



For Immediate Release:
Chris Hopper
Director of Communications
chopper@da17.state.co.us
da17media@da17.state.co.us
(303) 835-5639

March 29, 2023

Decision Letter:

Attached is the decision letter issued by District Attorney Brian Mason related to an officer-involved shooting in Adams County on August 5, 2022.

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District Attorney Mason assumed the oath of office on January 12, 2021. The 17th Judicial District Attorney's Office endeavors to seek justice on behalf of the citizens of Adams and Broomfield counties in felony and misdemeanor cases. DA Mason and his staff are dedicated to transforming the criminal justice system to better serve the citizens of the 17th Judicial District.

*AdamsBroomfieldDA.org, Facebook: [@da17colorado](https://www.facebook.com/da17colorado) Twitter: [@da17colorado](https://twitter.com/da17colorado)
Instagram: [@da17colorado](https://www.instagram.com/da17colorado) YouTube: [ColoradoDA17](https://www.youtube.com/ColoradoDA17)*



March 29, 2023

Sheriff Gene Claps
Adams County Sheriff
4430 S Adams County Pkwy 1st Floor, Suite W5400
Brighton, CO 80601

Re: The officer-involved shooting of Mr. Derrick Aranda, occurring on August 5, 2022

Dear Sheriff Claps:

The 17th Judicial District Critical Incident Response Team (CIRT) recently completed its investigation into the August 5, 2022 shooting death of Derrick Aranda. City of Thornton Detectives Fred Longobricco and Scott Donderhoeft led the investigation. The remaining investigators on the CIRT who worked on this investigation are associated with law enforcement agencies independent of the three involved officers, including one from the City of Broomfield Police Department, two from City of Aurora Police Department, two from the City Westminster Police Department and one from the 17th Judicial District Attorney's Office. The investigation consisted of law enforcement reports, audio and video recorded interviews, photographs, and diagrams of the crime scene. The Office of the District Attorney concludes that the investigation was thorough and complete. This letter includes a summary of the facts and materials that the CIRT presented for review.

The District Attorney's Office review is limited to determining whether any criminal charges should be filed against any of the involved officers for a violation of Colorado law. The standard of proof for filing a criminal case is whether there is sufficient evidence to prove all the elements of a crime beyond a reasonable doubt. The prosecution also has the burden to prove beyond a reasonable doubt that the use of force was *not* legally justified. This independent investigation and review is not intended to take the place of an internal affairs investigation by your agency. As such, the District Attorney's Office review does not evaluate compliance with any departmental policies, standards, or procedures.

Based on the evidence presented and the applicable Colorado law, there is no reasonable likelihood of success of proving the elements of any crime beyond a reasonable doubt as it relates to the law enforcement officers involved in this incident. Therefore, there will be no criminal charges filed against the law enforcement officers involved in this incident.

SUMMARY OF THE INVESTIGATION

On July 14, 2022, Derrick Aranda failed to appear in Denver County District Court for a pending criminal charge of attempted first degree murder. He was suspected of violating his bond conditions by removing an ankle monitor that was required as part of his pretrial release. The Denver Police Department Fugitive Unit, led by Denver Police Detective Rachel Eid, engaged in physical and electronic surveillance efforts to locate Mr. Aranda. The Fugitive Unit tracked him to a location near 88th Avenue and Corona Street, where he was believed to be with a girlfriend and some family members. On August 4, 2022, the Denver Fugitive Unit contacted the Adams County Sheriff's Office (ACSO) because Mr. Aranda was believed to be in Adams County. The Sheriff's Office was familiar with Mr. Aranda from their previous attempts to locate him.

The Denver Fugitive Unit conducted a briefing with members of ACSO's Special Enforcement Team (SET). The briefing included a written bulletin that contained information of Mr. Aranda's active warrant arrest on an attempted murder case and Mr. Aranda's criminal history which referenced multiple entries for weapons-related offenses. The bulletin also included photographs of Mr. Aranda and names of Mr. Aranda's family and known associates. Detective Eid also shared information of Mr. Aranda's counter-surveillance techniques he employed to evade arrest. Based on the background information, law enforcement officers presumed Mr. Aranda to be armed and dangerous.

Joint surveillance efforts of the Denver Fugitive Unit and ACSO SET began on August 4, 2022, and continued to August 5, 2022. These efforts included physical observations of vehicles and locations associated with Mr. Aranda. During the afternoon hours of August 5, 2022, law enforcement officers received information that Mr. Aranda's cellular phone was pinging in the same vicinity as his girlfriend, L.L.¹ Based on the movement and manner of the phone pings, the officers believed that they were traveling together. As the officers tracked the movement of the phone pings, they believed that Mr. Aranda and L.L. were headed to L.L.'s apartment located at 301 Malley Drive in the City of Northglenn.

Members of the ACSO SET formulated an apprehension plan. Sergeant Daniel Monares contacted Northglenn Police Department to respond to the area while Detective Eid worked to submit a warrant for L.L.'s residence in the event entry would be necessary. The ACSO SET deputies created a perimeter around the apartment in several unmarked vehicles to maintain surveillance on the apartment.

While waiting, Detective Eid announced over the radio that Mr. Aranda and L.L. may be aware that police units were in the area. Within a short period of time, Detective Cole Cockrum observed a white Toyota Prius drive north of the apartment, where it parked and activated its hazard lights. Detective Cockrum reported over the radio that the vehicle may be a ride share, such as Uber or Lyft. Shortly after the Prius arrived, Detective Cockrum observed L.L. walk out of her apartment. She looked around and walked downstairs through the parking lot to the Prius, where she got into the driver's side rear passenger seat. Meanwhile, Detective Cockrum observed a Hispanic male wearing a grey "hoodie" and jean shorts standing on the balcony of

¹ Initials are used to protect the confidentiality of citizen witnesses.

the apartment looking around the area. Detective Cockrum identified the male as Mr. Aranda. He announced his observations to the other officers over the radio.

Mr. Aranda walked down the stairs, looked around, and proceeded to walk through the parking lot towards the Prius. Deputy Isiah Acosta proposed a plan that he and Deputy Lance Kestel contact Mr. Aranda to prevent him from getting inside the Prius. Sergeant Monares agreed with the plan and both Deputy Acosta and Deputy Lance Kestel exited their vehicles and approached Mr. Aranda. The Deputies identified themselves as police and ordered Mr. Aranda to the ground. Mr. Aranda ignored the commands and ran towards the Prius, entered the passenger's side rear door, and shut it. Deputy Kestel and Deputy Acosta followed Mr. Aranda to the Prius. Deputy Acosta stood next to the passenger's side rear door and Deputy Kestel stood next to the passenger's side front door. Deputy Robert Bacigalupo activated the lights and sirens on his undercover vehicle and drove it up behind the Prius. Deputy Bacigalupo exited the vehicle and positioned himself next to the driver's side rear door. The deputies observed Mr. Aranda hurriedly move inside the Prius from the backseat to the front seat while holding a black semi-automatic handgun in his hand. Deputy Kestel, Deputy Acosta, and Deputy Bacigalupo fired their weapons at Mr. Aranda. Mr. Aranda suffered multiple gunshot wounds and died.

The following narratives are summaries of the interviews and statements given by the involved-officers and pertinent witnesses to the event:

INVOLVED OFFICER INTERVIEWS

Deputy Lance Kestel: Deputy Lance Kestel is a Senior Deputy employed by the Adams County Sheriff's Office. At the time of the interview, Deputy Kestel had been employed by the Sheriff's Office for seven years, a member of the SWAT team since 2018 and assigned to the SET team since June of 2020. On August 5, 2022, Deputy Kestel wore a blue polo with the Adams County Sheriff's badge on the front and "SHERIFF" written in large letters in the back, a tactical vest depicting "Sheriff" on the right side and official Sheriff's Office badge on the left side. The back of the vest displays "SHERIFF" in large letters on the back. Deputy Kestel also displayed a badge on his belt.

Prior to August 5, 2022, Deputy Kestel received bulletins concerning Mr. Aranda's criminal history, including the fact that he was wanted for an attempted murder involving a firearm. Based on the history, Deputy Kestel believed Mr. Aranda to be armed and dangerous. On August 5, 2022, Deputy Kestel was requested to assist with surveillance at 301 Malley Drive. Deputy Kestel arrived at the apartment complex and set up a perimeter around the target apartment building with Deputy Bacigalupo, Deputy Acosta and Sergeant Monares. Deputy Kestel parked his undercover vehicle north of the apartment building and watched the balcony on the northeast portion of the building.

Deputy Kestel conducted surveillance for approximately twenty or thirty minutes when he heard over the radio that a Prius pulled into the parking lot and parked north of the target apartment with its hazard lights activated. The officers believed this vehicle was a ride share

possibly for Mr. Aranda or his girlfriend. Within a short time, Deputy Kestel heard over the radio that a female had exited the target apartment. Deputy Kestel observed a blonde female walking northbound from the apartment building towards the Prius. The female spoke to the driver of the Prius and entered the driver's side rear door.

Deputy Kestel heard a member of SET report over the radio that a Hispanic male, wearing shorts and a grey hooded sweatshirt exited L.L.'s apartment. Detective Cochran advised over the radio that he believed the male was Mr. Aranda. Deputy Acosta notified Sergeant Monares that he and Deputy Kestel should contact Mr. Aranda before he got into the Prius. Sergeant Monares agreed and both Deputy Kestel and Deputy Acosta exited their vehicles and approached Mr. Aranda in the parking lot.

Deputies Kestel and Acosta identified themselves as police officers and ordered Mr. Aranda to the ground. Mr. Aranda looked in the direction of the deputies and ran towards the Prius. Deputy Kestel initially thought that Mr. Aranda would run past the Prius in order to flee on foot, so he ran westbound to cut him off. Instead of running away, Mr. Aranda entered the passenger's side rear door of the Prius.

Deputy Kestel approached the Prius with his gun drawn due to his knowledge of Mr. Aranda's criminal history involving weapons charges and active warrant for attempted murder. Deputy Kestel positioned himself on the passenger's side of the vehicle between the front and rear doors. Deputy Kestel ordered Mr. Aranda to place his hands in the air. Deputy Kestel watched Mr. Aranda reach toward the floorboard, causing Deputy Kestel to yell to his fellow officers, "He's reaching! He's reaching! He's reaching!" Mr. Aranda moved his upper body through the center console area as if he were moving to the front seat. Deputy Kestel shifted his position to the front passenger door, where he no longer had the cover of the pillar between the front and rear doors of the Prius.

As Mr. Aranda moved from the backseat to the front seat, Deputy Kestel observed a black semi-automatic handgun in Mr. Aranda's left hand. He saw the handgun move toward Deputy Acosta and feared for the safety of Deputy Acosta and himself. He also feared that Mr. Aranda might take the driver hostage or use the driver as a shield from the officers. Given these concerns, Deputy Kestel fired his handgun through the passenger's side front door window into the vehicle, aiming at Mr. Aranda. He felt like he had no other alternatives under the circumstances. He did not know how many times he fired, but he fired until Mr. Aranda stopped moving and no longer presented a threat. He heard simultaneous gunfire from Deputy Acosta's weapon.

Deputy Acosta and Sergeant Monares removed Mr. Aranda from the vehicle. Deputy Kestel assisted in removing L.L. from the backseat and the deputies called for medical assistance.

Deputy Isiah Acosta: Deputy Isiah Acosta is a Senior Deputy employed by the Adams County Sheriff's Office. Deputy Acosta has worked for the Sheriff's Office for eight years and is assigned to the SET, where he has been for approximately one year. On August 5, 2022, Deputy Acosta was working in an undercover capacity in plain clothes. He wore a tactical vest

that contained a badge on the left, the word “SHERIFF” on the right, and “SHERIFF” written in large letters on the back of the vest.

Deputy Acosta attended the August 4th briefing concerning Mr. Aranda and conducted surveillance efforts that day. On August 5, 2022, Deputy Acosta participated with the other law enforcement officers in the effort to locate Mr. Aranda. Detective Eid reported over the radio that Mr. Aranda’s cell phone appeared to be moving with his girlfriend’s cell phone. Deputy Acosta followed the direction of the cell phone pings and was led to an apartment complex located at 301 Malley Drive. Deputy Acosta parked his unmarked white Nissan Rogue north of the apartment complex.

At approximately 4:30 p.m., Detective Acosta observed a white Toyota Prius drive up and park north of the apartment complex. The hazard lights came on, causing Deputy Acosta to believe that the vehicle was a ride share vehicle. Shortly after the Prius parked, Deputy Acosta observed Mr. Aranda’s girlfriend, L.L., exit the apartment and walk towards the Prius. L.L. entered the driver’s side rear door of the Prius. Moments later, Deputy Acosta observed a male walk through the parking lot. As the male walked, he looked directly at Deputy Acosta sitting in Deputy Acosta’s vehicle. Deputy Acosta was able to positively identify the male as Mr. Aranda. Deputy Acosta advised over the radio that the male was Mr. Aranda and that they should apprehend him. Deputy Acosta jumped out of his vehicle and approached Mr. Aranda while yelling, “Police, you’re under arrest!” Mr. Aranda ran towards the Prius. Deputy Acosta ran after Mr. Aranda to prevent him from entering the vehicle. Mr. Aranda got into the passenger’s side rear door of the Prius.

Deputy Acosta ran to the Prius and stood at the passenger’s side rear window with his gun drawn. From that vantage point, he observed Mr. Aranda reaching into his waistband. Deputy Acosta yelled, “Stop! Please don’t or I’ll shoot!” Deputy Acosta observed the muzzle of a handgun point in his direction. Deputy Acosta was scared that Mr. Aranda would shoot, but Deputy Acosta did not fire his gun because he was concerned for the safety of the other occupants of the Prius. Mr. Aranda dropped the gun on the floorboard. Deputy Acosta opened the passenger rear car door, hoping that Mr. Aranda would surrender to Deputy Acosta’s commands. Mr. Aranda picked up the gun from the floorboard and moved towards the front seat. Mr. Aranda had his gun pointed towards the driver, and Deputy Acosta was concerned that Mr. Aranda was going to harm or kill the driver. Mr. Aranda fell forward into the front seat and shifted, pointing the gun in the direction of Deputy Kestel, who stood next to Deputy Acosta. Deputy Acosta was in fear for Deputy Kestel’s life, so he pointed his gun at Mr. Aranda through the open passenger’s side rear door and fired until Mr. Aranda was no longer moving. He believed that there were no other alternatives due to the fact that Mr. Aranda was armed with a gun. Deputy Acosta was unsure how many rounds he fired. As Deputy Acosta removed Mr. Aranda from the vehicle, Deputy Acosta observed a semi-automatic handgun on the floorboard of the front driver’s seat.

Deputy Robert Bacigalupo: Deputy Robert Bacigalupo is employed by the Adams County Sheriff’s Office as a patrol officer. He has worked for the Sheriff’s Office for five years and has been assigned to the SET team for a couple of months. On August 5, 2022, Deputy Bacigalupo worked in an undercover capacity, wearing plain clothes covered by a ballistic vest

that contained a badge on the upper left chest, the word "SHERIFF" on the upper front right chest, and "SHERIFF" in large block letters on the back.

On August 4, 2022, Deputy Bacigalupo attended the briefing concerning the apprehension of Mr. Aranda and participated in the surveillance efforts. On August 5, 2022, Deputy Bacigalupo assisted in the cell phone tracking of Mr. Aranda to the apartment building at 301 Malley Drive in Northglenn. Once at the location of the apartment, Sergeant Monares, Deputy Acosta and Deputy Bacigalupo established a perimeter where they maintained surveillance of the area. The team was later joined by Detective Cockrum and Deputy Kestel. Deputy Bacigalupo parked his unmarked minivan at the entrance of the apartment complex. From this vantage point, Deputy Bacigalupo observed the balcony of Mr. Aranda's girlfriend's apartment.

A vehicle entered the parking lot, pulled up to the north of the complex and placed its hazards on. A short time later, Deputy Bacigalupo heard Detective Cochran report over the radio that Mr. Aranda's girlfriend, L.L., exited the apartment. Deputy Bacigalupo then saw a male walk out to the balcony. The male stood on the balcony and watched L.L. walk down to the parking lot and enter the waiting vehicle.

Deputy Bacigalupo continued to watch the male on the balcony. Detective Cochran was also watching the male and confirmed over the radio that it was Mr. Aranda. Deputy Bacigalupo heard Deputy Acosta over the radio suggest that they contact Mr. Aranda prior to his entry into the vehicle. Deputy Bacigalupo observed Deputy Acosta and Deputy Kestel attempt to contact Mr. Aranda. Mr. Aranda ran away from the deputies. Deputy Bacigalupo saw Mr. Aranda reach beneath his sweatshirt and remove a black gun from his waistband.

Deputy Bacigalupo backed out of his parking space, activated the emergency lights and siren on his vehicle, and drove up behind the parked vehicle. Deputy Bacigalupo parked and got out of the vehicle. Deputy Acosta and Deputy Kestel were on the passenger side of the vehicle yelling commands such as "Don't move!" Deputy Bacigalupo approached the driver's side rear window and observed L.L. lie in the backseat. He heard Mr. Aranda yelling "Go! Go! Go!" The driver was crouched down into the dashboard of the front driver's seat covering his face with his hands. Mr. Aranda was in the front passenger seat facing Deputy Kestel and Deputy Acosta. Deputy Bacigalupo tried to open the door to remove the driver when he heard gunshots. Deputy Bacigalupo stepped slightly back to provide cover for Deputy Kestel and Deputy Acosta. Mr. Aranda leaned into the dashboard, slightly turned his body towards the driver side of the vehicle and looked at Deputy Bacigalupo. Mr. Aranda held the handgun in his right hand, pointed at the driver. Deputy Bacigalupo ordered Mr. Aranda to drop the weapon and Mr. Aranda responded by saying "Fuck you!" Deputy Bacigalupo was scared for his life, for his partners, and for the driver, who was most at risk in the situation. He aimed his handgun at Mr. Aranda through the window of the driver's side rear door and shot at Mr. Aranda in the front seat. Deputy Bacigalupo did not believe that he had time to consider any alternative use of force under the circumstances. He did not know how many rounds he fired. He stopped shooting once Mr. Aranda stopped moving and he no longer perceived a threat.

Deputy Bacigalupo then opened the driver side door and removed the driver from the

vehicle. Deputy Bacigalupo ensured the driver was not shot and assisted with removing L.L. from the vehicle. Deputy Bacigalupo obtained medical supplies from his minivan to assist with lifesaving measures.

CIVILIAN INTERVIEWS

R.S.: R.S. is a driver for a ride share company. R.S.'s native language is Persian with a Dari dialect. Initially, detectives attempted to interview R.S. in English but encountered challenges with the language barrier. R.S. was interviewed via the language line with the assistance of a Persian interpreter certified in the Dari dialect.

On August 5, 2022, R.S. drove his white 2014 Toyota Prius to the location of a ride request on Malley Drive. R.S. arrived at the location, parked, and waited for approximately two to three minutes. A female arrived, entered his vehicle, and sat in the backseat. The woman stated that her friend was going to be arriving in a few minutes. A male arrived and sat in the backseat of the car. The male was followed by police officers. The officers stood on either side of his vehicle and tried to get the male to come out. R.S. was aware the men were police officers because he recognized their police uniforms.

The police officers yelled "Stop!" and had their guns drawn. The male told R.S., "Go! Go! Go!" The male was armed with a gun and tried to get into the front seat. The male pointed the gun towards R.S.'s seat while the male was attempting to get into the front seat. The officers began shooting when the male was attempting to get into the front seat. R.S. believed that the officers saw the man with the gun from outside of the vehicle.

L.L.: L.L. was Mr. Aranda's girlfriend. The couple had been dating for three years. She was present in the vehicle during the shooting. L.L. lived in an apartment at 301 Malley Drive in Northglenn. L.L. was extremely distraught throughout the interview with CIRT investigators.

L.L. stated that she and Mr. Aranda entered the Uber vehicle. Once they were both in the vehicle, police officers ran up to the vehicle with their guns drawn, identified themselves as police and said, "Derrick put your hands up." L.L. stated that the officers stood at the passenger side of the vehicle and that they wore black clothing that she did not recognize as police uniforms. Mr. Aranda looked at L.L. and stated, "I'm gonna hop in the front seat so if they shoot, you don't get hurt." Mr. Aranda then hopped to the front seat with his face down. According to L.L., Mr. Aranda did not have anything in his hands. The police officers started shooting through the windows. L.L. believed two officers shot Mr. Aranda a total of ten times. L.L. stated that when the officers shot Mr. Aranda, Mr. Aranda had his hands covering his head.

L.L. stated that she did not believe that Mr. Aranda was armed that day and that he does not usually carry weapons. She stated that the last time she saw Mr. Aranda with a gun was a week prior to August 5, 2022. Mr. Aranda stated that he had the gun for protection because someone was threatening to kill him. L.L. stated that both she and Mr. Aranda were aware that there was a warrant for his arrest. L.L. was unsure why the warrant was issued.

Other witnesses: Investigators identified and interviewed other civilian witnesses who heard multiple gunshots in the area. These witnesses generally described seeing portions of the incident, including the police officers chasing Mr. Aranda to the white Toyota Prius, the officers loudly shouting commands such as, “Don’t run!” “Get out of the car” and “Stop!” prior to the gunshots. None of the identified witnesses observed anything inside the Prius. Each of the witnesses advised that the officers were clearly identifiable due to their actions and the markings on their tactical vests.

SCENE INVESTIGATION

Criminalists from the City of Westminster Police Department processed the scene and gathered evidence, including the involved officers’ firearms. Each deputy carried a different make and model of a 9mm semi-automatic handgun as their duty weapon. Round accountability revealed that Deputy Kestel fired seven rounds, Deputy Acosta fired nine rounds, and Deputy Bacigalupo fired six rounds. None of the deputies was equipped with a body-worn camera.

The vehicle involved in the incident was a white Toyota Prius that was parked facing north along the east curb of the entrance to the apartment complex. Parked behind the Prius was a red Dodge Caravan, and parked in front was a blue Chevrolet Silverado. These two vehicles were undermarked Adams County Sheriff’s Office SET vehicles occupied by the deputies involved in the incident. Numerous casings were located under and surrounding the Prius. The front passenger window and the rear driver window were shattered. Much of the glass from these windows were located inside the vehicle. Trajectory rods were placed into several of the bullet holes in the vehicle. The trajectory analysis revealed that gunshots were fired into the vehicle from three different areas: passenger’s side window (door closed at time of shooting), passenger’s side rear door (door open at time of shooting) and driver’s side rear window (door closed at time of shooting). Each trajectory showed a consistent target area: the front passenger seat.

A Sig Sauer model P365, 9 mm handgun was discovered and removed from the passenger floorboard. A 9mm cartridge was found in the chamber of the gun and eleven 9mm cartridges in the magazine. There was no evidence to conclude that the gun was fired from inside the Prius.



Photograph of passenger's side floorboard where the Sig Sauer 9mm handgun was located.



Close up photograph of Sig Sauer 9mm handgun.

A doorbell camera located near the scene captured video and audio pertaining to the incident. The vantage point of the camera was just south of the location where the Toyota Prius was parked. The time stamp of this recording begins at 4:30:41 p.m., and depicts Mr. Aranda walking northbound just prior to the incident. The recording does not capture the deputies pursuit of Mr. Aranda. At time stamp 4:30:55 p.m., this device captures audio of emergency sirens. At 4:31:00 p.m. a male voice yells “Stop!” followed by a volley of gunfire.

On August 8, 2022, a forensic pathologist performed the autopsy of Mr. Aranda. Mr. Aranda suffered gunshot wounds to his face, neck, torso and upper extremities. The forensic pathologist identified at least thirteen entrance wounds which showed no evidence of close-range firing. Wound paths of the majority of gunshot wounds converged and comingled limiting the ability to link entrance and exit wounds. Toxicology revealed that Mr. Aranda had ingested fentanyl and cocaine sometime prior to his death.

LEGAL ANALYSIS

As was previously noted, this review is limited to a determination of whether criminal charges should be filed against the involved officers. The decision to file criminal charges involves an assessment of all known facts and circumstances as well as an evaluation of whether there is a reasonable likelihood of conviction at trial under the applicable law. Criminal liability is established when the evidence is sufficient to prove all the elements of a crime beyond a reasonable doubt. In addition to proving the elements of a crime, the prosecution must also *disprove* any statutorily recognized justification or defense beyond a reasonable doubt. Consequently, in order to file a criminal charge, the District Attorney’s Office must be able to prove beyond a reasonable doubt that the involved law enforcement officers’ actions were not justified under the circumstances surrounding this incident and the applicable law.

Here, there is no question that Deputy Acosta, Deputy Kestel and Deputy Bacigalupo each discharged their firearms at Mr. Aranda, causing his death. The legal question is whether these three involved officers’ conduct supports the filing of criminal charges.

Under Colorado law, a law enforcement officer may use an amount of force that is necessary and reasonable to effect an arrest. Additionally, under Colorado law, police officers, like any other individual, have the right to defend themselves or others from the use or imminent use of unlawful physical force. An officer’s right to use reasonable force is an affirmative defense, meaning that the prosecution must prove beyond a reasonable doubt that the use of force was not justified. The affirmative defenses applicable to the officers’ use of force at the time of this incident is found under §18-1-707, C.R.S. (2022). The affirmative defenses applicable to the officers’ use of force at the time of this incident is found at §18-1-707(4.5), C.R.S. (2022), and that subsection provides:

Notwithstanding any other provisions in this section, a peace officer is justified in using deadly physical 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.

In the 1989 case of *Graham v. Connor*, the United States Supreme Court set forth a “reasonableness standard” in evaluating the use of force by a police officer. Under this standard, the inquiry into the appropriateness of an officer’s use of force must: (1) take into consideration the totality of the circumstances, including factors such as the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether the suspect is actively resisting arrest or attempting to evade arrest by flight; and, (2) be judged from the perspective of an objectively reasonable officer on the scene “in light of the facts and circumstances confronting them, without regard to [his] underlying intent or motivation.” Further, the United States Supreme Court noted, “[t]he 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.”

Accordingly, applying the proper legal standard in this case, the critical inquiry is whether an objectively reasonable officer, confronted with the same facts and circumstances, would have concluded that Derrick Aranda posed an immediate threat to the safety of the officers or another person such that the use of deadly physical force was necessary. In this case, the involved deputies were engaged in the course of their duties to search for and apprehend Mr. Aranda, who had an active arrest warrant for attempted murder and who was believed to be armed with a weapon. Two of the deputies attempted contact with Mr. Aranda in a reasonable, nonviolent manner by identifying themselves and yelling commands to stop and show his hands. Mr. Aranda ignored the commands and ran into the Prius, demonstrating his intent to avoid apprehension. Once Mr. Aranda was inside the Prius, three deputies surrounded the vehicle and continued to order Mr. Aranda to surrender.

Mr. Aranda disobeyed the deputies’ reasonable commands and drew a handgun from his waistband. The deputies each described seeing the handgun in Mr. Aranda’s hand as Mr. Aranda tried to move into the front passenger seat. Each of the three deputies further explained that Mr. Aranda’s actions caused them to perceive a danger to themselves and to the driver of the Prius. Two of the deputies called out to Mr. Aranda to drop the weapon, and one of the deputies pleaded with Mr. Aranda to stop or he would be shot. Mr. Aranda’s actions prevented any reasonable means of apprehension and posed an immediate threat to the deputies and the civilians inside the Prius. The deputies each expressed that they discharged their firearms in response to the threat presented by Mr. Aranda.

There is no evidence to suggest that an objectively reasonable law enforcement officer would have acted differently than the three deputies who were involved in this incident. Mr. Aranda refused to comply with lawful commands, then brandished a weapon, which he pointed in the direction of at least one officer and then the civilian driver of the Prius. Furthermore, Mr. Aranda refused to comply with reasonable commands to drop the weapon. The three deputies were forced to make a split-second decision in a tense, dangerous and rapidly evolving situation where the lives of multiple officers and civilians were put at risk by Mr. Aranda. I find the actions of these officers to be reasonable and justified. Indeed, the evidence presented in this

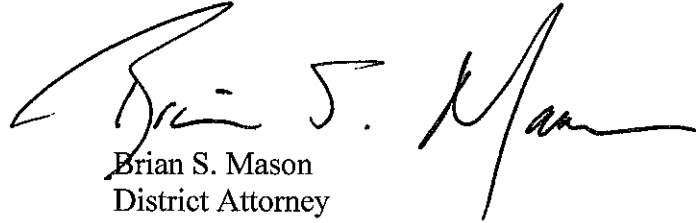
investigation supports a conclusion that Deputies Kestel, Acosta, and Bacigalupo were justified in the use of deadly physical force against Mr. Aranda.

CONCLUSION

Under the totality of the circumstances and evidence gathered in this investigation, the prosecution cannot prove that the involved officers were not justified in using reasonable force under §18-1-707, C.R.S. (2022). Therefore, applying the facts of this incident to the applicable law, the evidence does not support the filing of criminal charges against Deputy Lance Kestel, Deputy Isiah Acosta, and Deputy Robert Bacigalupo, for firing their weapons at Mr. Derrick Aranda.

Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian S. Mason". The signature is fluid and cursive, with a long horizontal stroke at the end.

Brian S. Mason
District Attorney