



OFFICE OF THE DISTRICT ATTORNEY
TWENTIETH JUDICIAL DISTRICT

Michael T. Dougherty, District Attorney

April 1, 2024

VIA ELECTRONIC MAIL

Sheriff Curtis Johnson
Boulder County Sheriffs Office
5600 Flatiron Parkway
Boulder, Colorado 80301

Chief Matthew Packard
Colorado State Patrol
700 Kipling Street
Lakewood, Colorado 80215

Re: Investigation and legal analysis of the use of force against Efrain Inda on December 24, 2023, involving Colorado State Patrol Trooper Bockhold as well as Deputy Davis, Deputy Barcenas, and Deputy Finkbiner of the Boulder County Sheriff's Office, on Highway 36 near Mile Marker 42, County of Boulder, Colorado.

Dear Sheriff Johnson and Chief Packard:

The investigation and legal analysis of the fatal shooting of Efrain Inda on December 24, 2023, involving Colorado State Patrol Trooper Bockhold and Deputy Davis, Deputy Barcenas, and Deputy Finkbiner of the Boulder County Sheriff's Office has been completed.

The Boulder County Investigation Team, also known as the Boulder Critical Incident Team ("BCIT"), investigated this case. The multi-agency team is designated to investigate use-of-force incidents in which any law enforcement officer within the 20th Judicial District uses deadly, or potentially deadly, physical force against a person, while acting under the color of official law enforcement duties. This definition and team protocol are broader than that required by state law, which is limited to incidents involving the discharge of a firearm by a peace officer that results in injury or death.

I want to acknowledge the Colorado State Patrol ("CSP") and Boulder County Sheriff's Office ("BCSO") for notifying the BCIT following the incident. By doing so, CSP and BCSO enabled the BCIT to respond and investigate the use of force by the officers. Consistent with Boulder County protocol, CSP and BCSO did not participate in this use-of-force investigation involving Trooper Bockhold, Deputy Davis, Deputy Barcenas, and Deputy Finkbiner.

The BCIT investigation was conducted for the purpose of determining whether criminal charges are warranted against Trooper Bockhold, Deputy Davis, Deputy Barcenas, and Deputy Finkbiner for the lethal use of force against Efrain Inda (DOB: 05/12/1973) on December 24, 2023, within Boulder County. The investigation and review of this incident does not evaluate nor review the appropriateness of police tactics or whether policies and procedures were followed. Colorado State Patrol and Boulder County Sheriff's Office will be responsible for conducting the review of police tactics and the response by their officers.

My decision, based on criminal law standards, does not limit administrative action by CSP or BCSO or any civil action where less stringent laws, rules, and levels of proof would apply. The authority and role of the District Attorney is to determine solely whether Trooper Bockhold, Deputy Davis, Deputy Barcenas, and Deputy Finkbiner committed a criminal offense that can be proven beyond a reasonable doubt.

BACKGROUND

The BCIT completed an investigation into this incident and generated detailed reports and documentation. The file is voluminous and includes recorded witness interviews, police communications, reports, photographs, and video recordings related to the incident.

A review of the reports and documentation filed with my office has been completed and I, along with members of my staff, have been fully briefed regarding this incident by Team Commanders in charge of the investigation. I conclude that, under the applicable Colorado law, no criminal charges can or should be filed against Trooper Bockhold, Deputy Davis, Deputy Barcenas, or Deputy Finkbiner. Trooper Bockhold, Deputy Davis, Deputy Barcenas, and Deputy Finkbiner did not commit any crime that could be proven beyond a reasonable doubt.

My findings, analysis, and conclusions of law with respect to Trooper Bockhold, Deputy

Davis, Deputy Barcenas, and Deputy Finkbiner's use of force in this incident are as follows:

SUMMARY OF DECISION

Applying the applicable statutes to the facts presented by this investigation, Trooper Bockhold, Deputy Davis, Deputy Barcenas, and Deputy Finkbiner are not subject to criminal prosecution for their actions. In all cases, including those involving law enforcement officers, the District Attorney's criminal filing standard requires that there be a reasonable likelihood of conviction to bring criminal charges against an individual. As in other cases prosecuted by this office, this legal and ethical requirement guides our analysis.

The evidence establishes that, at the time Trooper Bockhold, Deputy Davis, Deputy Barcenas, and Deputy Finkbiner discharged their service weapons, it was reasonable for the officers to believe that Mr. Inda was armed with a firearm and that officers or bystanders were in imminent danger of serious bodily injury or death. Trooper Bockhold, Deputy Davis, Deputy Barcenas, and Deputy Finkbiner discharged their weapons at Mr. Inda after a lengthy interaction during which Mr. Inda repeatedly yelled at officers to shoot him and refused commands to move away from his firearm even after being struck with less lethal rounds. Mr. Inda reached for and grabbed his firearm pointing it towards officers before they fired the lethal rounds. Additionally, based on Colorado law, the deadly physical force that Trooper Bockhold, Deputy Davis, Deputy Barcenas, and Deputy Finkbiner used in response to the situation was reasonable and appropriate.

The discharge of firearms in this case resulted in the death of Efrain Inda, and therefore this report is mandated by C.R.S. §20-1-114(1) and C.R.S. §16-2.5-301. Additionally, as District Attorney, I believe this report is essential to inform the public of the nature and reasons for my decision not to file charges against Trooper Bockhold, Deputy Davis, Deputy Barcenas, and Deputy Finkbiner. The release of this report furthers the interests of transparency and explains the circumstances under which the law enforcement officers fired their weapons and are not criminally liable. Also, as you are aware, our office conducts a Community Town Hall after every officer-involved shooting to fully address any questions from community members.

DETAILED STATEMENT OF FACTS

On December 24, 2023, at 11:38 a.m., CSP Corporal Ziadeh was on routine patrol traveling westbound on Highway 36. He was just west of the McCaslin Boulevard exit when he noticed a Dodge Charger that was pulled over on the right shoulder of the road with the hazard lights on. Corporal Ziadeh pulled up behind the car to see if the driver needed help.

As Corporal Ziadeh pulled up, he noticed the front passenger side door was open and there appeared to be a bullet hole in the window. Corporal Ziadeh noticed the windshield wipers on the Charger were moving and he also noticed movement in the car. Corporal Ziadeh wanted to

check on the person in the car and made a call to request for additional law enforcement cover before he made contact. In his radio call, Corporal Ziadeh mentioned the bullet hole.



Image of the Dodge Charger from CSP Trooper Ziadeh's Dash Cam

CSP Trooper Bockhold responded to Corporal Ziadeh's request for cover. When he arrived at 11:47 a.m., he blocked the right lane of traffic with his vehicle and went to the passenger side of Corporal Ziadeh's patrol vehicle. Corporal Ziadeh began to give commands to the person in the Dodge Charger (later identified as Efrain Inda, DOB: 05/12/1973) to put both hands outside of the vehicle, using the CSP vehicle's PA system.

Mr. Inda repeatedly failed to comply with commands. He put his hands or his foot out, then drew them back in. At 11:49 a.m., Mr. Inda stepped out of the car carrying a handgun in his right hand and his cellphone in the other. At first, Mr. Inda held his arms up, then put them down and back up rapidly. Corporal Ziadeh and Trooper Bockhold repeatedly told Mr. Inda to put the gun down on the trunk of the car. Mr. Inda walked to the back of the car and eventually placed the handgun on the car trunk and stood next to it. He showed law enforcement the phone in his left hand.

At 11:50 a.m., BCSO deputies began arriving on scene. Deputy Williams retrieved his less lethal shotgun and positioned himself at the passenger side door of Corporal Ziadeh's patrol vehicle. Deputy Barcenas began communicating to Mr. Inda in Spanish at 11:56 a.m.

While officers attempted to speak with Mr. Inda, he also was speaking on the phone. He yelled "Shoot me" to officers and placed his hand near the gun on the car trunk before moving it away. CSP Officers Bockhold and Ziadeh as well as Deputy Barcenas repeatedly requested in both English and Spanish that Mr. Inda come to them and leave the gun on the trunk. They told him they did not want to shoot him, that he was not in trouble, and that they would get him help.

At 12:01 p.m., Mr. Inda tossed his cellphone towards officers. It landed in between Mr. Inda and the officers but was too far away for officers to reach or to communicate with the

person on the phone. Officers heard a male voice on the phone who identified Mr. Inda as his father, but the individual on the phone seemed unable to hear officers. Deputy Barcenas again attempted to get Mr. Inda to move away from his gun and to come towards them to get his phone. Mr. Inda refused.

At around 12:04 p.m., law enforcement officers made a plan to fire less lethal rounds if Mr. Inda moved towards his gun again. The officers discussed that once the less lethal struck Mr. Inda, the plan was for the other officers to physically grab him to ensure Mr. Inda would not pick up his gun.

Then, Mr. Inda told Deputy Barcenas that he was going to pick the gun up and moved towards his gun. Deputy Barcenas repeatedly told Mr. Inda "No lo agares" ("Don't grab it.") Mr. Inda said "Shoot me" again. Deputy Williams confirmed with Deputy Barcenas that Mr. Inda stated he planned to pick up the gun. Deputy Barcenas confirmed that is what he heard.

At 12:05 p.m. Deputy Williams counted down and discharged less lethal rounds which struck Mr. Inda. Mr. Inda barely reacted to the less lethal rounds. Instead, he turned towards the gun on the trunk of his car, picked it up, and turned to point it at officers.



Still from Deputy Williams' BWC After Less Lethal Rounds were fired



Still Taken from Civilian Video After Less Lethal Rounds were Fired, as Mr. Inda Pointed His Gun at Law Enforcement Officers

Officers then fired lethal rounds at Mr. Inda as he fired at officers. He fell to the ground on the passenger side of his car. The shots were all fired within three seconds. The officers requested medical, then regrouped and approached Mr. Inda. They were unable to locate the firearm and first secured Mr. Inda. Once they identified where the firearm was located, officers began administering first aid at 12:08 a.m. Tragically, Mr. Inda was pronounced deceased on scene. Mr. Inda was later identified after investigation by BCIT and the Boulder County Coroner's Office.

As noted above, during the incident, Mr. Inda had pointed and fired his weapon. Almost immediately after lethal rounds were fired, Sergeant Woodard noticed that Deputy Barcenas had a hole in his left cargo pants pocket and that something inside of his pocket was emitting smoke. Deputy Barcenas asked, "was I shot?" He and Sergeant Woodard determined that a portable battery charger in Deputy Barcenas' pocket was struck by either a projectile or shrapnel, causing it to smoke. Thankfully, Deputy Barcenas was not injured by gunfire.

Deputy Barcenas' battery charger and pants were sent to CBI for analysis, but they were unable to identify whether a projectile or shrapnel caused the damage to the battery pack. However, CBI stated that the defect in his pants "is consistent with the passage of a bullet."



Image from Body Worn Camera of Deputy Barcenas' Pocket Smoking and a Photograph of Deputy Barcenas' Pants taken by CBI



Images of Deputy Barcenas' BWC Battery Pack

SCENE PRESERVATION AND EVIDENCE COLLECTION

Members of the BCIT processed the scene where this incident occurred as well as Mr. Inda's Dodge Charger. Photographs and video were taken before evidence was collected. Members of the team generated an overlay of a scene photograph showing where the officers and relevant pieces of evidence were located during and after the shooting.



Diagram showing where officers were located during the shooting in relation to Mr. Inda's vehicle (upper left-hand corner)- cones and scene markers note the locations of casings and other evidence.

As the scene processing took place, a storm moved in, and it became windy before snow began to fall. To preserve as much evidence as possible, officers on scene placed cones down to prevent casings and other lighter objects from blowing away.

On scene, a total of fourteen spent 9mm shell casings stamped with WIN 9mm LUGER +P, as well as three less lethal shotguns shells were located around, behind, and on top of the law enforcement vehicles parked on scene. These shell casings were consistent with the ammunition used by the law enforcement officers. Additionally, pieces of less lethal rounds, including two bean bags were collected. BCIT noted a defect in the CSP vehicle that appeared to be a bullet hole with a trajectory from behind the open door, where law enforcement took cover, towards Mr. Inda's car.



Photographs of the defect in front driver's side of the CSP vehicle.

There was also a defect located in Mr. Inda's front passenger side window. On further inspection, there was no damage or glass located inside of the Dodge Charger. Based on training and experience, Colorado Bureau of Investigation ("CBI") Agent-In-Charge Slater stated, "it appeared to me the defect was caused by a bullet that has been fired from a gun inside the car and that bullet traveled through the passenger window and exited outside the car."

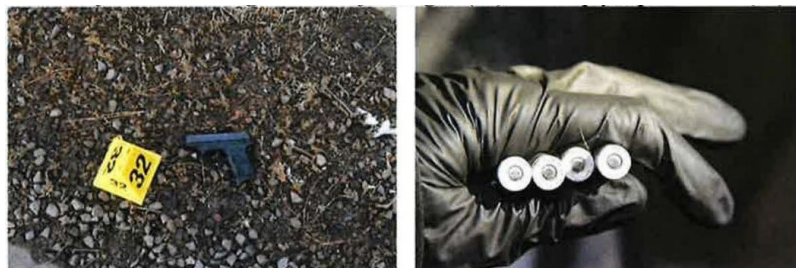


Photographs of the defect in Mr. Inda's Dodge Charger front passenger window that was noticed by Corporal Ziadeh when he first pulled up behind Mr. Inda's Dodge Charger.

Near Mr. Inda's body, BCIT located an empty tequila bottle. BCIT additionally located a Ruger 9mm EC9S handgun with the serial number etched off near Mr. Inda on the side of the road. The Ruger 9mm's capacity was seven rounds in the magazine and one in the chamber. BCIT inspected the firearm and found four rounds.



Photo of Scene showing location of handgun (32) and empty liquor bottle (30).



Handgun Mr. Inda had during incident and the rounds recovered from the handgun.

Under Mr. Inda's body, BCIT located a spent 9mm casing stamped with NFCR 9mm LUGER. Inside Mr. Inda's Dodge Charger on the rear passenger side floorboard, BCIT located a second spent 9mm casing stamped with NFCR 9mm LUGER.



Casing shot by Mr. Inda's handgun located under Mr. Inda after shooting.

These shell casings were sent to the laboratory at CBI for comparison testing. Testing revealed that Mr. Inda's Ruger 9mm handgun was operational and that both the shell casing located inside of the Dodge Charger and the shell casing located underneath Mr. Inda's body were both shot from Mr. Inda's gun.

As you are aware, the BCIT investigation into this incident was significantly delayed due to the firearm and casing analysis being completed.

INTERVIEWS WITH LAW ENFORCEMENT OFFICERS

BCIT Investigators interviewed all officers involved in the incident including Trooper Bockhold, Deputy Davis, Deputy Barcenas, and Deputy Finkbiner. Under the law, the officers were not required to provide statements to the BCIT. However, despite not being required to do so, all involved officers provided voluntary statements to investigators after being advised of their rights.

Interview with Corporal Ziadeh

Detective Cassidy Jones of the Longmont Police Department ("LPD") and Investigator Kristin Weisbach of the Boulder County District Attorney's Office interviewed Corporal Ziadeh at the Boulder County Sheriffs Office. Corporal Ziadeh has been with CSP for 15 years.

The details of Corporal Ziadeh's interview are primarily included in the detailed summary of facts above. In addition to those details, Corporal Ziadeh added that when he came upon Mr. Inda's parked car and saw the bullet hole in the passenger door window, his first thought was that someone either committed suicide, needed medical attention, or it was

a "set up." Corporal Ziadeh also stated that when Mr. Ina first exited his car holding the gun in his hand, Corporal Ziadeh did not shoot Mr. Ina because he was not pointing the gun at officers. Corporal Ziadeh believed the gun was real and loaded because there was a bullet hole in the car window.

Corporal Ziadeh recalled Mr. Ina repeatedly stating, "shoot me" and that he believed Mr. Ina was trying a "suicide by cop." Corporal Ziadeh stated Mr. Ina got increasingly "agitated," especially after he threw his phone towards officers.

At the time of the shooting, Corporal Ziadeh was positioned towards the rear of his vehicle behind Deputy Barcenas and Deputy Williams. He saw Mr. Ina appear to be hit by the less lethal shot. Mr. Ina looked down, but otherwise had very little reaction other than immediately reaching for his gun. It was then that Corporal Ziadeh recalled hearing four to five shots.



View of Mr. Ina from Trooper Ziadeh's BWC prior to the shooting

Corporal Ziadeh did not believe he shot because he had his gun at his side, but then questioned whether he might have fired without realizing it. A round count of Corporal Ziadeh's firearm after the incident revealed Corporal Ziadeh had not fired his service weapon.

After shots were fired, Corporal Ziadeh saw Mr. Ina was down. He approached with other law enforcement officers. Corporal Ziadeh first cleared the Dodge Charger to make sure there were no other individuals inside. Corporal Ziadeh then circled the Dodge Charger back to where Mr. Ina was lying. As they were assessing the situation, Corporal Ziadeh noticed Mr. Ina's Ruger handgun on the ground. Corporal Ziadeh then returned to his vehicle to get the AED to help render aid. Corporal Ziadeh took over compressions from Deputy Davis and switched off with other law enforcement officers until medical arrived.

Interview with Trooper Bockhold

DA Investigator Sarah Cantu and Detective Erin Starks of the Boulder Police

Department ("BPD") interviewed Trooper Bockhold at the Boulder County Sheriffs Office. Trooper Bockhold had been with the Colorado State Patrol for twenty-one-and-a-half years.

The details of Trooper Bockhold's interview are primarily included in the detailed summary of facts above. In addition to those details, Trooper Bockhold confirmed that when he arrived on scene, he saw the bullet hole in Mr. Inda's car. Corporal Ziadeh made announcements over the PA for several minutes for Mr. Inda to put his hands outside of the car. Mr. Inda put his arm or leg out but would then withdraw it back inside. Mr. Inda then stepped out of the car with his gun in one hand and a cellphone in the other. Repeatedly Trooper Bockhold and Corporal Ziadeh gave commands for Mr. Inda to "put it down." Mr. Inda said "shoot me, shoot me" before walking to the back of his car and putting the gun on the trunk of his car.



View of Mr. Inda from Trooper Bockhold's BWC prior to the shooting

While standing next to his gun, Mr. Inda kept a "bladed" stance and put his arm on the trunk near the gun. He yelled "just shoot me" multiple times and was "fidgeting." After a discussion, Deputy Williams fired his less lethal shotgun, but it "didn't do anything." Mr. Inda grabbed his gun and swung the firearm towards them. Trooper Bockhold felt he was a fraction later shooting than others because he could tell Mr. Inda had been "already hit" and was turning as Trooper Bockhold fired once.

Trooper Bockhold felt he had to shoot because of the risk Mr. Inda posed to the traffic behind Trooper Bockhold and the other officers around him.

After the shooting, Trooper Bockhold provided cover for the officers as they assessed Mr. Inda until he was able to confirm Mr. Inda did not still have the gun in his hand. Trooper Bockhold located the gun. While deputies administered aid, he helped direct traffic and ensured possible witnesses were contacted.

Interview with Deputy Davis

DA Investigator Michael Bihrlle and Detective Max Nuezil of BPD interviewed Deputy Davis at

the Boulder County Sheriffs Office. Deputy Davis has been with the Boulder County Sheriffs Office since 2021. He began his career as part-time court security. He attended and graduated from the full-time law enforcement academy in 2023, completing his field training in November 2023. Deputy Davis estimated he had been a solo deputy for approximately six weeks at the time of the shooting.

The details of Deputy Davis' interview are primarily included in the detailed summary of facts above. In addition to those details, Deputy Davis stated he was dispatched to cover CSP who were at a vehicle with "bullet holes" in it and with a subject that "had a gun and was noncompliant." Deputy Davis positioned himself on the driver's side of another BCSO patrol vehicle that was parked to the left of the CSP patrol vehicle. Deputy Davis saw Mr. Inda at the rear of the car and later saw the "black slide and chamber of a gun."

Deputy Davis took position on the driver's side of the BCSO patrol vehicle, so there was an SUV between himself and the other officers. Deputy Davis was unable to hear much of the conversation between Mr. Inda and others but saw Mr. Inda "throwing his hands in the air." Mr. Inda appeared "frustrated and exasperated" and remained within arm's reach of his gun. Deputy Davis heard Mr. Inda say "shoot me." A few minutes later, Deputy Davis heard the less lethal fire and saw a round hit Mr. Inda on the left side of his abdomen. Mr. Inda "recoiled," brought his hands up, and "looked pissed." Mr. Inda then reached behind and grabbed his gun from the trunk of the car. Deputy Davis remembered feeling the "break" of his trigger but did not recall anything until after Mr. Inda was on the ground.

In viewing Deputy Davis' body worn camera, Deputy Davis approached Mr. Inda. Once Mr. Inda was secured, Deputy Davis checked Mr. Inda for a pulse and helped uncuff him before starting CPR.

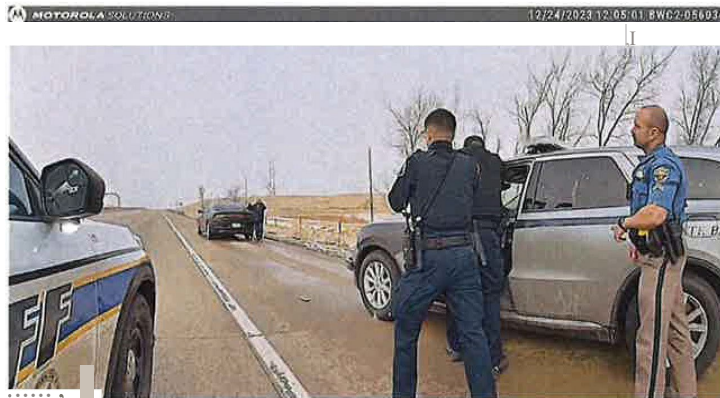
Deputy Davis stated that throughout his contact with Mr. Inda, he was in fear that Mr. Inda would grab his gun and shoot officers or shoot himself.

Interview with Deputy Finkbiner

DA Investigator Molly Gettman and Detective Ruth Christopher of University of Colorado Police Department ("CUPD") interviewed Deputy Finkbiner at the Boulder County Sheriffs Office. Deputy Finkbiner started his career in law enforcement with the Department of Youth Corrections in 2013. He was hired by BCSO to work in the jail from 2020 to 2022. He attended and graduated from law enforcement academy in 2023, completing his field training in October 2023.

The details of Deputy Finkbiner's interview are primarily included in the detailed summary of facts above. In addition to those details, Deputy Finkbiner explained that when he arrived on scene, he saw Mr. Inda at the rear of his car with a gun on the trunk. Deputy

Finkbiner recalled Mr. Inda was "erratic" and "fidgeting." Mr. Inda would raise his hands and reach for the gun. He repeatedly stated, "just shoot me."



View of Mr. Inda from Deputy Finkbiner 's BWC prior to the shooting

The officers discussed using less lethal and then going "hands on" with Mr. Inda to get him away from the gun so that they could resolve the situation without using lethal force. Deputy Finkbiner stated they wanted to get Mr. Inda "help."

After the less lethal round was fired, it struck Mr. Inda who bent forwards slightly. Mr. Inda then grabbed the gun and was "swinging it towards officers." Deputy Finkbiner perceived Mr. Inda as a deadly threat to himself, other officers, and traffic. Specifically, Deputy Finkbiner said "I thought I was going to get shot." Deputy Finkbiner then opened fire, shooting 6 shots. Deputy Finkbiner clarified that only when Mr. Inda had the gun in his hand and pointed it at officers did Deputy Finkbiner perceive Mr. Inda as a "deadly threat."

Interview with Deputy Barcenas

DA Investigator Kristin Weisbach and Detective Cassidy Jones of LPD interviewed Deputy Barcenas at the Boulder County Sheriffs Office. Deputy Barcenas started his career with the Boulder County Sheriffs Office in 2021. He graduated from the Academy in 2022 and completing his field training in May or June 2023.

The details of Deputy Barcenas' interview are primarily included in the detailed summary of facts above. In addition to those details, Deputy Barcenas added that when he arrived, he observed bullet holes in the car and a small, black handgun on the trunk, pointing towards traffic. Mr. Inda was "upset", and it seemed like "something was going on." Deputy Barcenas felt the situation was an "elevated threat."

Deputy Barcenas heard CSP troopers telling Mr. Inda, "You're not in trouble, just talk to us" and "we all have families, we don't want to do this." Mr. Inda responded, "shoot me, shoot

me." Mr. Inda had a phone in his hand and appeared to be talking to someone. Later, he told officers it was his son, "Alejandro." Mr. Inda "kissed the phone" as if he was saying good-bye.



View of Mr. Inda from Deputy Barcenas' BWC prior to the shooting

Deputy Barcenas began communicating with Mr. Inda in Spanish. Deputy Barcenas asked Mr. Inda, "What's going on, you look sad." Mr. Inda responded, "just shoot me."

Mr. Inda kept putting his hand near his gun. Deputy Barcenas believed Mr. Inda was trying to "mess with them" to see how they would react. Deputy Barcenas said, "don't do that" and "don't grab it" in Spanish. After a few more minutes, Mr. Inda said "I'm going to grab it" in Spanish. Deputy Barcenas relayed this information to Deputy Williams who had the less lethal shotgun.

After less lethal rounds were deployed, Mr. Inda grabbed his gun. Deputy Barcenas believed Mr. Inda was a "deadly threat" and that deputies and troopers could be killed. Deputy Barcenas then fired on Mr. Inda.

Interview with Deputy Williams

DA Investigator Michael Bihle and Detective Max Neuzil of BPD interviewed Deputy Williams at the Boulder County Sheriffs Office. Deputy Williams worked for the Aspen Police Department from 2009 - 2015. He was hired by BCSO in 2020.

The details of Deputy Williams' interview are primarily included in the detailed summary of facts above. In addition to those details, Deputy Williams stated that when he arrived on scene, he saw the Dodge Charger parked in front of the CSP vehicle. Mr. Inda was standing at the rear of the Dodge Charger and Deputy Williams saw the "slide" of a handgun on the trunk of the car.

Deputy Williams saw all the officers on scene had their handguns, so he decided to go back to his vehicle and grab his less lethal shotgun. When he returned, he heard one of the troopers "trying to talk the male down." His initial impression was that Mr. Inda was "trying to push a confrontation." Deputy Williams told the interviewers he felt "scared at the unpredictability of the situation. There's a handgun within literally arm's reach of him." Mr. Inda appeared "agitated" and under the influence.

Deputy Williams tried to de-escalate Mr. Inda and get him to move away from the gun. Mr. Inda refused to come talk to the officers and kept talking on the phone. Deputy Barcenas attempted to talk to Mr. Inda in Spanish, but Mr. Inda remained noncompliant. Mr. Inda repeatedly told officers, "Just shoot me, just shoot me" Deputy Williams estimated he said "shoot me" approximately 5 or 6 times. Officers told him they did not want to shoot him.

Mr. Inda kept turning his body towards the gun on the trunk of the Dodge Charger. At one point, Mr. Inda put his hand down on the trunk inches away from the gun and tapped his fingers. At the time, Deputy Williams thought "he was going to shoot at us." Deputy Williams was surprised that officers did not fire at Mr. Inda when he had his hand near the gun. Deputy Williams also said he was afraid to shoot his less lethal without letting the other officers know of his plan because he was worried about sympathetic fire: "I thought if I shot one at him unannounced, other people might start shooting."

Deputy Williams told the other deputies that if Mr. Inda reached for the gun again, he would shoot the less lethal shotgun. Mr. Inda kept turning towards the gun. Deputy Williams felt he was "testing the waters" and getting "more and more bold."

Deputy Williams counted down and shot the less lethal at Mr. Inda. The projectile struck Mr. Inda in the upper torso. Mr. Inda stopped for "a second" and winced. Deputy Williams then shot the less lethal shotgun a second time. Deputy Williams then saw Mr. Inda's hand make a quick movement like he was reaching for something, and Deputy Williams heard shots. Deputy Williams was unable to see what happened clearly because he was looking down the sight of his less lethal shotgun.

After hearing the gunshots, Deputy Williams "hit the deck." When he got up, he saw Mr. Inda was no longer at the trunk of the Dodge Charger but was lying on the passenger side of the vehicle. Deputy Williams placed his less lethal shotgun in the CSP vehicle and drew his handgun. The officers "slowed everything down" and formed a contact team. Deputy Williams then re-holstered his handgun and drew his taser in case he needed it to help safely take Mr. Inda into custody. Deputy Williams approached Mr. Inda with the other officers and helped them render aid.

When asked if he gave Mr. Inda any warning prior to firing the less lethal shotgun,

Deputy Williams stated he did not give a warning because he believe the suspect was trying to commit "suicide by cop" and he did not want him to know he was being hit with a less lethal round. He explained that when he was a law enforcement officer in Aspen, they encountered a male attempting to commit suicide by cop. When the male was struck by a less lethal round, he thought he was struck by a standard lethal shotgun, so he dropped to the ground and let go of his firearm. Deputy Williams hoped Mr. Inda would think he was struck by a lethal round so that they could take him into custody.

Deputy Williams said he was "terrified" during the entire incident. He said, "it's terrifying for your team, the people behind, you know, bystanders, you know, for yourself," "that was obviously the last outcome of what any of us wanted."

Interview with Sergeant Woodard

DA Investigator Sarah Cantu and Detective Erin Starks of BPD interviewed Sergeant Woodard at the Boulder County Sheriff's Office. Sergeant Woodard had been in law enforcement for approximately twelve years, the last ten of which had been with BCSO. On December 24, 2023, Sergeant Woodard was supervising seven deputies, including Deputy Williams, Deputy Barcenas, Deputy Davis, and Deputy Finkbiner.

The details of Sergeant Woodard's interview are primarily included in the detailed summary of facts above. In addition to those details, Sergeant Woodard explained that when he arrived on scene, he noted the position of all the officers on scene and arranged for traffic to be stopped.

He saw a handgun on the trunk of the Dodge Charger that was "within reaching distance" of Mr. Inda. Deputy Barcenas was engaging with Mr. Inda in Spanish. Sergeant Woodard recalled that Deputy Barcenas "was pleading with this subject to comply, and to come to deputies, and to surrender." Mr. Inda was sometimes focused on Deputy Barcenas, but then his focus would shift elsewhere. At one point, Mr. Inda placed his hand on the trunk within a foot of the gun.

Deputy Williams responded to Mr. Inda reaching towards his gun by requesting authorization to use less lethal force, which Sergeant Woodard granted. Sergeant Woodard heard the less lethal discharge and saw Mr. Inda "bent over at the waist." He had been hit but was not incapacitated. Mr. Inda then reached for the gun and pointed in the direction of deputies. Sergeant Woodard heard a "volley of gunshots."

Once the shooting stopped, Sergeant Woodard heard a "hissing sound" coming from Deputy Barcenas' cargo pocket. Sergeant Woodard checked on him and made sure he was okay. He then saw Deputy Davis and Trooper Bockhold rendering aid to Mr. Inda.

INTERVIEW OF OTHER WITNESSES

Interview with David Kabal

Detective Xu ofBPD contacted David Kabal on December 24, 2023. David Kabal was an off- duty firefighter. He was shopping at Costco with a friend, Nina Griffin, when he saw US 36 was blocked off. At first it appeared to be a traffic stop, but once he saw the deputies had their guns drawn, he started recording the incident on his cellphone. He could not hear what was being said by the parties due to the traffic.



Still from David Kabal 's Video

David described the male as "upset" and "frustrated" and that he had his arms up. David observed deputies fire at the male and then the male shot back while simultaneously deputies fired on him. David was unable to distinguish between lethal and less lethal rounds as they sounded the same, but he did recall seeing a deputy holding a less lethal shotgun. David saw the male "point a gun" at deputies and was "almost 100% certain he saw recoil" from the male's gun. David added that he thought the male knew how to use the weapon as he profiled his body to the side after he grabbed the gun and backed away. David stated he felt it looked like a justified step taken by the deputies because it appeared the deputies made several attempts to de-escalate despite the male threatening the officers.

Interview with Nina Griffin

Nina Griffin was interviewed on December 25, 2023, by Detective Xu at the Boulder Police Department. Nina was with her friend David when they saw the traffic jam. They stopped to look to see if firefighters or EMS had responded to the incident. They parked on the shoulder of Highway 36 facing westbound.

Nina recalled seeing a male who appeared agitated at the back of a vehicle near the trunk. She was unsure if he was anxious or "meth-ed up." The male was fidgeting, putting his hands up and down, shouting, and making quick hand gestures. Nina could not hear what he was saying over the traffic.

Nina heard a "pop" and saw the male attempting to "shield" himself. She then heard a second "pop." Then the male reached for the gun and brought it out and fired one or two shots towards the deputies. She then heard lots of shots at that time.

Nina was unsure if the first shot was from a less lethal or a lethal weapon, but she said it sounded different from the rest of the "pops." Nina stated the shots were fired within 2 to 3 seconds and that the officers stopped firing after the male went down. The deputies stayed put for a few seconds and then approached the male with their guns drawn. At that time, she and David left the scene.

Interview with Cassandra Ortiz

On December 26, 2023, Cassandra Ortiz contacted the District Attorney's Office and provided a video of the incident. In her email she stated, "victim did not point at officers until shots were fired." Later that day, Investigator Michael Bihrlle and Detective Max Neuzil with BPD conducted an interview with Cassandra at the Boulder County Sheriffs Office.

Cassandra explained she was traveling home and saw the highway was shut down and saw a "whole bunch of cops." She started recording the incident from her car. She could not hear anything that was being said. Cassandra described the male as "irate" and said "his hands were going up and things like that."



Still from Cassandra Ortiz' video after Mr. Inda grabbed his gun and pointed it at officers.

In the video provided by Cassandra, there are two shots that coincide with the shots from Deputy William's less lethal firearm. Mr. Inda then turns away from the officers and grabs the gun off the trunk of his car. Then someone says "No," and as Mr. Inda turns towards the officers with the gun raised towards them, multiple shots are then heard.

Interview with Laisha Inda

On December 28, 2023, CBI Agent Martin Shaw interviewed Laisha Inda, Efrain Inda's daughter. Laisha's cousin, Meliza helped translate for Laisha.

Laisha explained that she did not have a good relationship with her father and that they would go years without speaking to each other. She purchased the Dodge Charger for her father and drove it to the Denver area around Thanksgiving 2023. She last spoke to her father a few days before Christmas Eve. She recalled her father sounded like he was having a "mental breakdown." She explained he was tired and apologizing and seemed out of it. Her father mentioned that he had a tumor, but he did not elaborate.

Laisha told Agent Shaw that her mother, Olga, and her older brother, Alejandro were on the phone with her father at the time of the incident. Olga called Laisha and conveyed information as it unfolded.

Interview with Alejandro Inda

CBI agents attempted to locate a number for Alejandro Inda after speaking with Laisha Inda but were unable to reach him. On February 8, 2024, Alejandro unexpectedly called CBI and provided an interview.

On December 24, 2023, Mr. Inda initiated a facetime call with Alejandro, his son. Alejandro recalled his father told him he had run out of gas, had no money, had an "abdomen tumor," and was going to commit suicide. Detective Tuck of BPD later confirmed that Mr. Inda's Dodge Charger was out of gas.

Alejandro said his father got out of the car and fired a round in the air. His father got back into the car and Alejandro could then hear an officer speaking to Mr. Inda. Alejandro said his father asked for help and the officer said he would try to get him help.

Alejandro recalled his father got out of his car with the gun. Alejandro tried to convince his father to leave the gun in the car. Mr. Inda told Alejandro he was going to shoot himself. Mr. Inda put his gun on the trunk of the car. Eventually, his father slid the phone on the ground towards the officers. Alejandro could not see what was happening after this. He heard officers firing and assumed his father's gun was still on the trunk of the car.

POSTMORTEM EXAMINATION OF EFRAIN INDA

A medicolegal postmortem examination was conducted on December 26, 2023, by Dr. Meredith Frank, a board-certified forensic pathologist. The Coroner's Officer confirmed that the deceased was Efrain Inda, date of birth May 12, 1973.

Mr. Inda sustained four bullet wounds. One in the head, one in the chest, one in the left arm, and one in the upper leg. The arm wound had a left to right and upward trajectory. The leg wound had a right to left and slightly downward trajectory. The chest wound had a front to back and downward trajectory. The head wound had a back to front and downward trajectory. There were additionally contusions and abrasions noted on the left chest/abdomen, likely due to less lethal rounds.

Mr. Inda had a right medullary adrenal mass of 15 cm.

An independent laboratory conducted a toxicological analysis for substances in Mr. Inda's blood, which was positive for alcohol, caffeine, amphetamine, and methamphetamine.

Dr. Frank opined that Mr. Inda's cause of death was multiple gunshot wounds and manner of death was homicide. "Homicide," as used in the context of a forensic pathologist's opinion of the manner of death, means that Mr. Inda was killed by another person. It does not reflect the statutory definition of homicide.

FIREARM ACCOUNTABILITY

Members of BCIT conducted the round count and uniform check for Corporal Ziadeh, Trooper Bockhold, Deputy Williams, Deputy Davis, Deputy Barcenas, and Deputy Finkbiner. All of the law enforcement officers were dressed in their patrol uniforms with badges and insignia plainly visible. CUPD Officer Stevensen conducted the firearms examination and testing of the lethal firearms. Trooper Bockhold, Corporal Ziadeh, Deputy Davis, Deputy Barcenas, and Deputy Finkbiner's firearms were functional and within factory specifications.

Deputy Davis was carrying a Smith & Wesson M&P 9mm. Members of BCIT inspected the firearm and found a 17 round magazine seated in the weapon which contained ten rounds, consistent with Deputy Davis having fired seven rounds.

Deputy Barcenas was carrying a Glock 17 9mm. Members of BCIT inspected the firearm and found a 17 round magazine seated in the weapon which contained 14 rounds, consistent with Deputy Barcenas having fired three rounds.

Deputy Finkbiner was carrying a Glock 45 9mm. Members of BCIT inspected the firearm

and found a 17 round magazine seated in the weapon which contained 11 rounds, consistent with Deputy Finkbiner having fired six rounds.

Trooper Bockhold was carrying a Shadow Systems XR920 9mm. Members of BCIT inspected the firearm and found a 17 round magazine seated in the weapon which contained 16 rounds, consistent with Trooper Bockhold having fired one round.

Corporal Ziadeh's firearm was inspected as well. There were no rounds missing, consistent with Corporal Ziadeh not firing his weapon.

BCIT also inspected Deputy William's less lethal shotgun. He was using a Remington 870 with a four round capacity. The chamber was empty. BCIT located one live less lethal round on the floorboard of the CSP vehicle where the less lethal shotgun was recovered. BCIT also recovered three spent less lethal cartridges on scene.

The officer's round counts were consistent with body worn camera and civilian footage, evidence found on scene, and officer interviews.

LEGAL AUTHORITY

Criminal liability is established in Colorado only if it is proven beyond a reasonable doubt that someone has committed all the elements of an offense defined by Colorado statute, and further proven beyond a reasonable doubt that the offense was committed without any statutorily recognized justification or excuse. While knowingly or intentionally shooting at another human being is generally prohibited by statute as an attempted assault or attempted homicide in Colorado, the Criminal Code specifies certain circumstances in which the use of physical force by a peace officer is justified.

C.R.S. §18-1-707 defines the circumstances under which a peace officer can justifiably use physical force in Colorado. In pertinent part, the statute reads as follows:

- (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 injuries 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 to the peace officer or another person;
 - (c) The force employed does not create a substantial risk of 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.

C.R.S. § 18-1-707

Independent of the analysis under C.R.S. §18-1-707, an officer can, also, be justified in using force pursuant to C.R.S. §18-1-704(1), which provides 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.

See C.R.S. §18-1-704(1)

LEGAL ANALYSIS

The determination of whether the officer's conduct was criminal is primarily a question of legal justification. The question of legal justification is whether a reasonable officer, confronted with the same facts and circumstances, could have concluded that it was necessary to use physical force to defend himself or another, and stop the threat that Efrain Inda

presented, and if so, whether that use of force was reasonable and appropriate in response to the threat. In this case, the answer to those questions is yes -- as applied to Trooper Bockhold, Deputy Davis, Deputy Barcenas, and Deputy Finkbinder.

An analysis under C.R.S. §18-1-704 is the same for law enforcement officers as it is for any other individual. The investigation revealed that at the time Trooper Bockhold, Deputy Davis, Deputy Barcenas, and Deputy Finkbinder discharged their service weapons, their actions were objectively reasonable to prevent the imminent threat of injury or death to themselves, other officers, or to the public.

Here, the investigation established that officers spoke to Mr. Inda and attempted to de-escalate the situation for over fifteen minutes. Despite Mr. Inda coming out of his car while holding his gun and his repeated erratic movements and requests for officers to "shoot him," the officers refrained from reacting with lethal force.

Only after Mr. Inda said he was going to grab his gun did Deputy Williams discharge his less lethal shotgun. The officers hoped that the less lethal round would stun Mr. Inda and allow them to disarm him without use of lethal force. However, Mr. Inda barely reacted to the less lethal round. Instead, Mr. Inda grabbed his gun, turned, and pointed it towards officers. Trooper Bockhold, Deputy Davis, Deputy Barcenas, and Deputy Finkbinder then discharged their weapons. Mr. Inda also fired his weapon as well during the volley.

Trooper Bockhold, Deputy Davis, Deputy Barcenas, and Deputy Finkbinder each stated that they felt it was necessary to fire their service weapons at the time Mr. Inda grabbed his firearm and pointed at them. This belief is not only reasonable but corroborated by a review of the video surveillance and the follow up interviews with witnesses. It is important to note officers first tried reasoning with Mr. Inda, then fired less lethal rounds, but lesser degree of force had not deescalated Mr. Inda.

Furthermore, consistent with the requirements under C.R.S. § 18-1-707, Trooper Bockhold, Deputy Davis, Deputy Barcenas, and Deputy Finkbinder ensured they had a clear shot of Mr. Inda and that there was no risk to other civilians. The officers also took steps to render immediate medical aid to Mr. Inda after the shooting in calling for medical assistance, conducting CPR, and using an AED device. Thus, Trooper Bockhold, Deputy Davis, Deputy Barcenas, and Deputy Finkbinder were legally justified in using physical force by both C.R.S. § 18-1-707 and C.R.S. § 18-1-704(1).

CONCLUSION

We find in our review of this incident that no conduct by Trooper Bockhold, Deputy Davis, Deputy Barcenas, and Deputy Finkbinder rose to the level of a criminal offense. It is the conclusion of my office that, based on the applicable law and the facts and circumstances of this case, law enforcement's actions during this incident were legally justified as set forth in C.R.S. § 18-1-707 and

C.R.S. § 18-1-704. Trooper Bockhold, Deputy Davis, Deputy Barcenas, and Deputy Finkbiner were legally justified in their use of reasonable and appropriate physical force in response to an imminent risk of death or great bodily injury to themselves, other officers, and any possible bystanders. As a result, my office will not be filing criminal charges against Trooper Bockhold, Deputy Davis, Deputy Barcenas, or Deputy Finkbiner.

I appreciate the cooperation provided by the Boulder County Sheriffs Office and Colorado State Patrol and the extremely thorough investigation conducted by the BCIT.

In the interest of transparency, I will be releasing this letter to the public and conducting a Community Town Hall. These materials will also be posted on the District Attorney's website. Pursuant to our policy, the Boulder County Sheriffs Office and Colorado State Patrol will become the custodian of records related to this case. Any future records inquiries will be directed to the Boulder County Sheriffs Office or Colorado State Patrol. Please contact me if you require further information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael T. Dougherty". The signature is stylized and cursive.

Michael T. Dougherty
District Attorney
20th Judicial District