



## OFFICE OF THE DISTRICT ATTORNEY

GEORGE H. BRAUCHLER, DISTRICT ATTORNEY  
18TH JUDICIAL DISTRICT  
SERVING ARAPAHOE, DOUGLAS, ELBERT AND LINCOLN COUNTIES

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November 19, 2018

Sheriff David Walcher  
Arapahoe County Sheriff's Office  
13101 E. Broncos Parkway  
Centennial, CO 80112

Re: Officer-involved shooting of Andrew Allen Paine on June 23, 2018.

Dear Sheriff Walcher:

On June 23, 2018, Arapahoe County Sheriff's Office Sergeants Bruce Peterson and Brett Cohn and Deputies Derek Goodyear and Mike Stokes conducted a welfare check at [REDACTED] South Olive Street, Centennial. During the welfare check, Andrew Paine, date of birth [REDACTED] 1980, was shot and killed after threatening the officers with a gun. Investigator Brian Ahlberg with the 18<sup>th</sup> Judicial District Attorney's Office led the 18<sup>th</sup> Judicial Critical Response Team ("CRT") investigation, case number CRT 18-3. The Arapahoe County Sheriff's Office, Colorado Bureau of Investigation, Lone Tree Police Department, Douglas County Sheriff's Office, Cherry Hills Police Department, Parker Police Department, Greenwood Village Police Department, and the 18<sup>th</sup> Judicial District Attorney's Office conducted the CRT investigation. I have reviewed the investigation, including all reports and audio-visual evidence, into Mr. Paine's death and find the investigation was objective, thorough, and complete.

At 10:29 a.m., [REDACTED] and [REDACTED] called the Arapahoe County Sheriff's Office 911 emergency line and requested a "wellness check" because [REDACTED]'s best friend, was fighting with [REDACTED] Andrew Paine. [REDACTED] provided the following information during the 911 call. [REDACTED] called [REDACTED] at approximately 10 a.m., crying and upset because she and Andrew had been arguing and Andrew may be leaving. During the call, Andrew grabbed the phone from [REDACTED] screamed at [REDACTED] and then disconnected the call. [REDACTED] called back but [REDACTED] did not answer. [REDACTED] reported that Andrew had mental issues and was an alcoholic. Later, she explained that Andrew was bipolar. She also reported that Andrew had two guns and two small children in the house. During the 911 call, [REDACTED] read a text message she received from Andrew at 10:31 a.m., "After the cops murder me they'll find that I have a broken hand and that any perceived threat was falsified." [REDACTED] advised they were driving to [REDACTED]'s house and the 911 operator told her not to approach the home until law enforcement arrived.

Sergeant Bruce Peterson and Deputy Mike Stokes, with the Arapahoe County Sheriff's Office, responded to the 911 call and arrived at Andrew [REDACTED]'s residence at [REDACTED] South Olive Street, Centennial, at 10:40 a.m.



They approached the house and heard noises inside the closed garage. Deputy Stokes could partially see inside the garage through a window and observed a male holding a gun. Deputy Stokes relayed this information to Sgt. Peterson. Sgt. Peterson knocked on the front door and rang the doorbell but no one answered. Sgt. Peterson attempted to open the door but it was locked. Sgt. Peterson positioned himself near the garage when Deputy Derek Goodyear arrived and covered the front door.



At 10:49 a.m., Sgt. Cohn arrived on scene and contacted [REDACTED] and [REDACTED] in front of a neighbor's house south of [REDACTED] Andrew's residence. [REDACTED] was talking with Andrew on his cell phone in speaker mode and Sgt. Cohn heard the conversation. [REDACTED] was trying to de-escalate Andrew who was screaming profanities. [REDACTED] told Andrew the deputies

were there to talk with Andrew and make sure everything was okay. Andrew responded that the officers were welcome to enter his home but he would shoot the first one in. Sgt. Cohn was about to radio this information when a deputy announced, “shots fired.”

Sgt. Peterson, Deputy Stokes and Deputy Goodyear were in front of the house when they heard a gunshot inside the garage. At 10:52 a.m., Sgt. Peterson activated his radio and called out, “shots fired in garage.” Sgt. Peterson believed Andrew had shot a family member or himself. Later, law enforcement learned that ██████████ and the children fled the house before law enforcement arrived. Sgt. Peterson and Deputies Stokes and Goodyear immediately entered the home by kicking the front door. They moved into the house, watched the interior garage access door and formulated a plan to address the threat in the garage. Sgt. Peterson observed a bullet hole in the interior garage door. Deputy Goodyear yelled trying to determine if anyone else was in the house but no one responded. Sgt. Cohn joined the other deputies inside the house but left when Sgt. Peterson requested a ballistic shield. As Sgt. Cohn left the house, he observed the garage door opening and heard a car start. Sgt. Cohn yelled that the garage door was opening. Deputies Goodyear and Stokes immediately left the house through the front door. Sgt. Peterson initially remained in the house and watched the interior garage door until he heard the deputies yelling at Andrew.

After the garage door opened, Andrew backed his Jeep Wrangler out of the garage. The deputies gave commands for Andrew to show his hands and drop the gun. While backing out, Andrew pointed a black and gray pistol with his left hand out the window at the deputies. Sgt. Cohn and Deputies Goodyear and Stokes fired as the Jeep backed out of the driveway. At 10:52 a.m., Sgt. Cohn radioed “shooting at us.” Andrew backed the Jeep into the street and then drove forward toward Caley Ave.



Sgt. Cohn observed Andrew holding a black handgun while backing out of the driveway. He made eye contact with Andrew and told him to drop the gun. Andrew extended his arm and Sgt. Cohn believed Andrew fired his handgun. Sgt. Cohn’s body worn camera recorded the event including the above image of Andrew backing the Jeep out of the driveway and pointing a handgun out of

the driver's side window at the deputies. Sgt. Cohn shot at Andrew because he believed Andrew posed an imminent threat to himself and the other deputies.

Deputy Goodyear went to the front of the house and to the right of Sgt. Cohn when he heard Sgt. Cohn yell the garage was opening. Deputy Goodyear observed Andrew pointing a gun directly at him as he was backing up. Deputy Goodyear fired because he believed Andrew was going to shoot him. Deputy Goodyear only heard Andrew fire the gun once when he was in the garage before the deputies entered the home. Deputy Goodyear fired his weapon as the Jeep was backing into the street and continued firing as the Jeep drove forward toward Caley Ave.

Deputy Stokes exited the front of the house and observed the Jeep driving in reverse and Andrew pointing a gun at him. Deputy Stokes ran across the front yard and into the street and fired his weapon. Deputy Stokes fired his weapon, believing he was going to be shot and possibly die. The Jeep backed into the street and then started driving forward toward Deputy Stokes. The Jeep slowed when the driver slumped over from an apparent gunshot wound to the head. Deputy Goodyear's body worn camera captured the shooting, including the image below, showing Andrew pointing his gun at Deputy Stokes.



Sgt. Peterson left the house when he heard Sgt. Cohn shout, "show me your hands." Sgt. Peterson heard gunfire and observed the Jeep backing out of the driveway. Sgt. Peterson observed Andrew pointing a gun out of the left side of the Jeep. Sgt. Peterson fired his weapon because he believed Andrew was shooting at him and the other deputies and he feared for his life and the life of his fellow deputies. Sgt. Peterson was also concerned for the safety of Deputy Stokes, who had run across the street, when the Jeep drove forward on S. Olive Street. Sgt. Peterson feared the Jeep was driving at Deputy Stokes. Sgt. Peterson shot at the driver to protect Deputy Stokes.

The Jeep slowed down before reaching Caley Ave. and the deputies stopped shooting. Deputy Stokes opened the door and pulled Andrew from the driver's seat into the middle of East Caley Avenue. The Jeep continued slowly driving forward until it struck the garage at [REDACTED] E. Caley Avenue, Centennial. Andrew was unconscious and bleeding profusely from the head. Andrew was placed in handcuffs and Deputy Goodyear attempted CPR. The Deputies immediately called

for Rescue and South Metro Fire Rescue responded to the scene. South Metro Fire Rescue transported Andrew to Sky Ridge Medical Center where he was pronounced dead at 11:41 a.m.



Sergeants Cohn and Peterson returned to Andrew [redacted] residence to search for [redacted] and the children. After a quick search they determined [redacted] and the children were not in the house. Law enforcement did not know that they had fled the residence earlier that morning. After clearing the house, Sgt. Cohn, Sgt. Peterson and Deputy Stokes canvassed the neighborhood to check the welfare of nearby residents.

The Arapahoe County Sheriff's Office notified the Critical Response Team who responded to the scene and investigated the shooting. Crime Scene Investigators with the Douglas County Sheriff's Office and the Arapahoe County Sheriff's Office photographed, documented and collected evidence at [redacted] Olive Street, [redacted] Caley Street, the Jeep, and all areas associated with the shootings.

Andrew Paine's Jeep Wrangler was searched and a .40 caliber Smith and Wesson handgun was found on the driver's side floorboard.

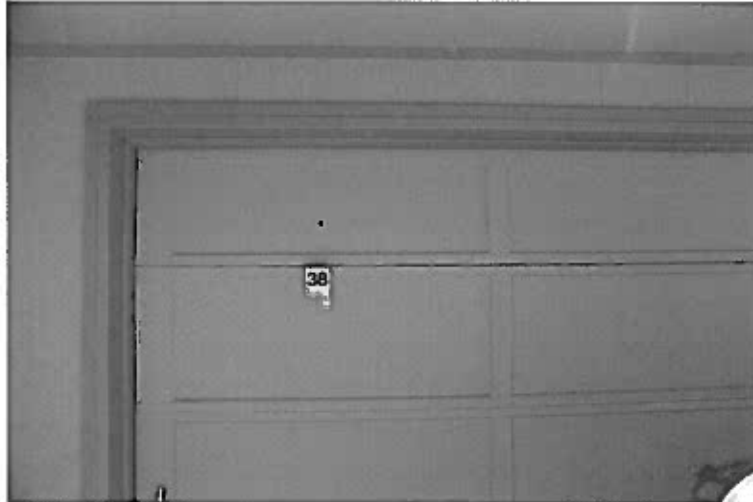


The gun was collected and examined. The gun had a live round in the chamber and ten rounds in the magazine. The magazine had a fourteen round capacity. Two .40 caliber casings were found in Andrew's Jeep. A .40 caliber casing was located on the floorboard of the Jeep between the driver seat and driver's door. The second .40 caliber casing was located on the center console. A third .40 caliber casing was located in Andrew's garage. The Arapahoe County Sheriff's Deputies did not possess or fire a .40 caliber gun. Based on the video evidence and recovered .40 caliber casings, Andrew Paine fired his gun inside his garage and at the Sheriff's Deputies while driving his Jeep.

Crime Scene Investigators located and photographed a bullet hole in the interior garage door of Andrew [REDACTED] house. The bullet traveled through the interior garage door and basement stairwell door and stopped inside the stairway wall. The bullet was examined by Agent Dale Higashi at the Colorado Bureau of Investigation. Agent Higashi opined the bullet is "most consistent with bullets commonly loaded in 40 S&W cartridges." He further found the bullet was consistent with seven live rounds recovered from a second Smith and Wesson .40 caliber handgun located in Andrew's Jeep Wrangler.



A bullet hole was observed in the garage door of [REDACTED] E. Caley Avenue. The bullet went through the garage door and was recovered in the mudroom insulation. This round is believed to have been fired by Andrew at Deputy Stokes based on the video and location of the bullet hole, Andrew and the Deputies. Agent Higashi examined this bullet but it had no comparison value.



An additional bullet hole was observed in the glass window of [REDACTED] Olive Street.

Sgt. Cohn and Deputy Goodyear's body worn cameras were recording during the shooting. The video shows Andrew raise and point his gun at the deputies before they fired their weapons. Additional video was obtained from the Ring video doorbell [REDACTED]. The video recorded the deputies in front of the house, entering and leaving the house and shooting at Andrew while he was driving the Jeep. Andrew's shot while inside the garage can be heard on the Ring video.

Sergeants Peterson and Cohn and Deputies Goodyear and Stokes were photographed and their weapons were seized and examined. The investigation determined the officers fired 31 rounds at Andrew Paine. Sgt. Peterson fired ten .9 mm rounds from his Glock 19, Deputy Stokes fired four .45 caliber rounds from his Colt 1911, Deputy Goodyear fired fourteen .45 caliber rounds from his Glock 21 and Sgt. Cohn fired three .9 mm rounds from his Glock 19.

After the shooting, [REDACTED] provided the following information during an interview at the Arapahoe County Sheriff's Office. [REDACTED]

[REDACTED] Andrew Paine was abused as a child. He had a history of alcoholism, bipolar disorder, and post-traumatic stress disorder. Two years ago, Andrew went through a mid-life crisis and purchased the Jeep. Last Fall, [REDACTED] was contacted by a woman on Facebook who claimed that Andrew was having an affair. The woman provided sexually graphic text messages that she received from Andrew. [REDACTED] confronted Andrew about the alleged affair and, on August 5, 2017, he unexpectedly left the house with a firearm. [REDACTED] was concerned that [REDACTED] was suicidal because he left the financial information, insurance policies, and passwords for her to find. [REDACTED] notified the police but [REDACTED] eventually returned home unharmed.

During the evening of June 22, 2018, [REDACTED] and Andrew had an argument over the construction of the [REDACTED] swing set. [REDACTED] asked Andrew when he would finish building the swing set and Andrew became upset and felt she was picking on him. At one point, Andrew laughed at [REDACTED]. Andrew slept in the guest room that night.

On Saturday, June 23, 2018, [REDACTED] woke up around 8:30 a.m. and heard Andrew talking with [REDACTED] children. Andrew told [REDACTED] that he had been awake since 5 a.m. and that he did not take his prescription medication because he was waiting for her to start “bitching” at him. Later, [REDACTED] found Andrew sleeping in the guest room and asked if he was going to take [REDACTED] to soccer. An argument followed and [REDACTED] told Andrew they should not be together if they were not happy. [REDACTED] left the guest room and called her friend [REDACTED]. Andrew followed [REDACTED] to the master bedroom and continued arguing while she was on the phone with [REDACTED]. During the argument, [REDACTED] told Andrew “don’t grab me.” [REDACTED] handed her phone to Andrew and he yelled at [REDACTED] and then hung up the phone. Andrew pulled a gun from the back of his pants and pointed it at her. Andrew said that one or both of them were going to die. [REDACTED] grabbed at the gun but Andrew pushed her on the bed and they fought over the gun. During the struggle, Andrew put his knee on her throat. [REDACTED] feared Andrew was going to shoot her. Eventually, [REDACTED] calmed Andrew down and he went to the bathroom. [REDACTED] followed and continued talking with Andrew. While in the bathroom, Andrew pointed the gun at his head. Andrew left the bathroom, went into the guest room, and shut the door. [REDACTED] gathered the children and fled the house while Andrew was in the guest bedroom. [REDACTED] left the house without her cell phone. [REDACTED] went to a friend’s house and then to King Soopers where she met an Arapahoe County Sheriff’s Deputy to report what happened around 11:15 a.m.

[REDACTED] provided the following information after the shooting. [REDACTED] called [REDACTED] at 10:07 a.m. [REDACTED] was crying and said that she and Andrew argued the previous night. During the call, [REDACTED] told Andrew “don’t grab me.” Andrew grabbed the phone from [REDACTED] and had a brief argument with [REDACTED] before disconnecting the call. The phone call lasted 2 minutes. [REDACTED] repeatedly called [REDACTED] phone but no one answered. [REDACTED] sent several text messages to [REDACTED] and Andrew’s phones. [REDACTED] and [REDACTED] called 911 while driving to [REDACTED] house. When they arrived, two deputies were in front of the house so they parked down the street. [REDACTED] observed the deputies standing on each side of the garage. [REDACTED] overheard [REDACTED] speaking with Andrew over the phone. [REDACTED] told Andrew to put the gun down. [REDACTED] observed Andrew back his Jeep out of the garage quickly and then she heard gunfire. [REDACTED] guessed that she heard fifteen shots.

Investigator Mike Garnsey downloaded [REDACTED] cell phone and located call logs and text messages relevant to the shooting. The call log showed that [REDACTED] received a call from [REDACTED] at 10:07 a.m. that lasted 2 minutes and 48 seconds. [REDACTED] called [REDACTED] at 10:10 a.m. (2 second duration), 10:11 a.m. (2 second duration), 10:14 a.m. (2 second duration), 10:15 a.m. (25 seconds duration), 10:23 a.m. (37 second duration), 10:28 a.m. (2 second duration), 10:28 a.m. (0 second duration) and 10:47 a.m. (3 second duration). The following text messages were located on [REDACTED] phone.

10:11AM. [REDACTED] sent the following text messages to Andy Paine, “I’m about to call the fucking Police” and “Is that what you want?”

10:13AM. [REDACTED] sent the following text message to Andy Paine, “I will tell them about your guns and how you are threatening [REDACTED] you sick fuck.”

10:15AM. [REDACTED] sent the following text message to [REDACTED] “I’m about to call the Police [REDACTED] I’m afraid for your safety and the kids.”



10:15AM. [REDACTED] sent the following text message to [REDACTED] "If I don't hear from you in 5 minutes I'm calling them."

10:19AM. [REDACTED] sent the following text message to [REDACTED] "I'm on my way."

10:26AM. [REDACTED] received the following text message from Andy Paine, "I feel like you've mischaracterized me, but it's fine."

10:27AM. [REDACTED] sent the following text message to Andy Paine, "We are calling the Police Department right now Andy, unless you put [REDACTED] on the phone with me right fucking now."

10:28AM. [REDACTED] received the following text message from Andy Paine, "Call them, your lies won't characterize ne life one [sic] they murder me."

10:29AM. [REDACTED] received the following text message from Andy Paine, "I have done nothing wrong and was awakened by [REDACTED] screaming at me then making false accusation"

10:31AM. [REDACTED] received the following text message from Andy Paine, "After the cops murder me they'll find that I have a broken hand and that any perceived threats were falsified."

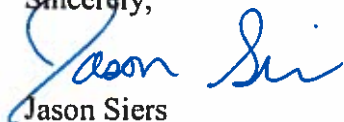
[REDACTED] was also interviewed after the shooting and provided the following information. Around 10 a.m., [REDACTED] called [REDACTED] upset about an argument she was having with Andrew. [REDACTED] called the Arapahoe County Sheriff's Office and requested a wellness check after Andrew hung up the phone. [REDACTED] drove to [REDACTED] house and waited down the street while the Sheriff Deputies attempted to contact Andrew. At 10:49 a.m., [REDACTED] called Andrew's cell phone and allowed Sgt. Cohn to listen. [REDACTED] told Andrew the police were outside and wanted to talk. Andrew stated that he had guns and was ready. [REDACTED] asked Andrew to release [REDACTED] and the children but Andrew said they were not in the house. [REDACTED] told Andrew the officers just want to talk and Andrew said they were welcome to come in but he would shoot the first one in. [REDACTED] heard a gunshot and then Andrew said that was a warning shot and that he was ready. [REDACTED] observed the garage door open and Andrew backed his Jeep out of the garage. The deputies yelled at Andrew to stop. [REDACTED] heard another shot while the Jeep was backing out and then more gunfire. He believed the officers were returning fire. He observed Andrew holding a gun or a cell phone in his left hand. The deputies gave loud commands to drop the weapon. Andrew backed into the street and then drove forward and the deputies fired an additional four to five times. [REDACTED] thought Andrew was shot in the head while backing up. The Officers pulled Andrew out of the Jeep while it was moving. The deputies secured him and began CPR. The download of [REDACTED] cell phone showed a phone call to "Andy Paine" at 10:49 am lasting 3 minutes and 11 seconds.

Dr. Danielle Armstrong with the Arapahoe County Office of the Coroner performed an autopsy on Andrew Paine on June 25, 2018. Dr. Armstrong opined that Mr. Paine died from multiple

gunshot wounds. Andrew had three gunshot wounds, two gunshot wounds to the head and one to the chest. The gunshot wounds to the head entered at the right temporal region of the scalp and right cheek. The gunshot wound to the chest entered on the right side. Toxicology testing of Mr. Paine's vitreous blood found alcohol at 253 mg/dl.

In Colorado, any person may use deadly physical force against a person if they reasonably believe the person poses an imminent danger of death or great bodily injury to another and a lesser degree of force is inadequate. C.R.S. 18-1-704. Peace Officers have additional authority to use deadly physical force to defend themselves from what they reasonably believe to be the use or imminent use of deadly physical force. C.R.S. §18-1-707(2)(a). Deputy Goodyear, Deputy Stokes, Sergeant Peterson and Sergeant Cohn were legally justified in shooting and killing Andrew Paine. I find Deputy Goodyear, Deputy Stokes, Sergeant Peterson and Sergeant Cohn reasonably feared for their lives when they used deadly force against Andrew Paine. The investigation did not conclusively determine who shot and killed Mr. Paine, however, it does not matter because Andrew Paine posed an imminent danger of death or great bodily injury to the all the deputies when he pointed and fired his gun. The Deputies and Sergeants did not violate any criminal laws and will not be charged with any crimes.

Sincerely,



Jason Siers

Senior Chief Deputy District Attorney  
18<sup>th</sup> Judicial District Attorney's Office