



September 26, 2017

Chief Tim Carlson
Westminster Police Department
9110 Yates Street
Westminster, CO 80031

Re: *Investigation of the officer-involved shooting of Brett Rodriguez (DOB 6/24/1984)
on June 30, 2017 in Westminster, Colorado.*

Dear Chief Carlson,

The Seventeenth Judicial District Attorney's Office has completed the review of the investigation regarding the officer-involved shooting of Mr. Brett Rodriguez that occurred on June 30, 2017. The Seventeenth Judicial Critical Incident Team conducted the investigation into this matter. The Seventeenth Judicial Critical Incident Team is comprised of detectives and crime scene technicians from multiple police agencies within the 17th Judicial District, as well as investigators from the Office of the District Attorney for the 17th Judicial District. Detective Dale Hammell with the Broomfield Police Department and Detective Luis Hernandez with the Adams County Sheriff's Office presented the factual findings of the investigation to my office on August 21, 2017. Detective Hammell and Detective Hernandez presented law enforcement reports, audio and video recorded interviews, photographs and diagrams of the crime scene for our review. The Office of the District Attorney concludes that the investigation was thorough and complete.

The District Attorney's Office review is limited to determining whether criminal charges should be filed against the involved officers or other involved parties. 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 jury. In this instance, the prosecution also has the burden to prove beyond a reasonable doubt that the use of force was not justified pursuant to Colorado law. This review does not evaluate the appropriateness of the actions of the involved officers, whether department policies or procedures were followed, or whether the policies, practices, or training at the involved agency were sufficient; that evaluation is left to your agency.

As further set forth herein, based upon the investigation presented and the applicable law, there is no reasonable likelihood of success of proving beyond a reasonable doubt that the officers involved committed any crime, therefore, no criminal charges will be filed.

Overview of the Incident

On June 30, 2017, at approximately 6:00 p.m. members of the Westminster Police Department Special Enforcement Team (SET) were in the area of the Hidden Lake Apartments, located at 3700 W. 68th Avenue, Westminster, Colorado. Members of the Special Enforcement Team were in the area looking for a known fugitive. While Officer Chris Neal and Officer Matt Neihart were conducting surveillance, they observed another fugitive, Mr. Brett Rodriguez, in the area. Both officers were aware that Mr. Brett Rodriguez had an active felony warrant for Sexual Assault on Child. Officer Neal and Officer Neihart felt that Mr. Brett Rodriguez had observed the officers while they were in the area. Officers lost sight of Mr. Brett Rodriguez and parked nearby to continue to conduct surveillance to see if he would return. Approximately an hour later, Mr. Brett Rodriguez was observed again in the Hidden Lake Apartments parking lot with another male, later identified as Mr. Robert Rodriguez.

At approximately 6:52 p.m., Mr. Robert Rodriguez returned to his apartment building, leaving Mr. Brett Rodriguez outside in the vehicle alone. Mr. Brett Rodriguez was seated in the front passenger seat of a blue 1972 Buick Skylark outside apartment unit B. As the SET officers approached the vehicle, they gave loud verbal commands to Mr. Brett Rodriguez identifying themselves as police officers and to have Mr. Brett Rodriguez show his hands to the officers. Officer Stockman, Officer Hopkins and Officer Cressman approached the passenger side of the vehicle. As Officer Stockman and Officer Hopkins approached the front passenger side window, they observed Mr. Brett Rodriguez reach for a handgun in his right side waistband. In response, Officer Stockman and Officer Hopkins fired their duty weapons at Mr. Brett Rodriguez causing his death. A handgun was later recovered from the front floorboard inside the Buick Skylark.

Witness Interviews

Investigators with the Adams County Critical Incident Team conducted interviews of all necessary witnesses at the Westminster Police Department. Though there were many witnesses interviewed, only the involved officers and material witnesses are specifically summarized herein.

Officer Roger Stockman: On June 30, 2017, Detective Dale Hammell and Detective Luis Hernandez interviewed Officer Stockman at the Westminster Police Department with his attorney present. Officer Stockman said he has been a police officer employed by the Westminster Police Department for the last seven years. He also has seven years of prior law enforcement experience in the State of Kansas. He has been assigned to the Special Enforcement Team (SET) for the last two years.

At the time of this incident, Officer Stockman said he was on-duty wearing plain clothes and a police issued tactical vest, affixed with "POLICE" patches on both the front and back. Officer Stockman carried his duty weapon, a Sig Sauer P226 (9mm), on his

right hip. Officer Stockman said he carried his duty weapon with a fifteen round magazine with one round in the chamber.

Officer Stockman said that he was familiar with Mr. Brett Rodriguez due to a prior contact. On this prior contact, Officer Stockman recalled that they were able to locate him in Wheat Ridge and were working to arrest him on several outstanding warrants that he had at that time. Officer Stockman said that Mr. Brett Rodriguez resisted arrest; requiring all four SET members to assist in taking him into custody. Officer Stockman recalls that during that arrest, Mr. Brett Rodriguez was making efforts to remove something from his waistband. After he was arrested, they located a knife in his waistband. Mr. Brett Rodriguez also made a statement to the officers after being taken into custody; that if he would have had a gun, he would have made the police kill him.

On June 30, 2017, Officer Stockman was working with the SET unit and received information from Officer Neal that they had observed Mr. Brett Rodriguez at the Hidden Lake Apartments. Officer Stockman and Officer Hopkins responded to the area in their unmarked SET vehicle. Officer Stockman was aware that Mr. Brett Rodriguez had an extraditable warrant from Texas for Sexual Assault on a Child. The SET unit contacted a canine officer to assist as Mr. Brett Rodriguez is known to be violent and may attempt to run from the police.

Officer Stockman said that they were watching from a nearby strip mall, but were able to see the vehicle that was associated with Mr. Brett Rodriguez. Mr. Brett Rodriguez exited the apartment building and Officer Stockman immediately recognized him. Mr. Brett Rodriguez got into the front passenger seat of the vehicle. Mr. Robert Rodriguez entered the driver's side and then immediately got out and returned to the apartment building. Officer Stockman said that they were working to apprehend him away from the vehicle to avoid putting others in danger. The SET unit determined this was the safest time to apprehend Mr. Brett Rodriguez as he was alone in the vehicle, limiting his ability to flee. Officer Stockman drove his unmarked vehicle and parked it several vehicles away from the suspect vehicle. Officer Hopkins was in the passenger seat and Officer Cressman with the canine were in the backseat.

Officer Hopkins and Officer Cressman approached the passenger side of the vehicle from the north and Officer Stockman was coming from the south. Officer Stockman heard Officer Hopkins giving commands to Mr. Brett Rodriguez to include; "Police department, you're under arrest, let me see your hands, let me see your hands." Officer Stockman observed the passenger window down, and Mr. Brett Rodriguez was talking on his cellphone with the cellphone in his left hand. Officer Stockman heard Officer Hopkins again provide commands; "don't do it, don't do it, keep your hands up, keep your hands up." Officer Stockman describes seeing Mr. Brett Rodriguez's reach down to his right waistband with his right hand as Officer Stockman approached the passenger window. Officer Stockman then observed Mr. Brett Rodriguez's shirt come up

and observed a semi-automatic handgun in his waistband. Mr. Brett Rodriguez reached down and grabbed the handgun.

Upon seeing the handgun in Mr. Brett Rodriguez's hand, Officer Stockman fires his duty weapon in the direction of Mr. Brett Rodriguez until it was empty and Mr. Brett Rodriguez's body slumped towards the driver's side of the vehicle. Officer Stockman said he did a tactical reload of his magazine, but did not fire any additional rounds. Officer Stockman observed that Mr. Brett Rodriguez was no longer moving, so he shifted his focus to Mr. Robert Rodriguez who had returned to the area. Officer Stockman contacted Mr. Robert Rodriguez and placed him in handcuffs. Other officers arrived shortly afterwards to contain the scene. Officer Stockman said that he was concerned for his safety, the safety of his fellow officers and residents in the apartment complex when he fired his duty weapon.

Officer Scott Hopkins: On June 30, 2017, Detective Dale Hammell and Detective Luis Hernandez interviewed Officer Scott Hopkins at the Westminster Police Department with his attorney present. Officer Scott Hopkins said that he is a police officer employed by the City of Westminster for the last fourteen years. Prior to serving with the Westminster Police Department, Officer Hopkins served for two years with the Alamosa Police Department and fifteen years with the Northglenn Police Department. At the Westminster Police Department, Officer Hopkins has been assigned to the Special Enforcement Team (SET) for the last three years.

At the time of this incident, Officer Hopkins said he was on-duty wearing plain clothes and a police issued tactical vest, affixed with "POLICE" patches on both the front and back. Officer Hopkins carried his duty weapon, a Smith and Wesson M&P (9mm), on his right hip. Officer Hopkins said he carried his duty weapon with a full seventeen round magazine with one round in the chamber.

Officer Hopkins recalled that several months prior to this incident, in March 2017, the SET unit was looking for Mr. Brett Rodriguez for several outstanding warrants and were able to locate him in Wheat Ridge. They conducted surveillance on Mr. Brett Rodriguez for several days as he had a history of having weapons. Mr. Brett Rodriguez drove from a motel to a gas station alone and the SET unit made efforts to arrest him at that time. They contacted Mr. Brett Rodriguez outside of his vehicle and he resisted arrest. Officer Hopkins recalled he was combative and it took four SET officers to take Mr. Brett Rodriguez into custody. Mr. Brett Rodriguez would not put out his hands and was making efforts to keep his hands underneath his body. It was later discovered that Mr. Brett Rodriguez had a knife on his person. During this altercation, Mr. Brett Rodriguez made comments about wishing he had a gun and that he did not want to go back to jail. Mr. Brett Rodriguez was eventually taken into custody on that date.

On June 30, 2017, Officer Hopkins said that while he was on duty at the Westminster Police Department he learned that Mr. Brett Rodriguez had an active warrant out of Texas. They cleared Mr. Brett Rodriguez through dispatch and confirmed

the presence of the warrant. Officer Hopkins was notified by Officer Neihart and Officer Neal who were working in the area of Hidden Lake Apartments that they had observed Mr. Brett Rodriguez in the area. Officer Hopkins responded to that location.

Officer Hopkins drove through the parking lot and observed the vehicle that was associated with Mr. Brett Rodriguez. Officer Hopkins parked his vehicle and was able to maintain a visual on Mr. Brett Rodriguez as he returned to the vehicle. Mr. Brett Rodriguez sat in the front passenger seat of the vehicle. Mr. Robert Rodriguez entered the driver's side and then immediately got out and returned to the apartment building. It was determined that this was a safe time to contact Mr. Brett Rodriguez. The SET vehicle with Officer Hopkins, Officer Stockman, Officer Cressman and the police canine was parked a few vehicles away from Mr. Brett Rodriguez. Officer Hopkins and Officer Cressman approached the front right passenger side of the vehicle Mr. Brett Rodriguez was in. Officer Stockman approached from the rear passenger side.

Officer Hopkins approached the vehicle with his duty weapon drawn, gave loud verbal commands; "Police, let me see your hands." Officer Hopkins hears Mr. Brett Rodriguez talking on the phone and holding the phone in his left hand to his left ear. Officer Hopkins and Officer Stockman continue to give loud repetitive verbal commands; "Police, show me your hands." Officer Hopkins said that Mr. Brett Rodriguez appeared to be startled, but was noncompliant. At that point, Mr. Brett Rodriguez leans towards the middle of the vehicle and reaches down. Officer Hopkins cannot see his hands. At this point, Officer Hopkins was standing at the front passenger door alongside of Officer Stockman. Officer Cressman was standing behind them with the police canine. Officer Hopkins then described seeing a barrel of a handgun that Mr. Brett Rodriguez was pulling out of his waistband. Officer Hopkins described the gun as a dark color semi-automatic handgun.

Officer Hopkins said he then fires his duty weapon, Smith and Wesson M&P (9mm), until the "threat was gone." Officer Hopkins estimated he fired seven to eight times. Officer Hopkins does not recall if he or Officer Stockman fired at Mr. Brett Rodriguez first. After firing, Officer Hopkins observed Mr. Brett Rodriguez slump down into the seat. Officer Hopkins said that he fired his duty weapon because he feared for his life and the lives of his fellow officers.

Officer Mark Cressman: Officer Cressman is currently assigned as a canine handler for the Westminster Police Department. Officer Cressman participated in a recorded interview on June 30, 2017 at the Westminster Police Department and stated the following:

Officer Cressman said he was contacted by Officer Hopkins to assist the SET unit with the apprehension of a fugitive at the Hidden Lake Apartments. Officer Cressman and his canine met up with Officer Hopkins and then rode along with Officer Hopkins and Officer Stockman in an unmarked vehicle. The suspect was identified and was

associated with a vehicle in the parking lot. The SET vehicle with Officer Hopkins, Officer Stockman and Officer Cressman pulled into the parking lot a few vehicles away from the suspect vehicle. Officer Cressman, the police canine and Officer Hopkins exited their vehicle and approached the suspect vehicle from the front.

Once they made visual contact with Mr. Brett Rodriguez, Officer Hopkins began providing commands. Officer Cressman observed Mr. Brett Rodriguez on the phone with his left hand and his right arm was resting on the window. Officer Cressman, with the police canine, took a position by the front passenger tire. He observed Officer Hopkins and Officer Stockman move in closer and were both right in line with Mr. Brett Rodriguez at the front passenger door. The officers continued to give additional commands to Mr. Brett Rodriguez. Officer Cressman observed Mr. Brett Rodriguez lean towards the driver's seat exposing the handle or grip of a gun on his right hip. Mr. Brett Rodriguez's right hand came off of the window sill and started down towards the gun.

Officer Cressman observed Mr. Brett Rodriguez's hand move on top of the gun then Officer Hopkins and Officer Stockman began to fire their weapons. Officer Cressman estimated that fourteen to fifteen shots were fired between Officer Hopkins and Officer Stockman. Upon seeing the weapon, Officer Cressman pulled his canine back and pulled his duty weapon. By the time Officer Cressman pulled his duty weapon, he no longer had a view of the suspect, as Mr. Brett Rodriguez was now slumped over towards the driver's side of the vehicle. Officer Cressman then observed Mr. Robert Rodriguez coming out of the apartment building and assisted Officer Stockman with placing him into custody.

Mr. Robert Rodriguez: Mr. Robert Rodriguez said that he is the cousin of Mr. Brett Rodriguez. On June 30, 2017, Mr. Robert Rodriguez was moving into apartment B106 at the Hidden Lake Apartments. At approximately, 4:15p.m., Mr. Robert Rodriguez received a call from his cousin, Mr. Brett Rodriguez, asking him if it was okay for him to stop by. Mr. Brett Rodriguez arrived at his cousin's home on Decatur Street to help him with packing and loading up his car. Mr. Robert Rodriguez felt that something was off with his cousin that day. Mr. Robert Rodriguez stated that they made several trips to his new apartment unloading items. As they were getting ready to leave the apartment, Mr. Robert Rodriguez went back into his apartment to make sure the doors and windows were locked. Mr. Brett Rodriguez stayed outside on his phone standing near the passenger door of the vehicle. As Mr. Robert Rodriguez was locking his apartment door, he said he heard several loud noises that he thought were fireworks for the upcoming Fourth of July holiday.

Mr. Robert Rodriguez said he was not aware that Mr. Brett Rodriguez had a gun with him at that time, but has known him to carry a gun in the past. Mr. Robert Rodriguez has heard Mr. Brett Rodriguez make statements in the past that; he is never going back to jail, they are going to have to take me if I go back to jail, and I'm not going back. Mr. Robert Rodriguez advised that Mr. Brett Rodriguez was scared to go back to

jail because of the charges he was facing. Mr. Robert Rodriguez was aware that Mr. Brett Rodriguez was also out on bond at the time.

Other Witnesses: On June 30, 2017, Officer Matt Neihart and Officer Chris Neal were interviewed at the Westminster Police Department. Officer Neihart and Officer Neal were assigned to the SET unit. They were familiar with Mr. Brett Rodriguez; and were involved in the previous incident when Mr. Brett Rodriguez resisted arrest and made efforts to brandish a knife. On June 30, 2107, they were positioned approximately fifty yards away from Mr. Brett Rodriguez conducting surveillance. When the decision was made to effect the arrest, Officer Neihart and Officer Neal climbed a fence to get into the parking lot area. Both officers heard load commands and then gunfire. Officer Neihart and Officer Neal did not fire their weapons at any time. Officer Neihart and Officer Neal were not in a position to observe the shooting.

The Adams County Critical Incident team detectives also interviewed residents that were in the parking lot that evening, none of whom saw the officer involved shooting incident.

Crime Scene Investigation

On June 30, 2017, Crime Scene Investigator VM Bailey responded to the Hidden Lake apartment complex. The scene was located in the parking lot southwest of building B in the parking spaces nearest the building. The suspect vehicle, a 1972 four door Buick Skylark, was parked facing west in the second space from the south. The front doors of the vehicle were open and the passenger side window was down. In the parking lot, west of the passenger side rear tire was a metal Sig Sauer P226 9mm handgun magazine, containing no cartridge cases. Mr. Brett Rodriguez was found lying across the front bench seat of the Buick Skylark. On the roof of the vehicle was a Ruger SR40 semiautomatic handgun; the magazine had been removed which held fifteen cartridges in the magazine. CSI Bailey knew that Officer Thwaits had previously removed the Ruger from the driver's side floorboard and placed it on the roof of the vehicle for safety reasons. Officer Thwaits also took the magazine out of the Ruger and noted that there was not a round in the chamber.

To the west of the Buick Skylark was a sidewalk running from south to north. On the sidewalk were five (5) Speer 9mm Luger cartridge casings. In the parking lot, west of the passenger side door fourteen (14) Speer 9mm Luger cartridge casings were located; a majority located by the front tire. Inside the vehicle, near the door jamb of the passenger door, was one (1) Speer 9mm Luger cartridge casing. Between the feet of Mr. Brett Rodriguez, were two (2) additional Speer 9mm Luger cartridge casings. On the seat, where the back rest and seat come together, was one (1) Speer 9mm Luger cartridge casing. Underneath the front passenger seat was one (1) Speer 9mm Luger cartridge casing. A total of twenty-four (24) cartridge casings were located in the vehicle and in close vicinity of the vehicle in the parking lot. CSI Bailey also recovered the empty magazine that belonged to Officer Stockman in the same vicinity of the parking lot.

On June 30, 2017, Crime Scene Investigator, N. Thomas, conducted an examination of Officer Stockman and Officer Hopkins duty weapons. Officer Stockman carries a Sig Sauer P226, 9 mm handgun, with a magazine of fifteen (15) 9mm Speer Luger live ammunition rounds plus one (1) round loaded in the chamber.

Officer Hopkins carries a Smith and Wesson M&P, 9mm handgun, with a seventeen (17) round magazine inside the gun with one (1) round in the chamber. Inside the magazine were nine (9) rounds with one (1) round in the chamber of 9mm Speer Luger ammunition. Missing from the magazine were eight rounds of ammunition.

Officer Stockman's round accountability and evidence at the scene leads to the conclusion that he fired his duty weapon sixteen (16) times due to the empty magazine found at the scene. Officer Hopkins round accountability leads to the conclusion that he fired his duty weapon eight (8) times. Collectively, Officer Stockman and Officer Hopkins fired a total of twenty-four (24) rounds and all twenty-four casings were found on scene.

Medical Examination Analysis

On July 3, 2017, Dr. Stephen Cina, a Forensic Pathologist with the Adams County Coroner's Office, conducted a forensic autopsy of the body of Mr. Brett Rodriguez. Dr. Cina noted that the decedent had nineteen entrance wounds to the right side of his torso. There were seven additional atypical entrance wounds most of which represented re-entrance points of bullets which passed through the right forearm. The clustered gunshot wounds injured multiple organs as well as the skeletal system upon contact. There was no evidence of close range firing. Nineteen bullets were recovered from the decedent's body. The toxicology report revealed a positive level of THC. Dr. Cina determined the cause of death was multiple gunshot wounds and the manner of death was homicide.

Suspect Information

Mr. Brett Rodriguez had a warrant out of Taylor County, Texas for Sexual Assault on a Child, Case # 8886-P. On June 30, 2017, Mr. Brett Rodriguez was on fifty thousand dollar bond in Adams County Case #16CR3902 for charges of Sexual Assault on a Child, Sexual Assault on a Child by One in Position of Trust, and Sexual Assault on a Child Pattern of Abuse. He was also on a forty thousand dollar bond with supervised release in Adams County Case # 16CR3592 for charges of Sexual Assault on a Child by One in Position of Trust and Sexual Assault on a Child. Mr. Brett Rodriguez's criminal history includes traffic violations and convictions for possession of an illegal weapon and a conspiracy to commit felony menacing.

Legal Analysis

As was previously noted, this review is limited to determining 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. Generally speaking, criminal liability is established when the evidence is sufficient enough to prove all of 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. In this instance, in order to file a criminal charge the District Attorney's office must also prove beyond a reasonable doubt that any of the involved officers were not justified under the circumstances surrounding this incident and the applicable Colorado law.

In this case, there is no dispute that Officer Hopkins and Officer Stockman fired their duty weapons multiple times at Mr. Brett Rodriguez, causing his death. The issue of which involved officer actually caused the death is complicated, as two officers fired handguns multiple times resulting in the death of Mr. Brett Rodriguez. The forensic evidence cannot conclusively distinguish which firearm caused the fatal shot. In addition, the handguns used by both officers were of the same caliber. Therefore, for the purposes of this review, it is assumed that any one of the shooting officers actually caused the death of Mr. Brett Rodriguez.

At the time of the shooting, both officers were engaged in their duties to arrest a suspect with an active warrant for his arrest. Therefore, the legal question presented to the Office of the District Attorney is whether, at the time the officers fired their weapons, the prosecution can prove beyond a reasonable doubt that the officers' actions were not justified under Colorado law.

The use of force by a law enforcement officer necessarily invokes an analysis under C.R.S. § 18-1-707, the law applicable to the use of force by a peace officer. In pertinent part, the language of the statute reads as follows:

(1) 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 or to prevent the escape from custody of an arrested person 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 immanent use of physical force while effectuating or attempting to effect such an arrest or while preventing or attempting to prevent such an escape.

(2) 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.

(3) Nothing in subsection (2) (b) of this section shall be deemed to constitute justification for reckless or criminally negligent conduct by a peace officer amounting to an offense against or with respect to innocent persons whom he is not seeking to arrest or retain in custody.

(4) For purposes of this section, a reasonable belief that a person has committed an offense means a reasonable belief in facts or circumstances which if true would in law constitute an offense. If the believed facts or circumstances would not in law constitute an offense, an erroneous though not unreasonable belief that the law is otherwise does not render justifiable the use of force to make an arrest or to prevent an escape from custody. A peace officer who is effecting an arrest pursuant to a warrant is justified in using the physical force prescribed in subsections (1) and (2) of this section unless the warrant is invalid and is known by the officer to be invalid.

"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." C.R.S. §18-1-901(3)(d).

Officer Stockman and Officer Hopkins were engaged in the performance of their duties to affect the arrest of Mr. Brett Rodriguez. Mr. Brett Rodriguez was known to both officers from a prior contact where he was combative and resisted arrest. During that prior contact, Mr. Brett Rodriguez made statements indicating that he wished he had a gun and that he did not want to go back to jail. On June 30, 2017, when Mr. Brett Rodriguez was alone in the passenger seat of the vehicle, the decision was made to arrest him on his active warrant at that time because his ability to flee was minimized.

Officer Stockman, Officer Hopkins and Officer Cressman, approached the passenger side of the vehicle and began giving Mr. Brett Rodriguez verbal commands. Mr. Brett Rodriguez was noncompliant with these commands and began reaching to his right waistband. Officer Stockman and Officer Hopkins both saw Mr. Brett Rodriguez

reach for a handgun while they were standing next to the front passenger window of the vehicle. Both officers stated that they feared that Mr. Brett Rodriguez was going to kill them. Based on Mr. Brett Rodriguez's actions, both officers fired their service weapons simultaneously at Mr. Brett Rodriguez as they feared for their lives and the lives of their fellow officers standing in close proximity. Based on the totality of the circumstances of this incident both the officers assessment that Mr. Brett Rodriguez was about to use deadly physical force on the officers was reasonable.

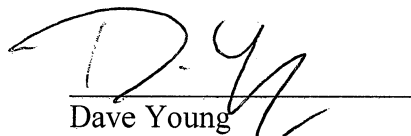
Under these facts, the Office of the District Attorney cannot prove that either Officer Stockman or Officer Hopkins were not justified in protecting themselves and the other officers from what they perceived to be the imminent use of deadly physical force under § 18-1-701. C.R.S.

CONCLUSION

The investigation demonstrates that Mr. Brett Rodriguez was aware of the police presence and began to draw a firearm from his waistband when police attempted to contact him. The officers explained that at the time they fired their weapons, they were in fear for their own lives, as well as the lives of their fellow officers. Therefore, applying the facts of this incident to the applicable law, the evidence does not support the filing of any criminal charges against Officer Stockman or Officer Hopkins who discharged their weapons in the fatal shooting of Mr. Brett Rodriguez on June 30, 2017.

Please feel free to contact me if you have any questions or if you believe that further investigation is warranted.

Respectfully,



Dave Young
District Attorney