at autopsy by Dr. Amy Martin. He determined they were “microscopically identified as having been fired” from Deputy Guida’s service pistol.

Crime Laboratory testing confirmed that Becerra fired three (3) shots—one caused the wound to Trooper Wilder’s foot. It cannot be determined conclusively if either of the other two (2) shots he fired caused the through-and-through wound to Lieutenant Curti. Crime Laboratory testing confirmed that Deputy Guida fired four (4) shots—two (2) caused the wounds to Becerra’s head. Testing determined that one (1) of the other two (2) shots fired by Deputy Guida **did not** cause the wound to Lieutenant Curti. The spent bullet was recovered at the scene by marker “13.”<sup>16</sup> Mr. Ted Ritter examined the bullet and determined it was “consistent in class rifling characteristics” with Deputy Guida’s .45-caliber pistol and that it could not have been fired from Becerra’s .357 magnum revolver. Mool S. Verma, Forensic Anthropologist, examined a 2.5 by 2.0 cm piece of fabric that was recovered wrapped around the nose of the spent bullet. Mr. Verma identified the fabric material as consistent in microscopic characteristics with the fabric contained in the yellow/white shirt with red stripes recovered from Becerra’s body after the shooting. The small piece of fabric was soaked with human blood. A saliva swab sample was taken from Lieutenant Curti. DNA analysis determined that the blood on the fabric was **not** Lieutenant Curti’s blood.<sup>17</sup>

Sergeant Kevin Frazer, Denver Police Department Crime Laboratory, took possession of Lieutenant Steve Curti’s 9mm Sig Sauer, model P226, semi-automatic pistol. The “firearms unloading work sheet” indicates the firearm had one live round in the chamber and 15 live rounds in the magazine after the shooting. Lieutenant Curti did **not** fire his service pistol during the confrontation.

Sergeant Kevin Frazer indicated on the “firearms unloading work sheet” that Colorado State Trooper Dennis Wilder’s .40 caliber Smith and Wesson, model 4006, semi-automatic pistol had eleven (11) live rounds in the magazine and one live round in the chamber.<sup>18</sup> The magazine has a capacity of eleven (11) rounds. Trooper Wilder did **not** fire his service pistol during the confrontation.

Detective Kevin Herbert, Denver Police Department Crime Laboratory, indicated on the “firearms unloading work sheet” that Denver Police Officer Ryan Kobernick’s .45 caliber Beretta, model 8045F, semi-automatic pistol had one live round in the chamber and eight (8) live rounds in the magazine. The magazine has a capacity of eight (8) rounds. Officer Kobernick did **not** fire his service pistol during the confrontation.

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16 See attached photo of scene.

17 See attached DPD Crime Laboratory photos of the evidence.

18 Sergeant Frazer provided a written statement clarifying his inadvertent failure to indicate a live round was in the chamber of the weapon.

In 2001, Becerra was sentenced to three (3) years in the Colorado Department of Corrections on a conviction for First Degree Criminal Trespass. At the time of that offense he was on probation for other crimes. His criminal history dates back to 1995 and since that time he has had arrests for possession of burglary tools, motor vehicle theft (four times), second degree burglary (twice), contempt of court, felony assault, escape (2000 & 2004), felony theft, first degree criminal trespass (twice), disorderly conduct, false reporting, and parole violation (2006 twice).

Colorado State Patrol Trooper Dennis Wilder suffered a serious gunshot wound to his left foot. The bullet entered between the toes on a slightly downward and front-to-back path destroying bones before exiting through the bottom of his foot. The gunshot wound resulted in the loss of an inch and one half of bone; bullet fragments lodged throughout his foot; and nerve damage. Lieutenant Steve Curti suffered a serious penetrating gunshot wound to the lower left arm/wrist area. Both officers received medical intervention for their wounds, were hospitalized, and continue in their recovery from these injuries.

## 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. As the evidence establishes that Becerra was shot by Deputy Guida 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 the use 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 Deputy Guida fired the shots that caused the death of Becerra, he reasonably believed that Becerra 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 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 these requisite circumstances, or, if he did hold such belief, that belief was, in light of all available facts, unreasonable. We could not disprove any of these sections of the statute beyond a reasonable doubt as required by law.

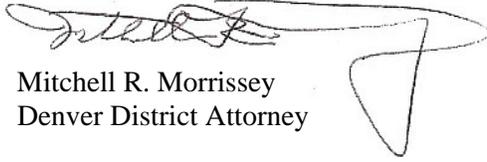
## CONCLUSION

Becerra exited the vehicle wielding a loaded .357 magnum revolver. As the officers attempted to subdue him, he fired three shots. While firing the shots he was attempting to get the firearm in position to shoot the officers who were attempting to subdue him. Lieutenant Curti and Trooper Wilder were wounded during the struggle for control of Becerra’s firearm. While Becerra was engaged in these life-threatening actions, Deputy Guida shot and killed him. It would be difficult to find a more clear-cut need to use deadly force to protect life. It is fortunate that Deputy Guida was in a position to take this action. It was reasonable for Deputy Guida to fear for his life and the lives of the other officers and citizens in the area. His deadly force response was reasonable, necessary and legally justified under the specific facts of this case.

We commend Arapahoe County Deputy Sheriff Louis Guida for his actions in eliminating the deadly threat as quickly as possible, under these rapidly evolving and extremely dangerous circumstances, thereby protecting all present from further harm at the hands of Becerra. We also commend Denver Police Officer Ryan Kobernick for his initial quick reaction in grabbing Becerra’s arm before he could shoot an officer or other citizens in the area. Additionally, we commend Colorado State Patrol Trooper Dennis Wilder for his immediate response to assist the other officers—suffering a serious gunshot wound in so doing. Finally, we commend Arapahoe County Sheriff Lieutenant Steve Curti for his selfless action in tackling Becerra, in “bear-hug” fashion, while attempting to wrestle the .357 magnum revolver from him, as Becerra was firing shots. He placed himself at great personal risk of serious injury or death and in so doing suffered a serious gunshot wound. It is reasonable to conclude if these officers had not acted so effectively in concert with one another to eliminate the deadly threat, Becerra would have caused more serious injury or death to others. We thank each of these officers for their professional response to this life-threatening encounter and for their service to our community.

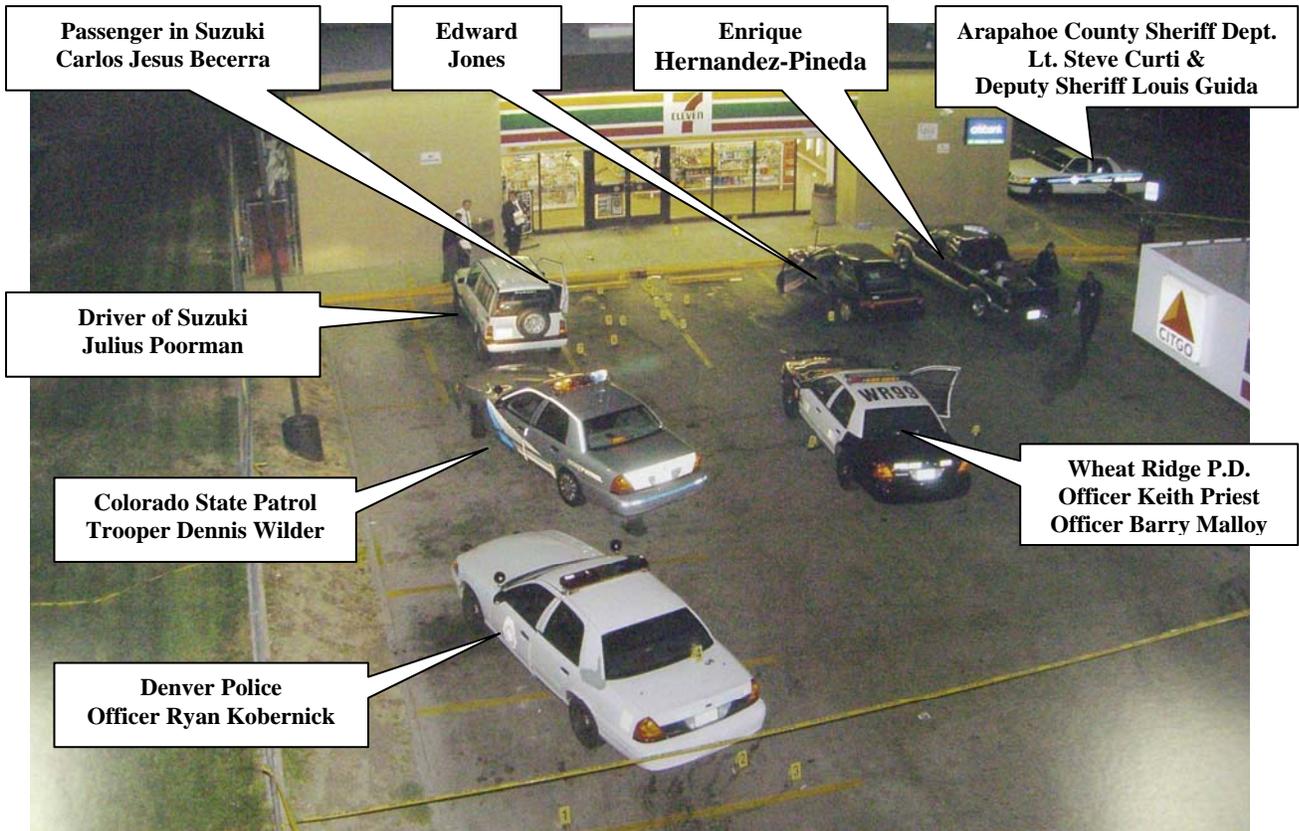
As in every case we handle, any interested party may seek judicial review of our decision under C.R.S. 16-5-209.

Very truly yours,



Mitchell R. Morrissey  
Denver District Attorney

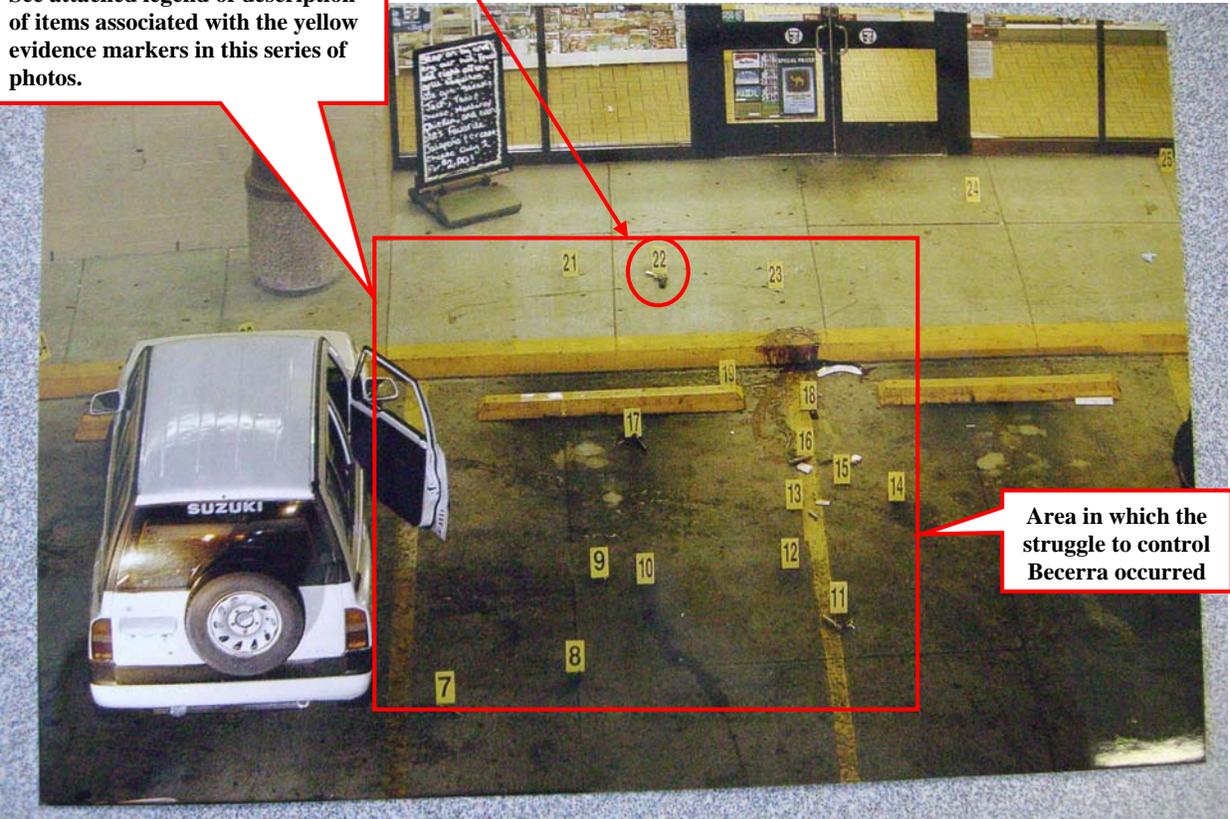
cc: Arapahoe County Deputy Sheriff Louis Guida; Mike Lowe, Attorney at Law; Arapahoe County Sheriff Lieutenant Steve Curti; Denver Police Officer Ryan Kobernick; Colorado State Trooper Dennis Wilder; Sergeant Bruce Peterson, Arapahoe County Sheriff's Department; Peter Weir, Executive Director, CDPS; Kathy Sasak, Deputy Director, CDPS; Mark Trostel, Colonel, CSP; Lt. Col. Anthony Padilla, CSP; Lt. Col. Richard Salas, CSP; Captain Mark Savage, CSP; Captain James Colley, CSP; John W. Hickenlooper, Mayor; All City Council Members; Alvin J. LaCabe, Jr., Manager of Safety; Arlene Dykstra, Acting Denver City Attorney; Marco Vasquez, Deputy Chief; Michael Battista, Deputy Chief; Dan O'Hayre, Division Chief; Dave Fisher, Division Chief; David Quinones, Division Chief; Mary Beth Klee, Division Chief; Gregory LaBerge, Crime Lab Commander; John Burbach, Captain; Jon Priest, Lieutenant, Homicide; Jim Haney, Lieutenant; Detective Joe Delmonico, Homicide; Detective Randy Stegman, Homicide; John Lamb, 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.



**Marker #22: Carlos Jesus Becerra's Smith & Wesson .357 magnum revolver**



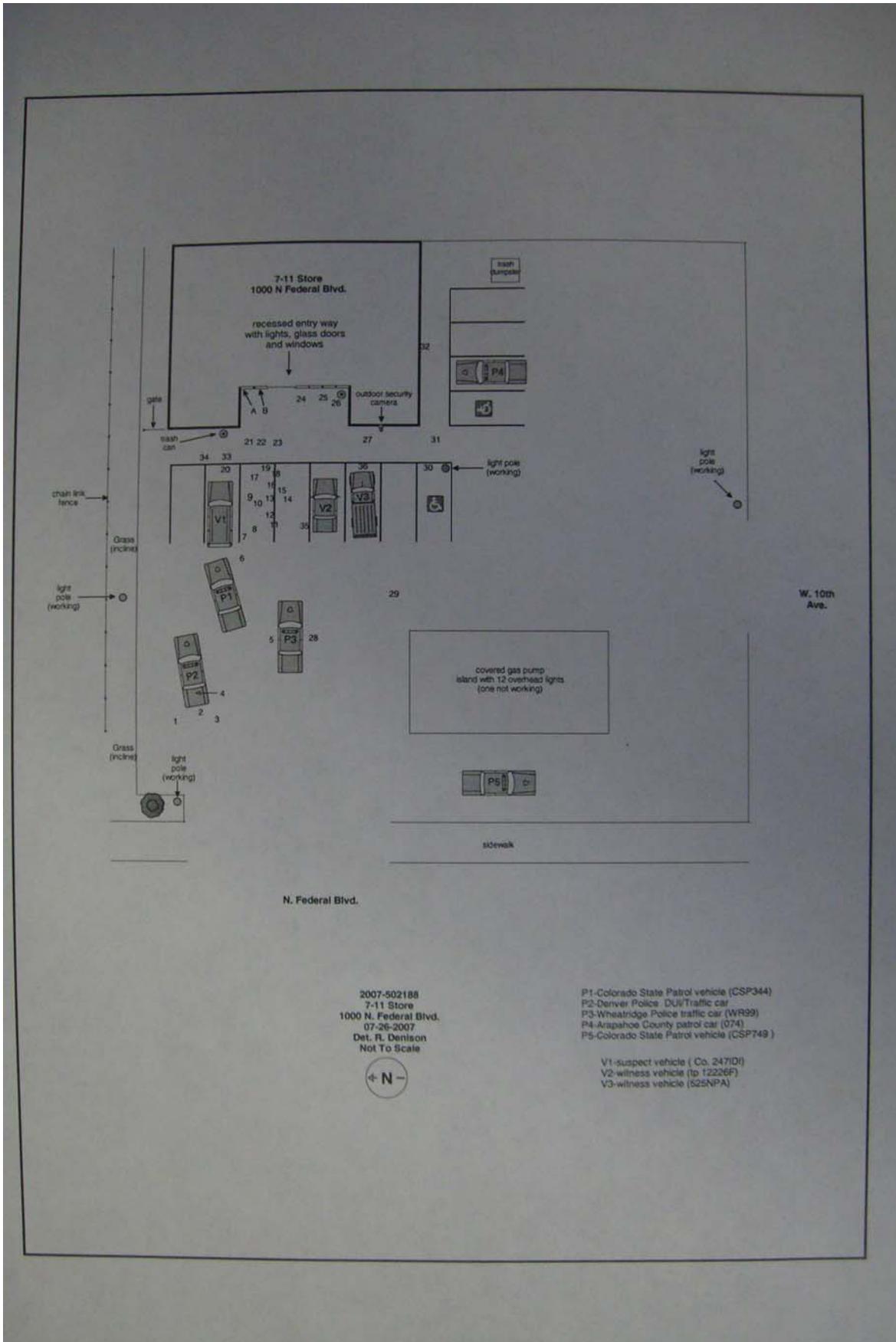
See attached legend of description of items associated with the yellow evidence markers in this series of photos.



**Area in which the struggle to control Becerra occurred**







**Diagram Legend**

<b><u>Item#</u></b>	<b><u>Description</u></b>	<b><u>Location</u></b>
1	Leather Keeper on ground at rear of Denver Police car.	58'-10" West of East and 4'-3" South of the North Parking Lot Curb.
2	Writing pens on the ground at the passenger rear of Denver Police Car	57'-8" West of East and 11'-7" South of North Parking Lot Curb.
3	Writing pens on the ground at the passenger rear of Denver Police Car	58'10" West of East and 13'-4" South of North Parking Lot Curb.
4	Leather Keepers on trunk of Denver Police car.	55'-4" West of East and 11'-6" South of North Parking Lot Curb.
5	Flash Light on ground under driver's side door	30'-4" West of East and 25'-8" South of North Parking Lot Curb.
6	Identification Card	20'-0" West of East and 12'-11" South of North Parking Lot Curb.
7	Leather Man (Knife)	14'-2" West of East and 15'-7" South of Parking Lot curb
8	Black Men's Wrist Watch	13'-5" West of East 18'-3" South of North of Parking Lot Curb.
9	Spent Casing	9'-5" West of East and 18'- 10" South of North Parking Lot Curb.
10	Spent Casing	10'-0" West of East and 19'-9" South of North Parking Lot Curb.
11	Laryngoscope	11'-7" West of East and 23'-10" South of North Parking Lot Curb.
12	Small chain	9'-1" West of East and 23'-0" South of North Parking Lot Curb.
13	Spent bullet, (w/ lighter, and pack of gums)	6'-11" West of East and 23'-4" South of North Parking Lot curb
14	Spent Casing	6'-6" West of East Parking and 25'-8" South of North Parking Lot Curb.
15	Single Car Key	5'-10" West of East and 24'-8" South of North Parking Lot Curb.
16	Laryngoscope	5'-0" West of East and 23'-10" South and North Parking Lot Curb.
17	Flash light, south of Suzuki	3'-4" West of East and 19'-9" South of North Parking Lot Curb.
18	Cell Phone	2'-6" West of East and 24'-0" South of North Parking Lot Curb.
19	Suspected methamphetamine pipe.	1'-2" West of East and 22'-3" South of North Parking Lot Curb.
20	Spyderco pocket knife on ground in front of Suzuki.	1'-2" West of East and 12'-2" South of North Parking Lot Curb.
21	Small piece of wrist watch band.	3'-11" West of East and 18'-8" South of North Parking lot Curb.

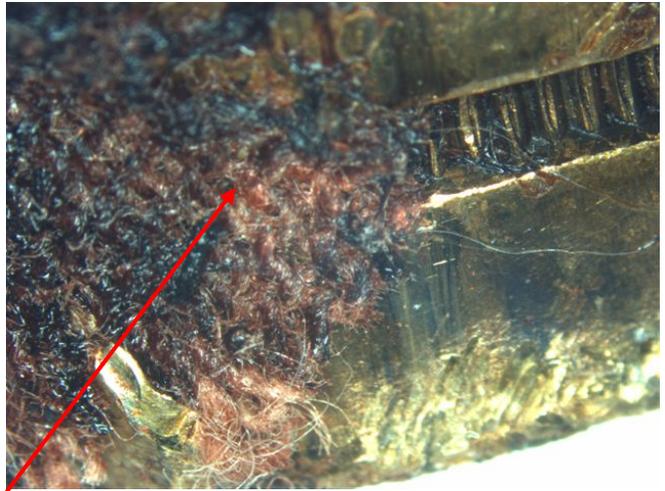
22	Smith and Wesson Model 586 Revolver, chrome colored with black handle.	3'-6" West of East and 20'-10" South of North Parking Lot Curb.
23	Broken Watch Band.	2'-11" West of East and 23'-5" South of North Parking Lot Curb.
24	Bullet Jacket	3'-6" West of East and 25'-1" South of North Parking Lot Curb.
25	Bullet Fragment	7'-10" West of East and 35'-1" South of North Parking Lot Curb.
26	Blood Stain near trash can in front of 7-11 Entrance.	7'-0" West of East and 41'-3" South of North Parking Lot Curb.
27	Blood Stain on sidewalk south of trash can.	3'-8" East of West and 48'-3" South of North Parking Lot Curb.
28	Flashlight on Passenger Side of Wheat Ridge Police Unit.	31'-8" West of East and 37'-3" South of North Parking Lot Curb.
29	Blood Stain east of gas pumps.	38'-6" East of West and 60'-1" South of North Parking Lot Curb.
30	Blood Stain on cement parking block.	1'-6" East of West and 64'-1" South of North Parking Lot Curb.
31	Blood Stain on southwest corner of sidewalk in front of 7-11.	5'-3" East of East and 63'-6" South of North Parking Lot Curb.
32	Blood Stain on south wall of 7-11.	3' up from sidewalk, 23'-9" East of East on south wall.
33	Bullet Jacket in front of Suzuki.	0'-11" East of East and 11'-5" South of North Parking Lot Curb.
34	Bullet Jacket in front of Suzuki.	1'-2" East of East and 6'-8" South of North Parking Lot Curb.
35	Wrist watch without band.	12'-3" East of West of East and 35'-11" South of North Curb.
36	Bullet Fragment Under Green Escort.	2'-11" West of East and 48'-1" South of North Parking Lot Curb.
A	Bullet Hole in Window frame of 7-11 entrance.	10'-1" East of East and 14'-5" South of North and 4'-5.5" up from sidewalk.
B	Blood and Tissue and on front window of 7-11 entrance.	10'-1" East of East and 19'-9" South of North and 1'-6.5" up from sidewalk.

**Vehicle Locations:**

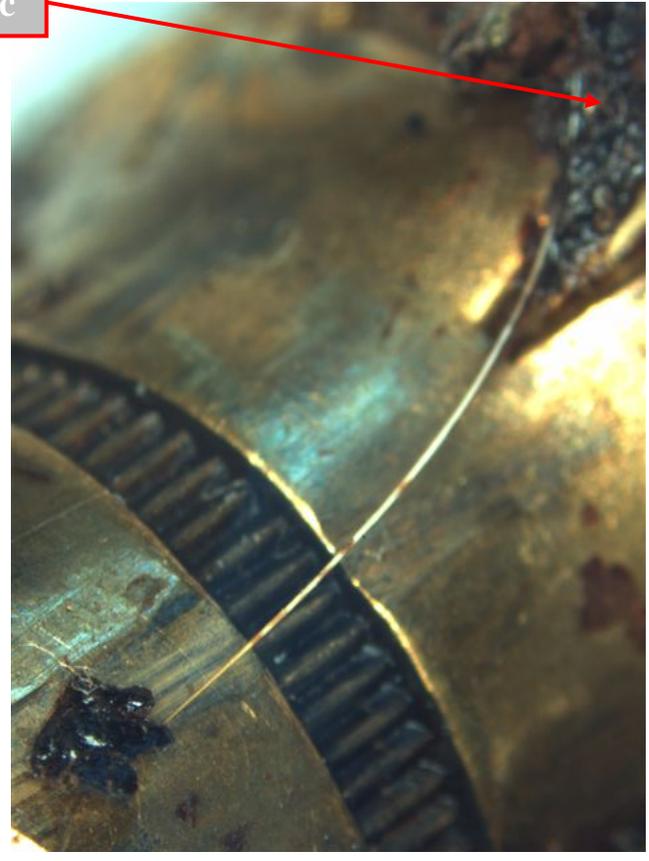
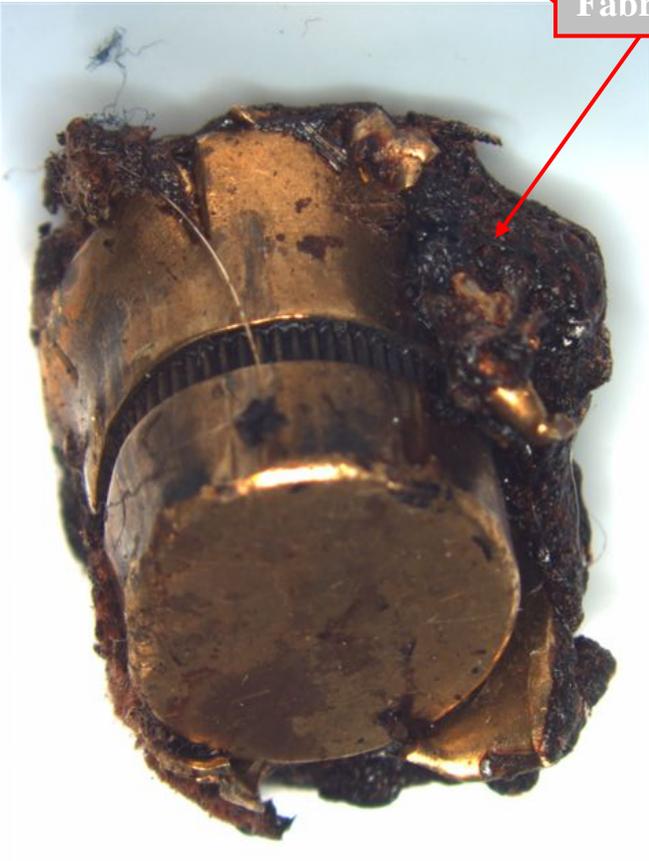
- White Suzuki with Colorado License Plate #247-IDI; Middle of front left tire 4'-10" West of curb in front of store and 11'-10" south of north parking lot curb. 13'-0" to rear bumper.
- Green Escort with Colorado Temp Plate #122226-F; Middle of front left tire 4'-1" and Middle of left rear tire 12'-6" West of curb in front of store. 34'-6" to front left tire and 35'-7" to left rear tire South of North Parking Lot Curb.

- Green Truck with Colorado License Plate #525-NPA; Middle of left front tire 3'-1" and middle of left rear tire 13'-9" West of curb in front of store. 45'-2" to front left tire and 46'-6" to left rear tire South of North Parking Lot Curb.
- Arapahoe County Sheriff's Unit with Colorado License Plate #694-DYI; Middle of right front tire 4'-5" and middle of right rear tire 14'-3" from north curb on south side of 7-11 and 39'-5" west of east parking lot curb on south side of store.
- Denver Police Unit with Colorado License Plate #542-BRR; Middle of Left front tire 44'-4" West of curb in front of store and 3'-4" South of North parking lot curb. Middle of left rear tire 54'-0" West of curb in front of store and 5'-9" South of North parking lot curb.
- Colorado State Patrol Unit with Colorado State Patrol License Plate #CSP-344 (Behind suspect vehicle); Middle of left front tire 24'-3" and middle of right rear tire 34'-0" West of curb in front of store and 6'-6" to left front tire and 9'-11" to left rear tire South of North Parking Lot Curb.
- Wheat Ridge Police Unit with Colorado License Plate #377-HRM; Middle of Right Front Tire 25'-9" and middle of right rear tire 35'-10" West of Curb in front of store and 25'-3" to front and rear tire South of North Parking Lot Curb.
- Colorado State Patrol Unit with Colorado State Patrol License Plate #CSP-749; 35'-5" east of east Federal Blvd curb line and 80'-4" north of north West 10<sup>th</sup> Avenue curb line.
- **The State Patrol Unit front bumper is 3'-6", from the rear bumper of the White Suzuki (suspect vehicle).**

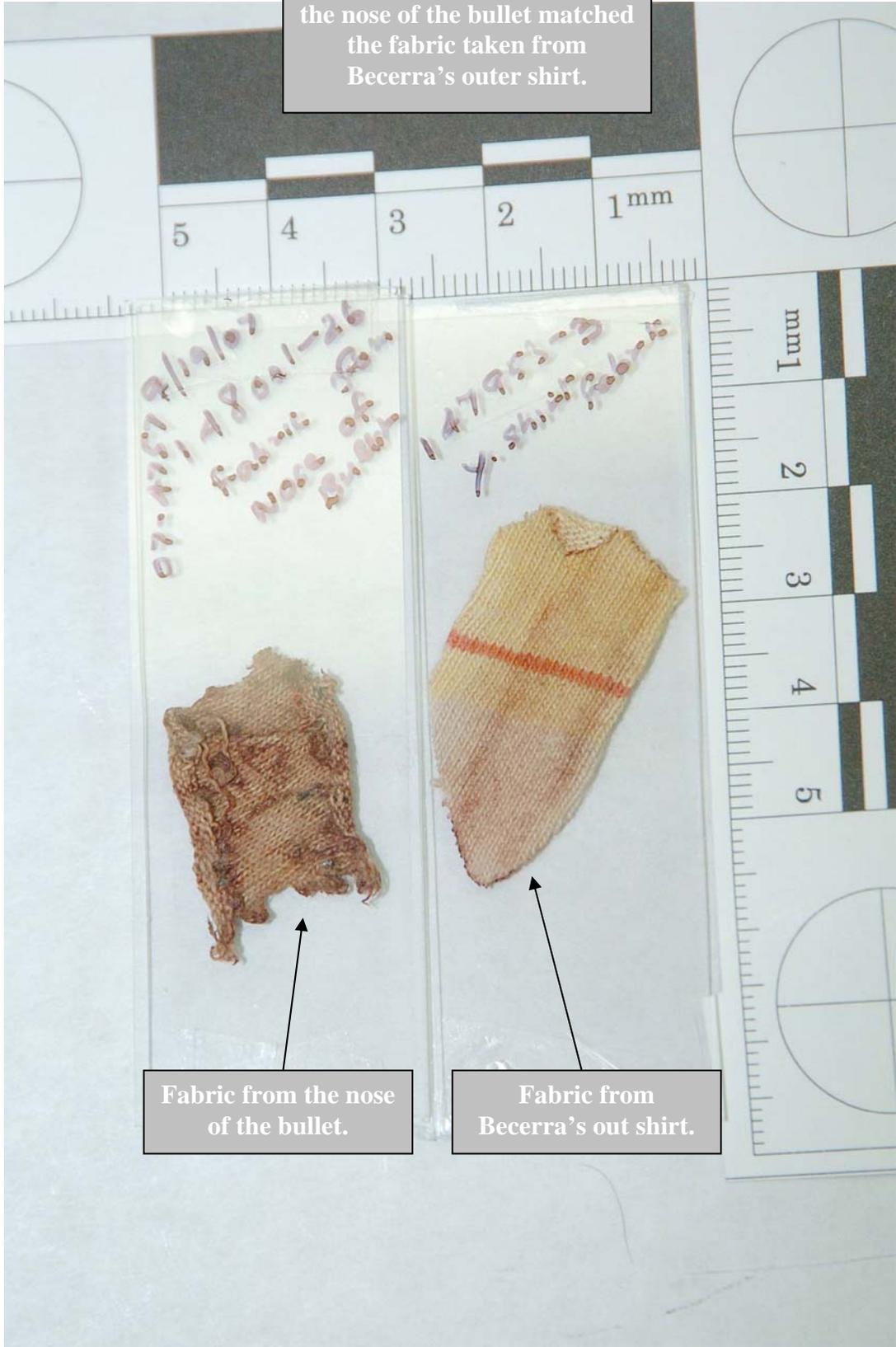
The spent bullet fired from Deputy Guida's service pistol with fabric wrapped around the nose. The fabric was matched to Becerra's outer shirt. The blood soaked into the fabric and on the bullet was **not** Lieutenant Curti's. Therefore, based on all the facts developed in the investigation, it is reasonable to conclude this shot fired by Deputy Guida did **not** cause the through-and-through wound to Lieutenant Curti's arm.



Fabric



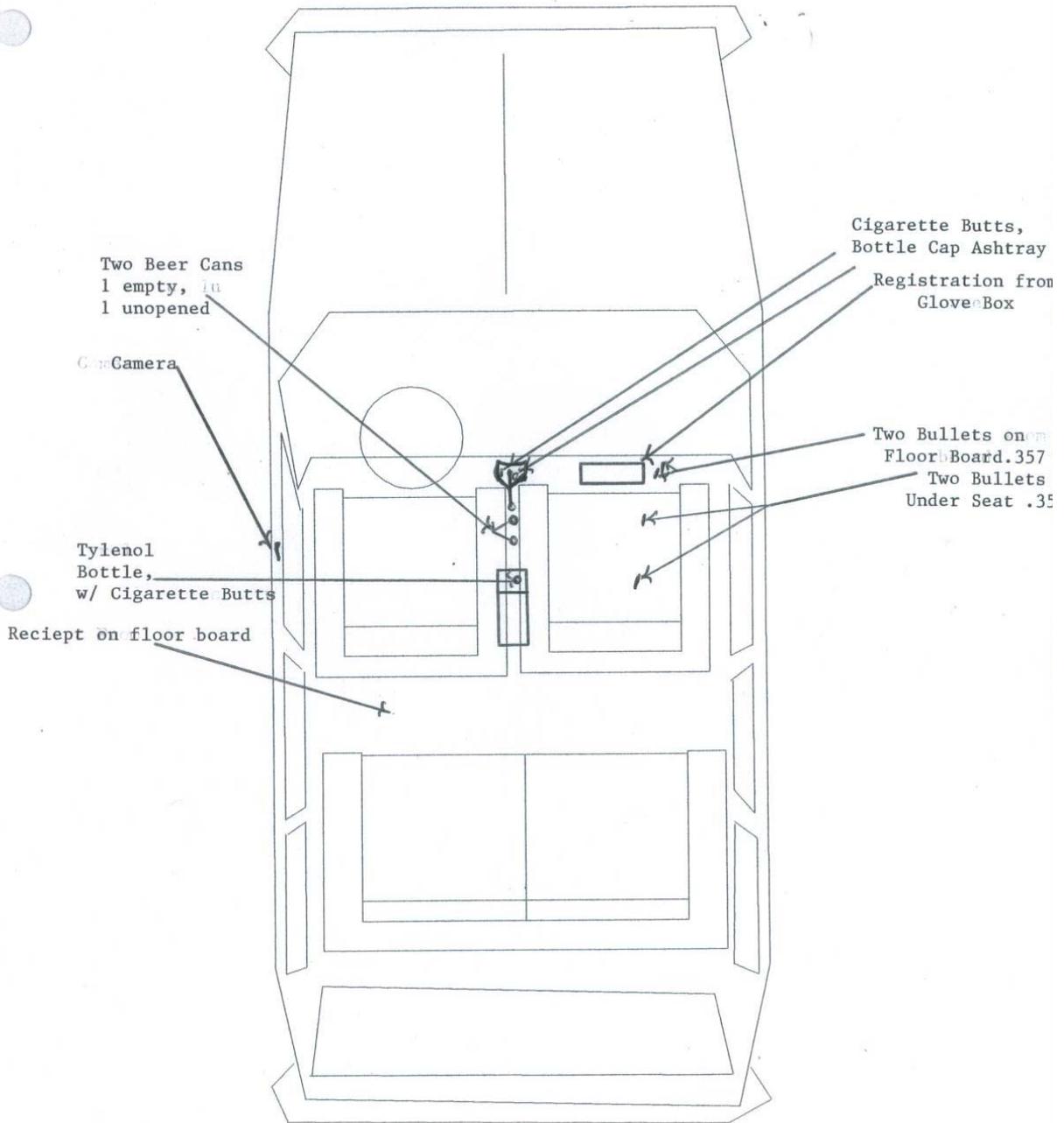
The fabric wrapped around the nose of the bullet matched the fabric taken from Becerra's outer shirt.



Fabric from the nose of the bullet.

Fabric from Becerra's out shirt.

1997 Suzuki Tracker, With Colorado License Plate Number 247-IDI

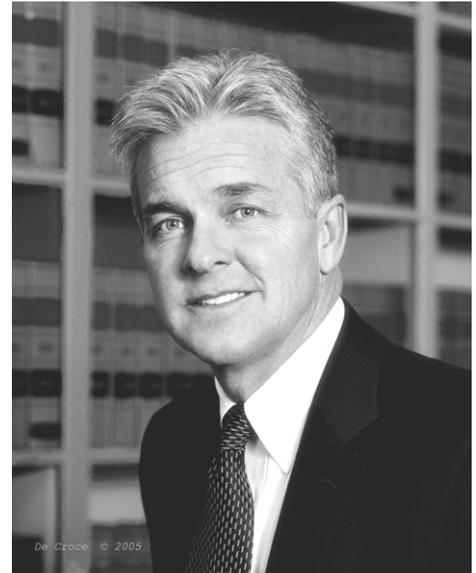


Not To Scale

7-12



# OFFICER-INVOLVED SHOOTING PROTOCOL 2007



*Mitchell R. Morrissey*  
*Denver District Attorney*

**T**he Denver District Attorney is a State official and the Denver District Attorney's Office is a State agency. As such, although the funding for the operations of the Denver District Attorney's Office is provided by the City and County of Denver, the Office is independent of City government. The District Attorney is the chief law enforcement official of the Second Judicial District, the boundaries of which are the same as the City and County of Denver. By Colorado statutory mandate, the District Attorney is responsible for the prosecution of violations of Colorado criminal laws. Hence, the District Attorney has the authority and responsibility to make criminal charging decisions in peace officer involved shootings.

The Denver Police Department was created by the Charter of the City and County of Denver. Under the Charter, the police department is overseen by the Office of the Denver Manager of Safety. The Manager of Safety and the Chief of Police are appointed by and serve at the pleasure of the Mayor of Denver. The District Attorney has no administrative authority or control over the personnel of the Denver Police Department. That authority and control resides with City government.

When a peace officer shoots and wounds or kills a person in Denver, Colorado, a very specific protocol is followed to investigate and review the case. Officer-involved shootings are not just another case. Confrontations between the police and citizens where physical force or deadly physical force is used are among the most important events with which we deal. They deserve special attention and handling at all levels. They have potential criminal, administrative, and civil consequences. They can also have a significant impact on the relationship between law enforcement officers and the community they serve. It is important that a formal protocol

be in place in advance for handling these cases. The following will assist you in understanding the Denver protocol, the law, and other issues related to the investigation and review of officer-involved shootings.

For more than a quarter century, Denver has had the most open officer-involved shooting protocol in the country. The protocol is designed to insure that a professional, thorough, impartial, and verifiable investigation is conducted and that it can be independently confirmed by later review. The fact that the investigative file is open to the public for in-person review at the conclusion of the investigation and review process, permits not only formal legal reviews to occur, but also allows for any citizen to review the case. This, perhaps more than any other single factor, helps to insure that the best possible investigation is conducted by all involved parties.

When an officer-involved shooting occurs, it is immediately reported to the Denver police dispatcher, who then notifies all persons on the call-out list. This includes the Division Chief of Investigations, First Assistant District Attorney and Chief Deputy District Attorney, Division Chief of Patrol, Captain of Crimes Against Persons Bureau, Homicide Unit personnel, Director of the Crime Lab, Crime Lab Technicians, and others. These individuals respond first to the scene and then to DPD headquarters to take statements and conduct other follow-up investigation. The Denver District Attorney, Manager of Safety, and Chief of Police are notified of the shooting and may respond.

The criminal investigation is conducted under a specific investigative protocol with direct participation of Denver Police Department and Denver District Attorney personnel. The primary investigative personnel are assigned to the

Homicide Unit where the best resources reside for this type of investigation. The scope of the investigation is broad and the focus is on all involved parties. This includes the conduct of the involved officer(s) and the conduct of the person who is shot. Standard investigative procedures are used at all stages of the investigation, and there are additional specific procedures in the Denver Police Department's Operations Manual for officer-involved shootings to further insure the integrity of the investigation. For example, the protocol requires the immediate separation and sequestration of all key witnesses and all involved officers. Involved officers are separated at the scene, transported separately by a supervisor to police headquarters, and sequestered with restricted visitation until a formal voluntary statement is taken. Generally the officers speak with their attorney prior to making their voluntary statement. A log is kept to document who has contact with the officer. This is done to insure totally independent statements and to avoid even the appearance of collusion.

In most cases, the bulk of the criminal phase of the investigation is concluded in the first twelve to twenty-four hours. Among other investigative activities, this includes a thorough processing of the crime scene; a neighborhood canvass to identify all possible witnesses; the taking of written statements from all witnesses, and video-taped statements from all key witnesses and the involved officer(s). The involved officer(s), like any citizen, have a Constitutional Fifth Amendment right not to make a statement. In spite of this fact, Denver officers have given voluntary sworn statements in every case, without exception, since 1979. Since November of 1983, when the videotape-interview room was first used, each of these statements has been recorded on videotape. *No other major city police department in the nation can make this statement.*

Officers are trained to properly secure their firearm after an officer-involved shooting. The protocol provides for the firearm to be taken from the officer by crime lab personnel for appropriate testing. The officer is provided a replacement weapon to use pending the completion of the testing. The protocol also allows for any officer to voluntarily submit to intoxicant testing if they chose. The most common circumstance under which an officer might elect to do so would be in a shooting while working at an establishment that serves alcohol beverages. Compelled intoxicant testing can be conducted if there are indications of possible intoxication and legal standards are met.

The Denver Chief of Police and Denver District Attorney commit significant resources to the investigation and review process in an effort to complete the investigation as quickly as practicable. There are certain aspects of the investigation that take more time to complete. For example, the testing of physical evidence by the crime lab—firearm examination, gunshot residue or pattern testing, blood analyses, and other testing commonly associated with these cases. In addition,

where a death occurs, the autopsy and autopsy report take more time and this can be extended substantially if it is necessary to send lab work out for very specialized toxicology or other testing. In addition to conducting the investigation, the entire investigation must be thoroughly and accurately documented.

Officer-involved shooting cases are handled by the District Attorney, First Assistant District Attorney, and Chief Deputies District Attorney specifically trained for these cases. At least two of these district attorneys respond to each officer-involved shooting. They are notified at the same time as others on the officer-involved shooting call-out list and respond to the scene of the shooting and then to police headquarters to participate in taking statements. They are directly involved in providing legal advice to the investigators and in taking video-taped statements from citizens and officer witnesses, and from the involved officer(s). They continue to be involved throughout the follow-up investigation.

The Denver District Attorney is immediately informed when an officer-involved shooting occurs, and if he does not directly participate, his involved personnel advise him throughout the investigative process. It is not unusual for the District Attorney to personally respond and participate in the investigation. At the conclusion of the criminal investigation the District Attorney personally makes the filing decision.

If criminal charges are not filed, a brief decision letter describing the shooting is sent to the Chief of Police by the District Attorney, with copies to the involved officer(s), the Mayor, City Council members, other appropriate persons, and the media. The letter is intentionally brief to avoid in any way impacting the integrity and validity of the Denver Police Department administrative investigation and review, which follows the criminal investigation and review. This represents a 2005 change from the very thorough decision letters that have previously been written by the District Attorney in these cases.

This change has been made because the Denver Manager of Safety now writes an exhaustive letter at the conclusion of the administrative review of the shooting. The Manager of Safety's letter can include additional facts, if any, developed during the administrative investigation. Therefore, the Manager of Safety's letter can provide the most comprehensive account of the shooting. In contrast to the criminal investigation phase, the administrative process addresses different issues, is controlled by less stringent rules and legal levels of proof, and can include the use of investigative techniques that are not permissible in a criminal investigation. For example, the department can, under administrative rules, order officers to make statements. This is not permissible during the criminal investigation phase and evidence generated from such a statement would not be admissible in a criminal prosecution.

The Manager of Safety has taken a more active role in officer-involved shooting cases and has put in place a more thorough administrative process for investigating, reviewing, and responding to these cases. The critical importance of the administrative review has been discussed in our decision letters and enclosures for many years.<sup>1</sup> As a result of the positive changes the Manager of Safety has now instituted and his personal involvement in the process, we will not open the criminal investigative file at the time our brief decision letter is released. Again, we are doing this to avoid in any way impacting the integrity and validity of the Manager of Safety and Denver Police Department ongoing administrative investigation and review. After the Manager of Safety has released his letter, we will make our file open for in-person review at our office by any person, if the City fails to open its criminal-case file for in-person review. The District Attorney copy of the criminal-case file will not, of course, contain any of the information developed during the administrative process. The City is the Official Custodian of Records of the original criminal-case file and administrative-case file, not the Denver District Attorney.

## THE DECISION

By operation of law, the Denver District Attorney is responsible for making the criminal filing decision in all officer-involved shootings in Denver. In most officer-involved shootings the filing decision and release of the brief decision letter will occur within two-to-three weeks of the incident, unless circumstances of a case require more time. This more compressed time frame will allow the Denver Police Department administrative investigation to move forward more quickly.

The same standard that is used in all criminal cases in Denver is applied to the review of officer-involved shootings. The filing decision analysis involves reviewing the totality of the facts developed in the criminal investigation and applying the pertinent Colorado law to those facts. The facts and the law are then analyzed in relation to the criminal case filing standard. For criminal charges to be filed, the District Attorney must find that there is a reasonable likelihood that all of the elements of the crime charged can be proven beyond a reasonable doubt, unanimously, to twelve jurors, at trial, after considering reasonable defenses. If this standard is met, criminal charges will be filed.

One exception to the Denver District Attorney making the filing decision is if it is necessary to use the Denver Statutory Grand Jury. The District Attorney will consider it appropriate to refer the investigation to a grand jury when it is necessary for the successful completion of the

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<sup>1</sup> See the "Conclusion" statement in the "Decision Letter" in the December 31, 1997, shooting of Antonio Reyes-Rojas, where we first pointed out issues related to the importance of the Administrative review of officer-involved shootings. Subsequent letters continued to address this issue.

investigation. It may be necessary in order to acquire access to essential witnesses or tangible evidence through the grand jury's subpoena power, or to take testimony from witnesses who will not voluntarily cooperate with investigators or who claim a privilege against self-incrimination, but whom the district attorney is willing to immunize from prosecution on the basis of their testimony. The grand jury could also be used if the investigation produced significant conflicts in the statements and evidence that could best be resolved by grand jurors. If the grand jury is used, the grand jury could issue an indictment charging the officer(s) criminally. To do so, at least nine of the twelve grand jurors must find probable cause that the defendant committed the charged crime. In order to return a "no true bill," at least nine grand jurors must vote that the probable cause proof standard has not been met. In Colorado, the grand jury can now issue a report of their findings when they return a no true bill or do not reach a decision—do not have nine votes either way. The report of the grand jury is a public document.

A second exception to the Denver District Attorney making the filing decision is when it is necessary to have a special prosecutor appointed. The most common situation is where a conflict of interest or the appearance of impropriety is present. As an example, if an officer involved in the shooting is related to an employee of the Denver District Attorney's Office, or an employee of the Denver District Attorney's Office is involved in the shooting. Under these circumstances, there would exist at a minimum an appearance of impropriety if the Denver District Attorney's Office handled the case.

## THE COLORADO LAW

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 and causing injury or death to another human being is generally prohibited as assault or murder in Colorado, the Criminal Code specifies certain circumstances in which the use of physical force or deadly physical force is justified. As there is generally no dispute that the officer intended to shoot at the person who is wounded or killed, the determination of whether the conduct was criminal is primarily a question of legal justification.

Section 18-1-707 of the Colorado Revised Statutes provides that while effecting or attempting to effect an arrest, a peace officer is justified in using deadly physical force upon another person . . . when he reasonably believes that it is necessary to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force. Therefore, the question presented in most officer-involved shooting cases is whether, at the instant the officer fired the shot that wounded or killed the

person, the officer reasonably believed, and in fact believed, that he or another person, was in imminent danger of great bodily injury or death from the actions of the person who is shot. In order to establish criminal responsibility for knowingly or intentionally shooting another, the state must prove beyond a reasonable doubt that the person doing the shooting either did not really believe he or another was in imminent danger, or, if he did hold such belief, that belief was, in light of the circumstances, unreasonable.

The statute 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 the use 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.

In Colorado, deadly physical force means force the intended, natural, or probable consequence of which is to produce death and which does in fact produce death. Therefore, if the person shot does not die, by definition, only physical force has been used under Colorado law.

#### **GENERAL COMMENTS**

The following statement concerns issues that are pertinent to all officer-involved shootings.

The great majority of officer-involved shootings in Denver, and throughout the country, ultimately result from what is commonly called the split-second decision to shoot. It is often the culmination of a string of decisions by the officer and the citizen that ultimately creates the need for a split-second decision to shoot. The split-second decision is generally made to stop a real or perceived threat or aggressive behavior by the citizen. It is this split-second time frame which typically defines the focus of the criminal-review decision, not the string of decisions along the way that placed the participants in the life-or-death final frame.

When a police-citizen encounter reaches this split-second window, and the citizen is armed with a deadly weapon, the circumstances generally make the shooting justified, or at the least, difficult to prove criminal responsibility under the criminal laws and required legal levels of proof that apply. The fact that no criminal charges are fileable in a given case is not necessarily synonymous with an affirmative finding of justification, or a belief that the matter was in all respects handled appropriately from an administrative viewpoint. It is simply a determination that there is not a reasonable likelihood of proving criminal charges beyond a reasonable doubt, unanimously, to a jury. This is the limit of the District Attorney's statutory authority in these matters. For these reasons, the fact that a shooting may be "controversial"

does not mean it has a criminal remedy. The fact that the District Attorney may feel the shooting was avoidable or "does not like" aspects of the shooting, does not make it criminal. In these circumstances, remedies, if any are appropriate, may be in the administrative or civil arenas. The District Attorney has no administrative or civil authority in these matters. Those remedies are primarily the purview of the City government, the Denver Police Department, and private civil attorneys.

Research related to officer-involved shootings indicates that criminal charges are filed in approximately one in five hundred (1-in-500) shootings. And, jury convictions are rare in the filed cases. In the context of officer-involved shootings in Denver (approximately 8 per year), this ratio (1-in-500) would result in one criminal filing in 60 years. With District Attorneys now limited to two 4-year terms, this statistic would mean there would be one criminal filing during the combined terms of 8 or more District Attorneys.

In Denver, there have been three criminal filings in officer-involved shootings in the past 40 years, spanning seven District Attorneys. Two of the Denver officer-involved shootings were the result of on-duty, work related shootings. One case was in the 1970s and the other in the 1990s. Both of these shootings were fatal. The cases resulted in grand jury indictments. The officers were tried and found not guilty by Denver juries. The third criminal filing involved an off-duty, not in uniform shooting in the early 1980s in which one person was wounded. The officer was intoxicated at the time of the shooting. The officer pled guilty to felony assault. This case is mentioned here, but it was not in the line of duty and had no relationship to police work. In 2004, an officer-involved shooting was presented by the District Attorney to the Denver Statutory Grand Jury. The Grand Jury did not indict. A brief report was issued by the Grand Jury.

Based on the officer-involved shooting national statistics, there is a very high likelihood that individual District Attorneys across the country will not file criminal charges in an officer-involved shooting during their entire tenure. It is not unusual for this to occur. In Denver, only two of the past seven District Attorneys have done so. This, in fact, is statistically more filings than would be expected. There are many factors that combine to cause criminal prosecutions to be rare in officer-involved shootings and convictions to be even rarer. Ultimately, each shooting must be judged based on its unique facts, the applicable law, and the case filing standard.

The American Bar Association's *Prosecution Standards* state in pertinent part: "A prosecutor should not institute, cause to be instituted, or permit the continued pendency of criminal charges in the absence of sufficient admissible evidence to support a conviction. In making the decision to prosecute, the prosecutor should give no weight to the

personal or political advantages or disadvantages which might be involved or to a desire to enhance his or her record of convictions. Among the factors the prosecutor may properly consider in exercising his or her discretion is the prosecutor's reasonable doubt that the accused is in fact guilty." The National District Attorneys Association's *National Prosecution Standards* states in pertinent part: "The prosecutor should file only those charges which he reasonably believes can be substantiated by admissible evidence at trial. The prosecutor should not attempt to utilize the charging decision only as a leverage device in obtaining guilty pleas to lesser charges." The standards also indicate that "factors which should **not** be considered in the charging decision include the prosecutor's rate of conviction; personal advantages which prosecution may bring to the prosecutor; political advantages which prosecution may bring to the prosecutor; factors of the accused legally recognized to be deemed invidious discrimination insofar as those factors are not pertinent to the elements of the crime."

Because of the difference between the criminal, administrative, and civil standards, the same facts can fairly and appropriately lead to a different analysis and different results in these three uniquely different arenas. While criminal charges may not be fileable in a case, administrative action may be very appropriate. The legal levels of proof and rules of evidence that apply in the criminal-law arena are imprecise tools for examining and responding to the broader range of issues presented by officer-involved shootings. Issues related to the tactical and strategic decisions made by the officer leading up to the split-second decision to shoot are most effectively addressed by the Denver Police Department through the Use of Force Review Board and the Tactics Review Board process and administrative review of the shooting.

The administrative-review process, which is controlled by less stringent legal levels of proof and rules than the criminal-review process, provides both positive remedial options and punitive sanctions. This process also provides significantly broader latitude in accessing and using information concerning the background, history, and job performance of the involved officer. This type of information may have limited or no applicability to the criminal review, but may be very important in making administrative decisions. This could include information concerning prior officer-involved shootings, firearm discharges, use of non-lethal force, and other conduct, both positive and negative.

The Denver Police Department's administrative review of officer-involved shootings improves police training and performance, helps protect citizens and officers, and builds public confidence in the department. Where better

approaches are identified, administrative action may be the only way to effect remedial change. The administrative review process provides the greatest opportunity to bring officer conduct in compliance with the expectations of the department and the community it serves. Clearly, the department and the community expect more of their officers than that they simply conduct themselves in a manner that avoids criminal prosecution.

There are a variety of actions that can be taken administratively in response to the department's review of the shooting. The review may reveal that no action is required. Frankly, this is the case in most officer-involved shootings. However, the department may determine that additional training is appropriate for all officers on the force, or only for the involved officer(s). The review may reveal the need for changes in departmental policies, procedures or rules. In some instances, the review may indicate the need for changing the assignment of the involved officer, temporarily or permanently. Depending on the circumstances, this could be done for the benefit of the officer, the community or both. And, where departmental rules are violated, formal discipline may be appropriate. The department's police training and standards expertise makes it best suited to make these decisions.

The Denver Police Department's Use of Force Review Board and the Tactics Review Board's after-incident, objective analysis of the tactical and strategic string of decisions made by the officer that lead to the necessity to make the split-second decision to shoot is an important review process. It is clearly not always possible to do so because of the conduct of the suspect, but to the extent through appropriate tactical and strategic decisions officers can de-escalate, rather than intensify these encounters, the need for split-second decisions will be reduced. Once the split-second decision time frame is reached, the risk of a shooting is high.

It is clear not every officer will handle similar situations in similar ways. This is to be expected. Some officers will be better than others at defusing potentially-violent encounters. This is also to be expected. To the degree officers possess skills that enhance their ability to protect themselves and our citizens, while averting unnecessary shootings, Denver will continue to have a minimal number of officer-involved shootings. Denver officers face life-threatening confrontations hundreds of times every year. Nevertheless, over the last 20 years officer-involved shootings have averaged less than eight annually in Denver. These numbers are sharply down from the 1970s and early 1980s when there were 12-to-14 shootings each year.

Skill in the use of tactics short of deadly force is an important ingredient in keeping officer-involved shootings to a minimum. Training Denver officers receive in guiding them in making judgments about the best tactics to use in various situations, beyond just possessing good firearms

proficiency, is one of the key ingredients in minimizing unnecessary and preventable shootings. Denver police officers handle well over a million calls for service each year and unfortunately in responding to these calls they face hundreds of life-threatening encounters in the process. In the overwhelming majority of these situations, they successfully resolve the matter without injury to anyone. Clearly, not all potentially-violent confrontations with citizens can be de-escalated, but officers do have the ability to impact the direction and outcome of many of the situations they handle, based on the critical decisions they make leading up to the deadly-force decision. It should be a part of the review of every officer-involved shooting, not just to look for what may have been done differently, but also to see what occurred that was appropriate, with the ultimate goal of improving police response.

### **RELEASE OF INFORMATION**

Officer-involved shootings are matters of significant and legitimate public concern. Every effort must be made to complete the investigation and make the decision as quickly as practicable. The Denver Protocol has been designed to be as open as legal and ethical standards will permit and to avoid negatively impacting the criminal, administrative, or civil procedures. “Fair Trial—Free Press” standards and “The Colorado Rules of Professional Conduct” limit the information that can be released prior to the conclusion of the investigation.

Officer-involved shooting cases always present the difficult issue of balancing the rights of the involved parties and the integrity of the investigation with the public’s right to know and the media’s need to report the news. The criminal investigation and administrative investigation that follows can never keep pace with the speed of media reporting. This creates an inherent and unavoidable dilemma. Because we are severely restricted in releasing facts before the investigation is concluded, there is the risk that information will come from sources who may provide inaccurate accounts, speculative theories, misinformation or disinformation that is disseminated to the public while the investigation is progressing. This is an unfortunate byproduct of these conflicted responsibilities. This can cause irreparable damage to individual and agency reputations.

It is our desire to have the public know the full and true facts of these cases at the earliest opportunity, but we are required by law, ethics, and the need to insure the integrity of the investigation to only do so at the appropriate time.

### **CONCLUSION**

The protocol that is used in Denver to investigate and review officer-involved shootings was reviewed and strengthened by the Erickson Commission in 1997, under the leadership of William Erickson, former Chief Justice of the

Colorado Supreme Court. The report released after the 15-month-long Erickson Commission review found it to be one of the best systems in the country for handling officer-involved shootings. We recognize there is no “perfect” method for handling officer-involved shooting cases. We continue to evaluate the protocol and seek ways to strengthen it.

*Mitchell R. Morrissey*

*Denver District Attorney*

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