



April 13, 2020

Chief Paul Pazen  
Police Administration Building  
1331 Cherokee Street  
Denver, CO 80204

Re: The investigation of the officer-involved shooting of Dovion Perkins, DOB 12-16-00, occurring on January 26, 2020, in Aurora, Colorado.

Dear Chief Pazen:

The investigation and legal analysis of the officer-involved shooting of Dovion Perkins occurring on January 26, 2020, is complete. The multi-agency investigation team comprised of detectives from the Aurora Police Department (APD) and the Denver Police Department (DPD) conducted the investigation into this matter. Detective Heath Graw of the Aurora Police Department presented the factual findings of the investigation to our office on February 25, 2020. The APD presented police reports, body-worn camera videos (BWC), other videos, audio interviews, along with photographs and diagrams of the scene investigation. The Office of the District Attorney concludes that the investigation was thorough and complete.

This review is strictly limited to determining whether criminal charges should be filed against the involved officer based on the investigation. The standard of proof for filing a criminal case is whether there is sufficient evidence to prove any criminal violations beyond a reasonable doubt to a unanimous jury. Here, the prosecution also has the burden to prove beyond a reasonable doubt that the use of force was not justified under Colorado law. This review expressly does not evaluate the appropriateness of the actions of the involved officer, whether department policies or procedures were followed, or whether the policies, practices, or training at the involved agency are sufficient. That evaluation is left to each individual agency.

As further set forth herein, based on the evidence presented and applicable Colorado law, there is no reasonable likelihood of success of proving that the involved shooting officer, Denver Police Officer Eric Leon, committed any crime beyond a reasonable doubt at trial. Therefore, no criminal charges will be filed against Officer Eric Leon.

## STATEMENT of FACTS<sup>1</sup>

In January 2020, the Denver Police Department were conducting investigations into multiple aggravated robberies in Denver. Based on these investigations, multiple arrests warrants issued for Dovion Perkins, including three arrest warrants for armed robberies and an arrest warrant for possession of a weapon by a felon. Because Dovion Perkins was a known and documented member of the Park Hill Bloods street gang, coupled with these outstanding warrants for violent crimes, DPD tasked their Gang Unit to proactively locate and arrest Dovion Perkins.

The DPD Gang Unit developed information concerning Dovion Perkins' vehicle and his possible location in the Montbello neighborhood, in the far northeast portion of Denver County. DPD Officers went to Montbello on January 26<sup>th</sup> at about 8:30 PM, near Xapary Way and Randolph Place and located Dovion Perkins there. Dovion Perkins was driving a silver Mercury Mountaineer SUV. With Mr. Perkins was an adult female, S.P.<sup>2</sup>, and a young juvenile male, T. P.-H.<sup>3</sup> The SUV sped away from DPD Officers at a high rate of speed going east on 56<sup>th</sup> Ave. The DPD Officers did not directly pursue the vehicle, and instead relied on the DPD Helicopter (Air-1) to maintain visual contact on the SUV.

Dovion Perkins continued on East 56<sup>th</sup> Ave and eventually turned south, cutting through the Montbello neighborhood.<sup>4</sup> Eventually, Mr. Perkins drove east and turned south on Chambers Road and remained on Chambers Road, going into the City of Aurora. Mr. Perkins then turned west on Montview Boulevard. Air-1 maintained visual contact on the SUV and DPD Officers followed Air-1's directions, in hopes of contacting Dovion Perkins in a location that would allow for his safe arrest. However, Dovion Perkins continued to evade police vehicles, but Air-1 maintained visual contact.

At approximately, 9:05 PM Dovion Perkins drove the SUV into an apartment complex in Aurora near Billings Street and Montview Blvd. With Air-1's assistance, DPD Officers arrived to set-up a perimeter and arrest Mr. Perkins. Dovion Perkins backed the SUV into a parking spot at the apartment complex, and officers attempted to contact Mr. Perkins there. When a DPD patrol car approached the SUV, Dovion Perkins drove the SUV off at high rate of speed. The SUV turned south on Billings Street and went to Colfax Avenue. The DPD Officers did not engage or chase the SUV at this point. They continued following Air-1's directions, and tracked behind Mr. Perkins without activating their emergency lights.

Near the intersection of Colfax Avenue and Billings Street, at approximately 9:06 PM, Air-1 observed the SUV force its way through traffic, hitting stopped vehicles, as Dovion Perkins continued to abscond from the DPD Officers. Dovion Perkins continued driving east on Colfax Avenue, and drove under I-225. At this point, the DPD Officers were monitoring the reports of Air-1, but none of the DPD Officers were in the immediate area, much less in direct pursuit of the SUV. After driving under I-225,

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<sup>1</sup> The Statement of Facts are culled from the overall investigation and is presented here largely in chronological order.

<sup>2</sup> I use initials to maintain the privacy of citizen-witnesses and other persons involved.

<sup>3</sup> T.P.-H. also had a juvenile felony warrant for his arrest.

<sup>4</sup> Perkins circuitous flight covered almost exactly 9 miles. Only the factually significant portions of the flight are recounted here.

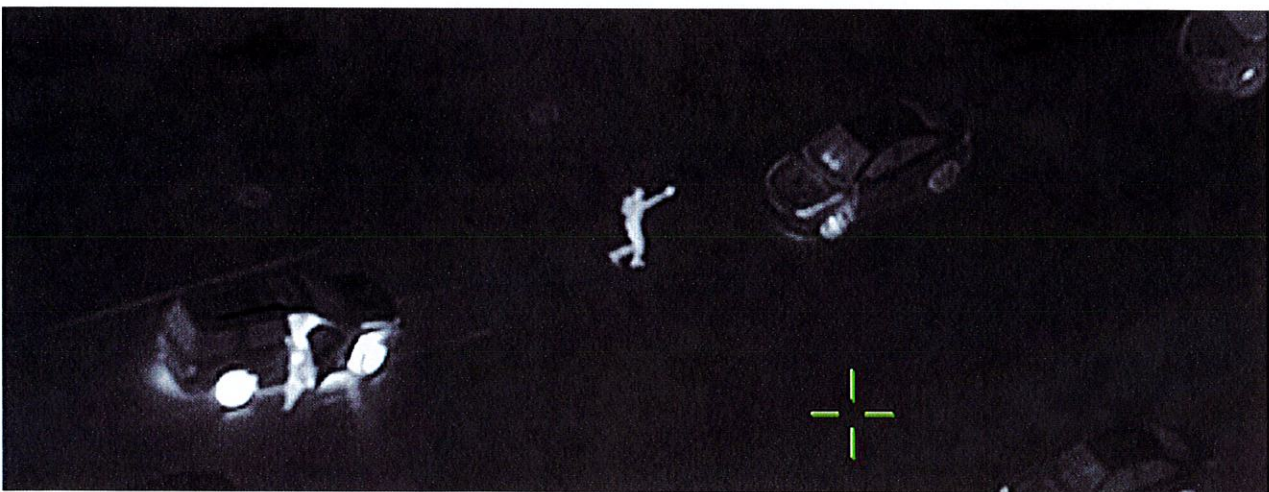


Dovion Perkins drove into the eastbound oncoming traffic lane. At that time, Mr. Perkins hit another car, and continued against oncoming traffic, going east on Colfax Avenue.



*The Air-1 video shows Perkins (circled) forcing through stopped traffic near I-225 and Colfax.*

Dovion Perkins continued driving in the wrong lane of traffic going east on Colfax Avenue. Near the intersection of Colfax Avenue and Potomac Street, he encountered S.L.-M. driving her silver Chevrolet Cruze. Dovion Perkins jumped out of his SUV, ran to S.L.-M., pointed a handgun at her, and forced her to exit her car. Dovion Perkins then took her Chevrolet Cruze at gunpoint. S.L.-M. was later interviewed, and she said an unknown man suddenly appeared, pointed a gun at her, and she got out of her car and surrendered her vehicle to the man. Air-1 also captured this event on video.

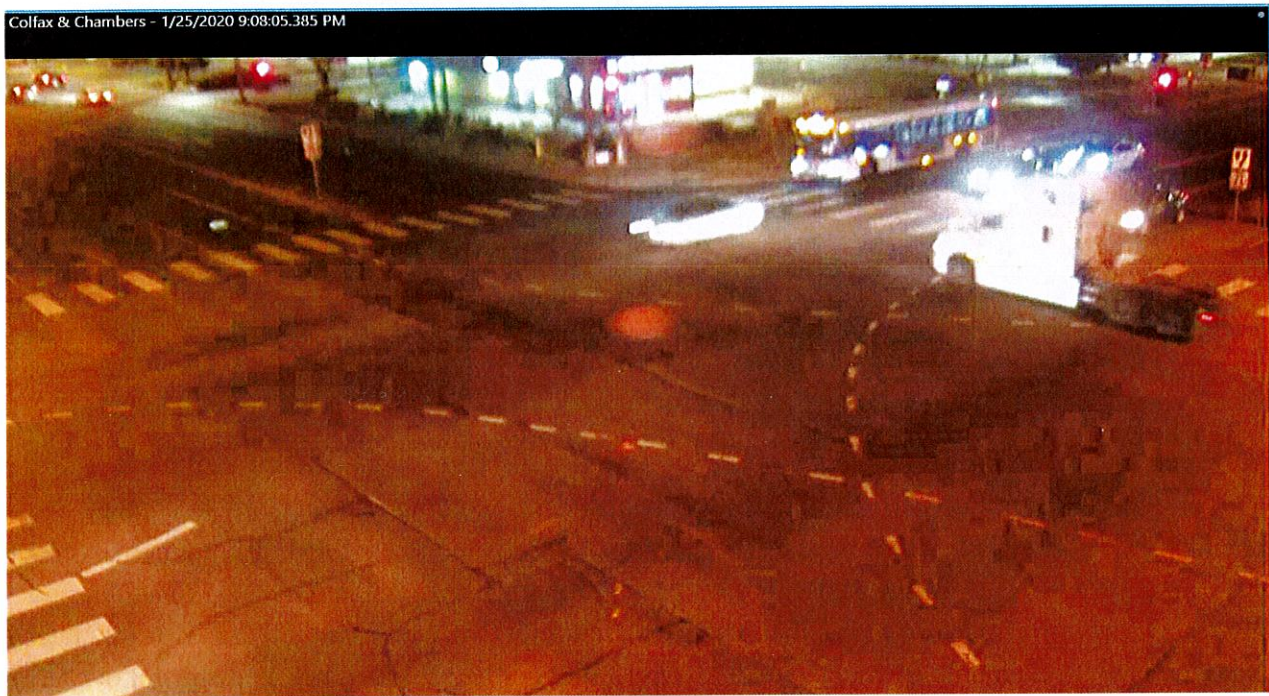


*Air-1 video capturing the carjacking of S.L.-M.*



From the Air-1 video, S.P. was seen getting out of the SUV, running to the front passenger side door of the Chevrolet Cruze and assisting in the robbery.<sup>5</sup> Also, T.P.-H. was seen running to the Chevrolet Cruze and getting into the rear passenger side seat.<sup>6</sup> Dovion Perkins, left the heavily damaged SUV on Colfax Avenue and drove away in the Chevrolet Cruze going west on Colfax Avenue and again driving back under I-225 with S.P. and T.P.-H in the car with him.

Dovion Perkins continued west on Colfax Avenue in S.L.-M.'s car and Air-1 continued to track the car after witnessing the "carjacking with a weapon." Dovion Perkins continued west on Colfax Avenue at a high rate of speed and nearly collided with a semi-truck at the intersection of Colfax and Chambers as he ran the red light.



*An Aurora traffic camera captures Dovion Perkins run the red light at Colfax and Chambers.*

At approximately 9:08 PM, DPD Lt. Kevin Carroll who was monitoring the events and paralleling the tracking with other DPD Officers authorized DPD Officers to pursue in their marked vehicles and stop Dovion Perkins. However, at that point no DPD Officers were in direct pursuit from the Air-1 video. Near the intersection of Colfax Avenue and Norfolk Street, Dovion Perkins drove over the dividing traffic median and continued speeding west on Colfax Avenue in the oncoming eastbound traffic lane. At this point, Denver Police Officers Eric Leon and Ronald Espinosa can be seen on Air-1 video paralleling the stolen Chevrolet Cruze in the westbound traffic lane, as they went west on Colfax Avenue, trailing behind Dovion Perkins.

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<sup>5</sup> S.P. has been charged for her role in this crime spree in Adams County District Court case 20CR344. She is scheduled for a Preliminary Hearing on May 11, 2020.

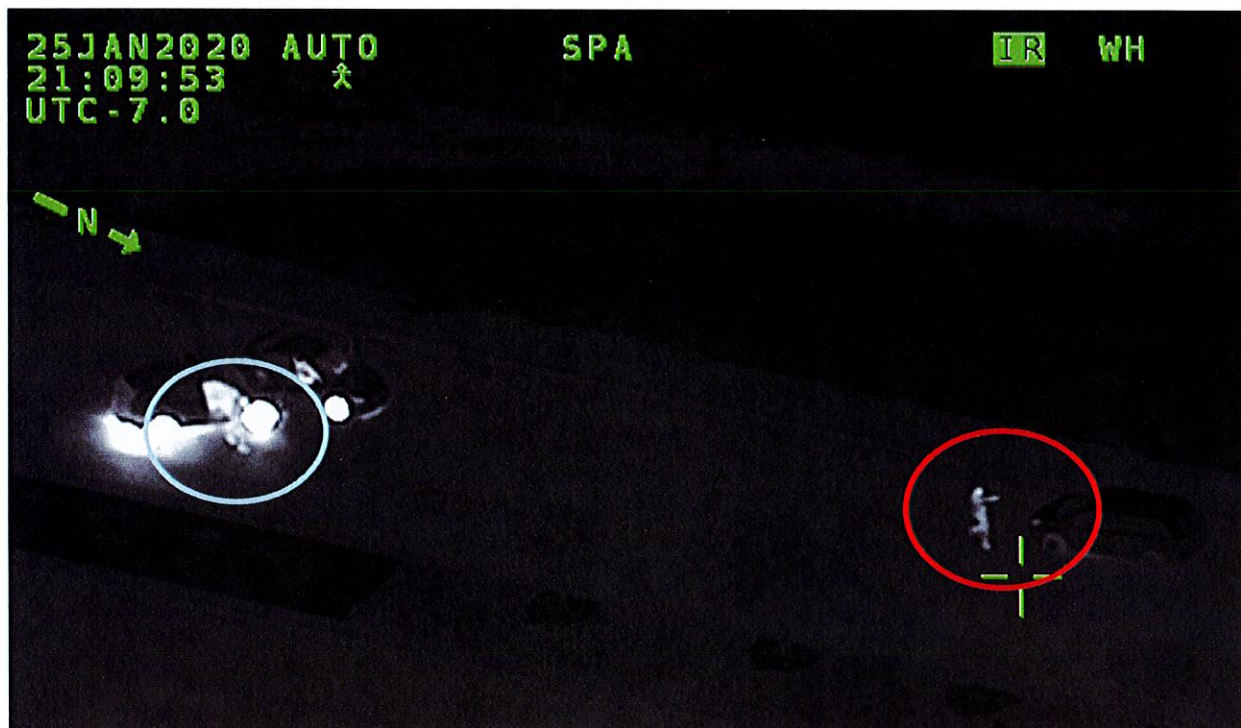
<sup>6</sup> T.P.-H has been charged as a juvenile in case 20JD72. His case is pending his appearance in court.



Dovion Perkins continued driving on Colfax Avenue in the wrong lane of traffic until turning north on Airport Blvd. Continuing at a high rate of speed, he pulled away from the pursuing DPD Officers, and again drove into the oncoming traffic lane. At approximately 9:09 PM near the intersection of Airport Blvd. and 22<sup>nd</sup> Ave., Dovion Perkins lost control of the Chevrolet Cruze and hit the curb, causing sparks and debris to fly from the stolen car.

DPD Officers Ronald Espinosa and Eric Leon were the closest officers trailing the fleeing Chevrolet Cruze in their marked patrol car. Officer Espinosa was driving and Officer Leon was in the front passenger seat. On the Air-1 video, the DPD Officers are seen near Mr. Perkins on Colfax Avenue as the Chevrolet Cruze turned north onto Airport Blvd. Officers Espinosa and Leon would later state that while following Mr. Perkins they saw him crash into the curb on Airport Blvd. Officer Leon stated that he saw Mr. Perkins get out of the stolen Cruze and run on Airport Blvd. to a minivan. Officers Leon and Espinosa were a significant distance behind Mr. Perkins, and Officer Leon was able to get out of his patrol car at about the time Mr. Perkins was running toward the minivan.

When the Chevrolet Cruze hit the curb, it disabled the stolen car, and Dovion Perkins stopped in the lane of oncoming traffic on Airport Blvd. Dovion Perkins got out of the Cruze and ran, pointing a handgun at the oncoming minivan driven by H.S. DPD Officer Eric Leon got out of his marked patrol car and ran toward the minivan. Mr. Perkins tried to pull open the driver's door on the minivan, but failed. Later, when an Aurora Detective interviewed H.S., he said, "the [unknown] guy was trying to kill [him]," and H.S. believed he was going to be shot.



*Mr. Perkins (red circle) with arm extended with a handgun, approached H.S. in his minivan. At that moment, Officer Leon (blue circle) got out of his patrol car and pursued Mr. Perkins on foot.*

After Dovion Perkins failed to take control of the minivan, he continued running north into oncoming traffic on Airport Blvd. Mr. Perkins then ran to the next vehicle, a Toyota Rav4, driven by H.H. Dovion Perkins opened the driver's door grabbing H.H. and holding him. Later, when an Aurora Detective interviewed H.H., he said he recalled looking down the barrel of Mr. Perkins' gun and thought Mr. Perkins was "going to kill [him]."

Officer Leon would state in his interview<sup>7</sup> that he was running towards Mr. Perkins, H.H and the Rav4. Officer Leon did have a body-worn camera, but given the speed of the events, the position of the camera, and the fact that Officer Leon was running at the time, it captured very little of substance. However, in his interview, Officer Leon described Mr. Perkins approaching the Rav4 as follows:

He had a gun in his right hand and [Perkins] reached for the door handle and I was able to see that there was at least only one person in the driver's seat, and I couldn't see a passenger at this point... the door comes open somehow... and [Perkins] starts grabbing the victim out of the car while pointing the gun at [the victim] as he is pulling him out a struggle ensues... [based on his experience when a victim resists a carjacking] it really starts to go south and possibly really puts [the victim's] life in danger, so I was able to get a little closer and at that point as they are struggling... I began firing my handgun....

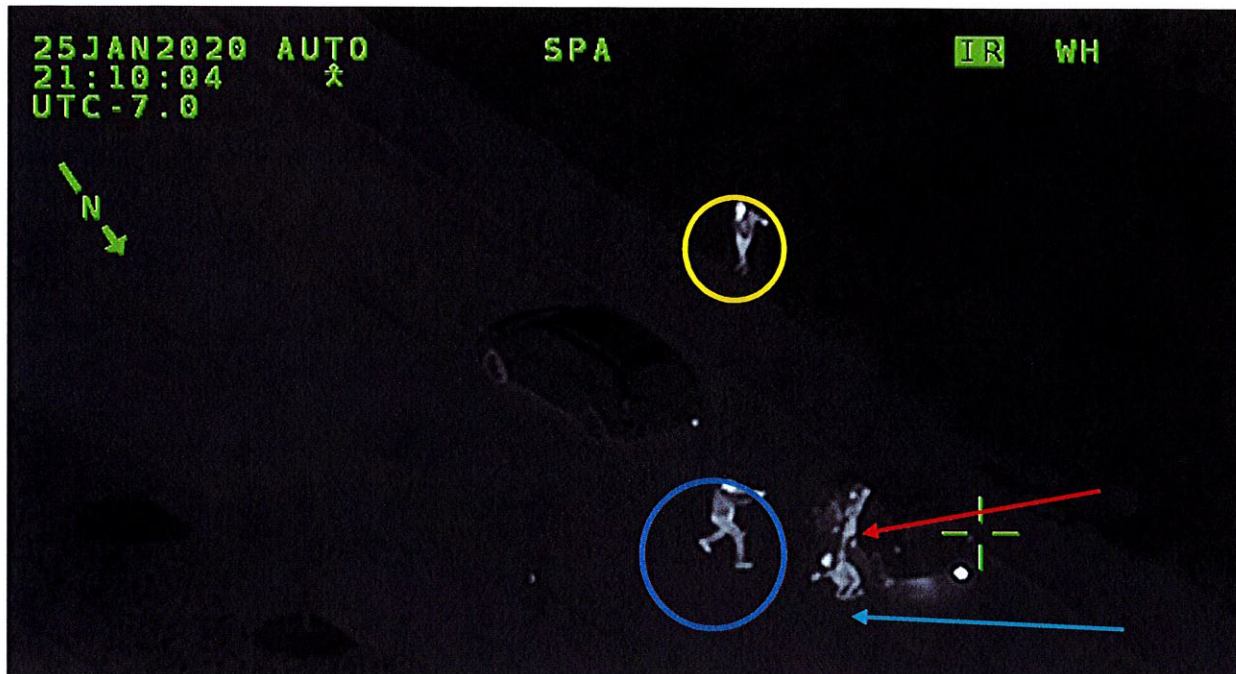
From the Air-1 video, Officer Leon was approximately twenty feet away<sup>8</sup> when he first shot at Dovion Perkins, as Mr. Perkins held H.H. at gunpoint. Officer Leon reported, consistent with the Air-1 video, that the victim (H.H.) fell from the Rav4 onto the street and H.H. crawled away. At that point, Officer Leon said his "main concern" was the location and safety of the victim. Officer Leon said that Dovion Perkins then turned his gun and pointed it at Officer Leon, he had no concealment or safety, and Officer Leon said he was "in fear of [his] life." Officer Leon said that he "continued shooting" at Mr. Perkins until he could no longer see Mr. Perkins' gun, at which point he stopped firing. At this point, Officer Leon reported he was unsure if he had hit Mr. Perkins. Officer Leon continued to move forward on foot, watching Mr. Perkins, until the Rav4 came to a complete stop and other officers arrived to assist.

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<sup>7</sup> Officer Leon was not interviewed until January 28, 2020. Although he had activated his body worn camera (BWC), he did not review the BWC before his interview.

<sup>8</sup> Officer Leon estimated he was ten yards away from H.H., Perkins, and the Rav4 when he first fired. (Leon at 15:51).





*Air-1 video shows Officer Leon (blue circle) advancing to the Rav4 after H.H. (blue arrow) had been released and fell to the ground. Dovion Perkins (red arrow) is seen in the door of the Rav4. S.P. (yellow circle) is seen above after running from the stolen Cruze towards Mr. Perkins.*

In the course of the Aurora Police Department investigation, it was determined that Officer Leon had fired his 9mm handgun eleven times. All of the fired rounds either stuck Dovion Perkins or hit the Rav4, no other people were injured and there was no other property damage caused by Officer Leon's gunshots. Dovion Perkins died as a result of these fatal gunshot wounds.

Forensic Pathologist Dr. Cina performed a forensic autopsy on January 25, 2020 finding that the cause of death of Mr. Perkins was from several gunshot wounds. Dr. Cina determined that Dovion Perkins was shot five times: a perforating gunshot wound to the head; a perforating and then penetrating gunshot wound to the left arm and neck; a perforating gunshot wound to the left arm; a penetrating gunshot wound to the left hip; and, a penetrating gunshot wound to the right thigh. Dr. Cina also determined that none of the gunshot wounds showed any evidence of close range firing, although two rounds had passed through an intermediate object (the Rav4) before striking Dovion Perkins. Dovion Perkins toxicology report was positive for cannabinoids and amphetamine.

Given the above events, Officer Espinosa and Officer Leon were the first police officers on scene to encounter Dovion Perkins. Officer Leon pursued Dovion Perkins on foot. Officer Espinosa went to the Chevrolet Cruze, and did not see the actual shooting, and his body worn camera (BWC) did not capture the shooting. DPD Officers Jossi and Briggs, were second on-scene, and while they both had a BWC, they arrived just after the shooting started, and their BWC did not reveal any of the actual shooting.



Subsequent investigation included a search of the Chevrolet Cruze stolen from S.L.-M. In the back passenger area of that car, police found a loaded .380 caliber Smith and Wesson handgun. This is the area in which T.P.-H. entered into the Cruze during the carjacking. Police also searched the Rav4, carjacked from H.H. In the foot well of the driver's seat, a loaded .40 caliber Smith and Wesson handgun was recovered.



*Smith and Wesson .40 caliber handgun recovered in driver's seat floorboard of the Rav4.*

### LEGAL ANALYSIS

Criminal liability is established only if it is proved beyond a reasonable doubt that all of the elements of a criminal offense have been committed and it is proved that the offense was committed without legal justification, as set forth in Colorado statutes. The justification for a peace officer's use of physical force while attempting to make an arrest or preventing an escape is set forth in §18-1-707, C.R.S. (2019). As pertinent to this case, §18-1-707(1), C.R.S. provides:

[A] peace officer is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary:

- (a) **To effect an arrest** unless he knows that the arrest is unauthorized; or
- (b) **To defend** himself or a **third person** from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect such an arrest.

Further, §18-1-707(2), C.R.S. states that:

A peace officer is justified in using deadly physical force upon another person for a purpose specified in subsection (1) of this section only when he reasonably believes that it is necessary:



(a) To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or

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

- (I) Has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon; or
- (II) Is attempting to escape by the use of a deadly weapon; or
- (III) Otherwise indicates, except through a motor vehicle violation, that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay.

When a police officer has probable cause to believe that a suspect poses a threat of serious physical harm, either to the officer or to others, it is not constitutionally unreasonable to prevent escape by using extreme physical force. Tennessee v. Garner, 471 U.S. 1 (1985). This constitutional law is codified in Colorado by §16-3-101(2), C.R.S. (2019), “all necessary and reasonable force may be used in making an arrest.”

In the context of defense of others, under Colorado law all people are lawfully entitled to rely on the doctrine of “apparent necessity,” so long as the conditions and circumstances are such that a person would reasonably believe, erroneously or not, that action was necessary. See People v. La Voie, 155 Colo. 551, 395 P.2d 1001 (1964); People v. Silva, 987 P.2d 909 (Colo. App. 1999). It is immaterial whether the suspect was actually trying to injure the officer or another, so long as a reasonable person, under like conditions and circumstances, would believe the appearances were sufficient to require the action taken. These principles are well settled in Colorado law.

Here, the issues in this case are whether Officer Leon’s use of deadly physical force was justified and whether the force used was appropriate. As the United States Supreme Court has mandated, the test is whether the nature and degree of force used is objectively reasonable after considering the totality of the circumstances. Graham v. Connor, 490 U.S. 386 (1989). Alternatively phrased, the question here is whether a reasonable police officer, confronted with the same facts and circumstances, could have concluded that it was necessary to discharge his firearm to effect an arrest and/or to defend another (H.H.) and/or to defend himself and to stop the clear threat that Dovion Perkins presented.



### APPLICATION of LAW

Under the particular facts of this case, several provisions of Colorado law justifies the actions of Officer Eric Leon under the totality of the circumstances of this investigation.

First, Dovion Perkins had at least four (4) active arrest warrants, three for aggravated robbery and one for a felon in possession of a weapon. Denver Police Officers reasonably attempted to execute these lawful court orders, but Mr. Perkins evaded police. The officers were legally justified in attempting to arrest Dovion Perkins.

Second, Dovion Perkins wantonly reckless and extremely dangerous flight of nearly nine miles through two counties compounded the situation. Racing at high speeds repeatedly driving into oncoming traffic having multiple collisions, Mr. Perkins conclusively demonstrated he was endangering countless human lives and was likely to inflict serious bodily injury to others unless he was apprehended without delay. §18-1-707(2)(b)(III) C.R.S. From the Air-1 video, it is plainly evident that Dovion Perkins posed an extreme and great risk to all people he came in the vicinity of on January 26, 2020.

Third, the Air-1 video clearly captured Dovion Perkins' armed robbery of M.P.-H, his attempted armed robbery of H.S., and his armed robbery of H.H. This certainly demonstrated the extreme danger he posed to the public's safety. These were felonies committed, or attempted, by the use or threatened use of a deadly weapon. As such, Colorado law, §18-1-707(2)(b)(I), holds that police officers are justified when using deadly physical force under these circumstances.

Fourth, the same Colorado statute further justifies a police officer's use of deadly physical force, where, as here, it is necessary to stop the attempted escape by the use of a deadly weapon. Section 18-1-707(2)(b)(II). Whether it was Dovion Perkins' use of a motor vehicle or by way of his .40 caliber handgun, it is clear that Mr. Perkins was attempting to escape the officers by use of deadly weapons.

Fifth, after all of the foregoing, Dovion Perkins then held H.H. at gunpoint, as Officer Leon approached him. The Air-1 video evidence shows that H.H. was in imminent danger of death or great bodily injury. Colorado law justifies the use of force to prevent or stop such a direct threat to life. Officer Leon's actions were justified by Colorado law.

Finally, Dovion Perkins also pointed his gun towards Officer Leon as he approached him. This provides further legal justification for Officer Leon's action acting in defense of himself. Although a tragic end, Officer Leon's actions were under these circumstances reasonable and necessary.

Under these patently life-threatening circumstances, Officer Leon made a reasoned, albeit split-second, strategic decision. Objectively, under these intense circumstances, Officer Leon's decision to shoot Dovion Perkins, in defense of H.H., in self-defense, to make an arrest, and to end this deadly criminal spree, was justified under Colorado law.



### CONCLUSION

Under the particular facts of this case, the actions of Officer Eric Leon are justified under Colorado law. Sections 18-1-707(1)(a), and 18-1-707(1)(b) and 18-1-704(1), C.R.S. In other words, Colorado law concerning a police officer's ability to use force in making an arrest of a fleeing dangerous and armed felon, and/or the law of defense of others and/or self-defense, provides sufficient legal justification(s) for Officer Leon's actions.

In order to file criminal charges, the prosecution is legally required to prove criminal conduct and disprove beyond a reasonable doubt to a unanimous jury the validity of the foregoing multiple affirmative defenses. Under the facts presented here, I conclude that there is no likelihood of success of proving any criminal charges against Officer Leon at trial and therefore no charges will be filed.

Please let me know if you have further information for my office to review or if you have any questions regarding this letter.

Sincerely,



Dave Young  
District Attorney  
17th Judicial District  
Adams and Broomfield Counties



