

Beth McCann
District Attorney

Second Judicial District



201 W. Colfax Ave. Dept. 801
Denver, CO 80202

720-913-9000

Beth.McCann@denverda.org

September 16, 2021

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

RE: Investigation of the shooting death of Cedrick Vick, DOB 01/12/1999, in which Denver Police Officers Joshua Catlett (badge number 13078), Justin Kennedy (badge number 06053), Shane Madrigal (badge number 17059), John McAndrews (badge number 18028), Eduardo Medero (badge number 17023), Maneechot Phanpaktra (badge number 18021), John Schaal (badge number 17063), John Silva (badge number 19079), and Jesse Trudel (badge number 18060) fired shots on May 14, 2021 at 1st St. and Perry in Denver, Colorado.

Dear Chief Pazen,

The investigation and legal analysis of the shooting of Cedrick Vick, in which shots were fired by Denver Police Department Officers Joshua Catlett, Justin Kennedy, Shane Madrigal, John McAndrews, Eduardo Medero, Maneechot Phanpaktra, John Schaal, John Silva, and Jesse Trudel is complete. I conclude that under applicable Colorado law, no criminal charges are warranted against these officers. My decision, based on standards of criminal law, does not limit administrative action by the Denver Police Department, where tactical issues may be reviewed, or civil actions where less stringent laws, rules and legal levels of proof apply.

STATEMENT OF FACTS

On May 14, 2021, the Denver Police Department received several 911 calls relating that there was a white male firing a gun at people in the area of 4404 Morrison Rd. The man was reported to have traveled through the children's playground at that location, then carjacked and shot at a woman before fleeing in her car, a black Honda Accord. This man, later identified as Cedrick Vick, fled the scene. The police quickly located this stolen Honda and followed it as it traveled recklessly throughout west Denver. As the Honda traveled northbound on S. Quitman St., it was pursued by Officers Schaal and Trudel. While the two vehicles were in the 500 block of S. Quitman St., Mr. Vick held a black handgun out of the window, pointed it at the officers, and fired. Officer Trudel aired this information over the police radio, and a number of police vehicles joined the pursuit. During this pursuit, Mr. Vick collided with two other vehicles being driven by civilians.

Ultimately, Mr. Vick drove the stolen Honda southbound on Perry St. at a high rate of speed. He turned left onto First Avenue at such a high rate of speed that he crashed at that intersection, coming to rest to the east of the intersection, on the south side of the road and up against a small hill to the south of the Honda. The route that Mr. Vick traveled is below:

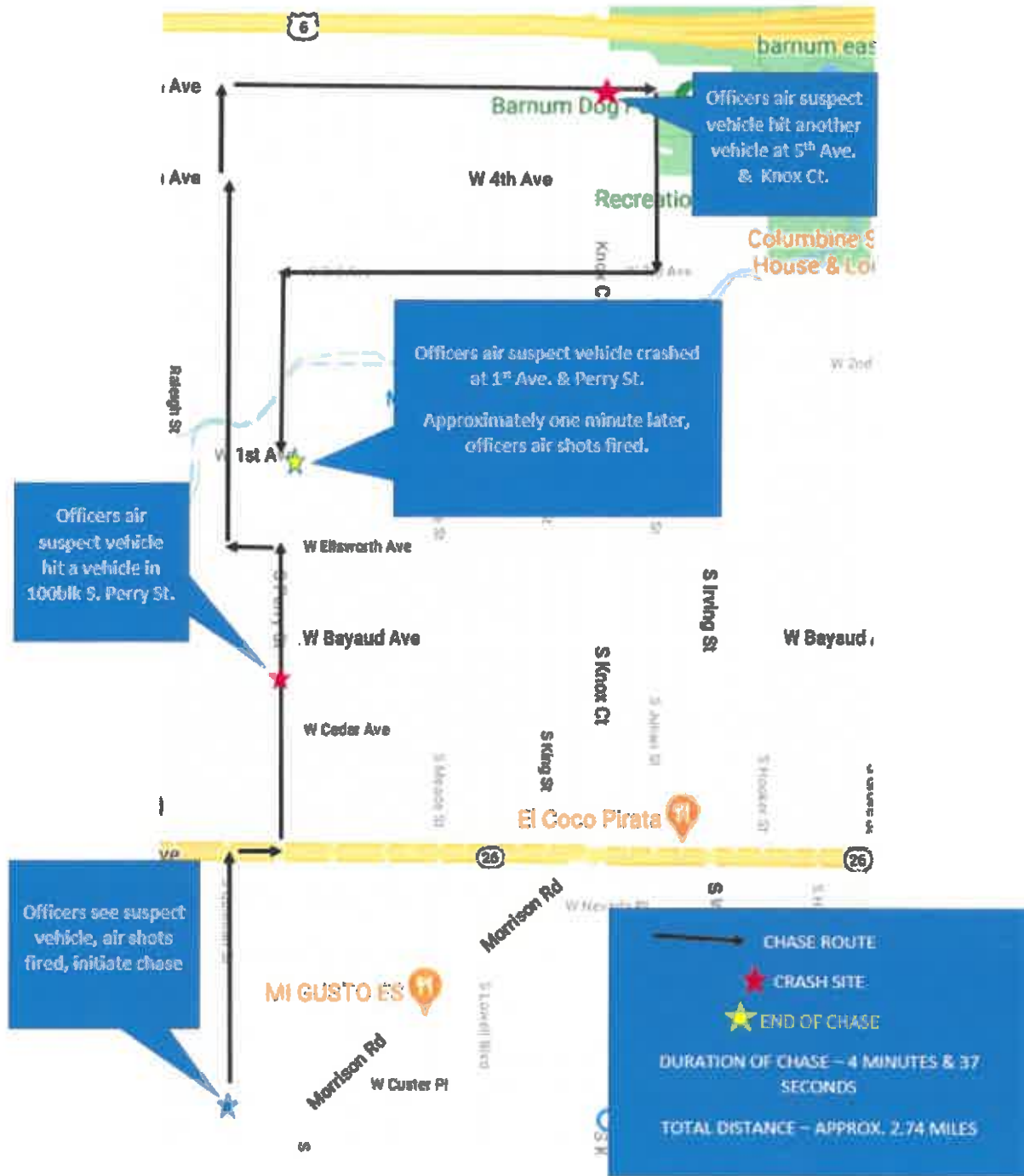


Figure 1. Map of Incident

Several police officers responded to this intersection. They watched as Mr. Vick reached into the passenger compartment of the stolen Honda. He threw a metal water bottle out of the window then reached back into the passenger compartment. He then raised a handgun and

pointed it out the window in the direction of officers. He then fired at least two times. Officers Joshua Catlett, Justin Kennedy, Shane Madrigal, John McAndrews, Eduardo Medero, Maneechot Phanpaktra, John Schaal, John Silva, and Jesse Trudel returned fire. Immediately, members of the police department asked for an ambulance to respond. Mr. Vick was transported to the Denver Health Medical Center, where unfortunately Mr. Vick was pronounced deceased.

Investigators with the Denver Police Department, Aurora Police Department and Denver District Attorney's Office responded to investigate this incident. They determined that 109 rounds of ammunition were fired.

Forensic pathologist Dr. Ian Puffenberger performed an autopsy on Mr. Vick on May 15, 2021. He determined that Mr. Vick sustained a total of 29 gunshot wounds. The lethal injuries were to the head, chest and abdomen. Dr. Puffenberger concluded that the cause of death was multiple gunshot wounds. In addition, toxicological testing revealed the presence of cocaine, fentanyl and cannabinoids in Mr. Vick's system.

Two of Mr. Vick's family members (PV and DV) appeared at the scene after it had been secured. They were transported downtown to police headquarters where they were notified of Mr. Vick's passing.

STATEMENTS OF CIVILIAN WITNESSES

Civilian witness M.C.¹ was interviewed by officers the evening of May 14, 2021. She related that she was visiting her daughter in the apartment complex at 4404 Morrison Rd. Her twelve-year-old son was on foot, taking trash toward the trash cans, and she was in her car driving toward him to pick him up. Also in the car was her eight-year-old daughter and her infant grandson, who was in a car seat behind M.C. As her son was walking the trash through the parking lot, M.C. saw a man leaning over a white Dodge Challenger. He had a gun in his hand, so she told her son to get back in her car. The gun looked like a black Glock. M.C. called the police and parked her car to make sure her adult daughter was safe inside her apartment. She then saw the man come up behind an RV that was parked next to the playground. He was crouching near there with his gun drawn. Nearby, M.C. saw a man that sells corn. The gunman said something to him, and that man ran away. The gunman then pointed his gun at M.C., approaching her and her children. The man was telling her to get out of the car, still pointing the gun at her. M.C. told her children to get out of the car and run; they did so. M.C. told the gunman to take her car. He was still pointing the gun at her while she tried to remove her young grandson from his car seat. The man told her to leave the baby and M.C. refused. She was able to grasp the baby with one hand and turned to run away and at that moment, Vick shot at her. She said, "I could feel the air" from the gunshot. He then jumped in her car and fled.

Civilian witness M.M. was interviewed the evening of the incident. She stated that she was in the parking lot in the apartment complex at 4404 Morrison Rd. She saw a man without a shirt on, hiding behind a white car. M.M. was on the passenger side of her car, unbuckling her baby from the car seat, when she saw that man again; he was now walking toward her. He was

¹ For civilian witnesses, I use initials to protect their privacy.

screaming things at her, and he pulled out a gun. He pointed it at her and her car and shot approximately three times. M.M. ducked down on the passenger side of her car and crouched over the baby in the car seat. The baby started to cry, and M.M. grabbed the car seat and ran to the leasing office across the street. She saw the man walk towards the playground. M.M. did not see him after the man went to the playground. A person at the leasing office called 911 on her behalf.



Figure 2. M.M.'s car with a bullet strike (in yellow) on the left rear of the vehicle.

Civilian witness S.L. stated that he was working in a corner unit in the apartment building at 4404 Morrison Rd., near the playground. S.L. heard two shots and looked out the window. He saw a man crouched down next to the building. The man then jumped the fence and S.L. called 911. S.L. walked out of the unit and saw the man threaten another man who carries food; the gunman was telling the man with the food "to get the fuck out of there before [the gunman] killed him." The "food man" fled on foot. The man with the gun then pointed the gun at S.L. On the recording of his 911 call, one can hear a gunshot. S.L. reports this to the police then says, "there's a car taking off." S.L. identified it as a black Honda. He then lost sight of the Honda.



Figure 2. Mr. Vick threatening the man with the food cart then pointing the handgun at S.L., who photographed him.

Civilian witness G.R. was interviewed the evening of the incident. She stated that she was at 4404 Morrison Rd. when she heard two shots. She then heard mumbling from the playground area nearby. She looked over at the playground and saw a man with a black “cop gun,” pacing and mumbling to himself. G.R. heard him scream “they’re gonna fucking come and get me!”. He did not appear to be addressing a particular person. The man was not wearing a shirt. G.R. saw the man jump the fence of the playground and accost the “corn man,” a nearby man with a cart selling corn.² The man with the gun pointed it at the “corn man,” telling him to leave the area. The “corn man” ran away and the man with the gun crouched behind the cart. G.R. noticed that the man with the gun saw a family getting into a black Honda; it was a lady and

² This man has not been identified or interviewed.

two children.³ The man with the gun ran to the passenger side of this car and screamed at them to get out. G.R. called 911 and watched as the children ran away and the lady tried to get her baby out of the car. He was screaming at her. G.R. saw the lady grab the child in the back seat at approximately the same moment that this man shot toward the lady with the child. The lady froze for a moment, then ran away with the child. The man with the gun made his way to the driver's seat of the car and fled. G.R. ran to the lady to see if she needed assistance. The lady appeared to be in shock. Officers arrived and advised G.R. to separate herself from other witnesses in order to avoid influencing each other's statements; she then wrote a statement and agreed to be interviewed at Denver Police Department headquarters. During this interview, G.R. revealed that she had heard two shots "two to three minutes" prior to the shooting involving M.C. She believed that those shots came from the parking lot, but she did not see them.



Figure 4. Mr. Vick in the playground with the handgun in his right hand.

Civilian witness E.G. was in the 500 block of S. Quitman St. when he observed a police car chasing another vehicle northbound on Quitman. He saw the driver of the black sedan put his hand out of the window. He then heard a gunshot.

Civilian witness L.P. agreed to be interviewed the evening of the incident. She stated that she was at First and Perry while the incident unfolded. She said that she heard sirens and saw police officers coming down Perry as well as other officers coming from the west on First

³ G.R. later approached this lady to see if she needed help. At that time, she learned that the lady was M.C..

Avenue. A few moments later, she heard a crash. She saw a black four-door car that had crashed and come to rest at the southeast corner of the intersection. Officers pulled up and emerged from their police cars. There was a "big crowd of officers right by the car at first" and then she saw them take cover. They had their guns drawn and were ordering the man to put his hands up. One of the officers yelled "gun!" and then L.P. heard shots fired. The officers hung back from the car until another police vehicle arrived, and "they started moving in".

Civilian witness G.B. was interviewed the evening of this incident. He stated that he was driving his truck on First Avenue, traveling westbound and approaching the light at Perry St. G.B. saw a man driving a small black car southbound on Perry and turning onto First Avenue. This man lost control of the car and drove into a retaining wall on the south side of First Avenue. Police officers arrived, preventing G.B. from continuing through the intersection. G.B. was pulled over in the bicycle lane on the north side of the street and had a direct line of sight to the man driving the car. Several officers were present and had their guns drawn. They identified themselves as police officers "many times". G.B. heard them order the man to put his hands up approximately 15 to 20 times. When asked whether the man was following the commands, G.B. said "not at all." Instead, the man shut his door or tried to do so, as it "popped back open." He was reaching into the other seat of the car. He retrieved a water container and threw it out the door. He "kept grabbing things." The third time that the man reached in, the man pulled out a gun in his right hand. G.B. was worried for his safety and was ducking down in his vehicle but he saw the man shoot. He believes that the man shot once, specifying "I'd say he shot before anybody else." He said he could see smoke and hear the shot as it was happening. After that, he heard "a lot of gunshots" in response. He had ducked completely down at that point and did not see the events in the moments that followed. After the gunshots ended, G.B. peeked out and saw the man's leg hanging out and a lot of blood. He then ducked down again. When the scene was stable, officers asked that he remain as a witness to the incident; he agreed to be interviewed on video at police headquarters. At the conclusion of his interview, G.B. was asked if he had anything to add to his statement. He said, "it just happened so fast."



Figure 5. The location where M.C.'s stolen Honda came to rest after crashing at First and Perry.

OTHER EVIDENCE

G.R. recorded Mr. Vick in the playground area of the apartment complex. The video corroborates the statements made at the scene of 4404 Morrison Rd.

All of the involved officers activated their body-worn cameras. The video footage from these cameras confirms the accounts given by the officers in their interviews.

Investigators examined G.B.'s truck and observed a broken taillight that is consistent with a bullet strike. Additionally, they observed a bullet strike in the house across the street from where the Honda had come to rest.



Figure 6. To the right is G.B.'s gold truck that was struck with bullet from Mr. Vick's gun. Officer Medero is in the direct line of fire.



Figure 7. Broken taillight caused by the bullet fired by Mr. Vick.



Figure 8. Bullet strikes on the gold truck (to the left of the photo) and to the home to the north of the crash.



Figure 9. Bullet strike to the doors of the home to the north of the crash.

Investigators searched the stolen Honda. They located a spent shell casing on the center console of the vehicle. They discovered a handgun between the driver's seat and the frame of the vehicle. That gun had a casing caught in the slide of the gun. Officers also located a black bag containing 36.138 g fentanyl.



Figure 10. The handgun recovered from inside the Honda. The smaller circle shows the stuck casing.

Mr. Vick's hands were tested for gunshot residue. The Denver Crime Lab's analysis revealed the presence of particles characteristic of gunshot primer residue.⁴

Denver Police officers responded to 4404 Morrison Rd. and located two spent shell casings on the north side of 4407 W. Ohio Ave. They were on the sidewalk between the building and the parking lot. Another officer located a spent shell casing at the location of the carjacking. Other officers responded to the 500 block of S. Quitman St. and located a spent shell casing in the gutter in front of 515 S. Quitman St. They found a spent bullet in the gutter in front of 593 S. Quitman St. A map showing the 500 block of S. Quitman and the location of the spent bullet and the shell casing is below:



Figure 11. A map showing the 500 block of S. Quitman and the location of the spent bullet and the shell casing.

Forensic investigators with the Denver Police Department Crime Laboratory determined that the shell casings recovered on W. Ohio matched the one located on S. Quitman. Furthermore, these three shell casings were matched to and identified as having been fired by the handgun recovered from inside the stolen Honda.

⁴ This positive result means that Mr. Vick either: (1) discharged a firearm; (2) was in the immediate vicinity of a discharged firearm; (3) handled a firearm; or (4) came into contact with a surface area that had gunshot residue on it.

From the time that the first shot was fired, until the last shot fired by officers, seven seconds elapsed. After the incident, the officers were separated from each other and their body worn cameras were taken from them pursuant to DPD protocol.

INVOLVED OFFICERS

Officer Catlett

Officer Catlett agreed to be interviewed on May 17, 2021. At the time of the interview, he had watched no videos of the incident and had not spoken with any of the involved officers.

Officer Catlett first heard the report of shots fired at police officers while finishing a response to two other calls. He drove to the area where the pursuit was occurring and ultimately filed in behind other pursuing officers. He made the left turn from Perry onto First Avenue and saw that the Honda had crashed and was facing eastbound on First Avenue on “a little bit of a hill” and next to a pole. He emerged from his vehicle and ran toward the black Honda, seeking cover behind another officer’s patrol car. From that vantage point, Officer Catlett could see the person later identified as Mr. Vick in the driver’s seat of the Honda. Mr. Vick was moving in and out of the vehicle, reaching in and out of its passenger compartment. Other officers were issuing commands. Officer Catlett then explained what happened next:

So, I just remember just – I remember just seeing the hand shoot out from the open door. I couldn’t tell you what hand it came [sic] and I just saw just a black handgun pointed in my direction and then within very short time it was two to three very distinct, loud, louder than anything else that transpired after – my – what I believe were gunshots. And at that point, that’s when I was like “he’s shooting a gun at me” and I had – and I already had my service – my handgun out and that’s when I returned fire.

When asked why he shot, he said “because I was in fear for my safety and other officers’ safety. I returned fire to stop the threat.” Officer Catlett’s backdrop at that point was the hill to the south of the Honda. Officer Catlett believed that he shot until his magazine was empty and the slide came back. At that time, he paused to assess the situation and determined that the threat had ended. He then called out “cease fire.” He maintained his position and watched as other officers used a shield to approach the Honda. A supervisor arrived on scene; Officer Catlett was separated from other involved officers and transported downtown where he relinquished his firearm to the crime lab personnel.

Investigators determined that Officer Catlett fired 20 rounds.

Officer Kennedy

Officer Kennedy was interviewed on May 17, 2021. At the time of the interview, he had not seen any video footage, nor had he spoken with any of the involved officers.

Officer Kennedy stated that he was finishing another call when he heard over the police radio that a man had been observed walking in the area of Alameda and Morrison. Initially it was reported that the man had fired “a couple rounds”. Officer Kennedy then heard that Officers Schaal and Trudel were behind the stolen Honda and that the driver had shot at them as well. Officer Kennedy joined the pursuit and observed the scene immediately after Mr. Vick crashed the Honda. He emerged from his police car with his gun drawn. He could hear other officers giving commands to Mr. Vick. He saw Mr. Vick ignoring officers’ commands and instead reaching into the passenger compartment of the Honda. He states what happened next:

And then at one point in time, briefly, he shut the door and again, he was still ignoring any commands, still fidgeting around in the vehicle. I still had my gun drawn at this time. And then at this point, he opens the door, ... turns and gets up a little bit and fires a round at officers who were staged to my left. And at this time, I discharged my weapon... [I] continued firing until I was satisfied that the threat was over. I observed the suspect sit back down in his car, kind of [slouched] over, and at that point in time, all – all of the – the shots that were being fired came to a stop.

When asked what concerns he had when he discharged his weapon, Officer Kennedy said, “that my life, the life of my coworkers, and the life of the community who might be out on the sidewalk was in imminent danger.” When asked how many rounds Mr. Vick fired, Officer Kennedy said, “I know he fired one and I believe he fired two.” Officer Kennedy was part of the shield stack that approached the Honda to assess Mr. Vick’s condition and to clear the vehicle.

When asked about the backdrop of the shots he fired, Officer Kennedy said:

So, I – I did make a quick assessment as I was approaching that vehicle to take cover – of my target and beyond. Backdrop was a hill that went up from the vehicle and then there was a ... retaining wall that probably came up, I would say a good foot or two above the hood of the car. So, I knew that nothing was beyond him.

When asked why he stopped firing, he said, “I emptied my magazine, and I recharged my weapon, and I was satisfied that at that time the – the threat had been ended and that is why I stopped firing.” When asked whether Officer Kennedy announced his intention to shoot, he said that he did not. He said “when he pulled the gun up and shot, it was literally a second. So, I didn’t have time to give him commands that I was going to shoot.” After the scene had stabilized, Officer Kennedy was separated from all other involved officers and transported to Denver Police headquarters, where he relinquished his weapon to the crime lab personnel.

Investigators determined that Officer Kennedy discharged 18 rounds.

Officer Madrigal

Officer Madrigal was interviewed on May 17, 2021. At the time of the interview, he had not seen any video footage, nor had he spoken about the incident with any of the involved officers.

Officer Madrigal stated that he was working a two-man car on the date of this incident. He was the driver, while Officer McAndrews was the passenger. They were parked and working on paperwork when a call of shots fired was aired over the radio. The nature of the call was that the suspect “was shooting rounds at or near the playground and then there was a bunch of callers in – on it, and then I remember hearing on the radio that he was then waving the gun and pointing the gun at other callers around the area”. Officers Madrigal and McAndrews were making their way to the scene of the initial call when they heard Officer Trudel air that they were on Perry St. following the vehicle.⁵ Officer Madrigal then stated:

At this time, [Officer Trudel's] tone of voice completely changed. He was talking relatively calm on the radio ... and then his tone – his tone of voice completely changed, and I knew something was wrong from there. And then he gets on the radio and says, 'he's shooting at us! shots fired!' Something along those lines.

Officers Madrigal and McAndrews arrived at First and Perry immediately after the Honda crashed. Officer Madrigal was armed with a rifle. He was on the passenger side of his patrol vehicle and “approximately ten o'clock to the suspect vehicle”. Officer Madrigal said that Mr. Vick was:

reaching in and around his car when I first got on there... It seemed like he was reaching in and out of the car. I believe he picked up something and threw it at the ground at some point, I can't remember what it was, but I do remember he was picking up things and tossing them out and then eventually he did produce a handgun.

Officer Medero had called out that he needed a rifle near him, so Officer Madrigal ran towards Officer Medero. When asked where the suspect pointed his firearm, Officer Madrigal said “the suspect pointed his firearm, it seemed like it was between or at [Officer Medero]. It seemed like he pulled it right up and then shot. I couldn't tell if it was directly aimed at me or directly aimed at [Officer Medero]. It was in both of our vicinities though.” Officer Madrigal said:

I got up and started to sprint across there [toward Officer Medero]. At this time, he then presents a handgun and fires, I believe one round. I know for sure one round he fires off.⁶ It could – I don't remember if he fired a second round, but 100 percent he fired a single round and I stopped running. I then presented my rifle and then I – and then I discharged my weapon aiming at him.

Officer Madrigal believes he shot his rifle approximately 20 times. He stated that he discharged his weapon because:

I – I knew if I did not – if I did not do something or act in that moment, he would have either shot myself or shot another officer on scene, let alone maybe even an

⁵ In fact, Officers Schaal and Trudel were traveling northbound on S. Quitman.

⁶ Officer Madrigal is certain that Mr. Vick fired his weapon because he could see the muzzle flash coming from Mr. Vick's gun.

innocent bystander somewhere watching from a house or behind us. We were in a residential neighborhood. There was tons of people out. They heard all the sirens and stuff, so a lot of people coming out. So, I was – I knew if I did not act, he would have harmed someone else. And that's the last thing I want.

He fired until he felt that Mr. Vick was no longer a threat. When asked what his backdrop was, Officer Madrigal said “I had a very excellent backdrop. So, behind the car, it went up to a hill and there's a tree up on top. Everything behind for me, my backdrop was solely a hill. So, he was in his car, so then it was him, the car, and then a hill.” When the shooting stopped, Officer Medero was near him. Officer Medero believed he may have been shot, and asked Officer Madrigal to check for injuries, which Officer Madrigal did. Officer Madrigal then watched as the shield stack approached the Honda and cleared it. Once the scene was secure, Officer Madrigal deactivated his body worn camera and was separated from other involved officers. He was transported downtown, where he turned over his weapon to the crime lab personnel.

Investigators determined that Officer Madrigal discharged his rifle 19 times.

Officer McAndrews

Officer McAndrews was interviewed on May 17, 2021. At the time of the interview, he had not seen any video footage, nor had he spoken about the incident with any of the involved officers.

Officer McAndrews stated that he and Officer Madrigal were parked at the cop shop in Bear Valley when they heard a call of a man with a gun at a playground. As these two officers began to respond to the area, more information came in. Specifically, 911 callers had indicated that:

the suspect had just pointed a gun at them, and then another call note came in saying that the suspect had just fired his gun twice, I believe it was. And then when we were still continuing to drive to that call, we – another call note came in and it was a little unclear, just because there were so many notes coming in at the time and I was doing my best to keep up, but it was a person calling in. I believe they were saying that the suspect was trying to take their vehicle, and the call taker heard a disturbance in the background and the person reporting was saying “you can just have my car, you can just have my car.

Officer McAndrews then heard Officer Trudel air that they were behind the stolen Honda and a short time after that, he heard Officer Trudel air that they were being shot at. At that time, Officers Madrigal and McAndrews attempted to follow the pursuit as it was being aired. They arrived from the east of the intersection at First and Perry after the Honda had crashed. Officer McAndrews emerged with his gun drawn and moved to a position of minimal cover, from which he “was able to get a good visual of the suspect.” The suspect, later identified as Mr. Vick, was “very aggressively reaching around inside of the vehicle looking for something. I believe at one point he even threw a – like an empty water jug or an empty jug outside of the car towards the

officers.⁷ And I heard officers issuing several verbal commands for him to exit the vehicle and for him to – to show his hands, and he – he did not make any efforts to comply or even put his hands out – outside.”

Officer McAndrews realized that his cover was inadequate, so he began to move to another police car. He related what happened next:

I saw the suspect make a very aggressive motion raising his hand from the center console and then he presented the gun and start – and pointed the gun and I saw him – or I saw the smoke come from the barrel and then I heard several rounds fired. At that point, I – I discharged my firearm at the suspect, and I – he – I didn’t know if he was shooting at the other officers and he could have easily shot at me. I was very concerned for the lives of the other officers. I thought he was – at that point I thought was trying to – to kill those officers, and then he – he would have very easily been able to shoot at me and I was in fear for my life and the other officers, and you know, just the community around us.

Officer McAndrews stated that his backdrop was “that elevated front yard.... So, it’s kind of like a hill. I think it rose above the suspect’s vehicle.” Officer McAndrews believed he fired approximately 10 rounds. He stopped shooting when he no longer perceived Mr. Vick as a threat. He watched as other officers performed a clearance of the Honda, then disengaged from all other involved officers. He was transported downtown where he delivered his duty weapon to the crime lab personnel. When asked if he had anything to add to his statement, Officer McAndrews said “this – this just wasn’t the outcome that I wanted. I wanted him to just exit the vehicle and – and give up, lay on the ground and be taken into custody. This – this wasn’t how I wanted this to end.”

Investigators determined that Officer McAndrews discharged his weapon 15 times.

Officer Medero

Officer Medero was interviewed on May 15, 2021. Prior to his interview, he did not watch any video of the incident, nor did he speak with other officers about the incident.

During his interview, Officer Medero stated that he heard over the police radio that a subject was shooting at police officers. He made his way to the area where the pursuit was occurring and found himself as the fourth police vehicle behind the suspect. He saw the driver of the black Honda lose control of the car and crash against a retaining wall on the southeast corner of First and Perry, with the car coming to rest facing eastbound. Officer Medero parked his police car pointing southeast, facing the suspect. He was able to use his engine block as cover. He watched with his service weapon drawn as Mr. Vick sat with his legs outside of the Honda. Mr. Vick was reaching with his right hand into the passenger compartment of the vehicle. At one point, he grasped a water bottle or tumbler and threw it. Officer Medero issued many verbal commands, including “show me your hands” and “stop reaching.” Mr. Vick did not comply with

⁷ Investigators located an empty metal water bottle at the scene near the Honda.

these commands. Officer Medero called for another officer to join him at his vehicle, and stated, “we knew [Mr. Vick] had a weapon.” He described what happened next:

At that point, as I turned back, the suspect vehicle is – the – the car door on the suspect vehicle closed, and without warning, I saw the suspect – suspect’s right hand go over his left shoulder and I heard a bang and I saw a smoke – like a gun smoke ring come out of a barrel of a gun. I ducked – at that point – ducked behind my engine block. I got back up and began to engage the suspect until I felt comfortable that the threat was stopped.

Officer Medero immediately aired that shots had been fired and that they needed an ambulance. He stated:

At that time, I re-holstered my weapon, and I had the officers next to me check me, because at that – when I ducked behind the engine block when that first round came – went off, I felt something go over my head and it felt like – like a round went over my head. So I had them check me immediately to make sure that I wasn’t hit because I had that feeling of something grazing my head.

He stated, “I shot back at the suspect because he was trying to kill me and my officers.” After being checked by his colleagues and learning that he had not been injured, Officer Medero formed part of the shield stack that approached and cleared the Honda. He saw that Mr. Vick was “clearly deceased” and told officers not to touch anything at the scene so as not to “taint the investigation”. He then deactivated his body worn camera and advised his superior officers that he had been involved in the shooting. He was separated and transported to police headquarters, where he gave his service weapon to investigators.

During his interview, an investigator asked Officer Medero what his backdrop was. Officer Medero stated that there was a dirt hill behind the Honda. He stopped firing when he “felt comfortable that the threat was done.” When asked whether he announced his intention to shoot his service weapon, he replied in the negative, saying “I just didn’t have time.”

Investigators determined that Officer Medero discharged his weapon eight times.

Officer Manehoot Phanpaktra

Officer Phanpaktra agreed to be interviewed on May 17, 2021. At the time of the interview, he had watched no video footage of the incident and had not spoken with any of the involved officers.

Officer Phanpaktra stated that he was originally at a family disturbance call when he heard the report relating to Mr. Vick come over the air. He heard that a man with a gun carjacked someone and that officers were pursuing the Honda. When he heard that the male was shooting at the pursuing officers, Officer Phanpaktra diverted from his family disturbance and went to the area of the pursuit to provide cover. He arrived at the intersection of First and Perry after driving westbound on First Avenue. He parked his car to the east of where the Honda had crashed. He

exited his patrol car and got behind another police vehicle for cover. He then drew his handgun. He stated:

From there, I observed that the driver was partially out of the vehicle and had thrown items out of the vehicle. I then saw that he was rummaging around in the car and I then saw that he had a black silhouette in his hand, and then shortly after that, I heard a gunshot. After that, I took cover behind the patrol vehicle I was standing beside and then came out from behind cover and returned fire because I thought he was going to either kill myself or other officers.

When asked to describe the silhouette, Officer Phanpaktra said that he believed it to be a gun due to its shape and its color and the fact that the driver of this Honda had shot at officers during the pursuit. He did not know how many rounds he fired. He stopped firing because “after [he] assessed everything that was going on ... [Mr. Vick] was no longer a threat to anybody else.” When asked about his backdrop, Officer Phanpaktra stated that there was a little hill behind the vehicle. When asked whether he announced his intention to discharge his weapon, Officer Phanpaktra said “just everything happened so quickly, I didn’t have time to give any sort of commands.” He was unable to deploy less than lethal force “because [Mr. Vick] was using deadly force, so I – I did not believe [that] less-lethal would have been appropriate.”

As with the other involved officers, Officer Phanpaktra was separated from any witnesses and transported downtown. He turned over his firearm to be examined by the crime lab personnel.

Investigators determined that Officer Phanpaktra discharged his weapon five times.

Officer Schaal

Officer Schaal agreed to be interviewed the evening of the incident. At the scene he did watch his body-worn video of the incident. He did not speak with any of the involved officers.

He related that he was driving a marked patrol vehicle in full uniform with his partner, Officer Trudel, in the passenger seat. They were dispatched to a call of shots fired which was soon upgraded to shots fired into an occupied structure. He activated his lights and sirens and traveled westbound on Alameda toward Morrison Rd. During this time, officers learned that the suspect, later identified as Mr. Vick, was a male with no shirt. He had carjacked a person at gunpoint and was now driving a black Honda. As Officers Schaal and Trudel approached Morrison Rd., they saw a black Honda cross Morrison Rd. at a high rate of speed without stopping at the stop sign. Officer Schaal turned right, or northbound, to follow what he and Officer Trudel believed to be the stolen vehicle. At that point, according to Officer Schaal:

As soon as I made the right turn, I saw the vehicle accelerate and I saw a black handgun, I saw the muzzle of a black handgun, come out of the driver's side window of the car, and I -- I was about mid-block away from this vehicle, so at least three to four car lengths away, when I saw the black -- the muzzle of a black handgun come out and I saw smoke coming from the handgun, and I knew that we were being -- we were being fired upon at that point.

The officers continued to chase the stolen car throughout this area. Mr. Vick was driving it at a rapid speed through a residential neighborhood, failing to stop at stop signs and hitting other vehicles. The officers followed, keeping a "long eye" on him. As Mr. Vick traveled southbound on Perry St., Officer Schaal saw him attempt to make a left-hand turn onto First Avenue. Given the speed at which the Honda was traveling, Officer Schaal knew that it would not successfully negotiate that turn. He watched the Honda crash, sliding onto the sidewalk. It came to rest facing east on First Avenue.

Officers Schaal and Trudel immediately exited the patrol car and approached the Honda. Officer Schaal saw the shirtless male in the driver's seat. Initially his hands were empty, and Officer Schaal directed verbal commands toward Mr. Vick. Rather than obeying commands, Mr. Vick pointed his fingers at officers then reached into the passenger compartment of the vehicle. Officer Schaal again gave verbal commands, which were again ignored. Officer Schaal moved to a position of cover near the passenger side of his patrol vehicle. He stated:

I moved directly to my left to the front of my patrol car on the passenger side and I saw the muzzle of the gun come up out of the vehicle -- from my angle it just -- I could see the muzzle come up -- and I saw that there were pedestrians and also other police officers that were just northeast of me, and he pointed the handgun at them and I feared that he was going to cause them serious injury or even death to the officers or any pedestrians that were in the area.

So, I heard a pop, and then I discharged my firearm at the back window of the vehicle where he is seated. I fired -- I don't know how many shots I fired -- and I stopped because I could no longer see him, and I did not feel that he was an imminent threat at that point.

Officer Schaal described the "pop" as a gunshot but was unable to determine the origin of that sound. When he discharged his weapon, his point of aim was low enough that the engine compartment of the stolen Honda would absorb any rounds, preventing potential injury to any nearby citizens. The backdrop behind the Honda included a parked car and a "slightly elevated" mound of dirt. When asked whether he announced his intention to discharge his firearm, Officer Schaal stated "unfortunately there was not enough time for me to be able to vocalize that ... When I saw the handgun pointed at the officers in their direction ... I feared for their -- for their lives... There was just no time."

When asked about attempts to render aid to Mr. Vick, Officer Schaal stated: "immediately, I heard Corporal Ricardo air for an ambulance to come Code Ten, and I saw the sergeant who came up with a shield, as this was a very active situation still, and I saw the sergeant come up with the shield and create a stack and they went up with the shield to check his wellbeing and provide aid." Officer Schaal was not a member of the stack that approached the Honda; rather, he went back to his patrol car and turned it off. He then sat in a patrol vehicle, separate from other witnesses, until driven to headquarters to be interviewed. There, he turned over his firearm to be examined by the crime lab.

Investigators determined that Officer Schaal discharged his weapon 12 times.

Officer Silva

Officer Silva agreed to be interviewed on May 15, 2021. At the time of the interview, he had watched no videos of the incident and had not spoken with any of the involved officers.

Officer Silva was parked in a parking lot to enter notes into his computer when he heard a call of a male shooting in the air at a playground in the area of 4405 Morrison Rd. Because Officer Silva was not very far away from that location, he made his way there. As he approached the area, he heard over the police radio that the suspect, later identified as Mr. Vick, had shot at a woman. Officer Silva did in fact hear one to two gunshots as he approached the scene of the carjacking. He relayed this information to dispatch. When he arrived, he saw a woman holding a child. Officer Silva said, "she was very frantic, and all she could yell to me was, he shot at me and he went that way!". She told Officer Silva that the man had shot at her and taken her black Honda.⁸ She pointed out the route Mr. Vick took to leave the area, and, knowing that the route led to a dead end, Officer Silva went after him on foot. As he made his way there, another woman from one of the nearby apartments yelled down to him that the male had shot at her as well. Officer Silva then encountered a maintenance man who said that Mr. Vick had crashed through a fence at the dead end and was now headed southbound. Almost immediately after, Officer Silva heard over the radio that other officers were following the Honda and that Mr. Vick was shooting at them.

Officer Silva returned to his patrol car and joined in the pursuit. Ultimately, he became the third patrol vehicle in the pursuit. He saw the Honda race southbound on Perry then attempt to turn left onto First Avenue, but the Honda crashed. Officer Silva parked his car and emerged with his gun drawn. He could see Mr. Vick in the driver's seat of the Honda and could see at that point that there was nothing in his hands. Instead, according to Officer Silva, he was pointing his fingers at the officers: "he was trying to mimic, as if he was trying to shoot at us." Officers were giving Mr. Vick commands, which he ignored.⁹

At first, Officer Silva made his way behind the Honda to make sure that Mr. Vick did not flee from the passenger side of that vehicle. Given how unsafe that position was, however, Officer Silva moved to the open passenger door of a patrol vehicle that was parked nearby. Officer Silva stated what happened next:

And then I heard some shots coming from the [Honda] and I remember the driver's side of the vehicle that I was at, window shattering, which to me was saying that he was shooting at us, and I then returned fire because I was in fear of, you know, my – my fellow officers, as well as my life, knowing that he's shooting – at least in our direction or shooting at my fellow officers.

At that point, I did return fire and I remember taking cover at some point. I just kind of ducked down just to kind of get a breath. Came back up, and there was a lot of gunfire going on, but I remember hearing "cease fire." And based on my training, I just repeated that.

⁸ Officer Silva also aired this information to dispatch, which would have then been communicated to officers listening to the police radio.

⁹ Officer Silva heard such commands as "show me your hands" and "get out of the vehicle."

Officer Silva's backdrop was the retaining wall along which the Honda had crashed. It was to the south of the Honda, while Officer Silva was to its north. He stopped firing because he heard the cease fire and concluded that other officers with a better view of the driver had determined that the threat had stopped. When asked whether he had an opportunity to announce his intent to discharge his weapon, Officer Silva said he did not have the time: "when he fired shots at us, it was – it just happened so fast."

As the shots ended, Officer Silva saw a sergeant's car arrive with a shield. He removed his own body worn camera and placed it on the shield, then organized a stack behind it. They approached the Honda and cleared it. Upon clearing the car, Officer Silva could tell that Mr. Vick was deceased. After clearing the Honda, Officer Silva put his camera back on his chest, deactivated it, and noted that an ambulance was coming. He then separated himself from other involved officers and was transported downtown. He turned over his duty weapon to the crime lab personnel.

Investigators determined that Officer Silva fired six shots.

Officer Trudel

Officer Trudel agreed to be interviewed on May 15, 2021. At the time of the interview, he had watched no videos of the incident and had not spoken with any of the involved officers.

Officer Trudel was the passenger in the patrol vehicle being driven by Officer Schaal. He stated that he and Officer Schaal were among the first officers dispatched to the shots fired and carjacking call at 4405 Morrison Road. As the two officers traveled toward that location, Officer Trudel saw a black Honda cross Morrison Rd. at a high rate of speed without stopping. He advised Officer Schaal that he believed this Honda to be the vehicle driven by the carjacking suspect; they agreed to follow this vehicle. Their lights and sirens had been activated. The Honda was traveling northbound on S. Quitman, and in the 500 block of S. Quitman, Officer Trudel saw a black gun in the driver's hand. That man (later identified as Mr. Vick) pointed the gun at the officers and shot once. At the time that shot was fired, Officer Trudel was concerned not only for the safety of officers, but also for the safety of a civilian man who was nearby. The driver of the Honda continued to drive recklessly throughout this residential neighborhood, crashing into vehicles and driving at unsafe speeds. Officers Schaal and Trudel continued their pursuit and watched as the Honda traveled southbound on Perry St. At First Avenue, Officer Trudel saw the Honda attempt to make a turn eastbound onto First Avenue. Mr. Vick was unable to safely negotiate that turn and crashed the Honda into a retaining wall at First and Perry, facing eastbound. At that point, Officer Trudel stated that both he and Officer Schaal exited their patrol vehicle with guns drawn. Mr. Vick had thrown open the driver's door of the stolen Honda and initially displayed his hands. Officer Trudel stated that at first, he saw Mr. Vick's "hands and, you know, you have that fleeting moment, great. This is going to end with him giving up, getting on the ground. And then it's reaching back in the car and it's like, 'no, like don't do that!' And you're yelling and screaming 'stop! Get out of the car and get on ground! Show me your hands!'" Mr. Vick refused to comply with those commands.

Officer Trudel found himself positioned on the passenger side of his patrol vehicle with his duty weapon pointed at the driver through the Honda's back window. He was aware that other officers had arrived and were nearby. He then heard a single gunshot and then felt something hit his head. At that point Officer Trudel discharged his weapon because he "believed [Mr. Vick] was shooting at [him] when [he] heard the gunshot." He stopped shooting because he "didn't think that there was a threat anymore."

After the shots were fired, Officer Trudel was part of the shield stack which approached the black Honda to clear it. Knowing that they needed to clear the trunk, Officer Trudel unlatched the trunk then backed away from the Honda. He did not look for or observe any handgun inside the Honda. Because he felt pain at the time that he heard the single gunshot, Officer Trudel asked other officers to check his head for injuries. He then separated himself from the scene and was escorted to the Denver Police Department headquarters, where he turned his service weapon over to the crime lab personnel.

Investigators determined that Officer Trudel discharged his weapon six times.

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.

The use of 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 justification for a peace officer's use of physical force while attempting to make an arrest is described in C.R.S. § 18-1-707. As pertinent to this case, C.R.S. § 18-1-707 states:

(1) Peace officers, in carrying out their duties, shall apply nonviolent means, when possible, before resorting to the use of physical force. A peace officer may use physical force only if nonviolent means would be ineffective in effecting an arrest, preventing an escape, or preventing an imminent threat of serious bodily injury or death to the peace officer or another person.

(2) When physical force is used, a peace officer shall:

(a) Not use deadly physical force to apprehend a person who is suspected of only a minor or nonviolent offense;

(b) Use only a degree of force consistent with the minimization of injury to others;

(c) Ensure that assistance and medical aid are rendered to any injured or affected persons as soon as practicable; and

(d) Ensure that any identified relatives or next of kin of persons who have sustained serious bodily injury or death are notified as soon as practicable.

(3) A peace officer is justified in using deadly physical force to make an arrest only when all other means of apprehension are unreasonable given the circumstances and:

(a) The arrest is for a felony involving conduct including the use or threatened use of deadly physical force;

(b) The suspect poses an immediate threat to the peace officer or another person;

(c) The force employed does not create a substantial risk of injury to other persons.

(4) A peace officer shall identify himself or herself as a peace officer and give a clear verbal warning of his or her intent to use firearms or other deadly physical force, with sufficient time for the warning to be observed, unless to do so would unduly place peace officers at risk of injury or would create a risk of death or injury to other persons.

(4.5) Notwithstanding any other provision in this section, a peace officer is justified in using deadly force if the peace officer has an objectively reasonable belief that a lesser degree of force is inadequate and the peace officer has objectively reasonable grounds to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving serious bodily injury.

The legal 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 these officers acted without lawful justification?**

After a thorough review of the evidence, I conclude that a jury would find that these officers had lawful justification to fire at Mr. Vick in self-defense and in defense of their fellow officers, pursuant to C.R.S. § 18-1-704. Furthermore, the use of deadly physical force to effect an arrest was justified. Finally, it is my belief that the People cannot disprove beyond a reasonable doubt the circumstances outlined in C.R.S. § 18-1-707(4.5).

At the moment they discharged their firearms, the officers knew that Mr. Vick had shot at and carjacked a woman holding a young child, a violent offense involving the use of a deadly weapon. Furthermore, they knew that the handgun was real, as it had been used to shoot not only at M.C. but also at Officers Schaal and Trudel, who had communicated this fact to fellow officers. They were therefore aware that Mr. Vick was willing to shoot at both civilians and police. After the Honda had come to rest at First and Perry, Mr. Vick reached into the compartment of the vehicle, clearly searching for the handgun. Despite officers’ multiple commands to simply put up his hands, Mr. Vick refused to do so. Instead, he pointed his weapon at Officer Medero and shot at least twice. These rounds hit a civilian’s truck as well as the front door of a nearby residence. Officer Medero felt one of these rounds go past his head. Thus, at the time the officers discharged their weapons, they reasonably feared for the safety of the police

and any civilians at that intersection. These fears were sincere and reasonable. This is particularly true in that all 10 officers perceived the same threat and reacted in the same way and at the same time.

Furthermore, they were justified in employing deadly physical force to effect the arrest of Mr. Vick, who had threatened the use of deadly force upon M.C., upon Officers Schaal and Trudel, and upon Officer Medero. The officers reasonably believed that Mr. Vick posed an immediate threat to the safety of other officers and of civilians. I find that the officers complied with C.R.S. § 18-1-707 in that they did indeed announce themselves as police officers, although the fact that they were police officers was obvious to other witnesses, who noted that they were all wearing police uniforms and driving marked cars with lights and sirens. Officers were unable to announce their intention to deploy deadly force because events unfolded too quickly for them to do so. After the shots were fired, aid was rendered as quickly as possible. Additionally, investigators notified Mr. Vick's family within a reasonable amount of time after he was identified. Finally, they acted in a way that minimized the likelihood of injury to others; their shots were at fairly close range and directed into the stolen Honda.

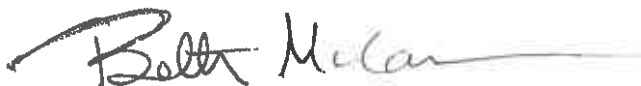
The Supreme Court of the United States has instructed regarding assessing the reasonableness of an officer's beliefs when using physical force:

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.

Under these dangerous circumstances, these officers were forced to make split-second judgments, and their decision to shoot Mr. Vick in defense of others was justified under Colorado law. Furthermore, their decision to shoot Mr. Vick was justified pursuant to C.R.S. § 18-1-707.

Sincerely,



Beth McCann
Denver District Attorney

Cc: Deputy Chief Barb Archer; Division Chief Joe Montoya; Commander Matt Clark; District 4 Commander Mark Fleecs; Lieutenant Joe Bell; Detective Louis Estrada; Detective Jake Huffine; Officer Joshua Catlett; Officer Justin Kennedy; Officer Shane Madrigal; Officer John McAndrews; Officer Eduardo Medero; Officer Maneechot Phanpaktra; Officer John Schaal; Officer John Silva; Officer Jesse Trudel; John Davis, Esq., Attorney for Officers; Denver City Attorney Kristin Bronson; and Interim Director of the Office of Independent Monitor Gregg Crittenden