

In the matter of the February 6, 2021 police-involved shooting in Gaithersburg, Maryland.

Pursuant to an agreement between our two offices, the Office of the State's Attorney for Howard County is hereby providing this written memorandum detailing our investigation and the conclusions we reached regarding a police-involved shooting that occurred on February 6, 2021 in the 6000 block of Olney Laytonsville Road in Gaithersburg.

Timeline of Investigation

On the morning of Saturday, February 6, 2021, Howard County State's Attorney Office received an email from Detective Eric Glass of the Montgomery County Police Department – Homicide Section. DSA Sandmann called Detective Glass on the phone and was informed by Glass that Montgomery County had a police-involved shooting in Gaithersburg, Maryland. Glass indicated that an off-duty sheriff deputy had shot and killed a person who had been running cars off the road with his vehicle. Upon locating the suspect, the deputy approached him. Glass indicated the suspect attacked the deputy with a bat or stick of some sort before being shot.

The initial information revealed that several 911 calls came in at just after 8 a.m. The callers told the 911 dispatcher that a multiple vehicle accident (airbags deployed) had just occurred in the 6000 block of Olney Laytonsville Road in Gaithersburg. Police and paramedics were immediately dispatched to the scene. The callers went on to say a person driving a Volkswagen had caused one vehicle to swerve off the road into a pole before continuing on and hitting a second vehicle in a head-on collision. The callers believed the driver of the Volkswagen was under the influence of something or had a mental impairment as he was acting crazy at the scene. He was trying to fight the people in the car he had the head-on collision with.

A deputy of the Montgomery County Sheriff's Office was driving his marked patrol vehicle on his way into work when the call came over his police radio. The deputy responded to the location of the accident. At the scene, he encountered the driver of the Volkswagen, who he described as a white male, taller than the deputy, average to thin build, salt and pepper hair with a black jacket on. When the deputy approached and asked the driver if he was okay, the driver began acting erratic. The driver then rushed the deputy and began attacking him with his hands. Shortly thereafter, the driver picked up a large stick and began striking the deputy over the head. The deputy gave multiple commands which were disobeyed by the driver and ultimately, the deputy fired multiple rounds striking and killing the driver at the scene.

On February 7, 2021, DSA Sandmann received a copy of a civilian cell phone video that captured the shooting that had been posted on social media (Instagram). DSA Sandmann contacted Det. Glass and asked him to figure out who posted the video. Glass indicated that he

knew about the existence of the video and was working on identifying the person who recorded the footage.

On February 8, 2021, DSA Sandmann had a conference call regarding the case with Detectives Glass and Marable. During the call, DSA Sandmann learned the names of the victim, Kevin Costlow and the deputy, Sergeant Frank Pruitt.

On February 12, 2021, Det. Glass requested DSA Sandmann to authorize subpoenas to Montgomery County Fire and Rescue and Suburban Hospital for their records and reports.

On February 15, 2021, Det. Glass emailed DSA Sandmann stating the wife of Mr. Costlow, Vera Costlow, had asked if we could return personal items (wedding ring, necklace, coins) of the victim to her. DSA Sandmann informed Glass there was no objection in returning the objects as they had zero evidentiary value.

On February 16, 2021, Det. Glass requested authorization for subpoenas to Verizon for phone numbers 703-796-0829 and 703-945-8079.

On February 16, 2021, Deputy Pruitt voluntarily gave a recorded statement to Det. Glass and Det. Marable with his FOP attorney (Jim Shalleck) present.

On February 22, 2021, Det. Glass sent DSA Sandmann an email asking if he should send swabs on Deputy Pruitt's holster to a lab for DNA analysis. DSA Sandmann stated that it wasn't necessary as the conclusion from the DNA analysis would have zero impact on the ultimate issue in this case.

On March 3, 2021, Det. Glass sent an email to DSA Sandmann saying that Deputy Pruitt asked if he could get his personal items (iPod, and keys) back from evidence control. It was agreed these items held no evidentiary value to the case and DSA Sandmann authorized their release.

On March 10, 2021, Det. Glass sent DSA Sandmann an email informing him that he hoped to have his case file completed and dropped off to DSA Sandmann by Friday, March 26, 2021.

On March 24, 2021, Det. Glass followed up on his previous email by requesting a little more time to finish his case file.

On April 12, Det. Glass dropped off his completed case file to DSA Sandmann for review.

Evidence Reviewe by Howard County State's Attorney's Office

- Witness Cell Phone Videos
 - Donovan Holman
 - Jimarr King

- Ring Video from 20529 Farcroft Lane (Costlow's neighbors)
- 911 Calls
- Police Radio Calls
- Computer Aided Dispatch (CAD) Reports
- Recorded Interviews
 - Ricky Asyer
 - Vera Costlow
 - Cidicley DaSilva Araujo
 - Donovan Holman
 - Michael Kapsak
 - Jimarr King
 - Erin Koester-Tusell
 - Paul Lennon
 - Mary Leopold
 - Robert Nastek
 - Sejal Patel
 - Frank Pruitt
 - Tommy Troxler
 - Jose Tusell Angulo
 - Gary Weiss
 - Amy Weiss
- Crime Scene Photographs
- Crime Scene Sketch
- Photographs of Deputy Pruitt
- MVA documents on Kevin Costlow
- Montgomery County Fire and Rescue
 - Incident Reports
 - EMS Reports
 - Statements
- Office of the Chief Medical Examiner
 - Autopsy Report
 - Photos
- Search and Seizure Warrants
 - 20528 Farcroft Lane, Gaithersburg
- Training Reports for Deputy Frank Pruitt
- Police Reports
- Officers Notes
- Nonessential Officer Statements
- Detectives Notes
 - Det. Glass

- Det./Sgt. Diaz
- Det. Then
- Det. Marable
- Det. Rule
- Det. Luhrs
- Body Worn Camera footage from other officers at the scene
- Audit on Deputy Pruitt's BWC
- Captain Marc Erme (MCPD) Report – Use of Force Expert
- MCSO General Orders
 - Use of Force
 - Authorized Weapons
 - Pepper Spray
 - Expandable Baton
 - Electronic Control Device ("Taser")
 - Body Worn Camera System
- Firearms Examination Unit Reports
- Crime Scene Unit
 - FARO Scans

Summary of Facts

On February 6, 2021, at approximately 8:00 a.m., Montgomery County Police responded to the 6000 block of Olney Laytonsville Road (Route 108) for the report of a vehicle collision. Upon arriving at the scene, the police encountered several witnesses who provided statements as to what occurred.

A civilian witness, Cidicley Da Silva Araujo was driving north on Route 108 towards Damascus when he saw a silver Volkswagen driving towards him at a very high rate of speed. The Volkswagen had crossed over the double yellow line and was in Mr. Araujo's lane and approaching him head-on. To avoid being struck, Mr. Araujo swerved to the right and ended up striking a telephone pole just off the road causing his vehicle to become completely disabled. The Volkswagen continued past at a high rate of speed towards another vehicle down the road where it ended up in a head-on collision with this second vehicle. Mr. Araujo described the person driving the vehicle as a white male with blonde hair and approximately 50 years old. He would later be identified as Kevin Costlow. After the accident, Mr. Araujo got out of his vehicle and walked down the road to take a picture of the Volkswagen. While doing this, Costlow was climbing out of the passenger side window of his car. As Araujo approached, Costlow grabbed a big piece of wood and came towards Araujo as if he wanted to fight. According to Araujo, Costlow was very "amped up" and was saying "what do you want, what do you want?" At this point, Araujo ran back to his car, but did not call the police.

Sejal Patel reported that she was driving on Route 108 towards Germantown. As she was crossing through the intersection of Fieldcrest and Olney Laytonsville Road, she observed a small silver vehicle driving right at her in the wrong lane. Before she could do anything, the silver vehicle collided with her head-on. After the collision, Ms. Patel called 911 and stayed in her vehicle until the police arrived. Ms. Patel did not recall seeing the driver of the silver vehicle before the accident but did remember seeing a white male get out of the vehicle after the crash with something in his hand.

Ricky Asyer was in his car delivering newspapers that morning when he came across Mr. Costlow's vehicle at the intersection of Olney Laytonsville Road and Fieldcrest. Asyer identified the vehicle as a silver Volkswagen Jetta. When he asked Costlow what he was doing, Costlow began walking towards Asyer's car spraying water on the ground and cursing. Costlow also began trying to light matches and throw them at Asyer, who remained in his vehicle the entire time. Due to the strange behavior of Costlow, Asyer put his car in reverse and left the area.

Tommy Troxler was traveling on Route 108 when he observed Kevin Costlow climbing out of the passenger side of a silver car. Costlow had two objects in his hand which appeared to be sticks of some sort. Troxler said the sticks were approximately 2 feet long and he was holding one like you would a baseball bat. Troxler stated that when he saw Costlow there were no police on the scene, but he did remember passing a Sheriff on Route 108 as he left the area.

Paul Lennon stated that he was at the light of Fieldcrest and Route 108 when he observed Costlow climbing out of a vehicle through the passenger side window. Lennon pulled up and got out to see if Costlow needed help. At this time, Costlow started running at Lennon screaming, cursing and swinging. Costlow then proceeded to get into the driver's seat of Lennon's pickup truck. Upon seeing this, Lennon grabbed Costlow and pulled him out of his vehicle and tried to shake some sense into him. Lennon then got back into his vehicle and drove off. He described Costlow as a white male with gray hair in his 60's.

Robert Nastek was heading north on Olney Laytonsville Road when he saw Kevin Costlow beating on the hood of car occupied by Asian females. Nastek pulled over and asked Costlow if he was okay, to which Costlow replied "where am I at? England?" Costlow then approached Nastek's vehicle and began throwing punches at Nastek, who had his window rolled down. Costlow then stepped back and began swinging some prayer beads. As Nastek began to pull away from the scene, he observed a sheriff pull up. Nastek approached the sheriff, later identified as Deputy Frank Pruitt, and told him to "be really careful. That guy is crazy. Just don't walk up on him." Nastek described Costlow as approximately 6 feet tall, gray hair, with a lavender neck tie.

Gary and Aimee Weiss were heading westbound on Route 108 when they observed what was later determined to be Kevin Costlow's severely damaged vehicle. After proceeding further west, Mr. Weiss remembered stopping his vehicle almost parallel to when Deputy Pruitt first encountered Costlow. Mr. Weiss stated that Pruitt pulled out his Taser and had his arms

extended pointing the Taser at Costlow. Mr. Weiss said that Costlow appeared very angry and agitated but not intoxicated. Weiss believed that it was either mental issues or drugs or a combination of both. At this point, Aimee Weiss began to feel a little uneasy, so Mr. Weiss began to drive away from the scene. As he drove away, Mr. Weiss observed Pruitt "running away from Costlow. Not completely turned around, but definitely running away." Mr. Weiss did not know if Pruitt had fired the Taser at Costlow. Weiss stated he never saw Costlow attack Pruitt with any wood in his hand, but Aimee Weiss remembered Costlow shoving Pruitt with both hands "really hard" at least two separate times. Ms. Weiss described Costlow as "so aggressive" and that it was "scary." The Weiss' had learned later that Pruitt had shot Costlow, but they had left the area before Pruitt ever pulled out his service weapon.

Erin Koester-Tusell was looking out the window of her home in the 6000 block of Olney Laytonsville Road when she saw a person, later identified as Kevin Costlow, trying to fight people who were stopped on the side of the road helping with a vehicle accident and that her husband, Jose Tusell-Angulo, went outside to see if anyone needed help. Ms. Koester-Tusell further stated that she observed one of the individuals involved in the accident go over to Costlow's car but ended up running away from Mr. Costlow. She also observed Costlow fighting with another man in a red pickup truck (witness Paul Lennon). She watched as Mr. Lennon had to physically pull Costlow out of his (Lennon's) truck before getting back in and driving off. Ms. Koester-Tusell also observed Deputy Pruitt arrive on the scene by himself. She stated that upon arriving, Costlow immediately became "physical" with Pruitt. During this time, she saw both Costlow and Pruitt in a "bear hug." Ms. Koester-Tusell believed Costlow to be on something as he was "obviously unwell." She explained that at one point, Pruitt had withdrawn his Taser and Costlow had retrieved a bat or stick out of his car and began hitting Pruitt with it. She stated the stick was approximately 3 or 4 feet long and that he was striking Pruitt on his head and shoulders. At this time, she said Pruitt had pulled out his gun and kept backing up as Costlow kept coming toward him. Pruitt then shot Costlow. Ms. Koester-Tusell believed four shots were fired. She described Costlow as looking "very agitated" at the time.

Jose Tusell-Angulo stated that he was having breakfast with his family when they heard a loud crash. He went outside to try and help and told his wife, Erin Koester-Tusell, to call 911. Mr. Tusell-Angulo observed a red pickup truck (witness Paul Lennon's vehicle) parked on the side of the road. He also observed the driver of the truck, Paul Lennon, fighting with Kevin Costlow. At one point, Lennon pulled Costlow out of his pickup, got back in and drove away from the scene. Mr. Tusell-Angulo stated that he did not want to get involved and that Costlow was acting crazy and yelling at cars as they drove by. Mr. Tusell-Angulo saw Mr. Da Silva Araujo approach Costlow. He tried to tell him not to interact with Costlow. Mr. Tusell-Angulo saw Costlow pull out a large piece of wood from his car and threaten Mr. Da Silva Araujo with it. At that point, Da Silva Araujo ran back to his car. Mr. Tusell-Angulo also witnessed Deputy Pruitt arrive on the scene in a marked vehicle. At this time, Tusell-Angulo headed back to his house. He did not witness the initial interaction between Pruitt and Costlow but did see Costlow take off his jacket while holding a large stick or bat. He observed Costlow swinging the stick several

times at Pruitt before Pruitt ultimately pulled out his gun. Mr. Tusell-Angulo said Costlow swung the stick and hit Pruitt in the upper portion of his body as Pruitt was attempting to back away. He continued to observe Costlow approaching to engage Pruitt while swinging the stick. Pruitt continued to back away until he fired his gun a couple of times at Costlow. However, Costlow continued to come at Pruitt who then fired a couple of more times.

Michael Kapsak stated he was travelling south on Route 108 towards Olney when he observed several accidents near Fieldcrest Road. Mr. Kapsak said he saw Kevin Costlow and Deputy Pruitt out of their vehicles. He further stated that Costlow was holding sticks in his hand and was approaching Pruitt and hitting him several times with the sticks. At the time, Pruitt was slowly moving backwards. Kapsak said that he began honking his horn to get his attention. Costlow's response to this was to swing the sticks at Kapsak's vehicle while yelling "help me, help me." At this point, Mr. Kapsak pulled over to the side of the road and called 911. As he was stopped, Kapsak continued to observe the interaction between Costlow and Pruitt. Ultimately, Kapsak said Pruitt pulled out his service weapon and fired six shots. Upon questioning by police, Kapsak indicated that Pruitt did not have anything in his hands when he first pulled up to the scene. Kapsak also stated he never saw Pruitt with a Taser.

Donovan Holman provided a statement that he was working on a speed camera in the area and had left to get another camera. Upon returning, he observed Kevin Costlow fighting and holding on to Deputy Pruitt at the intersection of Olney Laytonsville Road and Fieldcrest Road. Holman stated that Costlow took off his coat, pulled out a stick and started hitting it on the ground as he approached Pruitt. Holman further stated as Costlow was approaching, Pruitt was telling him to get back. Instead of backing up though, Costlow began hitting Pruitt with the stick multiple times which caused Pruitt to withdraw his service weapon. Holman said Pruitt continued to give commands to Costlow which were ignored. Pruitt then fired his weapon "center mass thirteen times." After being shot that many times, Costlow dropped to the ground. Holman told the police he had recorded video of the incident which he ultimately sent to the detectives. Holman reiterated Costlow hit Pruitt on the head and arm with the stick before it broke. He then threw the broken stick at Pruitt. Holman believed Costlow was either high or drunk. He stated the stick was longer than Holman's leg. He also believed Pruitt had at some point attempted to use a Taser as Holman saw Taser cartridges and loose wires on the ground nearby. Furthermore, Holman indicated Costlow was approximately 3-4 feet from Pruitt when he was shot.

Jimarr King gave a statement that he was on his way to work when he saw two bodies moving around like a fight. King observed Deputy Pruitt's taser come out and then fly to the ground and Costlow grabbed a stick and began swinging it at Pruitt. As Costlow was swinging the stick at him, Pruitt at first had his hands up trying to block the blows. Pruitt then withdrew his gun and shot Costlow in front of King. Mr. King recorded the interaction between Costlow and Pruitt on his cell phone and sent a copy to the detectives. King further stated he believed Costlow looked like he had "bad intentions" as if he was going to seriously injure Pruitt. King

stated he believed Pruitt's life was clearly in danger because Costlow was "hitting him with violent intent."

Deputy Sergeant Frank Pruitt of the Montgomery County Sheriff's Office (MCSO) told detectives he was driving into work for his scheduled shift of 8:00 a.m. until 4:00 p.m. As he was travelling down Route 124 when he stopped near Rocky Road to handle a dead coyote in the road. Shortly thereafter, a radio call came out informing Pruitt of a multi-vehicle accident on Olney Laytonsville Road. While continuing to listen to the radio updates, Pruitt heard that one of the individuals involved in the collision was out of his car and hitting other vehicles with a baseball bat. Pruitt arrived at the scene and observed a Ford Explorer (Mr. Da Silva Araujo's vehicle) had crashed into a utility pole. Pruitt was further directed down the road by Montgomery County Fire and Rescue Services. As he continued on, Pruitt observed a silver minivan (Ms. Patel's vehicle) and a silver sedan (Kevin Costlow's vehicle). Both vehicles had significant damage to them. As he got closer, Pruitt could see Kevin Costlow standing by his vehicle.

Pruitt parked his marked vehicle behind Costlow's car and exited to see if Costlow needed any assistance. At this time, Costlow rushed at Pruitt holding a rosary in his hand while screaming and yelling something about praying. Pruitt told Costlow to sit on the curb but Costlow instead went back to his car. As this was happening, Pruitt pressed the button to activate his body worn camera system (BWC) (it was later determined his BWC never activated and thus nothing was recorded). When Costlow returned from his vehicle, he approached Pruitt and threw a manila envelope at him. Pruitt blocked the envelope and then pulled out his Taser because he thought something just wasn't right about Costlow. Again, Costlow walked away from Pruitt and back to his vehicle. With his Taser now drawn, Pruitt approached Costlow's vehicle and noticed that a necktie had been stuffed into and was hanging out of the gas tank. Pruitt also observed two wooden sticks which he believed must have been what Costlow was hitting the other cars with (Later on during his interview, Pruitt said the sticks were about 4 feet long and looked like tree branches without the bark). All the sudden Costlow rushed back at Pruitt and proceeded to knock his hat off and rip his mask off. Pruitt indicated that he pushed Costlow away from him to try and get some space to deploy his Taser. Although Pruitt cannot remember exactly when, at some point during this struggle Costlow had picked up the sticks and began swinging them and hitting Pruitt. At one point, Pruitt made the decision to deploy his Taser at Costlow but as he attempted to do so he remembers looking down and just seeing the wires hanging out of the Taser as if it had already been used. During this entire encounter, Pruitt was giving commands to Costlow to drop the sticks and get on the ground. Seeing that his Taser was not an option anymore, Pruitt withdrew his handgun. He continued to instruct Costlow to get down. Costlow did not comply and continued to strike Pruitt with the sticks. At one point, Costlow raised the stick with both hands and swung down on Pruitt's head which caused the stick to break apart. Pruitt believed that based on the look on Costlow's face, that Costlow wanted to kill him. He further stated Costlow was "growling" during the incident and wasn't using any coherent words. Shortly after being stuck in the head, Pruitt remembered

firing his gun twice at Costlow. Pruitt said that after being shot Costlow got a smirk on his face and kept coming at him. Pruitt continued to fire his gun and thought to himself “why is he still coming?” Pruitt stated it wasn’t until he fired for the 12th time that Costlow finally fell to the ground. Afterwards, other officers began arriving on the scene and they, along with Pruitt, began attempting life-saving measures on Costlow.

A review of the recorded radio broadcast between dispatch and law enforcement revealed several minutes of detailed communications involving Deputy Pruitt. The following is a brief synopsis of the relevant portions of the recording:

@1:37 into the call, Sheriff 51 is added to the call. S51 is Deputy Pruitt’s call sign.

@1:53 dispatch relays information to Deputy Pruitt that the subject in the silver sedan appears to be in an altered state and it was unknown if the person was intoxicated or just upset.

@2:03 the dispatcher relays the subject in the silver sedan pulled a baseball bat out.

@2:29 into the call, the dispatcher relays the subject in the Jetta is trying to hit people.

@3:45 Deputy Pruitt states that he’s on the scene with the subject who has a baseball bat.

@3:59 Pruitt can be heard telling the subject to “keep your hands up.”

@4:02 Pruitt says, “he’s losing his mind.”

@4:26 Pruitt shouts “I need help!”

@4:28 Pruitt states he’s trying not to “shoot this guy.”

@4:44 Pruitt tells dispatch “shots fired, shots fired.”

Throughout the radio transmission as Deputy Pruitt begins to directly interact with Costlow the sound of his voice becomes very frantic and distressed right up until the time he shoots Costlow.

Despite attempts to save his life, Kevin Costlow was pronounced deceased at the scene. An autopsy was conducted on February 7, 2021 by Assistant Medical Examiner Dr. Carol Allan, M.D. The autopsy revealed that Costlow suffered thirteen (13) gunshot wounds. Ten (10) of the wounds were located in the chest area and the remaining three (3) were located in the right arm. It should be noted the evidence shows that Deputy Pruitt fired twelve (12) shots at Costlow. However, the autopsy report does list one of the gunshot wounds as being “atypical.” Furthermore, the toxicology on Costlow came back negative for the presence of drugs or alcohol.

As part of their investigation, the police interviewed Kevin Costlow's brother, Steve Costlow, as well as Kevin's wife, Vera Costlow. Steve Costlow believed that Kevin had suffered a "psychotic break." Steve said that Kevin has recently been involved in an automobile accident and was currently taking medication due to a previous neck injury. Steve explained that Vera had called him previously and said Kevin had been talking about "dark times" coming. Steve also indicated that Kevin recently made comments about picking up their mother, taking her to confession and indicating that mom would need to have her "last rites." On the night before the incident, Vera came over to Steve's house at around 2:00 a.m. Steve explained that he was in the basement when he heard on knock on the door. When he answered the door, he observed Vera and she looked "as white as a ghost." Vera had told Steve that Kevin was home naked on the floor and screaming that he was Jesus and that "they are going to crucify me." Vera further iterated that Kevin called Vera the devil and said he was hearing voices. Vera told Steve that she was afraid for her safety because of Kevin's behavior.

Vera Costlow stated she had noticed Kevin was very upset recently and thought it was due to a recent car accident he had been involved in. She said Kevin began saying things that made no sense, like she was the devil and he was Jesus Christ. Vera believed her husband was truly a good person and she couldn't believe this had happened. She felt her husband just needed help. She also confirmed that around midnight on February 6th, she went to the next-door neighbor's house (Vernon and Mary Leopard) because of concerns she had with Kevin's behavior.

Vernon and Mary Leopard were interviewed at approximately 12:10 p.m. on February 6th, 2021. During the interview, Vernon Leopard indicated that Vera Costlow came to their house knocking on their door at approximately 12:12 a.m. The Leopards' Ring camera had captured the interaction on video. According to Vernon, Vera indicated that Kevin was "not right." Vernon tried to convince Vera to call 911, but Vera did not wish to because she was afraid that police would break the door down. Vernon also indicated that Kevin Costlow came to his door at 12:23 a.m. Costlow can be seen and heard on the Ring camera video stating "stay there for a little while." Costlow then left shortly thereafter. Vernon stated Vera was very frightened throughout the incident and when she came into the Leopards' house, she crouched in the corner as if trying to hide. Vernon asked Vera if there were any firearms in the house to which Vera replied "no." Vera just said that Kevin was "very confused" and "agitated." Eventually, Vernon called for an Uber driver to take Vera to her brother-in-law's (Steve Costlow) house.

Analysis and Case Law

The current law pertaining to the use of deadly force is laid out in the cases of *Graham v. Connor, 490 U.S. 386 (1989)* and *Tennessee v. Garner, 471 U.S. 1 (1985)*, these cases explain that "deadly force" can only be used when a law enforcement officer has probable cause to

believe a suspect poses a significant threat of death or serious bodily injury to the officer or others. Furthermore, the reasonableness of a particular use of force should be judged from the perspective of a reasonable officer on the scene and must embody an allowance for the fact that officers are often forced to make split-second decisions about the amount of force necessary in a given situation.

There are multiple witness statements indicating Costlow's conduct throughout the entire incident was highly aggressive. He confronted several of these witnesses in a hostile manner. No less than fourteen (14) witnesses described Costlow's behavior that morning. The following words were used by these witnesses: "amped up," "crazy," "so aggressive," "scary," "physical," "very agitated," "violent intent," "nuts," "screaming like a lunatic," "strong looking" and "very deliberate, determined and angry."

Absent his confrontation with Deputy Pruitt, Costlow also interacted with several witnesses on that day. Ricky Asyer stated Costlow walked towards him spraying water and cursing. Costlow also threw lit matches at him. Paul Lennon indicated Costlow ran at him screaming, cussing and swinging which caused Lennon to circle around trying to defend himself. Robert Nastek said he pulled his car over to the side of the road and asked Costlow if he was okay to which Costlow's response was to start throwing punches at Nastek. Cidicley Da Silva Araujo also explained how Costlow climbed out of his passenger window, grabbed a big piece of wood and came towards Araujo as if he wanted to fight. Each of these interactions helps to explain what Deputy Pruitt was faced with before ultimately deciding to shoot Costlow.

The most helpful pieces of evidence are clearly the two civilian videos taken by Mr. Holman and Mr. King that capture the final moments of the interaction between Costlow and Deputy Pruitt. When reviewing each video, we can clearly see Costlow violently striking Pruitt with a large stick that looks like a tree branch. The branch appears to be at least a couple of inches thick and Costlow swings it hard enough to break on contact with Pruitt's body multiple times. Throughout the videos, Pruitt's behavior is defensive in nature. He is constantly retreating as Costlow attempts to fight him. Even as Costlow strikes him multiple times with the stick, Pruitt's initial reaction was to block the strikes with his arms despite holding his service weapon at the time. Pruitt gives Costlow repeated commands to get on the ground. Pruitt is clearly attempting to do what he can to de-escalate the situation before firing his weapon. During his interview, Pruitt stated that he was trying to create "time and space" at the time.

Ultimately, Deputy Pruitt fired twelve (12) times at Costlow. Although in some cases this could be viewed as excessive, based on the video evidence, it is clear Costlow did not stop advancing towards Pruitt until the last shot was fired. Once Costlow collapsed to the ground Pruitt no longer continued to shoot. In Pruitt's interview he stated that he continued to fire while thinking to himself "why is he still coming?"

In determining whether Deputy Pruitt's use of deadly force was objectionably reasonable, his actions must be analyzed based on the totality of the circumstances at the time

the force was used. The reasonableness of the deadly force must also be judged from the perspective of a reasonable officer on the scene under the same circumstances as opposed to hindsight. Deference must also be given to allow for the fact that officers are often forced to make split-second decisions. Throughout this incident, Costlow exhibited behavior that presented a potential for imminent danger to both Pruitt and others at the scene. It is clear that Costlow armed himself with an object (tree branch) that could have caused serious physical injury to Deputy Pruitt or any of the civilians at the scene. Furthermore, Costlow was using this object to strike Pruitt around his face and head in a very aggressive way. To protect himself from serious injury and to keep himself from being knocked to the ground and potentially losing control of his service weapon, Pruitt made the decision to shoot Costlow.

Conclusion

Based upon a thorough review of all information and evidence known at this time, it is the opinion of Howard County State's Attorney's Office, that Deputy Frank Pruitt's actions on February 6, 2021 were reasonable under the circumstances. The threat caused by Kevin Costlow repeatedly swinging at and striking Deputy Pruitt with a large stick coupled with his refusal to obey the numerous commands given by Pruitt, in addition to the potential risk the deputy could have been disarmed resulting in his service weapon being used against him or any other person in the vicinity, justified the use of deadly force. As such, the Office of the State's Attorney for Howard County declines to file any charges against Deputy Pruitt.