



DenverDA

Mitchell R. Morrissey, District Attorney - Second Judicial District

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November 29, 2016

Robert White
Chief of Police
Denver Police Department
1331 Cherokee Street
Denver, CO 80204

RE: Investigation of the shooting and wounding of Darius Ratcliff, DOB 8/1/96, DPD # 786481, in which Officer Joseph Stadler, 13037, fired shots on July 31, 2016 at 3315 North Olive Street, Denver, Colorado.

Dear Chief White:

The investigation and legal analysis of the shooting and wounding of Darius Ratcliff, in which shots were fired by Denver Police Officer Joseph Stadler, has been completed. I conclude that under applicable Colorado law no criminal charges are fileable against Officer Stadler. My decision, based on criminal-law standards, does not limit administrative action by the Denver Police Department, where non-criminal issues can be reviewed, or civil actions where less-stringent laws, rules and legal levels of proof apply. A description of the procedure used in the investigation of this officer-involved shooting and the applicable Colorado law is attached to this letter.

STATEMENT OF FACTS

In July of this year Denver Police officers and officials became concerned about an increasing number of shootings in north-east Denver. In response to these incidents, the Denver police "Gang Unit," supported by a Safe Neighborhood overtime grant, saturated the area with marked and unmarked patrol cars. Just past midnight on Saturday, July 30, 2016, a homicide occurred in Denver's "LoDo" neighborhood which investigators believed was gang motivated. DPD Gang unit officers learned that there was a vigil to be held for the victim that weekend and worried that rival gang members might take retaliatory actions. In his written statement regarding this incident, Sgt. Edward Arnold, 99018, a gang unit supervisor working the grant project, outlined the concerns which led to the operation. He also noted that during roll call at the beginning of the shift on Sunday, July 31, 2016, officers had been told to keep watch for "a

maroon Chrysler with Texas plates [which was] possibly involved in a shooting yesterday morning near 33rd and Elm.”¹

At about 9:30 p.m. on July 31, 2016, gang unit Officers Wilber Hall, 06091, and Ethan Antonson, 05031, were driving in the area of 40th and Colorado Boulevard when they observed a maroon colored sedan driving westbound on 40th Avenue toward Colorado Boulevard. The two officers, attired in blue DPD uniforms and driving a fully marked police car, were close enough to the car to determine that, as Officer Hall reported, it was a

late model Chrysler 200 bearing a Texas license plate 9GFL5260. This vehicle was aired earlier in the shift by TAC6,² Sgt. Garcia, that it left the area of 28th and Lafayette at a high rate of speed.³ This vehicle is also possibly the vehicle that was used in other shootings around Park Hill the day before.

The officers advised the dispatcher and other cars of their situation and requested additional cars respond to the area. As they did so, the suspect vehicle, hereinafter referred to as “the Chrysler,” made the turn from Colorado Boulevard to eastbound I-70. The Chrysler was driving at normal speeds and Cpl. Antonson, who was driving, pulled in several car lengths back as Off. Hall called out their progress.⁴

The Chrysler took the Northfield-Quebec exit and proceeded south on Quebec Avenue. As the officers followed from a distance, the Chrysler turned left onto East 39th Avenue and then made a right turn onto N. Pontiac Street. In his written statement, Off. Hall recounted that the officers were about a block behind the Chrysler and it appeared to them that the Chrysler was beginning to accelerate. At some point, as the Chrysler picked up speed, the driver of that vehicle turned off the headlights. Off. Hall wrote that he and his partner were about a block and a half behind the Chrysler and he

could now see that the vehicle turned westbound onto E. 36th Ave. As we approached E. 36th, I then saw the vehicle turn southbound into the 3500 blk. alley of N. Oneida/N. Olive St. As we turned into the alley, I saw the vehicle already stopped and pulled over to the right about 3 houses to the south. Also, at this time, I observed a black male wearing a black t-shirt and black shorts exit the driver’s side and run eastbound through the houses. Cpl. Antonson then followed on foot. I then aired that my partner was in a foot chase, last seen running southbound in the 3500 blk. of Olive [St.].

¹ Gang unit Sgt. Kristy Garcia, 00022, reported to investigators that on that Saturday afternoon she attended a briefing at DPD HQ regarding the shooting at 18th and Market and during the briefing she was advised about a drive-by shooting which had occurred near 33rd Avenue and Holly Street at about 5:00 a.m. Saturday morning. Two cars were reported to have been involved in the shooting, one originally described as a black Dodge Charger and the other a red sedan with Texas plates. A picture of the vehicles had been taken by a HALO camera and that photo was handed out at the briefing. Sgt. Garcia handed out this photo at gang unit roll calls on both Saturday, July 30, 2016, and Sunday, July 31, 2016. A copy of this photo is attached on page 11.

² Cars assigned to the gang unit have a “TAC” radio call sign.

³ Shortly before 5:00 p.m. on Sunday, July 31, 2016, Sgt. Garcia, was driving NB on Downing Street near 26th Avenue when she saw a vehicle matching the red car shown in the HALO video. She attempted to turn around but the “*vehicle immediately turned [eastbound] onto E. 26th Ave. and fled at a high rate of speed.*” Sgt. Garcia lost sight of the car and then aired this information on DPD police radio channels.

⁴ A CAD entry at 21:38:54 hours reflects “I70Hwy –eb/n Northfield Quebec St.” At 21:39:15 this notation appears in the CAD records: “MAROON CHRYS 200 WITH TX PLATES INVOLVED IN A SHOOTING 2 NIGHTS AGO – WAS WITH THE SUSPECT VEH.”

CAD record reflect at 21.41.32 (9:41:32 p.m.) the dispatcher was advised that officers had followed the Chrysler to the “3500-BLK SB OLIVE.” Two seconds later, the CAD records show “FOOT CHASE.”

Off. Hall did not join the foot chase but, instead approached and “cleared the vehicle at gun point” to make sure that there were no other occupants. As he did so, he noted that the passenger’s door was ajar. This fact led him to believe that another suspect might have run from the car and headed west. As he was advising the officers who were responding to the area of this development, he heard “*several gunshots come from the south east.*”⁵

Cpl. Antonson provided investigators with a video-recorded statement. After detailing the pursuit and providing the same information as did Officer Hall, he discussed how the foot chase began. Cpl. Antonson told investigators, that as they drove through the neighborhood, the Chrysler kept making

right hand turns and then right at the corner of Olive, they seemed to speed up a lot. Make a right hand turn, make a left hand turn. We make our right hand turn onto 36th, we have no view. We know they couldn’t have got another block. We get to up the alley [and] I see the car to the left which would have been south of us.

Cpl. Antonson stated he started to make a hard turn to get into the alley and as he did so, he saw the driver’s side door open and the driver (subsequently identified as Darius Ratcliff and hereinafter referred to as “Ratcliff” or the “suspect”) get out and start running. Cpl. Antonson pulled in behind the Chrysler, stopped the police car, got out and gave chase.

Cpl. Antonson described Ratcliff as a light skinned, black male wearing shorts, a black shirt and a white hat. He told investigators that, as he pursued him, Ratcliff ran east, jumping fences in the alley and the front yard of a house and then turned south, running down the sidewalk. Cpl. Antonson followed Ratcliff as he ran across 35th Avenue. As Cpl. Antonson crossed the street he saw three unmarked police cars and a marked patrol car drive past the suspect. Cpl. Antonson stated that he called out his location on the radio and he saw the marked patrol car hit its breaks. Cpl. Antonson ran past that patrol car and into the next block. He stated that this block was dimly lit and he lost sight of Ratcliff. He immediately slowed down so as not to run into an ambush and asked officers to set up a perimeter as he was sure the suspect was in the immediate vicinity. He then continued to run south. At that location, Olive Street is a “double block” – the cross-streets are 35th Avenue and then 33rd Avenue. Cpl. Antonson made it to 33rd Street without seeing the suspect so he made sure that the perimeter extended to 33rd Street and then he backtracked up Olive Street.

Cpl. Antonson was in this “mid-block” position when he heard someone air that the suspect was “*running west – two houses in.*” The second house north of 33rd Avenue on the west side of the street was 3315 North Olive Street. Cpl. Antonson sprinted back toward the south end of the block and that address. Cpl. Antonson told investigators

⁵ There was, indeed, a passenger who had jumped out of the car when the driver stopped in the alley. He was located and detained in the area of 36th Avenue and Oneida Street and identified as Mr. Armand Amber, 7/22/98. Mr. Amber provided investigators with a video-recorded statement in which he admitted being the passenger in the Chrysler and stated that, while they were in the car, Ratcliff had shown him a black pistol that he was carrying in his waistband.

And then I hear, “we see him! We see him! He’s running back east. He just crossed the alley. He’s running east! He’s running east!” So I figure, I’m right in the path now.
[Interviewer and Cpl. Antonson talking at the same.]
Yes, so he should be running straight towards me.

Cpl. Antonson was standing in the front yard on the west side of 3315 North Olive Street.⁶ He saw Officer Arthur in the street, standing near a pick-up truck and using it as cover. Cpl. Antonson stated that he heard what sounded like someone climbing over a chain link fence and heard Officer Arthur yell, “*He’s got a gun! He’s got a gun!*” Cpl. Antonson then heard what he knew from his training and experience to be the sound of someone “*racking*” the slide on a semi-automatic gun, “*three or four times,*” and concluded that someone around the corner of the house and out of his sight was attempting to use a firearm.

Cpl. Antonson began carefully peeking around the corner of the house. He stated that he “*started to see a little bit of the chain link fence that separating . . . and then I just hear a bunch of gunfire. And, it sounded to me like around 10 rounds. And I couldn’t tell what directions it was traveling. And then it just stops.*” The corporal called out asking whether anyone was injured. He heard officers responding that they were alright. He then heard someone call out from around the corner of the house, “*I’m shot.*”⁷

Cpl. Antonson asked if any officer could see the suspect and Officer Arthur responded that he was able to see a party who appeared to be “hung up” on the fence but that his hands were visible. Cpl. Antonson moved up and came around the corner of the house where he saw

the black male that I was chasing, He is now upside down, with his hands on the sidewalk leading alongside of the house and it looks like his foot is caught between the gate and the actual chain link fence, like his ankle is stuck in between ‘em? And his hands are out. And as I get my light on my gun fully on him, I notice that there’s a black handgun, uh, resting kind of against the house by the gate.

Cpl. Antonson, joined by other officers, quickly approached the suspect. Cpl. Antonson secured the pistol and then he and other officers placed Ratcliff into custody. As he did so Cpl. Antonson saw two shell casings near Ratcliff’s position and thought he might have seen a third spent casing in the grass in that area.

Officers Jeremy Arthur, 13047, and Joseph Stadler, 13037, were among the officers who responded to the area to set up the perimeter. Both men were attired in full blue DPD uniforms and driving a marked DPD police car. Earlier in the evening they had made an arrest and were just leaving the downtown Denver jail when they heard Off. Hall call out that he and Cpl. Antonson were following the Chrysler. Both the two officers were aware of the BOLO regarding the Chrysler and they activated their lights and siren and took I-70 toward the area. They exited the highway at the Monoco-Holly exit and were moving east on the frontage road when they monitored a call that the suspect vehicle had stopped at 35th and Olive Street and that a foot chase had ensued.

In his video-recorded statement, Off. Arthur told an investigator that he was driving and Off. Stadler was in the passenger seat. He drove east on 35th Avenue to Olive Street and then

⁶ A photo showing the front of the house is found on page 11.

⁷ The “shots fired” call was made at 21:46:01.

proceeded south on Olive Street. Officer Arthur stated that as they approached 33rd Avenue they saw “*Cpl. Antonson on the side of the street, closer to 33rd.*” Off. Arthur drove their police car to a position on the perimeter on 33rd Avenue just east of Oneida Street and parked. The two officers got out of the car and walked to the mouth of the Oneida-Olive alley at 33rd and, just as they arrived at that location, Off. Arthur saw a black male wearing shorts and a t-shirt running back and forth in the alley and

Then he start[ed] to continue eastbound towards where Cpl. Antonson was. So obviously we’re hollering and, um – I didn’t get on the air – we’re hollering because he’s just right around the corner, Cpl. Antonson, [I’m] worried that, you know, he’s over there. And I see [the subject] running, and I kinda see him grabbing at his waistband.

Off. Arthur concluded that the suspect was reaching for a gun and he and Off. Stadler ran down 33rd Avenue to Olive Street. Off. Arthur told an investigator, “*we’re trying to let Cpl. Antonson know that there is most likely an armed suspect coming towards him.*” Off. Arthur stated that he came around the corner on to Olive Street and took cover behind a car parked at the corner on the west side of the street, adding that he could hear chain link fences rattling in the yards to his west. The noises were coming from the area of 3315 N. Olive Street and Off. Arthur moved from his original position of cover toward another vehicle to his north so he could better see that area. As he cleared the gap between the two cars, he saw Ratcliff, at the fence, “*kinda going like this [demonstrating], holding a gun.*” Off. Arthur told investigators Ratcliff pointed his handgun at him and he first jumped behind a parked pick-up truck, using that truck for cover and then moved from that position to a position at the side of the house where he joined Off. Antonson. This position provided him better protection but the house blocked his view of Ratcliff. He was at this new position when he heard multiple gunshots. After the shooting ceased, Off. Arthur joined other officers in approaching Ratcliff and taking him into custody.

The shots Off. Arthur heard were fired by Ratcliff and Off. Stadler. Off. Stadler provided investigators with a sworn, video-recorded, statement in which he detailed his role in this incident. Off. Stadler stated that Off. Arthur parked their police car at 33rd and Oneida Street and, as he got out of the car, he “*immediately [heard] like, stuff breaking, like there’s someone in the back yard, one or two houses directly to the north of me.*” Officer Stadler took a position behind a patrol car parked on the mouth of the alley and shortly thereafter he saw a male whom he believed fit the description aired by Off. Antonson slowly jogging down the alley toward him. To his alarm, he saw the male – Ratcliff – “*grabbing his waistband*” in a fashion which led him to conclude that Ratcliff was armed. Off. Stadler had taken his handgun from his holster when he first heard the sounds in the alley and he now began ordering Ratcliff to show his hands and “*get on the ground.*” Ratcliff, instead, continued running in a south east direction which led Off. Stadler to “*take off and parallel him jogging eastbound on 33rd toward Olive [Street].*”

When he came around the corner of Olive, Off. Stadler heard noises in the “*backyards.*” He saw a “*black [pick-up] truck*” a short distance down the block, parked on the west side of the street, and he took a position of cover behind that truck. He was now in a position where he could see into the gap between the first house on the corner and the second house to the north. He also heard a noise which, based upon his experience, he knew to be the sound of someone “*racking the, the slide of a gun.*” The gap between the houses was dimly lit but Officer Stadler had a weapon mounted flashlight which he was using to illuminate the area. He now saw Ratcliff “*on this fence between the first and second house and he’s, like, caught in the fence,...*”

Off. Stadler immediately issued numerous commands to “*get on the ground! Let me see your hands! Let me see your hands!*”

Off. Stadler was aware that Off. Arthur was or had been somewhere near to him in the street and that Cpl. Antonson was making his way south along the front side of the 3315 North Olive Street residence. He told investigators that

I hear the racking of the round and he starts comin’ up and pointing the gun at me and, at that point, you know, I’m, I’m thinking, man, I don’t know if he’s, if he’s gonna shoot me or shoot Off. Arthur or, or, you know [Cpl. Antonson] at that point. I’m, I’m scared you know. I’m scared for my life. I don’t, I don’t know what’s gonna – it’s all happening real quick.

And, and so he comes up and he’s, -- points the gun my directions and simultaneously I, you know, I heard he, he shoots. But it was right when I en-engaged and squeeze my trigger. So, it was

almost simultaneous that if felt that [*sic*] he shot at me and right as I engaged him. And so, I, I fired my service pistol numerous times. I think probably, maybe like six to eight times.

Off. Stadler told investigators that he saw Ratcliff “*slouch over and fall down and [he] didn’t see the gun anymore,*” and concluded that Ratcliff was no longer a threat. He joined other officers who moved forward to take Ratcliff into custody but as those officers took that action, he and two other officers cleared the area behind Ratcliff to make sure there were no others in that area.

During neighborhood survey conducted as part of the scene investigation, investigators located several witnesses who indicated they heard gunshots. At least two of these witnesses told investigators that they heard someone yell “*gun!*” or “*he has a gun*” just before they heard gunshots, None of these individuals indicated they had witnessed the shooting.⁸

FORENSIC & VIDEO EVIDENCE

Off. Stadler was armed with a 9mm Glock 17 semi-automatic pistol which he carried with a live round in the chamber and 17 rounds in the magazine. His handgun, therefore, was loaded with 18 rounds of DPD issued ammunition. Firearms examiners and crime scene investigators determined he fired 8 rounds.

Ratcliff was armed with a Citadel model, M1911 45 caliber semi-automatic pistol. Crime scene investigators recovered four spent shell casings at the scene which firearms examiners later determined to have been “*microscopically identified as having been fired from the Citadel pistol.*” When Ratcliff’s pistol was recovered at the scene it was found to have one live round in the chamber and one live round in the magazine. The evidence is thus that Ratcliff fired four rounds.

⁸ On October 3, 2016, case investigators received information that a party arrested in connection with a robbery investigation claimed to have information regarding this incident. On October 6, 2016, investigators interviewed the individual, identified as Cartrell Bounds, 5/29/96, who first told them that he had known Ratcliff for “*about five years*” during which time he “*probably*” saw him twice a week. Mr. Bounds also stated that Ratcliff always carried a gun and had told him that he was not going back to jail, stating “*I’ll shoot it out with the fifty [5-0 is slang for police] before I go back to jail.*” Mr. Bounds told investigators that on the evening of the incident he was in the area of 38th Avenue and Olive Street when he saw a red or maroon car drive westbound on 38th Avenue at a high rate of speed and turn left onto Olive Street. He then saw several police cars in pursuit. He walked down Olive Street and saw the car stop and two men “*hop out*” and start running. He noted the driver was holding a handgun as he ran. Mr. Bounds stated that he saw the driver pull the gun from his waistband and then heard several shots but claimed he did not see anyone shooting. Mr. Bounds told investigators he did not know Ratcliff was involved until the day after the shooting.

There was a white Chevrolet Tahoe parked on the east side of Olive Street directly behind Off. Stadler's position. Investigators documented a "*perforating bullet defect to the exterior rear driver side door*" of this vehicle. The spent bullet which caused this defect was recovered from "*the interior rear driver side door jamb*" of the Tahoe. Firearms examiners determined that this bullet was "*microscopically identified as having been fired from the Citadel pistol ...*" A spent bullet and a bullet strike to the round was "*located on the ground below the west side of*" the black Ford F150 behind which Off. Stadler had taken cover.⁹ Two other bullet defects were documented to the "*exterior wall of a residence located on the eastside of North Olive Street.*" This evidence compels the conclusion that Ratcliff was aiming at Off. Stadler.

Ratcliff suffered a gunshot wound to his lower abdomen and a gash or abrasion to the inside of his right leg (the latter may have resulted from his attempt to climb or jump the fence.) He was taken to Denver Health Medical Center where he was treated for his injuries. Medical privacy protections preclude us from obtaining or releasing any additional facts concerning his medical condition. Ratcliff was treated for his wounds and ultimately released to the custody of the Denver Sheriff to face charges in this incident.¹⁰

Off. Stadler was equipped with a body worn camera which he activated as he moved around one vehicle on Olive Street and took his position of cover behind the black Ford pick-up truck. The video shows him moving across the open space between the two vehicles with his handgun trained at the side yard. It is clear that the flashlight on his pistol gives away his position, as it is illuminated as he moves. As he takes his position behind the truck, the camera angles down and only the hood of the truck is seen. When Off. Stadler begins firing, his arm can be seen moving with the recoil of his pistol. As he ceases firing, the camera comes up and shows his forearm resting on the hood of the black truck and his handgun aimed at the fence area. The audio picks up at this point and he and other officers can be heard yelling at Ratcliff to show his hands. The video does not capture Off. Stadler's point of view at the time he fired his pistol but it does corroborate his description of his movements at that time.

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 is generally prohibited as assault or homicide in Colorado, the Criminal Code specifies certain circumstances in which the use of physical force or deadly physical force by a peace officer is justified. As the evidence establishes that Ratcliff's injuries resulted from a shot fired by Off. Stadler, the determination of whether his conduct was criminal is primarily a question of legal justification.

⁹ Photos showing the black pick-up truck and the white SUV are found on pages 12 and 13.

¹⁰ On August 8, 2016, Ratcliff was charged with Criminal Attempt First Degree Murder (police officer) and First Degree Assault. Those charges are pending in the Denver Courts. At the time of his arrest for this incident, Ratcliff had three outstanding warrants. One of the warrants was for "Murder in the First Degree," DPD GO # 15-651825. This warrant was issued on July 21, 2016. The other two were for charges of First Degree Burglary (controlled substance) and First Degree Burglary (use of weapon), DPD GO # 1-345998, issued on June 22, 2016, and Criminal Attempt First Degree Murder and Felony Menacing, DPD GO # 15-562585, issued 11/19/15.

C.R.S. § 18-1-707 defines the circumstances under which a peace officer can justifiably use physical force and deadly physical force in Colorado. In pertinent part, the statute reads as follows:

(1) Except as provided in subsection (2) of this section, a peace officer is justified in using reasonable and appropriate **physical force** upon another person when and to the extent that **he reasonably believes it necessary**:

(a) To effect an arrest or to prevent the escape from custody of an arrested person unless he knows that the arrest is unauthorized; or

(b) To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect such an arrest or while preventing or attempting to prevent such an escape.

(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;

or

(b) To effect the arrest or to prevent the escape from custody of a person whom he reasonably believes:

1. Has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon; or

2. Is attempting to escape by the use of a deadly weapon; or

3. Otherwise indicates, except through a motor vehicle violation, that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay.

In addition, an officer may justifiably rely on the Colorado law regarding self -defense which is applicable to all citizens.

18-1-704 of the Colorado Revised statutes sets forth the law which allows a citizen to use force in defense of himself or another citizen. It provides, in pertinent part,

(1) Except as provided in subsections (2) and (3) of this section, **a person is justified in using physical force upon another person in order to defend himself or a third person from what he reasonably believes to be the use or imminent use of unlawful physical force by that other person, and he may use a degree of force which he reasonably believes to be necessary for that purpose.**

Section 18-1-901(2)(e) of the Colorado Revised Statutes defines the terms “Deadly weapon” and “Deadly physical force” as follows:

“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.

“**Deadly physical force**” means force, the intended, natural, and probable consequences of which is to produce death, and which does, in fact, produce death.

As Ratcliff survived his wound, this is not a deadly physical force encounter. The issue in this case centers on the question whether the use of *physical* force by Off. Stadler was justified and whether the nature of the force used was appropriate. The test is whether the nature and degree of force used is objectively reasonable after considering the totality of the circumstances

Officers are entitled to rely on the doctrine of “apparent necessity” so long as the conditions and circumstances are such that a person would reasonably believe, erroneously or not, that action was necessary. See, *People v. La Voie*, 155 Colo. 551, 395 P.2d 1001 (1964), *People v. Silva*, 987 P.2d 909 (Colo. App. 1999). It is immaterial whether the suspect was actually trying to injure the officers or another, so long as a reasonable person, under like conditions and circumstances, would believe the appearances were sufficient to require the action taken.

It is fundamental that the law of self-defense, which is emphatically a law of necessity, involves the question of one’s right to act upon appearances, even though such appearances may prove to have been deceptive; also the question of whether the danger is actual or only apparent, and as well the fact that danger is not necessary, in order to justify one in acting in self-defense. Apparent necessity, if well grounded and of such a character as to appeal to a reasonable person, under like conditions and circumstances, as being sufficient to require action, justifies the application of the doctrine of self-defense to the same extent as actual or real necessity. *Young v. People*, 107 P. 274, (Colo. 1910).

The issues are, therefore, whether at the time Off. Stadler discharged his pistol, he reasonably believed that he was about to be subjected to unlawful physical force, and furthermore, his actions in defending against that force were objectively reasonable. Alternatively phrased, the question is whether a reasonable officer, confronted with the same facts and circumstances, could have concluded that he was under fire and that it was necessary to discharge his firearm to defend himself or another and stop the threat Ratcliff presented. (Off. Stadler’s actions would also be justified if a reasonable police officer could have concluded that under the totality of the circumstances, it was necessary to discharge his firearm to take Ratcliff into custody.)

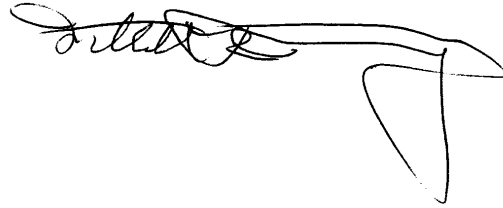
CONCLUSION

Under the facts of this case, Off. Stadler’s actions are clearly justified under C.R.S. 18-1-707(1)(a), C.R.S. 18-1-707(1)(b) and 18-1-704 (1). He was chasing an individual whom he reasonably believed to be armed. When he confronted Ratcliff, Ratcliff charged his pistol, aimed it at Off. Stadler and began firing. Off. Stadler returned fire immediately. Off. Stadler’s quick and courageous response stopped the threat and may have saved his life. His actions in using his firearm to take Ratcliff into custody were objectively reasonable and, given the facts of this case, the only true option he had – less lethal options are untenable in the situation here presented.

November 29, 2016

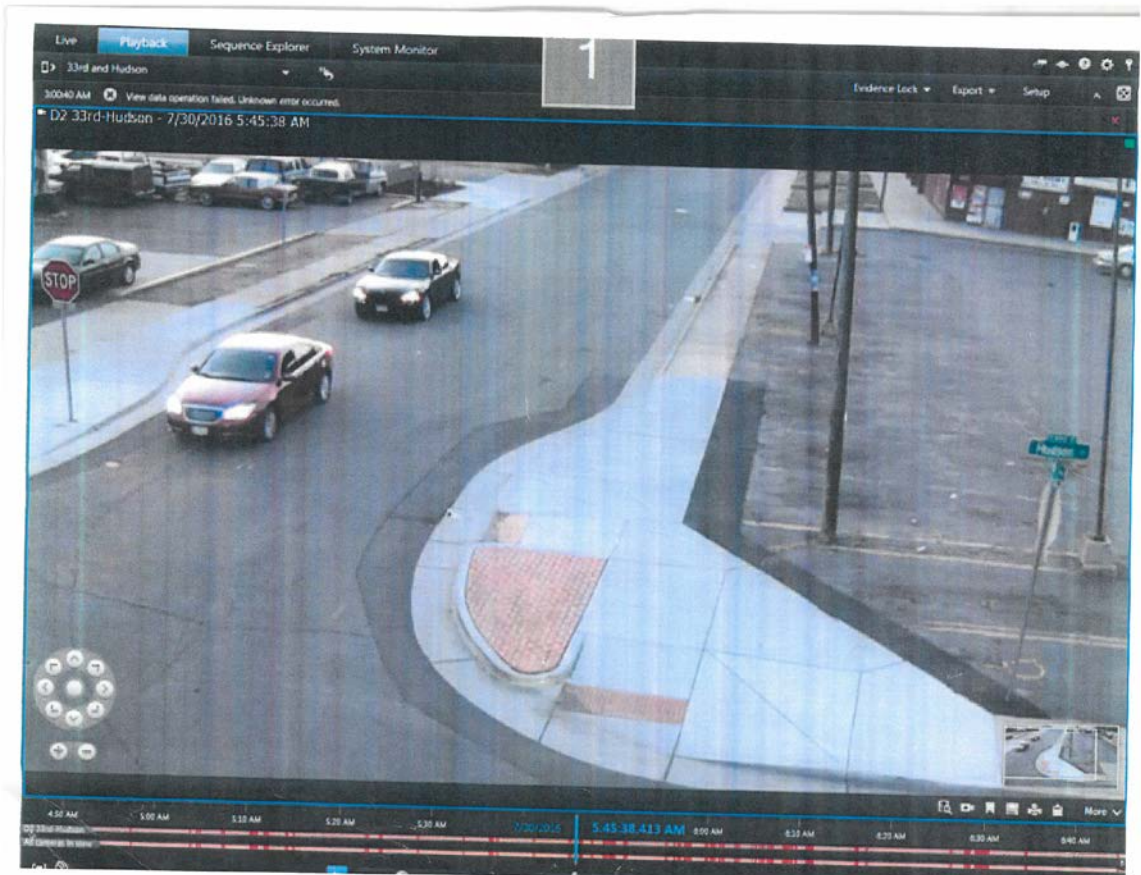
The Denver Police Department is the custodian of record related to this case. All matters concerning the release of records related to administrative or civil actions are controlled by the Civil Liability Division of the Denver Police Department. As in every case we handle, any interested party may seek judicial review of our decision under C.R.S. § 16-5-209.

Sincerely,

A handwritten signature in black ink, appearing to read "Mitchell R. Morrissey". The signature is written in a cursive style with a long horizontal stroke extending to the right, ending in a large, sweeping loop that curves downwards.

Mitchell R. Morrissey
Denver District Attorney

cc: Officer Joseph Stadler; John Davis, Attorney at law; Michael Hancock, Mayor; All City Council Members; Kristen Bronson, Denver City Attorney; Stephanie O'Malley, Executive Director, Department of Safety; David Quinones, Deputy Chief of Police; Matt Murray, Deputy Chief of Police; Barb Archer, Commander of Major Crimes Division; James Henning, Gang Unit Commander; Gregory Laberge, Crime Lab Commander; Joe Montoya, Commander of Internal Affairs; Division; Lieutenant Matthew Clark, Major Crimes; Lt. Scott Torpen, Aurora Police Department Major Investigations Section; Lieutenant Adam Hernandez, Major Crimes Division; Sgt. James Kukuris, Homicide; Sgt. Tom Rowe, Homicide; Sgt. Joe Englebert, Homicide; Detective Bruce Gibbs, Homicide; Detective Kari Johnson, Homicide; Lamar Sims, Senior Chief Deputy District Attorney; Doug Jackson, Senior Chief Deputy District Attorney; Nicholas E. Mitchell, Office of the Independent Monitor; Rev. William T. Golson, Jr.



HALO photograph distributed at that gang unit roll calls showing the suspect vehicles involved in the drive-by shooting near 33rd & Holly/ 33rd & Elm.



The front of 3315 Olive Street. Markers are place by items of clothing removed from Ratcliff by emergency medical personnel.



Looking east from 3315 Olive Street. The black pick-up truck used by Officer Stadler for cover is shown in the center-right of the picture. Behind it is the white SUV which was hit by a round fired by Ratcliff.



Black pick-up truck behind which Officer Stadler sought cover.



Looking north on Olive Street – the black pick-up behind which Officer Stadler sought cover is on the left; markers showing spent shell casings from his gun are scene in the center of the street; the white SUV which was struck by one of the rounds fired by Ratcliff is seen on the right side of the photo.



Bullet strike to the white SUV parked behind Officer Stadler's position during the shooting.



South side of the 3315 Olive Street in which may be seen the gate at which Ratcliff was positioned when he fired at Officer Stadler. The markers indicate items of evidence recovered by investigators including spent shell casings, Ratcliff's handgun, bullet fragments and other items of interest.



Some of the items of evidence documented at the gate.
Ratcliff's handgun is seen at marker #19.



Mitchell R. Morrissey
Denver District Attorney

OFFICER-INVOLVED SHOOTING PROTOCOL 2016

The 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, headed by the Executive Director of the Department of Safety. The Executive Director of the Department of Safety ("Executive Director") 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 three decades, 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 assures transparency in these investigations. This serves to enhance public confidence in the process.

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 Deputy Chief of Police Operations, Major Crimes Commander, Senior Chief Deputy District Attorney, 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, Executive Director, 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. Members of the Aurora Police Department also respond and participate in the investigation, evaluation and review as part of a multi-agency team, per C.R.S. 16-2.5-301 which became effective in 2016.

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-recorded 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 video interview room was first used, each of these statements has been video-recorded. *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 -- is time consuming. 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, and the Senior Chief Deputies District Attorney specifically trained for these cases. As a rule, 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-recorded 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 decision letter describing the shooting and the legal conclusions is sent to the Chief of Police by the District Attorney, with copies to the involved officer(s), the Mayor, City Council members, the Executive Director of the Department of Safety, other appropriate persons, and the media. If the involved peace officer is from an agency other than DPD, the letter is directed to the head of that agency. A copy of the decision letter is also posted on the Denver DA website (www.denverda.org) so that members of the public may learn the facts of the incident and the reasons for the decision of the District Attorney.¹

At this time, the case file that is maintained by Denver District Attorney's Office is available and open to the public for review, unless a criminal case is pending concerning the facts of the shooting, and subject to the Colorado Criminal Justice Records Act. Allowing our file to be reviewed permits interested members of the public to learn more about the investigation; to verify that our description of the facts in the decision letter is accurate; to verify that our decision is supported by the facts; and to determine whether they wish to challenge our decision under C.R.S. 16-5-209.

¹ C.R.S. 20-1-114, enacted in 2015, requires Colorado District Attorneys to publicly release a report when they have decided not to file criminal charges against an officer in an officer-involved shooting. In Denver, this has been our protocol for decades before the legislation was enacted. Indeed, as is explained herein, we provide even greater "transparency" than the new legislation provides because, in addition to distributing the decision letter publicly, we make our files of the underlying factual investigation available for inspection by members of the public, including the media.

Allowing access for review is important to the transparency of our decision making in these important cases, and serves to foster public trust and confidence in the investigative process and in the decisions that are made.²

If criminal charges are filed against the officer(s), the charges are filed in compliance with the same procedures as any other criminal filing. In that event, the file maintained by the Denver District Attorney's Office becomes available and open to the public for review at the conclusion of the criminal prosecution in the same manner as mentioned above.

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.

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 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

² However, the complete official file of the investigation remains in the custody of the Denver Police Department, which is the custodian of the case records. If we have made a decision not to file criminal charges, the Denver Police Department begins an *administrative* investigation and review of the incident. This may result in the gathering of additional information and the production of additional documents concerning the incident. The Denver District Attorney's Office is not involved in the administrative investigation and does not receive the additional information or investigative materials developed in that investigation. At the end of the administrative review, therefore, the files maintained by the Denver Police Department pertaining to the shooting will likely contain more information than the criminal investigation file.

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, an appearance of impropriety may exist if the Denver District Attorney's Office handled the case. This may cause our office to seek a special prosecutor.

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, although these certainly may be important in a case as well.

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 three 4-year terms, this statistic would mean there would be one criminal filing during the combined terms of 5 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. "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, and the "Colorado Criminal Justice Records Act" dictates that the public interest be considered before releasing criminal justice records.

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 that 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.

We encourage any interested person to read the decision letter in these cases, and if desired, to review the investigative case file at our office to learn the facts. We find that when the actual facts are known a more productive discussion is possible.

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