



For Immediate Release
November 2, 2021

District Attorney Marc Bennett has completed the review of the use of deadly force that resulted in the death of Paul Peraza. The incident occurred on December 21, 2020 at 13th Street North and Webb Road in Wichita, Sedgwick County, Kansas.

SCOPE OF REPORT

This report details the findings and conclusions limited specifically to criminal liability of the officer employed by the Wichita Police Department who shot at Mr. Peraza on December 21, 2020.

The Office of the District Attorney has no administrative or civil authority regarding use of force investigations. Therefore, this report does not address any administrative review that may be conducted by the Wichita Police Department, provide any assessment of policy considerations, or address questions of possible civil actions where a lesser burden of proof would apply.

Questions as to whether the use of force in any particular case could have been avoided or de-escalated if the law enforcement officer(s) or citizen(s) had behaved differently in the moments leading up to the fatal use-of- force may not be properly addressed in a criminal investigation.

The sole question addressed by the District Attorney is whether sufficient evidence exists to establish beyond a reasonable doubt that a violation of the criminal laws of the state of Kansas occurred in this instance.

SUMMARY

On December 21, 2020, at 1540 hours, 911 dispatch received calls from bank employees of the Golden Plains Credit Union, 9555 E. Corporate Hills Drive, Wichita, Kansas. The two callers reported that a man had entered the bank, walked behind the counter and had begun "*taking all the money out of the drawers.*" The suspect was described as white male, 6', medium build, white ball cap, and wearing sunglasses.

One employee told dispatchers the male was leaving the area in an extended cab gray Toyota Tundra travelling north on Webb Road. The employee turned on the speaker function to the phone and a non-bank witness then told dispatcher that the suspect put the money into a blue duffel bag with white handles. The witness reported they had not seen the suspect with any weapons and that the male appeared to be in his mid to late 50's wearing a red coat. The witness described the suspect's vehicle as a gray 2016-2017 Toyota Tundra.

The 911 dispatcher relayed the following information to officers in the field via police radio:

- Bank Robbery at 9555 E. Corporate Hills Drive, Golden Plains Credit Union
- Man behind the counter taking money
- Suspect is leaving, white male, sunglasses, white cap, maroon jacket
- Suspect vehicle description Gray Toyota Tundra unknown tag
- Suspect 6', medium build
- Suspect believed to still be in parking lot
- Suspect vehicle now going north bound on Webb
- Extended cab vehicle

A police officer (Officer 1) employed by the Wichita Police Department was traveling southbound on Webb road when the call was dispatched. The officer quickly encountered two different gray Toyota Tundra pickups headed north in close succession. The officer turned around to drive north. When he did so, one of the gray Tundra's immediately sped up and began passing other motorists, including a large dump truck which the Tundra driver passed by crossing the center line into the inside lane of oncoming southbound traffic on Webb road, causing other motorists to swerve to avoid his Tundra.

As the Tundra drove through Central Avenue, the officer sped up to keep up with the

Tundra who drove at speeds from 60 mph to speeds approaching 80 mph in the posted 35 mph zone.

The Tundra driver, later identified as Paul Peraza, tried to turn east (right) at the intersection of 13th street and Webb road, but struck a stationary Chevy Suburban waiting to turn south in the inside (south) lane of west bound 13th Street.

Officer 1 pulled in behind the Tundra. The reverse lights of the Tundra illuminated and the pickup came backward, striking Officer 1's patrol car hard enough to cause identifiable damage to both vehicles.

Officer 1 exited his patrol car through the driver's door, and approached the Tundra on foot, yelling verbal commands to "stop." Mr. Peraza placed the Tundra into gear and began to accelerate in a northwesterly arc, striking a Honda Accord waiting near the suburban at the traffic light to travel west on 13th. As the Tundra struck the Accord and began to proceed west, Officer 1 fired his handgun four times through the window of the rear driver's side door, striking Mr. Peraza three times. One projectile struck the support frame of the driver's side door. Mr. Peraza was pronounced dead at the scene.

INVESTIGATION

The Wichita Police Department officer involved in the incident was removed from the area and his firearm was secured. Law enforcement officers at the scene gave voluntary statements to investigators with the Wichita Police Department and the Kansas Bureau of Investigations. The statements of four law enforcement officers at or near the scene of the shooting are included herein.

Civilian witnesses were interviewed by detectives with the Wichita Police Department and agents with the Kansas Bureau of Investigation. The statements of three eyewitnesses are included herein.

Crime Scene Investigators from the Wichita Police Department processed the scene. Evidence was submitted to the Kansas Bureau of Investigation for examination.

CIVILIAN WITNESS STATEMENTS

Investigators interviewed witnesses on scene and later at the Wichita Police Department.

Driver 1 (Chevrolet Suburban) was interviewed by investigators with the Wichita Police Department.

Driver 1 was stopped for a stop light at 13th Street and Webb Road facing west in the left hand turn lane on 13th Street preparing to turn left and go south on Webb Road. Driver 1 heard sirens and observed a pickup truck traveling northbound on Webb Road attempting to make a right hand turn off of Webb Road to go east on 13th Street. Behind the truck were at least two police vehicles with their emergency lights activated.

Driver 1 said the truck was going too fast to make the turn and ran into the front driver side of his (Driver 1's) Chevrolet Suburban. This pushed the Suburban back several feet. The driver of the suspect truck then attempted to back up, when a police vehicle approached from the south in what appeared to Driver 1 to be an attempt to block the suspect's path.

The driver of the suspect truck backed into one or both of the pursuing police vehicles. The suspect truck then tried to drive away to the north striking another, smaller civilian vehicle which was in one of the lanes of traffic on 13th facing west bound next to (north of) Driver 1.

At this point, it appeared to Driver 1 that the suspect pickup was moving west as the suspect driver was attempting to drive away. Driver 1 said at least one or possibly two patrol vehicles attempted to stop the truck's forward progression. Driver 1 heard four shots and wasn't sure whether officers were firing or the individual in the truck was firing. The truck ultimately came to a stop in the intersection.

Driver 1 said the driver of the truck was trying to evade the police. He observed several police officers at this point pointing their guns at the driver of the truck. He heard officers give commands to the driver of the truck to "*Stop*," and "*Stop, put your hands up*." Driver

1 exited his Suburban and remained at the scene.

Driver 2 (Honda Accord) was interviewed by investigators with the Wichita Police Department. Driver 2 was stopped for a red light at 13th and Webb Road. Driver 2 was facing west in the inside lane on 13th Street.

Driver 2 had his window down and heard loud noise like the “*roar*” of truck tires. A Toyota Tundra travelling north on Webb attempted to turn east on 13th Street and struck the vehicle next to him (Driver 1). Driver 1 saw an officer in a patrol car with his lights and siren on approaching behind the Tundra. Driver 1 observed the officer exit the patrol vehicle with his weapon drawn. Another officer arrived in a separate patrol vehicle. Both patrol vehicles were south of the suspect's truck. The driver of the Tundra backed up (to the south) and appeared to strike what Driver 2 thought must have been the curb given the sudden stop of the pickup.

Driver 2 heard the first officer with his weapon drawn give a command to “*Stop the vehicle*” three times. Driver 2 pulled forward in his vehicle five or six feet to block in the suspect truck. The driver of the truck then hit the gas and struck the front of Driver 2's vehicle pushing it three to four feet and causing damage to the front of Driver 2's vehicle. Driver 2 said the Tundra was under full acceleration at that point. Driver 2 said the truck was going to hit the second patrol car that had arrived. Driver 2 said the driver of the truck was “*hellbent on getting away and he didn't care...he'd hit an officer...he wasn't stopping.*”

When he relayed his impressions of the event, Driver 2 was not clear whether he thought the first responding officer or the second responding officer had fired at the suspect.

Driver 3 (Nissan Armada) was interviewed by investigators with the Wichita Police Department. Driver 3 was stopped at the red light at 13th and Webb Road on 13th Street in the curb lane facing west. Driver 3 said there was another car next to him facing west and then an SUV either behind the car next to him or in the left-hand turn lane. Driver 3 heard sirens and observed a truck going north on Webb Road attempt to make a wide turn

going east on 13th Street. Driver 3 said the truck was going too fast to make the turn. The truck struck the SUV and then tried to back up and turn around. An officer in a patrol car had stopped behind the truck. The truck then ran into the vehicle next to Driver 3. It appeared that the suspect driver was attempting to go west on 13th Street. Driver 3 said more police cars had arrived at this point. Driver 3 observed two officers with guns drawn yelling “*Stop. Get out of the car. Hands up.*” Driver 3 said one officer fired his weapon. Driver 3 wasn’t sure how many shots were fired.

The law enforcement officers involved in the incident gave voluntary statements to investigators:

Officer 1: Officer 1 was interviewed by a detective with the Wichita Police Department and a Special Agent with the Kansas Bureau of Investigation. He had nearly ten years of experience at the time of the incident.

On December 21, 2020, at 1540 hours (3:40 p.m.), Officer 1 was on patrol when the call of a bank robbery at the Golden Plains Credit Union, 9555 E. Corporate Hills Drive, was broadcast over the police radio by 911 dispatch. Officer 1 was in the area when the call was broadcast. Officer 1 was listening to the police radio as information was broadcast by a 911 dispatcher. Officer 1 recalled the dispatcher advising the suspect was behind the counter at the bank. The dispatcher then said the suspect had left the area in a brown Toyota pickup. The suspect was described as a white male. Officer 1 misunderstood from the dispatch that the suspect was armed with a gun.

Officer 1 was driving south on Webb Road and had passed Central Street. Officer 1 observed two Toyota Tundra pickups heading north on Webb Road. Officer 1 made a U-turn behind the two Toyota Tundra pickups. After Officer 1 made the U-turn he noted the driver of a brown colored Toyota Tundra tried to set back in the seat to minimize his profile to the officer. The brown Toyota Tundra then accelerated very rapidly north on Webb Road. The Toyota Tundra was going around 60 miles per hour and Officer 1 initiated the lights and siren on the patrol vehicle. Officer 1 notified the 911 dispatcher of

the pursuit of the bank robbery suspect. Officer 1 noted speeds approached 80 mph at one point during the pursuit. Officer 1 observed something like leaves or paper coming out of the interior or bed of the truck.

Officer 1 observed the Toyota Tundra pass traffic going northbound by crossing over into oncoming, south bound traffic. Officer 1 saw the Toyota Tundra attempt to make a right hand turn to go east on 13th Street. The driver of the Toyota Tundra was going too fast to make the turn and struck the left front area of a Honda Accord that was stopped on 13th Street. Officer 1 estimated stopping 10 to 15 feet behind the truck before exiting the patrol vehicle. The driver of the Toyota Tundra then accelerated backwards intentionally striking the front of Officer 1's patrol vehicle. Officer 1 saw the driver of the Toyota Tundra accelerating and turning the truck to go west directly at another officer (Officer 3) that was outside his patrol vehicle. Officer 1 believed the driver of the truck was going to run over the other officer or other drivers. Officer 1 fired at the driver of the truck through the left rear window of the truck with Officer 1's duty weapon, a 9mm handgun. The truck rolled forward and was stopped in the intersection by another officer (Officer 2) who had driven his patrol vehicle forward until his front bumper came into contact with the driver's door of the truck.

Officer 1 notified dispatch of shots fired. According to 911 dispatch, the time of the shooting was at 1546 hours (3:46 p.m.).

When the truck came to a rest, Officer 1 continued to give verbal commands to the suspect. Officer 1 initially observed the suspect leaning over with his hands up. An officer arrived with a K-9 which was sent into the truck through the shattered rear driver's side window of the truck. The suspect did not react to the dog entering the cab of the pickup.

Officer 1 and other officers covered the truck with their weapons until another officer arrived with a ballistic shield to allow the officers to safely approach the truck. After searching the cab near the driver, Officer 1 discovered that the suspect did not have a gun in his hands. Another officer checked the suspect for vital signs and found none. Officer 1 moved to the passenger side of the vehicle looking for a gun. Officer 1 did not locate a gun

inside the cab of the truck. Officer 1 was transported to the WPD Investigations Division to be interviewed.

Officer 2: Officer 2 was interviewed by two detectives with the Wichita Police Department. He had nine years of experience at the time of the incident

On December 21, 2020, at 1540 hours, Officer 2 was on routine patrol when the call of a bank robbery at the Golden Plains Credit Union, 9555 E. Corporate Hills Drive, was broadcast over the police radio by 911 dispatch. Officer 2 was south of the bank when the call came out and began to drive north on Webb Road. Officer 2 was going through the intersection at Kellogg when Officer 1 advised over the police radio that Officer 1 was in pursuit with the bank robbery suspect north on Webb Road from Central Street.

Officer 2 heard Officer 1 put out over the police radio that the suspect had wrecked at 13th and Webb. Officer 2 could see Officer 1's patrol vehicle turning to go east on 13th. Officer 2 observed something appeared to impact Officer 1's patrol vehicle. Officer 2 believed Officer 1 was outside of the patrol vehicle at that point. Officer 2 then heard shots fired. Officer 2 wasn't sure if Officer 1 or the suspect had fired a weapon. Officer 2 remained in the patrol vehicle at that point in case the suspect continued the pursuit.

Officer 2 observed the Tundra truck roll into the intersection and Officer 2 used the front bumper of the patrol vehicle to stop the forward motion of the truck.

Officer 3: Officer 3 was interviewed by two detectives with the Wichita Police Department. At the time of the incident, Officer 3 had over seven years of experience at the time of the incident.

On December 21, 2020, at 1540 hours, Officer 3 was on routine patrol when the call of a bank robbery at the Golden Plains Credit Union, 9555 E. Corporate Hills Drive, was broadcast over the police radio by 911 dispatch. Officer 3 was in the area of 13th and Webb at the time the call came out. Officer 1 announced over the police radio a pursuit with the bank robbery suspect in a Toyota truck north on Webb Road from Central Street.

Officer 3 was south bound on Webb Road and turned around to get into the pursuit. Officer 3 heard Officer 1 advise the truck had crashed attempting to turn east on 13th Street. Officer 3 arrived at 13th Street and Webb Road and observed the truck had crashed into two vehicles facing west bound on 13th Street. Officer 3 observed the truck back up into Officer 1's patrol vehicle. Officer 3 was unsure if Officer 1 was in or out of the patrol vehicle at this point. As Officer 3 exited his vehicle, he heard Officer 1 giving verbal commands to the Tundra driver. Officer 3 then heard Officer 1 firing shots.

Officer 3 said the truck was rolling forward at this point and he could hear Officer 1 giving commands to the driver to put up his hands. Officer 3 observed the driver of the Tundra then respond by putting his hands up. Officer 2 used his patrol vehicle to stop the forward motion of the Tundra.

CRIME SCENE INVESTIGATION

Wichita Police Department Crime Scene Investigators processed the scene of the shooting which was photographed and diagrammed. Scene investigators located, photographed, and collected items of physical evidence including a 2012 Toyota Tundra reported stolen from the 2200 block of South Fieldcrest Street on December 14, 2020. The tag on the vehicle was reported stolen off of a vehicle in the 1400 block of West Rita Street on December 14, 2020.

Investigators recovered a blue bag with money in the bed of truck, and a handwritten note from inside the cab of the truck with a list of local banks. No firearm was recovered from the Toyota Tundra.

FORENSIC EVIDENCE & AUTOPSY RESULTS

The firearm evidence collected including Officer 1's handgun and the four shell casings he fired.

An autopsy was performed on the body of Paul Peraza on December 22, 2020, at the Sedgwick County Regional Forensic Science Center. The final autopsy report, dated October 13, 2021, determined that Mr. Peraza died as a result of gunshot wounds to the "neck and trunk". According to the autopsy, Mr. Peraza sustained 3 gunshot wounds.

The toxicology report determined Mr. Peraza's blood (heart) tested positive for ethanol, 0.059 gm%; Norfentanyl, 5.9 ng/mL; Fentanyl, 11 ng/mL; Amphetamine, 0.12 mg/L; and Methamphetamine, 0.32 mg/L; his blood (Femoral) tested positive for Norfentanyl, 1.9 ng/mL; Fentanyl - 7.6 ng/mL; Amphetamine, Positive (< 0.10 mg/L); and Methamphetamine, 0.14 mg/L; and negative for methylenedioxymethamphetamine (MDMA); and that his vitreous was positive for Ethanol, 0.80 gm%.

KANSAS LAW

In Kansas all persons, including law enforcement officers, are entitled to defend themselves and others against the use of unlawful force. K.S.A. 21-5220 states:

(a) A person is justified in the use of force against another when and to the extent it appears to such person and such person reasonably believes that such force is necessary to defend such person or a third person against such other's imminent use of unlawful force.

(b) A person is justified in the use of deadly force under circumstances described in subsection (a) if such person reasonably believes deadly force is necessary to prevent imminent death or great bodily harm to such person or a third person.

(c) Nothing in this section shall require a person to retreat if such person is using force to protect such person or a third person.

The term "use of force" includes words or actions directed at or upon another person or thing that reasonably convey the threat of force, the presentation or display of the means of force or the application of physical force, including by a weapon. "Use of deadly force" means the application of any physical force which is likely to cause death or great bodily harm to a person.

The Kansas Supreme Court has made clear that the analysis of a self-defense claim

presents a “two prong test”:

“The first is subjective and requires a showing that McCullough sincerely and honestly believed it was necessary to kill to defend herself or others. The second prong is an objective standard and requires a showing that a reasonable person in [the same] circumstances would have perceived the use of deadly force in self-defense as necessary.” *State v. McCullough*, 293 Kan. 970 (2012).

With respect to a law enforcement officer’s use of force, in *Graham v. Connor*, 490 U.S. 386, 396 (1989), the United States Supreme Court clarified that any assessment of objective reasonableness must take into account the contextual realities faced by the officer:

“The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.”

“The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.”

A. Immunity

In 2010, the Kansas Legislature enacted a series of statutes addressing the use of force, including the use of deadly force, in the defense of a person or property, including a person’s dwelling. See K.S.A. (2018 Supp.) 21-5220 et seq. The new statutes became effective on July 1, 2011, and are commonly known as this state’s “stand your ground law.” *State v. Barlow*, 303 Kan. 804 (2016); *State v. Younger*, unpublished opinion, No. 116, 441 (Feb. 16, 2018).

K.S.A. 21-5231 (2018 Supp.) **Immunity from Prosecution**, reads,

- (a) A person who uses force which is subject to the provisions of K.S.A. 21-5226, and amendments thereto, is justified pursuant to K.S.A. 21-5222, 21-5223 or 21-5225, and amendments thereto, is immune from criminal prosecution and civil action for the use of such force, unless the person against whom force was used is a law enforcement officer who was acting in the performance of such officer's official duties and the officer identified the officer's self in accordance with any applicable law or the person using force knew or reasonably should have known that the person was a law enforcement officer.

K.S.A. (2018 Supp.) 21-5222, **Defense of A Person, . . . no duty to Retreat**, reads,

- (a) A person is justified in the use of force against another when and to the extent it appears to such person and such person reasonably believes that such force is necessary to defend such person or a third person against such other's imminent use of unlawful force.
- (b) A person is justified in the use of deadly force under circumstances described in subsection (a) if such person reasonably believes that such use of force is necessary to prevent imminent death or great bodily harm to such person or a third person.

K.S.A. (2016~~8~~ Supp.) 21-5224, **Use of Force; presumptions**, reads,

- (a) . . . a person is presumed to have a reasonable belief that deadly force is necessary to prevent imminent death or great bodily harm to such person or another person if:
 - (1) The person against whom the force is used, at the time the force is used:
 - (A) Is unlawfully or forcefully entering or has unlawfully entered and is present within, the dwelling, place or work or occupied vehicle of the person using the force; or
 - (B) has removed or is attempting to remove another person against such person's will from the dwelling, place of work or occupied vehicle of the person using the force; and
 - (2) The person using the force knows or has reason to believe that any of the conditions set forth in paragraph (1) is occurring or has occurred.

No such presumption of reasonableness exists if the person utilizing force does so against a law enforcement officer per K.S.A. 21-5224(b)(4):

- (b) The presumption set forth in subsection (a) does not apply if, at the time the force is used:

. . . (4) the person against whom the force is used is a law enforcement officer who has entered or is attempting to enter a dwelling, place of work or occupied vehicle in the lawful performance of such officer's lawful duties, and the person using force knows or reasonably should know that the person who has entered or is attempting to enter is a law enforcement officer.

K.S.A. 21-5230, addresses the **duty to retreat**,

“A person who is not engaged in an unlawful activity and who is attacked in a place where such person has a right to be has *no duty to retreat* and has the right to stand such person's ground and use any force which such person would be justified in using under article 32 of chapter 21 of the *Kansas*

Statutes Annotated, . . . K.S.A. 2018 Supp. 21-5202 through 21-5208, 21-5210 through 21-5212, and 21-5220 through 21-5231, and amendments thereto.”

On March 10, 2017, in *State v. Hardy*, 305 Kan. 1001, 390 P.3d30 (2017), the Kansas Supreme Court recognized that immunity granted by K.S.A. 21-5231 is distinct from self-defense, citing with approval the dissent in *State v. Evans*, 51 Kan.App.2d 1043 (2015):

Self-defense and immunity are clearly distinct concepts. If immunity were the same as self-defense, there would have been no need to adopt a specific immunity statute because K.S.A. 2014 Supp. 21–5222 would have sufficed. Perhaps most importantly, because K.S.A. 2014 Supp. 21–5231 grants immunity from arrest and prosecution rather than a mere defense to liability, it is effectively lost if a case is erroneously permitted to go to trial. [citation omitted] . . . [a] prosecutor must rebut a claim of statutory immunity before the case can go to trial. *Hardy*, 305 Kan. at 1009-1010.

On February 21, 2021, the Kansas Court of Appeals ruled in *State v. Dukes*, 59 Kan.App.3d 367 (2021), that the district court had appropriately found Mr. Dukes was immune under K.S.A. 21-5222. Mr. Dukes was approached by a man named Berryman who had sent him verbal threats in the past via Facebook (which Dukes testified he had not taken seriously). When Dukes saw Berryman approach, Dukes pointed a gun at Berryman. Berryman responded, "I got something for you," then ran back toward his car. The evidence was inconclusive as to whether Berryman held a weapon when he initially walked toward Dukes, but Mr. Dukes testified that he believed Berryman was going back to his car to get a gun given the statement, "I've got something for you." That is why Dukes said he shot and killed Berryman as he reached the car. Police later located a handgun on the floorboard of Berryman's car. The district court and the Court of Appeals ruled Dukes was immune from prosecution because the state's evidence could not overcome self-defense immunity:

After a defendant in a criminal case files a motion requesting immunity under K.S.A. 2020 Supp. 21-5231, the State must come forward with evidence establishing probable cause that the defendant's use of force was not statutorily justified. This generally means the State must show probable cause that (1) the defendant did not honestly believe the use of force was necessary

or (2) a reasonable person would not believe the use of force was necessary under the circumstances. *Dukes*, 59 Kan.App.3d, at Syl. 2.

The *Dukes* Court also added the following quote from *State v. Phillips*, 312, Kan. 643 (2021):

The State may also overcome a defendant's request for immunity by demonstrating that the defendant was the initial aggressor as defined in K.S.A. 2020 Supp. 21-5226 and thus provoked the use of force. *Dukes*, 59 Kan.App.3d, at 372.

B. Use of Force During Arrest

K.S.A. 21-5227, Use of Force; law enforcement officer making an arrest, States:

“A law enforcement officer, or any person whom such law enforcement officer has summoned or directed to assist in making a lawful arrest need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. Such officer is justified in the use of any force which such officer reasonably believes to be necessary to effect the arrest and the use of any force which such officer reasonably believes to be necessary to defend the officer’s self or another from bodily harm while making the arrest. However, such officer is justified in using deadly force only when such officer reasonably believes that such force is necessary to prevent death or great bodily harm to such officer or another person, or when such officer reasonably believes that such force is necessary to prevent the arrest from being defeated by resistance or escape and such officer has probable cause to believe that the person to be arrested has committed or attempted to commit a felony involving death or great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that such person will endanger human life or inflict great bodily harm unless arrested without delay.”

CONCLUSION

On December 21, 2020, an officer employed by the Wichita Police Department utilized deadly force resulting in the death of Paul Peraza.

Under K.S.A. 21-5222(b), a person may employ deadly force when the person reasonably believes that deadly force is necessary to prevent imminent risk of great bodily harm to himself or another.

Since 2011, under the Kansas "stand your ground" law, one who acts in defense of himself or to protect a third party is immune from prosecution. See K.S.A. 21-5231. Meaning, a person may not be charged, prosecuted (or subsequently sued) unless the state can establish that the person who utilized deadly force was *not* acting reasonably under the circumstances. In *Graham v. Connor*, the United States Supreme Court made clear that assessment as to the reasonableness of an officer's decision to utilize deadly force must be made within the context in which the officer found himself – not from the perspective of "20/20 hindsight."

The investigation established that after robbing the Golden Plains Credit Union, Mr. Peraza had driven North on Webb, fled from pursuing officers at speeds approaching 80 mph on a congested street, swerving into oncoming traffic along his path of travel, ultimately struck a civilian vehicle (Chevrolet Suburban) as he tried to turn east at a high rate of speed, reversed the stolen truck he was driving and struck the pursuing patrol vehicle, then struck another car (Honda) as he attempted to then go west on 13th Street, and finally attempted to continue west into the path of other cars as well as another, pursuing police officer exiting his patrol vehicle. It was at this point, Officer 1 fired his weapon. The officer's explanation that he believed Mr. Peraza posed a danger to the other officer and the public is supported by the facts.

Under these circumstances, Officer 1 is immune from prosecution under Kansas law.

Under Kansas law and the facts of the case, I conclude that no criminal charges will be filed against Officer 1.

A handwritten signature in black ink, appearing to read "Marc Bennett". The signature is fluid and cursive, with a long horizontal stroke at the end.

District Attorney Marc Bennett
*18th Judicial District of
Kansas*