



For Immediate Release:

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May 6, 2025

Decision Letter:

Attached is the decision letter issued by District Attorney Brian Mason related to the officer-involved shooting of Victor Anthony De Santiago on September 7, 2024.

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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.

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May 6, 2025

Colorado State Patrol Chief, Colonel Matt Packard
Colorado State Patrol
700 Kipling Street
Lakewood, CO 80215

RE: The officer-involved shooting of Mr. Victor Anthony De Santiago on September 7, 2024

Dear Colonel Packard:

This letter is a review of the 17th Judicial District Critical Incident Response Team (CIRT) investigation into the September 7, 2024, police-involved shooting of Victor Anthony De Santiago. The 17th Judicial District Critical Incident Response Team (CIRT) conducted the investigation, led by Thornton Police Department Detectives Wendy Johnson and Chad Walser. The remaining investigators on the CIRT who worked on this investigation are associated with law enforcement agencies independent of the Colorado State Patrol. 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, along with my pertinent legal conclusions.

This review is limited to determining whether any criminal charges should be filed against the involved officer 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 of proving 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. The 17th Judicial District Attorney's review does not evaluate compliance with departmental policies, standards, or procedures.

I find the actions of the involved officer to be legally justified in this incident. Furthermore, based on the evidence presented and applicable law, there is no reasonable likelihood of proving the elements of any crime beyond a reasonable doubt against the involved officer. Therefore, no criminal charges will be filed against the officer involved in this incident.

FACTUAL SUMMARY OF THE INCIDENT

Corporal Tye Simcox was working traffic enforcement on September 7, 2024. He completed a traffic stop and then parked his Colorado State Patrol Ford F-150 in the toll entry area of Eastbound Highway 36, west of Federal Blvd. The vehicle was clearly identifiable as a law enforcement vehicle with the Colorado State Patrol emblem and it was equipped with emergency lights. Corporal Simcox himself was wearing a standard Colorado State Patrol uniform. While parked in the toll area, Corporal Simcox

completed paperwork and continued to observe the traffic flow on Highway 36 and was clearly visible to those on and near Highway 36.

While working in his vehicle, Corporal Simcox initially heard a bang, which he believed to be a possible highway crash. The sound was immediately followed by a series of gunshots. Victor De Santiago, driving a Chevrolet Silverado, pulled alongside Corporal Simcox and began firing a semi-automatic handgun into the officer's vehicle. Corporal Simcox then observed bullet holes in his vehicle's windshield and was hit in the arm by the gunfire. At that moment, Corporal Simcox understood that someone was trying to shoot and kill him.

Corporal Simcox immediately jumped out of his vehicle while radioing for assistance. He then positioned himself on the driver's side of his police vehicle behind the driver's door. He went to pull his handgun and felt a sharp pain while noticing blood was running down his arm. He was able to remove his handgun, but the dexterity in his arm was limited. Corporal Simcox did not fire any rounds from his handgun.

There was a pause in the gunfire and Corporal Simcox observed Victor De Santiago's vehicle moving eastbound, slowing and pulling over to the shoulder. Due to the distance between Corporal Simcox and Victor De Santiago, the officer retrieved his rifle from the vehicle and maintained his position behind the driver's door. Corporal Simcox observed Victor De Santiago then get out of his vehicle with a gun in hand. Victor De Santiago had already tried unsuccessfully to kill him and was clearly returning to try and kill him again. Corporal Simcox observed Victor De Santiago raise the gun in his direction while walking towards him. Corporal Simcox then began firing at Victor De Santiago who was returning fire. Corporal Simcox noted that Victor De Santiago was not initially impacted by any of his rounds.

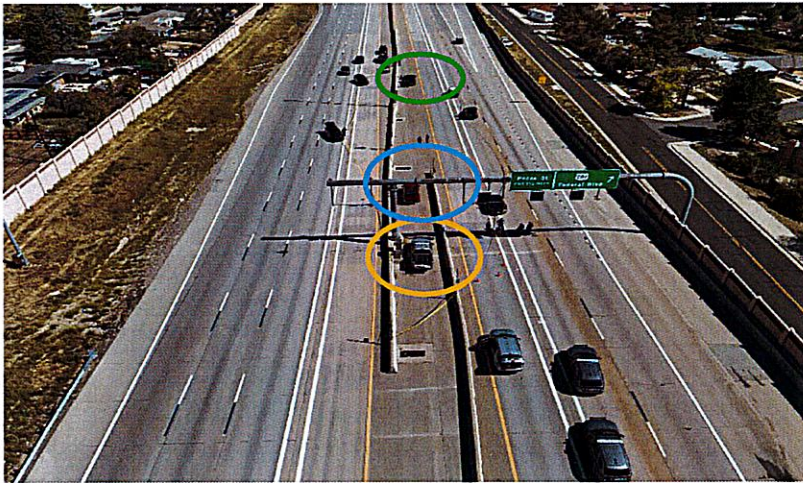
Corporal Simcox noted a lull in the gunfire and observed Victor De Santiago moving his hands in the area of his waistband, apparently to reload. Corporal Simcox ran behind his police vehicle and positioned himself on the passenger side for his safety and to gain a better vantage point. Corporal Simcox then continued shooting at Victor De Santiago until the suspect was on the ground and no longer a threat. Corporal Simcox explained in his interview that less lethal force was not an option given Victor De Santiago's behavior and clear intent to kill.

Once the shooting had stopped, an off-duty criminal investigator assisted Corporal Simcox and Trooper Norman, who had arrived on scene, with holding Victor De Santiago at gunpoint while he was on the ground. Trooper Norman put Victor De Santiago in handcuffs and officers provided medical assistance. Ultimately, Victor De Santiago was pronounced deceased at the scene.

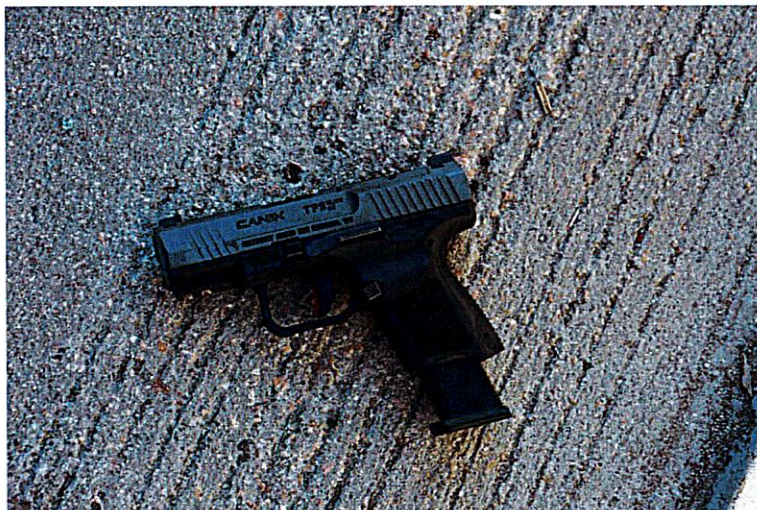
A good Samaritan arrived and assisted in applying a tourniquet to Corporal Simcox's arm. Trooper Aragon transported Corporal Simcox to Denver Health for medical treatment. Corporal Simcox suffered a gunshot wound to his right outer forearm.

CRIME SCENE INVESTIGATION AND AUTOPSY

The scene was located on Highway 36 in the Eastbound lanes between Sheridan Boulevard and Federal Boulevard. The below image depicts the scene after the incident. Trooper Simcox's vehicle is circled in yellow. Victor De Santiago's vehicle is circled in green. The off-duty criminal investigator's vehicle, which arrived after the shooting had stopped, is circled in blue.



Crime scene investigators located a Canik TP9 Elite-9mm firearm in Victor De Santiago's possession with a seventeen-round magazine, depicted below. An empty ten-round magazine was found in the center console of his vehicle. A total of twenty-six 9mm casings were collected from within his vehicle and on the roadway. A box of 9mm ammunition with twenty-seven rounds was located in the vehicle.



Crime scene investigators examined Corporal Simcox's vehicle as well. The damage included several bullet holes to the exterior, a shattered rear driver's side window, and a flat front passenger tire. Small pieces of glass were observed on the dashboard and the front area of the vehicle. An apparent bullet fragment was in a box located on the front passenger seat. Bullet holes were observed in the rear passenger door frame, front passenger door, front passenger window, passenger side mirror and the windshield as depicted in the images below.



Photo of three bullet impacts to the front windshield of the vehicle.



Photo of six bullet impacts to the exterior of the vehicle.

The vehicle was outfitted with dash camera, an interior camera facing outwards from the windshield. This camera captured a portion of the incident until it was disabled by the gunfire. The below image identifies Victor De Santiagos vehicle alongside Corporal Simcox and a clear bullet impact on the windshield. Corporal Simcox's body-worn camera was not activated during the incident, as he was not engaged in any law enforcement contact at the time of the shooting. Corporal Simcox fired his law enforcement issued duty rifle, firing twenty-rounds. Twenty spent shell casings were recovered from the scene.



Crime scene investigators examined the Chevrolet Silverado driven by Victor De Santiago. Several bullet holes were identified in the driver's side door, driver's side front and rear window, driver's side quarter panel, windshield and bumper area.

On September 9, 2024, an autopsy was conducted by forensic pathologist Dr. Stephen Cina with the Adams County Coroner's Office. Victor De Santiago sustained multiple gunshot wounds. There was no evidence of close-range firing. The cause of death was identified as multiple gunshot wounds and the manner of death was homicide.

LEGAL ANALYSIS

As previously noted, this review is limited to a determination of whether criminal charges should be filed against the law enforcement officer involved in this incident. 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 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, 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.

Under Colorado law, a law enforcement officer may use an amount of force – including deadly physical force – that is necessary and reasonable. 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 are found at §18-1-707, C.R.S. (2024), and the relevant portions of that subsection provide:

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

...

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

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

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

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

- (a) The arrest is for a felony involving conduct including the use or threatened use of deadly physical force;
 - (b) The suspect poses an immediate threat to the peace officer or another person;
 - (c) The force employed does not create a substantial risk of injury to other persons.
- (4) A peace officer shall identify himself or herself as a peace officer and give a clear verbal warning of his or her intent to use firearms or other deadly physical force, with sufficient time for the warning to be observed, unless to do so would unduly place peace officers at risk of injury or would create a risk of death or injury to other persons.
- (4.5) Notwithstanding any other provisions in this section, a peace officer is justified in using deadly physical force if the peace officers 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. §18-1-707, C.R.S. (2024),

In *Graham v. Conner*, 490 U.S. 386 (1989) a seminal U.S. Supreme Court case, the U.S. Supreme Court set forth a standard of “objective reasonableness” 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 notes, “[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.” *Graham v. Connor*, 490 U.S. at 396-97.

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 as Corporal Simcox, would have concluded that Victor De Santiago posed an immediate threat to the safety of the officer or another person such that the use of force, including deadly physical force, was necessary.

Here, Corporal Simcox was stationary, unengaged, on the shoulder of Highway 36 completing paperwork in a clearly marked Colorado State Patrol vehicle. Victor De Santiago drove alongside Corporal Simcox’s vehicle and then, with no warning or provocation, repeatedly fired a gun at Corporal Simcox, ambushing him. Corporal Simcox was struck in the arm and only then returned fire at Victor De Santiago to save his own life and the lives of citizens in the area. Victor De Santiago then drove eastbound, pulled over, exited his vehicle and approached Corporal Simcox, firing round after round in a clear effort to kill a Colorado State Trooper. Corporal Simcox, in justifiable fear for his life, returned fire, ultimately causing Victor De Santiago’s death.

I find Corporal Simcox’s actions not only to be reasonable and justified, but courageous and heroic as well. In the face of incomprehensible danger, Corporal Simcox acted with poise, heroism and determination, defending his own life after injury from an assassin’s bullet. He likely saved countless other lives that day, too, as every single person on that highway was put at risk by the suspect’s

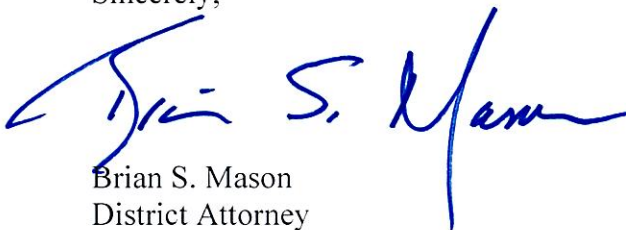
murderous conduct. Corporal Simcox's use of deadly force was clearly done in self-defense and was necessary to prevent Victor De Santiago from inflicting serious bodily injury or death upon him or anyone else in the area. Victor De Santiago presented a clear and lethal threat to Corporal Simcox, and his decision to shoot Victor De Santiago eliminated the danger and saved his life.

In all my years as a prosecutor and as the District Attorney for this jurisdiction, I have rarely seen a more harrowing incident than the one presented here. The suspect ambushed a Colorado State Trooper and sought to assassinate him. Corporal Simcox's actions were heroic by any measure – and his protection of the community that day is worthy of significant admiration and recognition.

CONCLUSION

In conclusion, I find that Corporal Simcox's actions in this incident were legally justified in every way. Furthermore, given the totality of the circumstances and evidence, the prosecution cannot prove that the involved officer was not justified in using reasonable force under §18-1-707, C.R.S. (2024). Therefore, applying the facts of this incident to the applicable law, the evidence does not support the filing of criminal charges against Colorado State Trooper Corporal Tye Simcox.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brian S. Mason". The signature is fluid and cursive, with a large initial "B" and a long, sweeping underline.

Brian S. Mason
District Attorney