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June 18, 2020

Paul Pazen
Chief of Police
Denver Police Department
1331 Cherokee Street
Denver, CO 80204

RE: Investigation of the shooting death of William Lamont Debose DOB 09/12/1998, which occurred on May 1, 2020 in the 3200 block of West Colfax Avenue in Denver, Colorado.

Dear Chief Pazen,

The investigation and legal analysis of the death of William Lamont Debose is complete. I conclude that under applicable Colorado law no criminal charges are warranted against Corporal Ethan Antonson, badge number 05031. This letter will be posted on our website and our file will be available for interested citizens to review. My decision, based on criminal law standards, does not limit administrative action by the Denver Police Department, in which non-criminal issues can be reviewed, or civil action where less stringent laws, rules and legal levels of proof apply.

STATEMENT OF FACTS

On May 1, 2020, Denver Police Gang Unit Corporal Ethan Antonson was on duty working alone in a marked Denver Police Department (DPD) Chevy Tahoe. At approximately 10:20 p.m. Corporal Antonson was monitoring traffic at 7th and Federal Blvd. While there he heard over his police radio that another Gang Unit officer, Benjamin Altman, was requesting the assistance of "Air-1," the DPD helicopter, to help track a blue and white Chevy Caprice traveling at a high rate of speed on I-25. This caught Corporal Antonson's attention because Air-1 is typically used to help track vehicles that may elude or are stolen and one of his Gang Unit officers was requesting its assistance. The blue and white Chevy Caprice vehicle got onto I-25 southbound and Officer Altman did not pursue the car, but instead observed it from a distance while airing the vehicle description to Air-1.

The helicopter crew was able to spot the Caprice travelling South on I-25 just after the 20th Street Bridge. The car was moving at a high rate of speed quickly catching up to the traffic in front of it. Air-1 is equipped with a camera capable of both color video and Forward Looking Infrared (FLIR) images. Air-1's camera was activated and began to track the Caprice. The recorded video provided from Air-1 toggles between video and FLIR imaging. The Caprice was first spotted travelling past Mile High Stadium. The Caprice was travelling significantly faster than other traffic before it began to slow as it approached the exit ramp to Colfax Ave.



Figure 1. A FLIR image from Air-1 capturing the Caprice travelling Southbound on I-25.

Corporal Antonson, still monitoring the radio traffic, traveled from his location at 7th and Federal to the area, approximately eight blocks away, to assist his fellow unit officer. At the Colfax Ave. exit the Caprice entered the off-ramp, slowed and stopped at a stop sign preparing to make a right turn on Colfax Ave. headed west. Officer Altman caught up with the Caprice as it was stopped.



Figure 2. A FLIR image (left) and color image (right) from Air-1 showing the Caprice at the end of the I-25 Off ramp about to turn West onto Colfax Ave. Officer Altman can be seen pulling behind the Caprice in the color image to the right.

Officer Altman also exited the Colfax Ave. off-ramp behind the Caprice. The Caprice then turned west onto Colfax Ave. failing to use a turn signal. Officer Altman also turned west onto Colfax. After a short distance, at 10:22:54, Officer Altman attempted a traffic stop for the

observed traffic infractions by activating the overhead lights in his marked Denver Police Department vehicle.



Figure 3. A color image from Air-1 showing Officer Altman activating his overhead lights to attempt a traffic stop of the Caprice.

After travelling approximately 1,000 feet the Caprice slowed to a stop. Upon stopping, the rear passenger side door opened and Zaybien Johnson-Smith exited the car. Once the door was closed, the Caprice accelerated back into the lanes of traffic, traveling at a high rate of speed, eluding officers. Mr. Johnson-Smith put his hands in the air and got down on his knees. Mr. Johnson-Smith was contacted by Officer Altman who identified and released him. However, after the officer-involved-shooting he walked to the scene and was then taken to DPD headquarters for an interview.

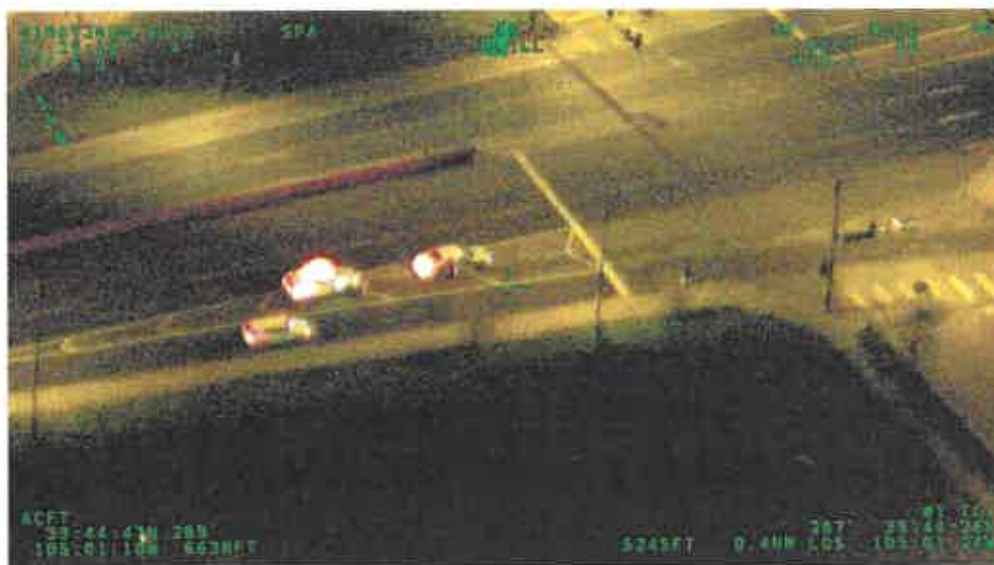


Figure 4. A color image from Air-1 showing the rear passenger side door open as Zaybien Johnson-Smith exits the car. Altman's car is behind the Caprice with its overhead lights activated.

After the Caprice continued west on Colfax, Air-1 continued to follow it and announce over the police radio where the car was going. By this time Corporal Antonson was traveling west on Colfax, passing Officer Altman who was in contact with Mr. Johnson-Smith.

The Caprice travelled west on Colfax approximately 2,000 feet and upon reaching the intersection of Colfax and Irving St. made a hard left turn heading south on to Irving St. As the Caprice turned it “fish-tailed” before the driver could correct the vehicle’s direction.



Figure 5. A FLIR image from Air-1 showing the Caprice “fish-tail” as it turned south onto Irving Street from Colfax Ave.

The Caprice travelled one block and then made a left turn into the parking lot of the Rodolfo “Corky” Gonzales Public Library. At 10:26:09 the Caprice parked facing south in the parking lot. At this point there were no Denver Police vehicles near the parking lot. However, Air-1 continued to monitor the Caprice.

Corporal Antonson responded to the area headed west on Colfax to the intersection of Irving St. and Colfax Ave. There he made U-Turn to head east on Colfax and then stopped briefly on the north side of the library to wait and see if the driver of the car got out before he would try to detain him so as to avoid a car chase.

At 10:26:54 Sierra Martinez-Griego exited the front passenger side door and William Lamont Debose exited the front driver side door of the Caprice. Mr. Debose was wearing a black pouch. The couple began to walk south through the parking lot towards West 14th Avenue. As they were walking the Air-1 crew continued to direct officers, including Corporal Antonson, to their location.

At 10:22:17 Corporal Antonson entered the library complex from Colfax Ave. Corporal Antonson spotted Mr. Debose and Ms. Martinez-Griego as they were just about to reach 14th Avenue. At about the same time Officer Blake Bishop arrived and stopped his unmarked police Chevy Tahoe on 14th Ave. in front of Mr. Debose and Ms. Martinez-Griego. At 10:27:25 Corporal Antonson turned on his spotlight, activated his body worn camera, stopped his vehicle,

and exited his car. He did not draw his gun. He told Mr. Debose and Ms. Martinez-Griego to “Stay right there for me, both of you, hands up in the air. Just stay right there for me.”



Figure 6. An image from Antonson's body worn camera as he contacts Debose and Martinez-Griego.

Upon hearing Corporal Antonson, Mr. Debose turned, and looked at Corporal Antonson and Officer Bishop and put his hands up. Then he then quickly turned and began to sprint north on the sidewalk back in the direction of the Caprice.



Figure 7. An image from Antonson's body worn camera showing Debose beginning to run.

Corporal Antonson began to chase Mr. Debose. Corporal Antonson travelled in the street parallel to Mr. Debose who continued to run on the sidewalk. As Corporal Antonson travelled in the street he could see Mr. Debose. As the pair ran, however, three cars parked on the curb intermittently blocked his view of Mr. Debose.

About five seconds after Mr. Debose began to run, Corporal Antonson passed the last vehicle in the row of cars. There he saw Mr. Debose as he was about to enter the parking lot. Corporal Antonson moved towards him in an effort to close the distance between himself and Mr. Debose. At this point Mr. Debose reached across his body, pulled a handgun, and rotated his arm towards Corporal Antonson. Corporal Antonson yelled “On the ground!” and quickly drew his firearm. Corporal Antonson fired his gun four times until Mr. Debose fell to the ground.



Figure 8 An image from Antonson’s body worn camera. That shows Debose standing and facing Antonson.

As Mr. Debose fell to the ground, the gun Mr. Debose pointed at Cpl. Antonson fell to the ground with a with a metallic “clank” that is audible on Corporal Antonson’s body worn camera.



Figure 13. An image from Antonson’s body worn camera that shows Debose on the ground and immediately beyond him is his hand gun.

After Mr. Debose fell, Corporal Antonson and Officer Bishop approached him and handcuffed him pursuant to DPD procedure. They made sure Mr. Debose did not have access to his gun but

left it on the ground. Once additional officers responded to the scene, an officer was assigned to stand over the gun until the scene could be completely secured for the crime scene investigators.



Figure 9. An Air-1 FLIR image showing officers securing Debose's after he fell to the ground. To the left of Debose the gun he dropped on the ground is illuminated on the FLIR camera as it is warmer than the pavement.

After they handcuffed Mr. Debose, Officers saw blood on his leg and realized he was injured. They immediately called for an ambulance, removed his handcuffs, removed his black pouch and clothes to find his injuries, and began lifesaving efforts. Paramedics arrived and transported Mr. Debose to Denver Health Medical Center; however, he was pronounced dead at 10:55 p.m.

Corporal Ethan Antonson

Corporal Antonson was interviewed approximately four hours after the shooting at 2:42 AM on May 2, 2020. Prior to making his statement he did not watch his body worn camera. Corporal Antonson provided the following information.

Corporal Antonson told Denver Police and Aurora Police homicide investigators that he has been a Denver Police Officer since 2005. Prior to joining the Denver Police Department, he was Denver Sheriff Deputy for four years. Beginning in 2009, he has had a permanent assignment in the Gang Unit. As a corporal in that unit, he primarily works as a supervisor and training officer for other officers. On this evening he was working alone in a marked Denver Police Department Chevy Tahoe. He was dressed in a DPD uniform and had with him his 9mm Glock 34 handgun with magazine that holds 22 bullets. He also one round in the chamber for total of 23 rounds in his handgun.

Corporal Antonson recalled he saw the couple walking away from the Caprice after he arrived at the library complex. When he stopped his vehicle he took a few steps to the left to get around his open driver-side door. He told the couple to put their hands in the air. They both complied with that order. The male then turned to face him with his hands up in the air. The male took a step or two towards Corporal Antonson and then began to run northbound on the sidewalk back towards the Caprice. Corporal Antonson then started to run north in the parking lot parallel to the male. They ran past the parked vehicles, the male to the west of the parked cars, and Corporal

Antonson to the east of the parked cars. As he was running, Corporal Antonson told investigators he thought to himself “I have to prevent him from getting back to that car and driving that car.”

Mr. Debose ran straight towards the car, Corporal Antonson ran at a slight angle towards the car in an attempt to cut him off. As they both passed the last parked car Corporal Antonson described what happened:

I see that he's looking right at me while he's running, which didn't seem normal to me when I'm running to try and block him from the car, and then it all happens very quickly at that point.

I see him with his right hand reach down towards his body, across his body, and then he reaches – and then he very quickly pulls out and points directly at me.



Figure 10. Antonson describing how Debose first reached across his body (left) and then pointed the handgun directly at him (right).

And I'm very close to him at this point. And I immediately – I believe at that point, immediately draw my gun. And the thoughts that are going through my head is, “this guy is going to kill me and he just beat me to it”; “he already has his gun out and I don't have my gun out.” And these thoughts are going quickly through my head, and as my gun is coming up, I'm trying to rotate my body to get my body into a good shooting position. I don't remember if I make contact with my support hand, but I see the flash of my optic, which is a red-dot optic. I just see the momentary flash of it coming up to where it needs to be and I start squeezing the trigger.

I believe I shoot and – the – I don't know exactly how many rounds I shot, but I'm estimating that it was between three and five rounds. I stop shooting once he falls to the ground.

Corporal Antonson also described hearing the male's gun hit the ground seeing it as he and other officers move to secure this person:

Once I see both of my officers on him, I recall that when he falls to the ground, I hear a metallic sound that sounds like a metallic sound had hit the ground. I then look to the left and I see that there's a gun on the ground. Again, this is an estimation, but maybe within five feet of his – his feet. He's laying somewhat north to south in the parking lot and it was just behind his feet. I then say, “gun, gun.”

And then I look over and they're placing him into handcuffs. I holster my weapon. I initially assist in just a quick search, realize my only indication that he had blood on him was I saw some splattering of blood on his – his leg beneath his shorts, and we immediately start to render aid.

Corporal Antonson recalled that as the male was running he was wearing a small pack.

When asked to describe the motion with which Mr. Debose drew he described it as a “right-hand draw” with a one-hand hold. When asked to describe what was in Mr. Debose's hand Corporal Antonson stated:

It was a black object, and a very specific draw pattern that I've seen in twenty years of law enforcement. It's – it was very specific, and it was a black object in his hand, and the only thought in my head was “he's gonna kill me.”

Officer Blake Bishop

Officer Blake Bishop was working the night of the shooting. He was interviewed at 2:06 AM on May 2, 2020, just under four hours after the shooting. He was wearing body worn camera during the shooting. He did not view his body worn camera footage before his interview.

Officer Bishop told Denver Police and Aurora Police homicide investigators that while he was on Washington Street near I-70 he heard the Air-1 helicopter announce it was tracking a car that was travelling at a high rate of speed. Officer Blake Bishop immediately got on I-70 and then I-25 to get closer to the area the car was heading.

When the Caprice parked in the library parking lot, Officer Bishop was able to get to the area and onto 14th Avenue. As Corporal Antonson was contacting the male and female, Officer Bishop was able to block them before they crossed 14th Avenue. Officer Bishop described the male as wearing a black t-shirt. He further saw some sort of backpack or bag that looked like it was slung around this person's shoulders. Officer Bishop described him as looking first at Corporal Antonson and then looking back towards him. Officer Bishop saw this male grab his waistband and start running northbound. Officer Bishop aired there was a foot chase on his radio and started chasing after Corporal Antonson who was chasing the male.

Officer Bishop explained that due to the male grabbing his waistband he was concerned he might have a gun. As a result, Officer Bishop drew his gun out of its holster and ran with his gun in one

hand and his police radio in the other. Officer Bishop stated that the male was on the sidewalk running northbound. Officer Bishop and Corporal Antonson were running northbound in the street.

As the male and Corporal Antonson turned the corner into the parking lot they ran northwest into the parking lot. He then described in his interview what he saw:

So I had a pretty good like backlit view of everything. As he is running, he gets to about probably somewhere right around here [pointing on an aerial photograph of the area], and I see his elbow lift and that's when I start kind of slowing down trying to get a sight picture, because I figured he's started to pull a gun.

We – we've done use of force trainings that any 90-degree movement with hands and elbows is – is pretty indicative of drawing some sort of weapon. And then also, when he ran away, he immediately grabbed his waistband, which is pretty indicative of carrying a weapon as well.



Figure 11.. Bishop describing how Debose lifted his elbow as if he was drawing a weapon (left) and how Debose's arm came away from his body to point towards Antonson (right).

Officer Bishop then describes the shooting:

So he starts to do this. I start to slow down just a little bit and all I see is his arm start to come like this and I hear between four and six shots. As I start to take up the slack in my trigger, I see him start to fall, and I see the gun fall – what would have been just to the west of him. He sort of spun, what would have been clockwise, as he was falling. And I see the gun drop, and then I let off the slack in my trigger.

Officer Bishop further described that in the moments immediately before the shooting he can see the muzzle of Mr. Debose's gun "protruding from behind his hand." Officer Bishop also

described that immediately after the shooting as Mr. Debose “continues to spin, I see it drop from his hand, and that’s – it landed just to the west of where he laid.”

Zayblen Johnson-Smith

Mr. Zayblen Johnson-Smith was the rear seat passenger in the Caprice.

After the officer-involved-shooting Zayblen Johnson-Smith was transported to Denver police Department headquarters for an interview. Johnson-Smith told Denver Police and Aurora homicide investigators that he did not know the male and female that were in the Chevy Caprice. Johnson-Smith stated he met them at a party somewhere in Arvada that night. He stated when he was at the party he needed some cigarettes and overheard a male and female talking about going to a liquor store. Mr. Johnson-Smith asked them if he could go with them.

Mr. Johnson-Smith remembered the male driver said something like “the police are behind us” or “the police are about to turn around on us.” Mr. Johnson-Smith stated he remembers getting on the highway and driving really fast. Mr. Johnson-Smith told investigators he was scared and he told the male to let him out of the vehicle. Mr. Johnson-Smith stated he was in a car accident in the past and just wanted out of the vehicle because he thought he might die if they crashed. Mr. Johnson-Smith stated the male never said why he was driving fast to get away from the police.

Mr. Johnson-Smith stated he remembers the male driver saying, “I think we lost them” when they got off the highway onto W. Colfax Avenue. Mr. Johnson-Smith stated the male let him out of the vehicle on W. Colfax Avenue by “Bronco” stadium. Mr. Johnson-Smith stated as soon as the vehicle stopped, he jumped out of the vehicle. Mr. Johnson-Smith stated he was in such a hurry to get out that he left his cell phone in the vehicle. Mr. Johnson-Smith stated the police were behind them at this time, so he put his hands up in the air and got on his knees.

Mr. Johnson-Smith was shown photo arrays of Mr. Debose and Ms. Griego-Martinez. He did not make an identification.

Sierra Martinez-Griego

Ms. Martinez-Griego was the passenger in the car. She is Mr. Debose’s common-law wife. The evening of the shooting Ms. Martinez-Griego was not located by Denver Police. The Caprice was registered to her, but attempts to contact her were fruitless.

On May 8, 2020, Ms. Martinez-Griego’s attorney, who also represents the estate of Mr. Debose, contacted the Denver Police homicide investigator assigned to this case. The attorney indicated that it was possible that Ms. Martinez-Griego would give a statement but stated he had concerns about a protection order between Ms. Martinez-Griego and Mr. Debose. Ms. Martinez-Griego was concerned that she could be arrested for violation of protection order if she gave a statement.¹

¹ While in the past Ms. Martinez-Griego had been the subject of protection orders arising from criminal cases which prohibited her from being in contact with Mr. Debose, at the time of the shooting there was no such protection order in place. Instead, there was a protection order prohibiting Mr. Debose from being in contact with Ms. Martinez-

On May 9, 2020, after consultation with the Denver Police Homicide Investigator assigned to the case, the Office of the District Attorney told Ms. Martinez-Griego's attorney that if she made a statement she would not be arrested for violation of the protection order.

On May 29, 2020, Ms. Martinez-Griegos's attorney indicated that she "cannot make any statements to the police or DA's office at this time."

On June 4, 2020, Ms. Martinez-Griego's attorney contacted the Office of the District Attorney and indicated that she would like to make a statement. The interview was scheduled for June 11, 2020.

On June 9, 2020 Ms. Martinez-Griego was interviewed by local TV news station. In the aired interview Ms. Martinez-Griego stated that "William decided to run and two officers ran after him, the third pointed his gun said don't move and ran after him as well and started shooting." According to the news report, Ms. Martinez-Griego disputes that Mr. Debose had a gun.

On June, 11, 2020 Ms. Martinez-Griego came to DPD headquarters with her attorney and gave a statement to Denver Police. Ms. Martinez-Griego told investigators that on the night of the shooting she was with Mr. Debose and his "friend" whom she knows as "Elizay." Ms. Martinez stated she never met Elizay before that evening. She said Mr. Debose, Elizay and herself were parked in the Globeville area of Denver sitting in Ms. Martinez-Griego's parked Caprice. Mr. Debose was in the driver's seat, she was in the passenger seat, and "Elizay" was in the rear seat. They were waiting to meet a friend of "Elizay's" but that person was late. Ms. Martinez-Griego suggested they should move because they were in a bad neighborhood and just sitting in car, could attract police attention. She stated that Mr. Debose started to drive the car. As they were at a stop light, a Denver Police officer passed by going the opposite direction, then made a turn to get behind their car. Mr. Debose became concerned and Ms. Martinez-Griego told him that they were not doing anything wrong.

Mr. Martinez-Geigo said Mr. Debose got on a ramp to a highway and then the police car activated its overhead lights. Upon seeing this, Mr. Debose accelerated the car and got on the highway. Ms. Martinez-Griego said Elizay wanted to get out. She later clarified that they were on the highway by the stadium and she thought they were going 110 mph.

When they got to Federal Blvd., Elizay got out of the car. Mr. Debose kept going. Ms. Martinez-Griego asked him to let her out, but he told her that he wanted her to stay with him. They parked and then left the car on foot. Ms. Martinez-Griego explained she got to the stop sign and then saw cop cars. Ms. Martinez-Griego then said the police officers approached with their guns out and said "put your hands up." Mr. Debose told Ms. Martinez-Griego "fuck this. I did not do anything wrong" and ran. Two police officers chased after Mr. Debose. A third officer pointed his gun at Ms. Martinez-Griego and told her to stay. Ms. Martinez then heard shots. She waited but no one contacted her at first. She then was contacted by another police officer who asked her if she saw a black female with long black hair. Ms. Martinez-Griego pointed in a direction and

Griego as a result of a domestic violence third degree assault case. *See*, Jefferson County Case No. 19M4832. This protection order also prohibited Mr. Debose from possessing a firearm.

said she went that way. She then called Mr. Debose's mother and told her he was shot then got inside nearby apartment building and stayed there.

When asked to clarify, Ms. Martinez-Griego said she did not see the shooting. She said "when I couldn't see, that's when they started shooting." When asked if she ever saw Mr. Debose with a gun. She said once and that it was earlier on the day of the shooting. She said it was in a pouch in which Mr. Debose keeps his diabetes pens and medication. Ms. Martinez said she saw the gun in the open pouch while it was on the floorboard of the Caprice. She said she saw it earlier in the day when they were running errands. When asked if she asked Mr. Debose about the gun, she claimed she did not despite this being the first time she ever saw Mr. Debose with a gun. Ms. Martinez-Griego said Mr. Debose left the pouch in the car.

AUTOPSY REPORT

On June 12, 2020, Dr. James L. Caruso, the Chief Medical Examiner of the Office of the Medical Examiner issued his Autopsy Report.

Dr. Caruso determined that Mr. Debose died as a result of a gunshot wound of the chest. That wound injured both of Mr. Debose's lungs, his aorta, and his superior vena cava. The gunshot entered Mr. Debose's right upper chest and exited his left upper back. An additional gunshot wound to the left thigh injured only soft tissue. This gunshot entered the lateral left thigh and the bullet was recovered inside Mr. Debose' pelvic area. Neither entrance wound exhibited evidence of close range discharge of a firearm. There were minor cutaneous blunt force injuries of the face and both knees that Dr. Caruso determined likely were the result of Mr. Debose falling after he was shot. Toxicological testing of Mr. Debose's blood was positive for ethanol and cannabinoids.

CRIME SCENE

Immediately after the shooting officers secured the handgun and then secured the scene with crime scene tape. At 11:05 pm the Crime Scene Unit responded to process the scene.

While at the scene, Crime Scene Investigators collected a Taurus, 9mm semi-automatic handgun, Model G2C, black, serial number TMR29990, loaded with 11 live rounds in the magazine and 1 live round in the chamber, indicating it was ready to be fired.



Figure 12. The Taurus, 9mm semi-automatic handgun, Model G2C, black, serial number TMR29990 located at the scene. It had 10 rounds in the magazine and one in the chamber ready to fire.

Crime Scene Investigators also collected a black pouch. Inside the pouch were diabetic supplies. As seen in crime scene photos, the pouch appeared to be open. This same pouch is visible on officer's body worn camera as they remove it while rendering aid to Mr. Debose.



Figure 13. A Crime Scene Unit photo showing Debose's black pouch on the ground where it was thrown while officers rendered first aid to Debose.

Crime Scene Investigators collected four spent 9mm cartridge cases consistent with those issued by the Denver Police Department Firearms bureau.

Corporal Antonson's handgun was collected by the Crime Lab at the Forensic Garage. He was carrying a 9mm Glock Gen-5, semi-automatic handgun, Model 34. The magazine Corporal Antonson had in his weapon during this shooting has the capacity to hold twenty-two rounds. Corporal Antonson indicated that magazine was fully loaded, and he chambers a round and tops off the magazine. Before the shooting, Corporal Antonson had a total of twenty-three rounds in his weapon. At the time of the unload, he had nineteen rounds of total ammunition. Thus Corporal Antonson fired four rounds. This is consistent with the number of cartridge cases as the scene.

LEGAL ANALYSIS

Criminal liability is established only if it is proved beyond a reasonable doubt that all of the elements of an offense defined by a statute have been committed and it is proved that the offense was committed without legal justification as set forth in Colorado statutes. The justification of using physical force in self-defense is described in C.R.S. § 18-1-704. As pertinent to this case, C.R.S. § 18-1-704 (1) states:

... 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.

Deadly physical force "may be used only if a person reasonably believes a lesser degree of force is inadequate and the actor has reasonable ground to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving great bodily injury." C.R.S. § 18-1-704(2)(a).

The Colorado Criminal Code specifies certain circumstances in which the use of deadly force by a peace officer is justified. The justification for a peace officer's use of physical force is described in C.R.S. § 18-1-707. As pertinent to this case, C.R.S. § 18-1-707(2) states that:

[A] peace officer is justified in using deadly physical force upon another person for a purpose specified in subsection (1) of this section 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;

These justifications are "affirmative defenses." This means that a person accused of a crime for using force does not need to prove that he or she was justified in using the force. Instead, the prosecution must prove, to a unanimous jury, that the force was *not* justified. Accordingly, the question I must consider is: **Is there enough evidence of criminal conduct that a jury would**

find, beyond a reasonable doubt, that Corporal Antonson acted without lawful justification?

After a thorough review of the evidence, I conclude that Corporal Antonson was legally justified in firing his weapon at Mr. Debose as he acted in self-defense pursuant to our statutes.

In this situation, Corporal Antonson reasonably believed at the time he fired the shots that Mr. Debose was about to use unlawful deadly force. As Mr. Debose passed the last parked car he turned and looked at Corporal Antonson and drew and pointed what Corporal Antonson described as a “black object” and pointed it at Corporal Antonson. Corporal Antonson told investigators that his thought was “he’s going to kill me.”

Corporal Antonson’s belief that he was about to face deadly physical force was reasonable as was his belief that a lesser degree of force would have been inadequate. Corporal Antonson stated that, based on his twenty years of law enforcement experience, Mr. Debose’s draw pattern indicated that Mr. Debose was pointing a weapon at him and he was about to be killed.

The reasonableness of this belief is supported by several corroborative facts. First, Officer Bishop also noticed this draw pattern.² He described that as Mr. Debose was running, he lifted his elbow creating a 90-degree angle with his arm. Officer Bishop described this as a “big red flag” that Mr. Debose had a gun.

Second, Officer Bishop saw that the muzzle of a gun was protruding from Mr. Debose’s hand and pointing toward Corporal Antonson.

Third, while the moment of the shooting is difficult to see on Corporal Antonson’s body worn camera due to the motion and relatively low light, it appears that Mr. Debose was turning toward Corporal Antonson and his arms appear to be at shoulder level consistent with pointing a gun. In an effort to better demonstrate what Corporal Antonson’s body worn camera shows, the Denver Police Department sent the video to Forensic Video Solutions for analysis. The experts there provided the below brightened image from Corporal Antonson’s body worn camera.



Figure 14.6. An image from Antonson's body worn camera that captures Debose facing Antonson.

² It should be noted that, immediately after the shooting, officers were sequestered and not permitted to speak with one another.

Fourth, the body worn camera clearly captures the sound of Mr. Debose's gun hitting the pavement before his body does.

Fifth, Officer Bishop sees the gun in Mr. Debose's hand and sees it hit the ground.

Sixth, the gun can be seen on the ground next to Mr. Debose in both Corporal Antonson's and Officer Bishop's body worn camera footage as they approach Mr. Debose.



Figure 15.. An image from Antonson's body worn camera that shows Debose's gun next to him immediately after the shooting. This image was provided by Forensic Video Solutions.

Seventh, Ms. Martinez-Griego saw a gun in Mr. Debose's black pouch earlier in the day. She claimed this was the first and only time she has seen Mr. Debose with a gun. While Ms. Martinez-Griego claims the pouch was not on Mr. Debose when they exited her car both Corporal Antonson and Officer Bishop remember seeing the pouch on Mr. Debose as he was running. Furthermore, the pouch is clearly visible on a responding officer's body worn camera as he and other officers rendered first aid to Mr. Debose.

Finally, a Taurus 9mm handgun with a fully loaded magazine and a round in the chamber was found next to Mr. Debose.

At the time he fired the shots Corporal Antonson reasonably believed that he was in imminent danger of being killed or of receiving great bodily injury by use of deadly force against him. The gun in Mr. Debose's hand easily could have killed Corporal Antonson if Mr. Debose had been able to shoot first.

For these reasons, Corporal Antonson had a lawful and justifiable claim of self-defense.

As the United States Supreme Court has instructed regarding assessing the reasonableness of an officer's beliefs when using physical force:

The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.

Graham v. Connor, 490 U.S. 386 (1989) at pp. 396-397.

Indeed, the chase and shooting lasted less than ten seconds. Corporal Antonson had to make a split-second judgment while running at full speed. His judgment that Mr. Debose was pointing a handgun at him and about to kill him was reasonable; therefore, it was reasonable and lawfully justified for Corporal Antonson to defend himself with deadly physical force under Colorado Statutes.

Records related to this case will be made available upon request to the Denver District Attorney's Office. Any interested party may seek judicial review of my decision under C.R.S. 16-5-209.

This letter and our officer-involved-shooting protocol will be published on our website.

Sincerely,

A handwritten signature in black ink that reads "Beth McCann". The signature is fluid and cursive, with a long horizontal line extending to the right.

Beth McCann
Denver District Attorney

cc: Deputy Chief Barb Archer; Commander Mark Chuck; Division Chief Joe Montoya; Lieutenant Matthew Clark, Sgt. Scott Murphy; Sgt. Brock Ellerman; Sgt. Scott Hagan; Detective Joseph Trujillo; Detective Martin Smith; Corporal Ethan Antonson; Sean Lane, attorney for Corporal Antonson; Kristin Bronson, City Attorney, and Nicholas E. Mitchell, Office of the Independent Monitor.