



November 12, 2013

Chief Randy Nelson  
Thornton Police Department  
9551 Civic Center Drive  
Thornton, CO 80229

Re: The officer involved shooting of Jamie Enrique Ceballos, DOB 2/16/1982, on August 30, 2013.

Chief Randy Nelson,

The Seventeenth Judicial District Critical Incident Team (CIT) has completed its investigation of the officer involved shooting of Jamie Enrique Ceballos that occurred on August 30, 2013. Detective Mike Lynch (CIT; Westminster Police Department) and Det. Dale Hammell (CIT; Broomfield Police Department) were the lead detectives and presented this investigation to the District Attorney's Office. The documents and materials presented to the Office of the District Attorney includes police reports, recordings and transcripts of witnesses and police officers, recordings and transcripts of 911 calls, recordings and transcripts of police radio communications, documentation from the hospital and coroner's office, photographs, and diagrams. Upon review of these materials, it is clear that this investigation was thorough and complete.<sup>1</sup>

Based on the evidence presented and analysis of the applicable Colorado law, no criminal charges will be filed against Officer William "Levi" Husk, the police officer involved in this incident.

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<sup>1</sup> While investigators with the Critical Incident Team attended the autopsy of Jamie Enrique Ceballos and obtained the opinion of Dr. Robert Arnall as to the cause and manner of death, the final autopsy report has not been completed. However, in light of all the information we have already received regarding the medical examination completed by Dr. Arnall, the final autopsy report will not affect the analysis or conclusions in this review. Rather than await the written report, we have decided to proceed with our analysis in order to bring earlier closure to the family of the deceased, the involved officers, and the community.

## INCIDENT OVERVIEW

On Friday, August 30, 2013, at approximately 7:27 p.m. Adams County Communications transferred a 911 call to Thornton Police Dispatch. The caller was Quianna Vigil. This call, approximately 11 minutes and 40 seconds long, provides the context for the arrival of officers at 2642 E. 98<sup>th</sup> Place.

### Ms. Quianna Vigil's 911 call:

Ms. Vigil indicated that Jaime Ceballos was her common law spouse. She lived at 2642 E. 98<sup>th</sup> Place, which she described as solely hers. Her home was also the primary residence of Mr. Ceballos, though she had been trying to get Mr. Ceballos to move out. She stated that she had been telling him that she didn't want to be with him for a long time.

During the course of the call, Ms. Vigil repeatedly described Mr. Ceballos as being "crazy" or "acting crazy." She indicated that he was drunk and probably on drugs, specifically mentioning cocaine. She said that Mr. Ceballos is supposed to take anti-depressants, but he hadn't been taking them. She said that Mr. Ceballos disappears periodically, and he had recently returned from a four day "binge."

She said she had fought with him earlier in the day, and he had refused to leave. She had left in the car. When she returned to her home, he was outside with two bats, walking back and forth, pacing, acting crazy. She was frightened, so she had driven off. She told the dispatcher that she was parked down the block and that Mr. Ceballos was still out front with a bat. She described Mr. Ceballos as being 6'4" tall and weighing 240 pounds. She said he was wearing blue jean shorts and a Browns jersey with the number 32.

During the call, Ms. Vigil related that there was a previous incident in which Mr. Ceballos had menaced her with a knife. She said two of his friends had shown up, and she believed they were trying to calm him down. She could see him, and she said that he could see her.

Ms. Vigil described that Mr. Ceballos was walking toward her and her car with the bat, and she said that she was afraid. She said she assumed that he knew she was calling the police. She said she was backing her car further away because she was afraid that he would throw the bat at her or something. Ms. Vigil said she had her sleeping, seventeen month old daughter in the car with her, and she was afraid to go to her own house. She stopped further down the street, and she could still see Mr. Ceballos out front when the officers arrived.

Thornton Police Dispatch aired the call of a disturbance at 2642 E. 98<sup>th</sup> Place. The officers were also informed that Mr. Ceballos had threatened Ms. Vigil with a bat, that he was

drunk and possibly on drugs, that he was going to be out in front, and that he was known to have knives as well.

Officer William "Levi" Husk and Officer Eric Ward responded to the aired call and arrived in the area of Ms. Vigil's home. Per the dispatch tape, they arrived at approximately 7:37:45 p.m. Commander Dante Carbone and Officer Michael Snook arrived almost immediately after Husk and Ward. On that date at that time, it was full daylight.

Officer William "Levi" Husk:

Off. Husk has been an officer with the Thornton Police Department for three and a half years. On August 30, 2013, he worked the swing shift (4 p.m. to 2 a.m.) on patrol.

Off. Husk was at another call when he received the tone of a disturbance with a baseball bat. He broke off from that contact and proceeded to cover the disturbance call. When he arrived, he was contacted by two friends<sup>2</sup> of Mr. Ceballos, who told him that they thought Ceballos was on drugs.

Off. Husk and Off. Ward walked down the middle of the street toward the residence. Mr. Ceballos was in the driveway holding a baseball bat. Officer Husk yelled at Mr. Ceballos to drop the bat. Mr. Ceballos ignored the command and walked back toward the garage and out of sight. In a few seconds, he walked back into sight on the driveway. Mr. Ceballos looked toward Officer Snook, who was up the street in the opposite direction from Husk and Ward. Officer Husk again told Ceballos to drop the bat. Officer Husk said that Mr. Ceballos responded by saying, "Or what?" or "Or what, motherfucker?" or something to that effect. Off. Husk said he continued to order him to "drop the bat," "stop," "drop the bat," and "show me your hands."

Mr. Ceballos started walking toward the two officers. Off. Husk continued the same commands. Off. Husk had observed that Mr. Ceballos had a bat in one hand, but, when Mr. Ceballos neared, Off. Husk observed what appeared to be a knife in Mr. Ceballos' other hand. Off. Ward stated that he was going to deploy his taser; however, Off. Husk never heard the taser discharge or heard Off. Ward call "taser, taser, taser."<sup>3</sup> Mr. Ceballos continued to approach and did not comply with orders. Mr. Ceballos said "Or what?" or "Or what, motherfuckers?" more than once. At one point, Off. Husk responded to Mr. Ceballos and said, "Or you will be shot." When he had closed to within twenty feet of the officers, Off. Husk stated that he felt that he and Off. Ward were in jeopardy. Mr. Ceballos was becoming more and more agitated and was raising his arms like Mr. Ceballos was going to attack them with the baseball bat. Off. Husk centered his gun on Mr. Ceballos' chest and continued to give loud, verbal commands to stop. Mr.

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<sup>2</sup> Later identified as Andrew Castillo and Sergio Martinez.

<sup>3</sup> "Taser, taser, taser," is what officers are taught to call out immediately before discharging a taser.

Ceballos did not stop or comply with the orders. Instead, Mr. Ceballos continued to advance on them with the bat raised. Off Husk believed that Mr. Ceballos was going to charge them, so Off. Husk fired at Mr. Ceballos. At the time he fired, Mr. Ceballos was fifteen to twenty feet away. Off. Husk fired six rounds. Off. Husk said that he felt that his life was in danger, that Off. Ward's life was in danger, and that he had no other option.

Officer Eric Ward:

Off. Ward indicated that he has been a patrol officer for the majority of his nine years with the Thornton Police Department, and he has been a Field Training Officer for over two years. Off. Ward was also assigned to the swing shift.

He was just clearing another call when he received the tone alert about a man armed with a bat. It was reported that the man was standing in the driveway, waving the bat around, and yelling. He drove toward the location of the incident. He pulled in behind the vehicle of the reporting party, Quianna Vigil. Ms. Vigil was parked seven to eight houses away from her home.

Off. Ward and Off. Husk walked past Ms. Vigil, and he could see a male (later identified as Mr. Ceballos) standing in the driveway with a bat. He observed Mr. Ceballos swinging the bat around, throwing his arms in the air, and yelling. Off. Ward and Off. Husk began walking toward the home. Mr. Ceballos walked back toward the garage, and the officers lost sight of him for a short period. Mr. Ceballos came back out of the garage. At some point while they were walking toward the house, two males approached them and said something like, "I don't know what's wrong with this guy; I think he's on drugs."<sup>4</sup> The officers were in the middle of the street approximately fifty yards from Mr. Ceballos. Off. Husk ordered Mr. Ceballos to show his hands and ordered him several times to drop the bat. At that point, Mr. Ceballos saw them (Ward and Husk) and headed toward them. Off. Ward characterized Mr. Ceballos as "walking towards us, he wasn't running, but he was walking very quickly" with the bat raised up in his left hand. Off. Ward stated that Off. Husk was still giving orders to drop the bat. Mr. Ceballos responded by yelling, "Fuck you," "What are you going to do to me?" and "Fuck you." Per their training when there are two officers, Officer Husk drew his firearm and Officer Ward pulled out his taser. Mr. Ceballos continued to advance, ignoring Off. Husk's orders. When Mr. Ceballos was approximately 12 to 15 feet and still holding the bat, Off. Ward fired the taser. Off. Ward could not tell if both probes hit<sup>5</sup>, but Off. Ward

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<sup>4</sup> Andrew Castillo and Sergio Martinez, friends of Mr. Ceballos.

<sup>5</sup> The evidence would indicate that only one probe effectively hit Mr. Ceballos. To oversimplify, for the taser to be effective, both probes must have good contact with the target individual. The current flow between the two probes is what incapacitates the target. This is analogous to the current flow between two poles of a battery. If only one probe connects, there is little or no current flow.

observed that the taser was ineffective because Mr. Ceballos kept walking toward them. Off. Ward stated that at that point, Off. Husk fired. Off. Ward estimated that three to five seconds elapsed between the taser and the shots, observing further that it was a very short period of time. Off. Ward stated that prior to the shots, Mr. Ceballos was very agitated. He was walking quickly, the bat was being held up in an aggressive manner. After the shots were fired, Off. Ward stated that he saw the knife for the first time. He observed the knife falling to the ground, but he wasn't sure if Mr. Ceballos had been holding the knife in his right hand or if it fell out of one of Mr. Ceballos' pockets. Off. Ward stated that he believed that Mr. Ceballos intended to attack him and Off. Husk with the bat. He felt that their safety or lives were in danger. After paramedics arrived and rendered aid, the paramedics found another knife. Both knives looked like kitchen knives.

Commander Dante Carbone:

Commander Carbone was the night shift commander. Due to call volume, he was out assisting with calls. He heard the call about an adult male in the front yard of 2642 E. 98<sup>th</sup> Place. The call indicated that the male had a bat and was agitated and confrontational. Commander Carbone recalled that the police had been called the night before because Mr. Ceballos had left North Suburban Hospital with an IV still in his arm and that Mr. Ceballos had to be taken back to the hospital.

When Commander Carbone arrived near the home, Off. Husk and Off. Ward arrived before him and were walking toward 2642 E. 98<sup>th</sup> Place. He got out of his patrol car and began to follow them toward the home. The officers yelled at a male later identified as Mr. Ceballos. Mr. Ceballos walked toward the middle of the street and then walked toward Husk and Ward. The officers were yelling, "Drop the bat, drop the bat!" Commander Carbone was walking toward the officers, attempting to catch up. Commander Carbone drew his firearm, holding it lowered but at the ready. The officers continue to yell, "Drop the bat!" Commander Carbone heard Mr. Ceballos yell something back, but Commander Carbone said he was unable to decipher what Mr. Ceballos yelled. When he was asked how Mr. Ceballos reacted to the shouted commands, Commander Carbone stated that Mr. Ceballos responded by becoming more aggressive. He described Mr. Ceballos as "angry," "agitated," and "intense."

The commander observed a dot of laser light on Mr. Ceballos chest, which indicated to him that a taser was being used. He observed that, as the officers had been trained, one officer (Off. Ward) had a taser (or "less lethal" device) and the other officer (Off. Husk) had his firearm out. The officers were stopped and were continuing to shout commands. Mr. Ceballos was holding what appeared to be a black bat up in the air. Commander Carbone stated that, "It looked like he started to charge the officers," then the commander believes he heard what sounded like a taser cartridge discharging and four shots.

When Mr. Ceballos dropped, Commander Carbone observed that he had a knife in his other hand.<sup>6</sup> Commander Carbone stated the knife was silver, and he believed it was a folding knife in the open position.<sup>7</sup> One of the officers immediately aired “Shots fired” and called for medical assistance. Commander Carbone stated, “... [A]nd it seemed that [Mr. Ceballos] came at officers to the point where he ... the officers really didn’t have any other choice than to shoot him. He just kept coming and coming, even after the point where the taser popped and – and it’s only my assumption that was the first shot was the taser pop although they’re both ... all the shots are similar – that – that didn’t slow him down. He just kept coming.”

The dispatch tapes note that Off. Husk and Off. Ward arrived at 7:37:45 p.m., and the officers called out “shots fired” at 7:38:35 p.m., meaning that the entire incident occurred in a period just under two minutes.

Ms. Quianna Vigil was contacted at the scene by Off. Kimberly Twinem of the Thornton Police Department. Ms. Vigil told Off. Twinem that, “It was his fault, he had the bat,” and that she believed Jaime had committed “suicide by cop.”

Interview with Quianna Vigil:

Ms. Vigil was interviewed at the Thornton Police Department by detectives with the Critical Incident Team, specifically Det. Mike Lynch of the Westminster Police Department and Det. Dale Hammell of the Broomfield Police Department. In the course of her interview, Ms. Vigil confirmed and expanded upon the information in her 911 call. This interview was video recorded.

Jaime Ceballos was her common law husband. They had been together for over eight years, and she had two children with him. She said Mr. Ceballos suffers from depression and anxiety. She said he also struggled with alcohol and other substances. She said he was addicted to pain medications – Percocet and Vicodin – in the past. She said he had left to go to rehab in New Jersey, and he was gone 35 days. He returned sometime in June, but he resumed drinking within two weeks of returning.

Mr. Ceballos was terminated from his job as a loss prevention officer for King Soopers, which added to his depression.

She said that two months or so before August 30<sup>th</sup>, Mr. Ceballos stopped taking his medication. She had kicked him out of the residence and obtained his keys. He asked her to let him in just to get some clothes. Instead, she said, Mr. Ceballos went crazy and broke

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<sup>6</sup> Commander Carbone’s stated that he recalled that the bat was in Mr. Ceballos’ right hand and the knife was in Mr. Ceballos’ left hand. Husk, Ward, and most of the other witnesses place the bat in Mr. Ceballos’ left hand.

<sup>7</sup> A photo of the knife is attached to this letter. The knife is not a folding knife, but it is understandable that it could be mistaken for a folding knife.

some of their property. She said he is 6'4" and 240 pounds, that he was leaning over her "talking stuff", and that he was holding a knife in his hand. It was after the incident with the knife that he ended up going to rehab.

Ms. Vigil indicated that he always went crazy when he stopped taking his medication for depression. In the past, when he has gone off his anti-depression medication, he has also made comments like, "I just wish it were over," or "I can't do this anymore." However, he has never explicitly threatened to commit suicide.

She said that she and Mr. Ceballos got into a fight on Monday, August 26, 2013. Mr. Ceballos got upset and left the house, but he returned on Tuesday at about 3 a.m. He had been drinking beer. Ms. Vigil did not talk to him and left for work in the morning. While she was gone on Tuesday, he left again. She said he didn't answer her calls and she didn't see him again until Thursday. She characterized his disappearance as a three day binge, saying he was getting drunk and doing cocaine.

After he had been home on Thursday, he had a panic attack. Ms. Vigil characterized him as being drunk and off his medications. She took him to the ER, and she said he was at the hospital from about 4:30 p.m. to 9:30 p.m. When Mr. Ceballos returned to the house, Ms. Vigil read his discharge paperwork, which instructed him to stop using cocaine and methamphetamine. Mr. Ceballos and Ms. Vigil then had an argument, and she told him to leave. Mr. Ceballos refused to leave and stayed the night; however, Ms. Vigil stated that Mr. Ceballos did not sleep and was up all night long. She said that the next morning, he attempted to act as if nothing had happened. She told him she was done. She said Mr. Ceballos was angry and verbally fought with her. Ms. Vigil took her son, Jayden, to Mr. Ceballos' mother's home so that he wouldn't see anything. She went to work.

Mr. Ceballos called her, and she agreed to meet him in a park. When she saw Mr. Ceballos at the park, he had a beer and was drinking. She told Mr. Ceballos that she had had enough. She told him that she was going to obtain a protective order and make him leave the house. She said that she was then going to divorce him. She left the park. She said that Mr. Ceballos kept calling. She drove by her home, but she saw Mr. Ceballos standing in the doorway. She said she drove around, then went and hung out in the park. She wanted to see if Mr. Ceballos would leave her house. She contacted a neighbor who lived near her home, and the neighbor told her that Mr. Ceballos was acting crazy, pacing back and forth, and that he had a bat. At some point that day, Mr. Ceballos had texted Ms. Vigil and told her to 'bring it' - to go ahead and call the cops. Ms. Vigil said she thought Mr. Ceballos "like wanted the death - suicide by cop or whatever it's called." She said she didn't know what to do. She had nowhere to go; her 17 month old daughter, Maria, was asleep in the car; and she couldn't drive around all night.

Ms. Vigil drove back to her home and tried pulling into the driveway. She said Mr. Ceballos was out front, blocked the driveway, and wouldn't let her pull in. She backed out, drove down the street, and called the police.

She said that Mr. Ceballos had had the bat for years and kept it in the house in case anybody broke in. When she was asked what she thought Mr. Ceballos was thinking, she said the Mr. Ceballos "probably wanted to kill them [the police officers]."

Ms. Vigil indicated that Mr. Ceballos had worked loss prevention, that he knows a lot of cops, that he went to school for criminal justice, and that he's not stupid. She felt that was Mr. Ceballos' "intention was for this to happen."

On the night in question, Ms. Vigil said the police showed up – she believed there were as many as four to six officers present. She could hear the officers "shouting at him to like drop the bat, don't move." She could hear him saying something back, but she couldn't hear what he was saying. Ms. Vigil saw that he had the bat in one hand and kept walking at them. She demonstrated that he was holding the bat out from his side, not down by his side. Ms. Vigil indicated that the distance between Mr. Ceballos and the officers when the shots were fired was approximately the distance between the opposite corners of the interview room. [It should be noted that the distance she indicated was consistent with the distance described by Off. Husk and Off. Ward.] She said she was pretty sure she heard four shots.

After the interview of Ms. Vigil, the officer's obtained her cell phone and took photographs of her text message exchange with Mr. Ceballos. It confirms that – prior to the officers arrival – she told him that: 1) she was finished with him, 2) she was going to file for a protection order from him, and 3) that she was going to file paperwork to evict him from the house.

After the shooting, Mr. Ceballos was transported by a Thornton Fire Department ambulance to North Suburban Medical Center, where he was treated in the Emergency Department. At 8:15 p.m., Mr. Ceballos was pronounced dead by Dr. Marr.

Andrew Castillo was contacted at the scene by Off. Twinem. Mr. Castillo was distraught, and he kept repeating, "He just went crazy," referring to Mr. Ceballos. Mr. Castillo was interviewed later by Investigators with the District Attorney's Office. Mr. Castillo received a call from Mr. Ceballos and called him back. Mr. Ceballos answered, but what Mr. Ceballos was saying did not make sense. Mr. Castillo called Sergio Martinez, another friend of Mr. Ceballos. They both drove to Mr. Ceballos' home. At his home, Mr. Ceballos jumped inexplicably from topic to topic, and Mr. Castillo could not follow him or understand him. At one point, he seemed to be speaking or talking to Mr. Castillo's car. Mr. Castillo said he saw two cops walking toward Mr. Ceballos, and Mr. Ceballos had a black bat, which he held straight out from his side, "wingspan." The police told him to put the bat down, and Mr. Ceballos said something back to them. When Mr. Ceballos was about twenty feet from the officers, Mr. Ceballos paused and puffed out his chest. The shots went off, and Mr. Ceballos fell. Mr. Castillo indicated that the



first time he saw Mr. Ceballos holding the bat was when he walked out to confront the police officers.

Sergio Martinez was interviewed by two detectives from the Adams County Sheriff's Office. In addition to corroborating what Mr. Castillo stated, Mr. Martinez also confirmed the statements attributed to him by Officers Ward and Husk. He said he told the officers that Mr. Ceballos might be on drugs.

William "Bruce" Duran, a neighbor, was interviewed by Investigators with the DA's Office. Mr. Duran walked across the street to talk to Mr. Ceballos at about 5:30 p.m. Mr. Ceballos seemed very intoxicated, and he could smell a very strong odor of alcohol on his breath. Mr. Ceballos asked him if he had any knives, guns, or weapons. Mr. Duran said he didn't. Mr. Ceballos told him, "... [T]here's gonna be a world war three that's gonna be going on here and, and it's gonna be bad." Mr. Ceballos took off his shirt and threw it at the ground, then he took off his undershirt and threw that on the ground, too. Mr. Duran left and went to the store. Later, after he returned, he saw Ms. Vigil's car. Ms. Vigil was trying to pull in the driveway, and he saw Mr. Ceballos swinging a bat at her car like he was going to break out her window. On another occasion, one of Mr. Ceballos' friends approached Ms. Vigil's car to talk to her, and Mr. Ceballos started walking toward her car swinging the bat. Ms. Vigil looked frightened and drove away. Mr. Ceballos and his friends resumed laughing and talking. Later, while he was in his home, Mr. Duran heard the police yell "drop the bat" and "stop", then he heard shots.

Jeff Stickley, another neighbor, was interviewed about the incident. Mr. Stickley saw police officers arrive in the area. He heard the officers "holler" three to four times, "Put that down, put it down, put it down!" He saw a man with a bat in his hands walking toward police in a threatening manner. Mr. Stickley heard the police say, "Put it down or we'll shoot." He described Mr. Ceballos as holding the bat, "drawn back like he was ready to swing it," and, "advancing at [the officers] in a pretty ... pretty intimidating manner." He said the officers and Mr. Ceballos were less than fifteen feet apart when the shots were fired. Mr. Stickley stated, "Oh yeah, I had no doubt that he would have swung that bat at 'em"

After the shooting, officers contacted numerous other citizens during a canvass of the neighborhood. Many of these citizens reported hearing the officers yelling at Mr. Ceballos to "put down the bat." Several confirmed that this order was repeated several times.

After the shooting, Off. Husk's firearm was examined. Based upon the size of the clip and how the firearm was loaded, it was determined that six rounds had been fired by Off. Husk. C.S.I. Agents arrived at the scene, which was being held secured by the Thornton Police Department. At the scene, six spent shell casings were recovered. A spent taser cartridge was also recovered. Two identical knives were also recovered at the scene. [See photo.] The knives were kitchen/steak-type knives, and they appeared to be part of a set. An aluminum bat covered in black tape was recovered. The bat was slightly shorter than a regulation size baseball bat.

In later interviews with the firefighters, it was learned that a knife was laying on the ground when treatment began on Mr. Ceballos. Later, when Mr. Ceballos was moved, a second knife fell out of one of his pockets. This is consistent with the single knife observed by the officers around the time of the shooting and the recovery of two knives at the time the scene was processed. The first responders also verified that while one probe from the taser had implanted itself in Mr. Ceballos' body, the second probe had implanted itself in Mr. Ceballos' clothing.

On September 3, 2013, Dr. Michael Arnall, a forensic pathologist with the Adams County Coroner's Office, performed an autopsy on the body of Jaime Ceballos. During the exam, it was determined that three rounds fired by Officer Husk struck Jaime Ceballos. All three rounds struck the front of his body, and all three rounds passed from front to rear. Two rounds struck Mr. Ceballos in the chest, and the third round struck him on the upper right leg. The round that entered the right leg was a through and through wound. The other two bullets were recovered from the chest of Mr. Ceballos. Dr. Arnall determined that the cause of death was gunshot wounds to the chest.

Subsequent to the autopsy, the Coroner's Office received toxicology results from the body of Jaime Ceballos. Mr. Ceballos tested positive for high levels of methamphetamine (a stimulant), amphetamine (a stimulant), lorazepam (a tranquilizer), morphine (an opiate), ethanol (alcohol), venlafaxine (an antidepressant), norvenlafaxine (an antidepressant), and hydroxyzine (an antihistamine). Both the blood and urine ethanol results were over twice the legal limit for driving.

### **LEGAL ANALYSIS**

Criminal liability is established in Colorado when it is proven beyond a reasonable doubt that someone has committed all of the elements of an offense defined by Colorado statutes. In addition to proving the elements of the offense beyond a reasonable doubt, the prosecution must also disprove beyond a reasonable doubt any statutorily recognized justification or excuse.

Colorado Revised Statute § 18-1-707 defines the circumstances under which a peace officer can use deadly physical force in Colorado. The relevant parts of the statute are as follows:

- (2) A peace officer is justified in using deadly physical force upon another person...only when he reasonably believes that it is necessary:
  - (a) to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or
  - (b) ...

“Deadly physical force” is defined as “force, the intended, natural, and probable consequence of which is to produce death, and which does, in fact produce death.” See C.R.S. § 18-1-901(3)(d).

The legal question presented to the Office of the District Attorney is whether at the time Officer William “Levi” Husk fired his weapon, he reasonably believed that Jaime Ceballos was about to direct imminent unlawful deadly physical force against him or another person. In order to establish criminal responsibility for an officer who knowingly or intentionally uses deadly physical force, the government must also prove beyond a reasonable doubt that the officer doing the shooting either did not believe in the existence of these requisite circumstances, or, if he did hold such a belief, that belief was unreasonable in light of the totality of the facts and circumstances.

It is impossible to know with certainty the intent of Jaime Ceballos; however, there is substantial evidence to believe – as was indicated by Ms. Vigil – that he intended to provoke the police to shoot at him. Mr. Ceballos was familiar with police and police procedures, yet his behavior was deliberately provocative. He armed himself with a bat and a knife, and he approached the police with these weapons in defiance of repeated orders and directions. He taunted the police, stating “or what” in response to their orders to defuse or deescalate the situation. Ms. Vigil, who is probably best situated to guess at his intent, said she believed that Mr. Ceballos “probably wanted to kill [the officers].” He brought the bat, which was normally kept inside the house, outside; moreover, he appears to have armed himself with two knives. Mr. Ceballos told Mr. Duran, a neighbor, that “... [T]here’s gonna be a world war three that’s gonna be going on here and, and it’s gonna be bad.” This is also indicative of his anger and his intent.

It is unfortunate that the taser did not subdue Mr. Ceballos; however, that is why the police are taught to deploy both less-lethal force and lethal force. Tasers or other less-lethal devices are not full-proof and – as happened here – can fail to stop aggressors. Officer Husk and Officer Ward took reasonable steps: drawing their weapons, ordering him to stop, ordering him to drop the bat, and shooting him with a taser. However, Mr. Ceballos continued to act aggressively and in defiance of their directions. Ultimately, as the police are trained, Officer Husk was forced to act to prevent Mr. Ceballos from killing or seriously injuring either Officer Husk or his fellow officer.

Officer Husk’s belief that Mr. Ceballos intended to use deadly physical force on Officer Husk and Officer Ward was reasonable. Mr. Ceballos was advancing on both officers holding a deadly weapon in each hand. The black aluminum bat is clearly a deadly weapon. Mr. Ceballos and Ms. Vigil kept in the house for use against intruders. A large strong man would easily be capable of killing someone with it, and Mr. Ceballos was both large and strong. Similarly, the knife is clearly a deadly weapon. It had an overall length of 8 ½ inches, and it was sharp. Mr. Ceballos was aggressive and angry. Ms. Vigil and Mr. Ceballos’ friends had warned the police that he was on drugs. Mr. Vigil had told the police that he was acting crazy and that he had

menaced and frightened her earlier with the bat. It should be noted that Officer Husk's belief that Mr. Ceballos intended to use deadly force was echoed by others at the scene. Officer Ward and Commander Carbone both believed that Mr. Ceballos was going to attack Officer Husk and Officer Ward. Jeff Sticklely, another neighbor, described Mr. Ceballos as having drawn the bat to swing it, and further stated that he had no doubt that Mr. Ceballos was going to swing it at them.

Based upon all the information known to Officer Husk, Officer Husk reasonably believed that Jaime Ceballos – when he advanced upon him and Officer Ward with a bat and a knife – was going to seriously injure or kill Officer Husk or Officer Ward. Therefore, under Colorado law, Officer Husk was justified in using deadly force at the time that he fired his weapon.

### CONCLUSION

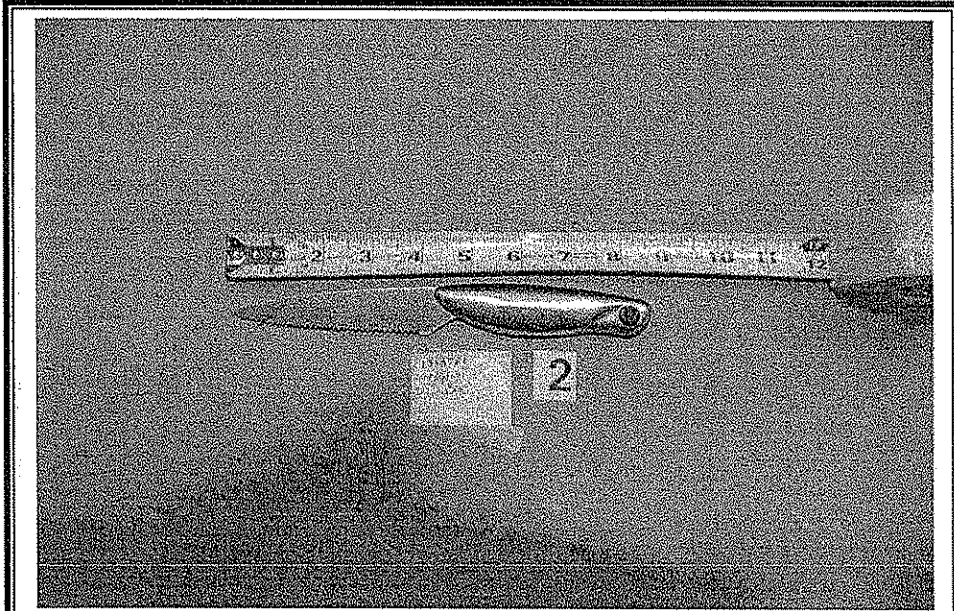
The independent Critical Incident Team thoroughly investigated the August 30, 2013 shooting of Jaime Ceballos. The District Attorney's Office reviewed the investigation and applied the relevant law to the evidence. Pursuant to the Colorado law and the state statutes cited above, Officer Husk was justified in using deadly force on August 30, 2013. No criminal charges will be filed against Officer Husk.

Please contact me if you have any questions or require additional information.

Sincerely,

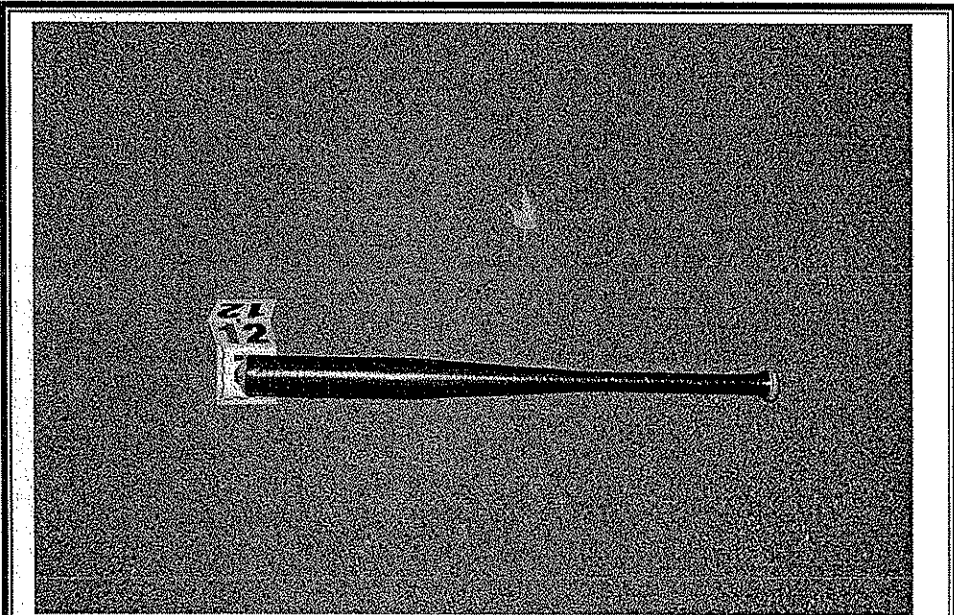
A handwritten signature in black ink, appearing to read "D. Young". The signature is stylized and written in a cursive-like font.

Dave Young  
District Attorney



**Exhibit:**

Photograph of one of two identical knives recovered at the scene.  
(Note: The blade is fixed, but the knife has the appearance of a folding knife.)



**Exhibit:**

Bat recovered at scene.