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Sheriff Justin Smith
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Opinion Letter Regarding 1.10.22 CIRT, Case Numbers LCSO 22-249, FCPS 22-353, LPD 22-211 & TPD 22-13.

I have been asked to review the shooting of Dustin Bartles on January 10, 2022, on southbound Interstate 25 near the Mulberry exit in Fort Collins, Colorado, to determine whether Larimer County Sheriff's personnel violated any Colorado criminal statutes with respect to the shooting.

I. EXECUTIVE SUMMARY

Applying the law to the facts of this incident, as described in greater detail below, I conclude Sergeant Jackie Stimac was legally justified in her use of physical force to defend herself, other officers, and the public, from the threat posed by Dustin Bartles on January 10, 2022. Because I have concluded that Sergeant Stimac was legally justified in her use of physical force, no criminal charges will be filed. My determination necessarily includes the assessment that there is no reasonable likelihood that any criminal charges could be proven unanimously beyond a reasonable doubt.

II. THE STATUTORY FRAMEWORK FOR OFFICER INVOLVED SHOOTING INVESTIGATIONS

C.R.S. §16-2.5-301 governs investigations into peace officer-involved shooting investigations. It provides, in relevant part:

Each police department, sheriff's office, and district attorney within the state shall develop protocols for participating in a multi-agency team, which shall include at least one other police department or sheriff's office, or the Colorado bureau of investigation, in conducting any investigation, evaluation, and review of an incident involving the discharge of a firearm by a peace officer that resulted in injury or death. The law enforcement agencies participating need not be from the same judicial district.

The investigation into this shooting incident was conducted by a multi-agency team consisting of personnel from agencies within the jurisdiction who are members of the district's Critical Incident Response Team (CIRT). Specifically, Fort Collins Police Services was the lead agency, and they were aided by other agencies including, the Loveland Police Department, Windsor Police Department, Larimer County Sheriff's Office, Timnath Police Department, Colorado State University Police Department, and the District Attorney's Office.

C.R.S. § 20-1-114 provides:

The district attorney shall, if no criminal charges are filed following the completion of an investigation pursuant to section 16-2.5-301, C.R.S., release a report and publicly disclose the report explaining the district attorney's findings, including the basis for the decision not to charge the officer with any criminal conduct. The district attorney shall post the written report on its website or, if it does not have a website, make it publicly available upon request.

This document constitutes a report of the District Attorney's findings and includes the basis of the decision not to charge any involved peace officer with any criminal conduct.

Finally, as the defendant has been charged criminally* in relation to the incident at issue, I must abide by Colorado's ethical rules to protect the integrity of the criminal case and rights of the defendant. Specifically, Rule 3.8. (Special Responsibilities of a Prosecutor) provides in relevant part:

The prosecutor in a criminal case shall:

(f) except for statements that are necessary to inform the public of the nature and extent of the prosecutor's action and that serve a legitimate law enforcement purpose, refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused unless such comments are permitted under Rule 3.6(b) or 3.6(c) and exercise reasonable care to prevent investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.6 or this Rule. *C.R.P.C. 3.8.*

****All charges against Dustin Bartles are merely allegations and he is presumed innocent of all charges filed against him.***

III. MATERIALS REVIEWED

The District Attorney's office has been provided the materials produced during the CIRT investigation into the shooting of Bartles. The information I have considered includes:

- The body worn camera footage of the involved peace officers
- Reports/summaries of the CIRT investigators

- Recorded interviews of involved peace officers
- Audio recordings of police dispatch and car-to-car radio traffic
- Civilian dash camera footage
- Photographic evidence
- Physical evidence (e.g., firearms, ballistics, etc.)
- Medical evidence
- Maps depicting the geographical area in which the events took place

IV. APPLICABLE LAW

The District Attorney's review of this event is guided by the Colorado statutes pertaining to the use of force by peace officers, including self-defense. Sergeant Stimac, and all other persons referred to as "deputies" or "peace officers" in this letter, are "peace officers" per statute. *See* §16-2.5-101-103, C.R.S.

By using her service weapon and shooting several times into Bartles' vehicle and causing him injury, Sergeant Stimac used force, and thus her conduct implicates Colorado's peace officer use of force and self-defense statutes. As she did not cause death, the deadly physical force provision of the statute does not legally apply to Stimac's actions on January 10th. *See* §18-1-901(3)(d) ("Deadly physical force" means force, the intended, natural, and probable consequence of which is to produce death, and which does, in fact, produce death). However, I have included the deadly force statutory language below as it is relevant to my conclusions regarding this event.

§ 18-1-707, C.R.S. (Use of force by peace officers—definitions), states in relevant part:

- (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 injury 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;*
 - (c) Ensure that assistance and medical aid are rendered to any injured or affected persons as soon as practicable; and*
 - (d) Ensure that any identified relatives or next of kin of persons who have sustained serious bodily injury or death are notified as soon as practicable.*
- (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 of death or serious bodily injury 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 provision in this section, a peace officer is justified in using deadly force if the peace officer has an objectively reasonable belief that a lesser degree of force is inadequate and the peace officer has objectively reasonable grounds to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving serious bodily injury.

§ 18-1-704, C.R.S., Colorado's general self defense statute, states in relevant part:

[A] person is justified in using physical force upon another person in order to defend himself or a third person from what he reasonably believes to be the use or imminent use of unlawful physical force by that other person, and he may use a degree of force which he reasonably believes to be necessary for that purpose.

Under Colorado law, for a person to act legally to defend themselves or others requires the presence of "both reasonable belief and actual belief" on behalf of the actor. *See Sanchez v. People*, 820 P.2d 1103, 1108 (Colo. 1991). The law requires the fact finder to "weigh all relevant circumstances to determine whether a person asserting the defense of self-defense has acted as a reasonable person would act in similar circumstances." *Id.*

V. SUMMARY OF RELEVANT FACTS

Overview: Nature of call, route traveled, and shooting scene

The following factual overview is derived from the interviews of involved peace officer witnesses and the results of additional investigation performed by members of the CIRT. Additional findings from body worn camera footage and other evidence is discussed below.

On January 10, 2022, at 2:07 p.m., Larimer County Sheriff's Office dispatch received a "suspicious circumstances" call from the assistant manager at the Family Dollar store at 8089 6th St. Wellington, Colorado. The caller reported a male party was inside the store making incoherent statements and was apparently "upset about a cell phone."

Deputy James Sazama responded to Family Dollar at approximately 2:13 p.m. He attempted to contact the male (later identified as Dustin Bartles) who was parked outside the store in a white Ford truck bearing Colorado license plate BIJG45. He observed Bartles sitting in the front passenger seat of the car making multiple erratic movements with his hands and body. Deputy Sazama heard Bartles talking in an agitated tone, but he was not addressing Sazama. Deputy Sazama had concerns about Bartles' state of mind and safety and asked Bartles if he would talk to him. Bartles started his vehicle and put it into gear. Deputy Sazama advised Bartles he was not

free to go. Bartles yelled "Fuck you," and drove away. Deputy Sazama returned to his patrol vehicle and followed Bartles onto 6th Avenue and attempted to conduct a traffic stop. Bartles would not stop so Deputy Sazama initiated a vehicle pursuit.

Larimer County Sheriff Sergeant Matt Cherry assisted Deputy Sazama in the pursuit which proceeded from Wellington southbound on I-25 into Fort Collins. During the pursuit, Bartles crossed from the interstate onto the frontage road and back at least two times reaching speeds as high as 95-97 m.p.h. Bartles exited the interstate and traveled westbound on Richards Lake Rd. then southbound on CR9 with police still pursuing him. Deputy Sazama attempted a "PIT" maneuver to stop the vehicle, which was unsuccessful ("PIT" is short for *Pursuit Immobilization Technique*. It is a dynamic police tactic that is used to bring a potentially dangerous vehicle pursuit to an end by engaging/contacting the pursued vehicle with a police vehicle to accomplish a forced rotational stop of the pursued vehicle.).

The pursuit continued eastbound on Mountain Vista Drive. Sergeant Mark Hecker and Deputy Scott Stuller were positioned on Mountain Vista Drive off the side of the road in their marked patrol vehicles to assist with the intervention of Bartles' truck. Sergeant Hecker observed Bartles' white Ford truck travelling at a high rate of speed east on Mountain Vista Drive toward he and Deputy Stuller. The truck left the lane of travel and swerved directly toward Hecker and Stuller's vehicles while Deputy Stuller was standing outside of his vehicle. Sergeant Hecker was concerned the truck would cause serious damage and serious bodily injury to him and Deputy Stuller. Deputy Stuller similarly feared he would be struck by the vehicle (or by debris from impact to his vehicle if there was a crash) and moved toward the ditch to avoid being struck.

Deputy Sazama also observed Bartles cross into the oncoming traffic lane and drive directly toward Deputy Stuller and Sergeant Hecker before he veered off within just a few feet of Hecker's and Stuller's vehicles. All witnesses to the act believed Bartles drove deliberately at the officers' marked vehicles.

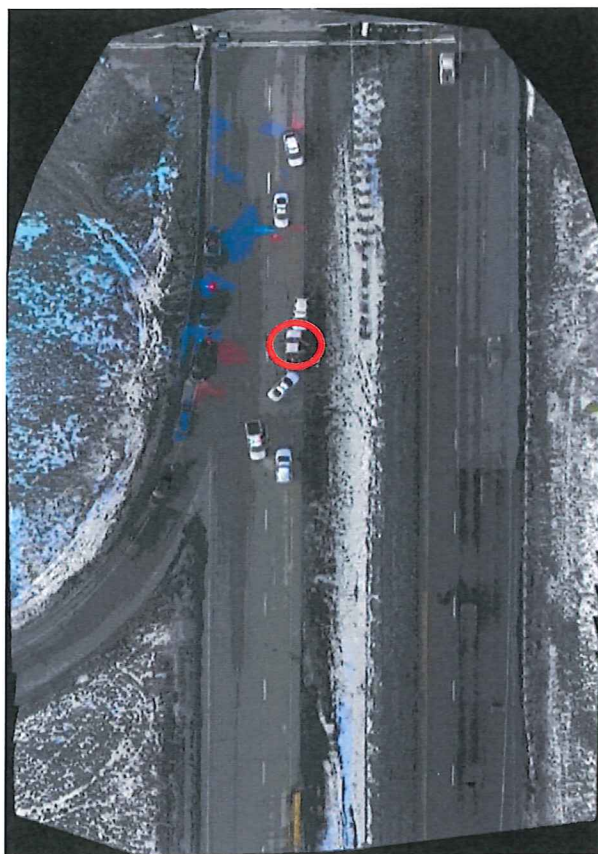
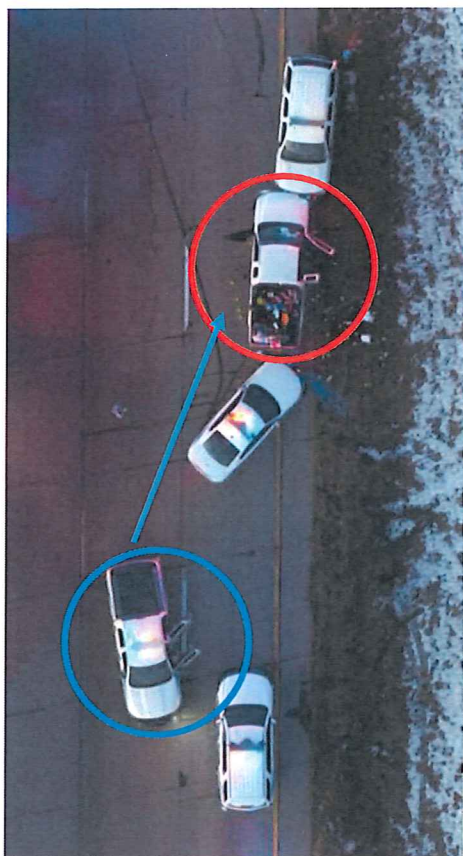
Bartles continued onto southbound I-25 and continued to elude Larimer Sheriff's personnel at high speeds. Deputies were eventually able to successfully deploy spike strips near the Vine Drive overpass on I-25. Subsequently, Sergeant Cherry conducted a successful PIT maneuver which caused Bartles' truck to spin 180 degrees, leaving his truck facing north on I-25 just south of the Mulberry St. exit.

The pursuit, from the Wellington Family Dollar store to its termination near Mulberry exit, lasted almost 11 minutes and spanned approximately 10 miles.

being able to fully open her door. Sergeant Stimac continued to hear loud, continuous, and aggressive acceleration from Bartles' truck and noted the vehicle was still attempting to move and repeatedly accelerating against the patrol vehicle. Sergeant Stimac heard ongoing screaming from outside Bartles' truck and believed that the driver of the patrol car at the front of Bartles' truck, who she later learned to be Deputy Stuller, would have immediately exited his vehicle to approach the suspect vehicle. She felt Deputy Stuller would be in the same location from where she heard the screaming.

Based on the screaming and ongoing acceleration of the truck, Sergeant Stimac feared Deputy Stuller was being injured, or at serious risk of being injured or killed. Sergeant Stimac then fired additional rounds into the vehicle, after which she paused and heard deputies giving commands to Bartles, saw movement from Bartles, and saw what appeared to be blood on him. She heard Bartles say something to the effect of "okay, okay," and she believed the threat to be over.

Shortly after the shooting, Sergeant Stimac pulled her truck away from Bartles' truck, parked nearby and got out to confirm the other deputies had control of Bartles.



(Aerial views of final crash site. Bartles' truck circled in red. Stimac's truck circled in blue, after she pulled away from her initial location. Blue arrow depicts approximate location of driver door of Stimac's truck when she fired with yellow placards marking spent shell casings.)

Sergeant Stimac told the CIRT investigator she saw the need to disable the driver to immobilize the vehicle and knew the only tool to do so was her firearm. She said she recognized Bartles had already shown disregard for the public and law enforcement and was still attempting to flee, and she had a heightened concern that if he was acting this way toward police, he was capable and willing to do anything to civilians. She believed if he got away, he would continue to show the same disregard and likely cause serious bodily injury or death to others.

Deputies would ultimately pull Bartles from the truck to arrest him and provide medical assistance. Bartles did not comply with basic instructions and resisted arrest even while deputies were attempting to render aid. Bartles was transported to the Medical Center of the Rockies (MCR) with non-life-threatening injuries that included bullet wounds to his shoulder and side, and a fractured clavicle. While at MCR, medical personnel eventually had to sedate and intubate Bartles due to his ongoing combativeness with staff. Other peace officers involved in the investigation contacted Bartles' family members once he was hospitalized and serious bodily injury (fractured clavicle) was determined by medical staff.

It was determined that all peace officers involved were wearing police uniforms and driving marked police vehicles.

Review of Body Worn Camera Footage

While all provided body worn camera footage was reviewed, most of the footage is not relevant to the issues surrounding the use of force in this case. For purposes of this review, body worn camera footage from those who were directly involved, including Sergeant Stimac, Deputy Stuller, and Deputy Sazama was closely examined and provided useful information.

1) A review of Sergeant Stimac's relevant body worn camera footage shows:

- There is video of Stimac's full interaction with Bartles, and his truck, on I-25.
- There is no audio of the timeframe surrounding eight total shots fired by Sergeant Stimac into Bartles' vehicle (the first 29 seconds of footage). (The lack of sound accompanying the video is the product of a manufacturer built-in delay which records and stores the buffered video, without audio, for retrieval)
- It appears that when Sergeant Stimac fired the initial two shots, her door had already been open for approximately three seconds, and thus, she had an opportunity to hear and see the events that were unfolding.
- Given how Stimac's car was positioned, there was very little space between her open door and doorframe, and she had a tight physical space (approximately one to two feet) within which to operate. This seems to prevent Stimac from fully emerging from the vehicle while engaging Bartles.
- At its closest, Bartles' driver's side door was merely two to three feet from Stimac's vehicle door.
- When Sergeant Stimac fired her first two rounds, Bartles' truck is clearly moving forward and toward Deputy Stuller's truck, and ultimately crashes into the front his truck, (verified in Stuller's video – discussed below).

- Stimac fires “shots fired” immediately after the first two shots and keeps her gun trained on Bartles’ truck while doing so.
- Stimac does not shoot again until Bartles’ truck lurches forward again in an apparent effort to drive through or over whatever is in front of it (Stuller and his truck) and then lurch or rock backward (toward Sazama’s vehicle) to the south.
- Stimac does not appear to have been able to see any other deputies when she was firing, given her position in her truck, and because Bartles’ truck seemed to obstruct most of her view to the north and east.
- When the camera’s audio begins, Stimac can be heard yelling commands, including, “Show me your hands!” and “Put your hands out the window!”
- When the deputies on the passenger side of Bartles’ truck seem to have control of him, Stimac drives a few vehicle lengths away, parks her truck, emerges from the vehicle, and sees the deputies rendering aid.

2) A review of Deputy Stuller’s relevant body worn camera footage shows:

- There is video and audio of Stuller’s entire interaction with Bartles, and his truck, on I-25.
- As Stuller pulls to a stop, Bartles’ truck crashes into the front of Stuller’s just as Stuller is preparing to get out.
- As soon as Stuller emerges from his truck, he draws his firearm and begins to scream commands in a loud and high-pitched tone, including “Get out of the fucking car - get out of the fucking car, now!”
- As Stuller approaches the truck’s passenger side window, just as he attempts to break the glass with his gun, several gunshots are audible. It is apparent that these shots are the second volley of rounds fired by Stimac.
- There appear to be six gunshots. The vehicle is lurching and loudly revving while the gun shots are being fired. The shots cease when the truck stops revving.
- Stuller continues to yell commands at Bartles while the tinted passenger window is closed.
- After a few seconds with no response, Stuller uses a baton to break the window.
- He continues to scream commands, including “Put your fucking hands up now!” to Bartles after the window is shattered and he can see Bartles in the truck.
- Stuller and Sazama yell additional commands, including, “Keep your fucking hands up!”, “On your head!”, “Put your hands on the steering wheel!”
- Bartles yells, “I can’t move” - “It hurts” - “I can’t breathe,” among other statements, while he erratically puts his hands up, then to the side, then down, and at times out of view.
- Stuller and Sazama struggle to get Bartles under control and out of the vehicle. Bartles is agitated and does not comply with commands throughout the contact.
- When Bartles is removed from the truck deputies immediately and professionally assess his injuries and render medical aid until paramedics arrive on scene.

3) A review of Deputy Sazama's relevant body worn camera footage shows:

- There is video of Sazama's full interaction with Bartles and his truck. There is no audio for the first 29 seconds of footage.
- Bartles drives away as Sazama attempts to contact him at the driver's side of his truck.
- Sazama pursues Bartles with lights and sirens activated – the entire pursuit (from the Family Dollar to the point Sazama engages Bartles' back bumper) lasts approximately 10 minutes and 50 seconds.
- Bartles crosses the median from I-25 onto the frontage road approximately two minutes into the pursuit and crosses back onto I-25 approximately 90 seconds later.
- Based on the radio traffic (aired primarily by Sergeant Cherry) it appears Bartles is driving at varying speeds up to 95 mph throughout the pursuit.
- Bartles again crosses the median onto the frontage road, then westbound, approximately 5 minutes and 30 seconds into the pursuit.
- Sazama unsuccessfully attempts a PIT maneuver on Bartles truck approximately 7 minutes into the pursuit and airs that his car is not heavy enough to PIT the truck.
- Sergeant Cherry assumes the number one position with his truck at approximately 7 minutes and 30 seconds so he can attempt a PIT.
- Sazama urgently airs, "You guys get out of the way, he looks like he's swerving towards deputies on the side of the road – we just had attempted vehicular manslaughter."
- Sazama airs, "Looks like spikes were successful," at approximately 9 minutes and 40 seconds into the pursuit.
- Sazama airs "Successful PIT," at approximately 10 minutes and 25 seconds into the pursuit, then airs "Disregard, vehicle is continuing southbound."
- Sazama pulls his car into the back of Bartles' truck at the location of the shooting, approximately 10 minutes and 50 seconds after the pursuit started.
- As Sazama shifts into Park, dispatch airs, "Shots fired, shots fired."
- When Sazama opens the door of his patrol car loud accelerating and gunshots can immediately be heard. This represents the second volley of shots fired by Sergeant Stimac.

Additional Evidence

1) Firearms, ballistics, and Bartles' truck.

- Sergeant Stimac's firearm was the only one discharged during this event.
- Stimac fired 8 total rounds, all of which entered Bartles' truck.
- 4 rounds were recovered; 2 rounds were fragmented; 2 rounds remain in the truck.
- Two bullets were left in the vehicle, one in the steering column and one in the driver's door.
- At least two bullets and/or fragments hit Bartles (see injuries below).
- An examination of Sergeant Stimac's 9mm handgun revealed 8 cartridges were missing, which is consistent with the 8 defects/bullets accounted for in Bartles' truck and Bartles' injuries.

- Casings found on scene are consistent with only one shooter, shooting from the position of Sergeant Stimac.
- Bartles' truck was found running and was still in Reverse when scene was processed.
- The Front end of Bartles' truck had extreme damage from ramming Stuller's truck.
- A container (from Bartles' truck) that held white powder/rock substance with a gross weight of 4.75 grams - tested presumptive positive for methamphetamine.
- A black toiletry bag (from Bartles truck) contained two glass smoking pipes with white powder residue.



(Passenger side of Bartles' Ford Super Duty truck depicting the various bullet holes)

2) Bartles' injuries.

Bartles had an injury to the front of his left shoulder and an injury to the back of the left shoulder. Bartles had two additional injuries to his left side. Medical staff believed the injuries to be consistent with gunshot wounds. Bartles also had a contusion to the left chest/nipple area, which was likely due to a partial projectile being lodged in that area. Bartles was found to have a fractured clavicle, which was consistent with having been caused by a bullet impact. Thus, under Colorado law Bartles suffered "serious bodily injury."

3) Bartles' statements.

Bartles made statements indicating that he wanted the police to kill him, including telling hospital staff that "I wanted them to kill me" and telling his girlfriend that "that he would rather die by the cops because he was too much of a coward to do it himself."

VI. CONCLUSIONS

The CIRT investigation comported with both the letter and the spirit of §16-2.5-301, C.R.S. The investigation was thorough, objective, well-resourced, and all relevant materials were provided

in a timely manner. The investigation yielded ample evidence from which factual and legal conclusions could be reached. Sergeant Stimac cooperated with the CIRT investigation and provided a voluntary interview, lasting approximately 1 hour and 10 minutes.

As stated above, in applying the law to the facts in this incident we must ask the following questions:

1. Did Sergeant Stimac reasonably believe that firing her weapon into Bartles' truck was necessary to defend herself or others from what she reasonably believed to be the imminent, or continued, use of physical force by Bartles?
2. Would nonviolent means have been ineffective in effecting an arrest, preventing an escape, or preventing an imminent threat of injury to the peace officer or another person in this situation?
3. Did Sergeant Stimac identify herself as a peace officer and give a clear verbal warning of her intent to use her firearm, with sufficient time for the warning to be observed, and if not, is she exempted from having given that warning because it would have unduly placed her or her fellow officers at risk of injury or would have created a risk of death or injury to other persons?
4. Did Sergeant Stimac or her fellow deputies ensure that assistance and medical aid were rendered to Bartles as soon as was practicable?
5. Did Sergeant Stimac or fellow deputies ensure that any identified relatives or next of kin of Bartles, if he sustained serious bodily injury, were notified as soon as practicable?

To avoid redundancy, questions 1 and 2 will be addressed together. Subsequently, questions 3, 4, and 5 will be addressed independently.

(Questions 1 and 2) Sergeant Stimac had both a reasonable belief that shooting was necessary, and that nonviolent means would have been ineffective in stopping Bartles.

It is important to understand the breadth of information possessed by Sergeant Stimac as she made her decision to shoot initially, and to shoot again a few seconds later. She heard Bartles had already been driving recklessly at high speeds for several minutes in a Ford Super Duty truck. She discussed hearing he was eluding both on the interstate and on the frontage roads while she was listening to the radio traffic. She also knew he had driven directly toward peace officers attempting to intervene.

While the information she remembered hearing over the radio was slightly different than the actual broadcast, she accurately remembered the airing of an "attempted manslaughter" by Deputy Sazama. She told Detective Chenoweth she heard, "He just tried to run me over" or "He just tried to hit me," and "We have charges of attempted manslaughter," or something similar.

Sergeant Stimac discussed her perception that Bartles was escalating when she heard he was driving at police, stating, “the suspect just made this a whole new level now.” Her perceptions from radio traffic are also buttressed by what she observes when she first sees Bartles driving. She remembers seeing his truck “booking it down the highway,” and she knew it was important to get him to stop. In her words: “He had ... already shown that he has no regard for the deputies” and “had already tried to ram or run over deputies previously and was unconcerned with anybody’s safety or welfare.”

Further supporting the objective reasonableness of Sergeant Stimac’s actions were her reasonable perceptions that “obviously this guy was wanting to get away no matter what, even taking the life of a police officer, and the purpose was to pinch the vehicle so he could not flee again, and he could not injure anybody. We needed to pinch in to restrict his movement.” This frame of mind, which is supported by the objective behavior exhibited by Bartles, supports not only the initial attempts to pinch Bartles’ truck, but also the need to stop him when he attempts to flee from the pinch.

Sergeant Stimac’s observations and thoughts as she opened her door provide further evidence of the rationality of her decision-making: “The suspect truck is moving and I’m hearing the roar of the engine at the same time, and then I see him going forward - it was balls to the wall, going for it.” It is clear from her statements and the video that she was accurately perceiving the threat posed by Bartles by not giving up, and instead accelerating to break free at extreme risk to all deputies in the area, including Stimac.

Sergeant Stimac’s perception that a deputy was either being injured or in fear of imminent injury or death when she opens the door is also relevant to her use of force. Whether her perception was entirely accurate is not dispositive; rather, we must determine whether the perception was reasonable under the circumstances. While seeing the truck move and hearing the engine rev, Sergeant Stimac describes hearing “distressful screaming” and concurrently hearing loud engine revving, and sirens. Sergeant Stimac believed one of her deputies was “either being pinned, or underneath the tire” or in imminent risk of that occurring, so she shot with the “intent to disable the driver.”

It is noteworthy that the screaming Sergeant Stimac is hearing before the second volley of shots is likely the very loud and high-pitched shouting of Deputy Stuller (verified on his body worn camera footage) combined with the other co-occurring mechanical sounds, and possibly Bartles’ own screaming. So, while her perception that a deputy was possibly being injured or under the truck was inaccurate, it was nonetheless based in fact, and thus, was reasonable.

Sergeant Stimac’s perception that violent, and potentially deadly, force was necessary on January 10th can be gleaned from her raw description of Bartles’ behavior at the scene. She refers to the truck coming forward and the driver showing complete indifference; she says “. . . he doesn’t give two shits about the fact that we’re cops, the fact that we’re human, and he is doing whatever he can to get out.” Based on all the attendant facts, including the video evidence, this vivid description must also be seen as reasonable.

The evidence shows that nothing the deputies did to intervene on January 10th had its intended effect. Simply put, several options to address Bartles' were exhausted. From initial attempts by Deputy Sazama to merely talk to Bartles, to an attempt to pull him over, to efforts to slow him down or stop him by using police vehicles – nothing was successful. Even after Bartles' truck had been spun around and surrounded by multiple police vehicles, it was clear that he was not done. Sergeant Stimac's decision to shoot Bartles to stop him from escaping the scene and possibly injuring or killing a peace officer or civilian must be said to have been reasonable and necessary, as no other available means would likely have stopped him.

Sergeant Stimac told Detective Chenoweth that to let Bartles go "would be allowing this person who obviously doesn't care about somebody else's life to continue on their rampage." She relayed her concern for both peace officers and innocent and unaware civilians who may have found themselves in Bartles' path.

With regarding to the use of her firearm, and thereby the possibility of deadly physical force, she said:

"There was no tool I could use on my duty belt - there was nothing at my disposal that I could utilize quick enough ... the only thing I had available, the only thing that applied, was my firearm because I had to disable that truck by disabling the driver, by incapacitating the driver. The only way I could do that - because he was sitting inside a metal weapon that was on four wheels that were actively moving - the only thing that I could do to stop that, was use my firearm. There was nothing else I could do. More injuries would've happened, something else would've happened if I used anything else or failed to act."

It is also apparent from Bartles' behavior, including his statements at the hospital and to his girlfriend, that he was baiting the police and was willing to engage in conduct to provoke them to use deadly force against them. His statements regarding wanting to be killed by the police supports the behavior that the peace officers witnessed, and thereby, support their perceptions as reasonable.

A review of the totality of the evidence leads to the conclusion that Sergeant Stimac's use of force was both objectively and subjectively reasonable under the circumstances, and no lesser degree of force would have been effective in stopping Bartles. Given the seriousness of the threat posed, my conclusion would be the same even if deadly physical force was used (*i.e.* death actually resulted).

(Question 3) Sergeant Stimac was exempted from giving the verbal warning because it would have unduly placed her or her fellow officers at risk of injury or would have created a risk of death or injury to other persons.

There is no audio to go along with Sergeant Stimac's body worn camera footage for the first 29 seconds, so it is impossible to determine exactly what, if anything, was said by Stimac before then. As soon as the sound comes on (after the final volley of shots) Sergeant Stimac is heard yelling, "Show me your hands!" and "Put your hands out the window!"

Sergeant Stimac remembers giving verbal commands to Bartles but doesn't remember exactly what she said given the stress of the moment. She only remembers that her warning commands came after her first shots. She described it this way: "I pull out my firearm, it's happening so fast, it needs to stop, so I shoot, and my commands were given sometime after that, until I confirmed that there was time to just breathe and make sure everybody was good." Because of the noise and Bartles' location inside his truck with the window rolled up, it is noteworthy that no verbal warning given before the first shots were fired could likely have been heard by Bartles.

While the answer to the verbal warning question is ambiguous at best, the evidence in this case supports a conclusion that under these circumstances Sergeant Stimac was exempted from having to give the statutory warning, as to do so may have unduly placed her or her fellow officers or the public at risk of injury or death. The speed with which events developed once Sergeant Stimac's car came to a stop presented a very dangerous and dynamic situation requiring immediate action to stop the threat posed by Bartles. Sergeant Stimac was faced with a determined, irrational driver who had already driven at deputies - who was essentially using his truck as a lethal weapon. As soon as she began to open her door, with mere inches between her and Bartles' truck, she was confronted with his truck thrusting into Deputy Stuller's vehicle, and the sounds of a screaming engine and metal on metal from Bartles' repeated attempts to break free. Facing such circumstances, it would be unreasonable to require warnings before an attempt by Sergeant Stimac to save lives.

(Question 4) Sergeant Stimac or her fellow deputies ensured that assistance and medical aid were rendered to Bartles as soon as was practicable.

While Sergeant Stimac did not personally tend to Bartles' injuries, she was able to see that medical aid was immediately being rendered at the scene. Thus, the Larimer Sheriff's Office overall response was within statutory requirements to render medical aid.

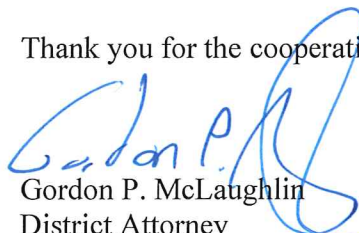
(Question 5) Investigating peace officers ensured that any identified relatives or next of kin of Bartles were notified of his injuries as soon as practicable.

Other peace officers involved in the investigation contacted Bartles' family members once he was hospitalized and serious bodily injury (fractured clavicle) was determined by medical staff. Sergeant Stimac was not aware of the extent of the injuries to Bartles and thus, other investigating officers fulfilled the statutory notification requirements.

The totality of the evidence presented through the CIRT investigation reveals that both the actual and perceived circumstances Sergeant Stimac faced on I 25 on January 10, 2022, justified her actions in discharging her firearm. As a result, I find that no charges can, or will, be brought against Sergeant Jackie Stimac or any other involved peace officer.

I thank all members of the Eighth Judicial District CIRT for their efforts in conducting a thorough and professional investigation.

Thank you for the cooperation of your agency in the completion of the investigation

 2.10.22
Gordon P. McLaughlin
District Attorney
Eighth Judicial District