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July 27, 2011

Dr. Patrick Allen
Larimer County Coroner
495 N. Denver Avenue
Loveland, CO 80537

Re: Investigation of death of Patrick Canaga on July 5, 2011

Dear Dr. Allen:

The criminal investigation surrounding the July 5, 2011 shooting of Patrick Canaga has been completed and submitted to my office for an opinion. As District Attorney, I am required to determine whether any criminal laws were violated during this incident. My review also includes determining if the degree of force used by Matthew Canaga was justified under pertinent Colorado statutes.

In addition to having representatives from my office at the scene, our investigation has included a review of reports, witness statements and findings from the Loveland Police Department. Since Matthew Canaga was an investigator for the Larimer County Coroner's Office, the Larimer County's Critical Incident Protocol was in place and followed during investigation of this shooting incident.

In determining whether the degree of force used by Matthew Canago was legally justifiable, my review is based on whether the following Colorado statutes involving the use of force were violated.

Section 18-1-704 of the Colorado Revised Statutes provides:

- (1) ... *"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.*
- (2) *Deadly physical force may be used only if a person reasonably believes a lesser degree of force is inadequate and*

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(a) the actor has reasonable ground to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving great bodily injury;"

The definition of "deadly physical force" is set forth in C.R.S. 18-1-901(3)(d). It reads:

"Deadly physical force" means force, the intended, natural, and probable consequence of which is to produce death, and which, does in fact, produce death.

Based on investigative reports submitted by the Loveland Police Department, certain facts were determined to have occurred. My review included detailed officer reports, search warrants and affidavits, witness statements, crime scene and evidence logs, crime scene sketches and photographs, medical records of Patrick Canaga, autopsy reports, NCIC and CCIC records, dispatch notes, officers handwritten notes, CD's of interviews and a Powerpoint summary . The enclosed CD outlines the events and circumstances at 903 and 907 Daphne Drive, Loveland, Colorado on July 5, 2011.

When Matthew Canaga saw Patrick Canaga approach his residence with a firearm, and after Patrick Canaga ignored repeated warnings to go back home, there was reason for Matthew Canaga to be fearful. That fear was heightened when Patrick Canaga used his gun to break the window in Matthew Canaga's front door. It is therefore reasonable for Matthew Canaga to believe, and in fact he did believe, that there was an imminent threat to his life.

Based upon the totality of the circumstances, I find that the degree of physical force used by Matthew Canaga against Patrick Canaga was justified under applicable Colorado law.

Sincerely,



LARRY R. ABRAHAMSON
District Attorney

Enclosure