



February 20, 2015

Chief Robert White
Denver Police Department
1331 Cherokee Street
Denver, CO 80204

Re: Investigation of the officer-involved shooting of Joel Jurado, DOB 05/19/1988 and Carlos Jurado, DOB 03/23/1994

Dear Chief White,

The Seventeenth Judicial District Attorney's Office has completed the review of the investigation regarding the officer-involved shooting of Joel and Carlos Jurado that occurred on November 20, 2014. The Seventeenth Judicial District Critical Incident Team conducted the investigation into this matter. This investigative team is comprised of detectives, crime scene technicians from police agencies within the Seventeenth Judicial District as well as DA investigators. The factual findings of the investigation were presented to my office on January 21, 2015. The Critical Incident Team presented law enforcement reports, audio and video recorded interviews, photographs, and diagrams of the crime scene. The Office of the District Attorney concludes that the investigation was thorough and complete.

The District Attorney's review is limited to determining whether criminal charges should be filed against the involved officer or other involved parties. The standard of proof for filing a criminal case is whether there is sufficient evidence to prove any potential criminal violations beyond a reasonable doubt. In this instance the prosecution also has the burden to prove beyond a reasonable doubt that the use of force was not justified pursuant to Colorado law. This review does not otherwise evaluate the appropriateness of the actions of the involved officer, whether police department policies or procedures were followed, or whether the policies, practices, or training at the involved agency were sufficient. That evaluation is left to you or your internal affairs investigation.

As further set forth herein, based upon the evidence presented and applicable law, there is not a reasonable likelihood of success of meeting our burden of beyond a reasonable doubt at trial. Therefore, no criminal charges will be filed against the law enforcement officer involved in this incident.

OVERVIEW OF THE INCIDENT

On November 20, 2014 at approximately 10:16 p.m., Officer Ryan Marker with the Aurora Police Department was on duty patrolling traffic in the area of E. Colfax and N. Sable Blvd, and observed a black Ford F-150 in the eastbound lane of E. Colfax pass him at approximately double the posted 35 m.p.h. speed limit. Officer Marker followed the black Ford F-150 and caught up to it at the stop light for N. Chambers Road in the right turn lane. When the light changed, the black Ford F-150 accelerated straight ahead instead of turning right. Officer Marker then activated his emergency lights and attempted to stop the truck. The black Ford F-150 made a U-turn at E. Colfax and N. Helena Street nearly striking a small sedan and an RTD bus. Officer Marker shut down his emergency lights and watched as the truck extinguished all exterior lights and drove away on N. Chambers Road at a high rate of speed.

Officer Marker eventually lost sight of the black Ford F-150 around the 2200 block of N. Chambers Road. Officer Marker learned the registered owner of the vehicle was associated with an address at 4762 Peoria Street #304. Officer Marker responded to this address to look for the black Ford F-150. As he pulled into the apartment complex parking lot he noticed the truck had entered the parking lot right behind him. At this point Officer Marker observed that the black Ford F-150 contained two occupants. The truck then immediately turned around and left the apartment complex, and Officer Marker continued to pursue it.

Officer Marker attempted a second stop of the truck by activating his emergency lights in the area of the I-70 off ramp at N. Havana Street. The truck again sped off and Officer Marker shut down his emergency lights for a second time and lost sight of the black Ford F-150. Denver Police officers in the area were notified of the pursuit through dispatch. Denver police officers began pursuit of the black Ford F-150 and eventually caught up to it in the area of E. 56th Avenue and N. Holly Street in Commerce City.

One of the Denver Patrol units, occupied by Officers Ernest Sandoval and Jeff DiManna, followed the suspect truck into a tractor trailer storage lot located at 5570 E. 56th Avenue in Commerce City. They were followed by another Denver patrol unit occupied by Officers Martin Tritschler and Jeremy McConnell. This storage lot consisted of numerous tractor trailers that lined up in several rows within the lot. As the units entered into the lot, the black Ford F-150 attempted to lose them by driving between the rows of parked trailers. Officers Sandoval and DiManna followed directly behind the suspect vehicle. The suspect truck stopped at the row near a chain link fence and Officers Sandoval and DiManna positioned themselves approximately ten feet behind the truck. Officers Tritschler and McConnell took up a position on the other side of the row of parked trailers, which was on the passenger side of the suspect truck.

A third Denver patrol unit occupied by Officers Bruce Kay and Nicolas Hassman arrived and pulled in behind Officers Sandoval and DiManna's patrol vehicle. Commands were given to the two occupants in the Ford F-150 to shut off their vehicle and show their hands. The occupants in the truck did not comply with the commands. Officer Kay then approached the passenger side of the vehicle and broke out the passenger window with his baton as commands

were still being ordered and ignored. At this time Officers Sandoval, Hassman and DiManna were positioned between the suspect vehicle and their patrol vehicle with very little room for an escape route amongst the row of tractor trailers.

The driver and passenger of the suspect truck continued to ignore numerous commands. The driver then put the truck in reverse and accelerated in the direction of Officers Sandoval, Hassman and Officer DiManna. At that time, Officer Tritschler had his service weapon drawn and was in a cover position on the passenger side of the truck. Officer Tritschler, fearing for the lives of Officers Sandoval and DiManna, fired three rounds through the passenger side of the truck aiming at the driver of the truck. The passenger of the truck was struck twice and the driver was struck once. Both survived the encounter and were treated at Denver Health Medical Center.

WITNESS INTERVIEWS

The various members of the Seventeenth Judicial District Critical Incident Team were called out to investigate the facts surrounding the law enforcement officer's use of force. The Critical Incident Team is comprised of experienced law enforcement officers from agencies within the Seventeenth Judicial District as well as members of the District Attorney's Office. This team was created so that officers outside of the involved agency could be called upon to investigate critical incidents such as an officer's use of deadly force. The Critical Incident Team assembled within hours of the shooting, operating out of the Commerce City Police Department on November 20, 2014 and into the early morning hours of November 21, 2014. Among the witnesses interviewed were Officers Marker, DiManna, Hassman, Sandoval, McConnell, Kay and Tritschler. Suspect driver Joel Jurado was also interviewed. Suspect passenger Carlos Jurado declined to be interviewed.

Officer Marker: Officer Marker is a six-year veteran of the Aurora Police Department assigned to the Traffic Unit. On the night of the incident he was driving a dark blue, unmarked Crown Victoria sedan, equipped with emergency lights and a dashboard camera. Officer Marker was on routine patrol in the area of Colfax Avenue and Sable Boulevard, he noticed a black F-150 pickup traveling eastbound on Colfax Avenue at a high rate of speed. He estimated the vehicle was traveling at twice the posted 35 m.p.h. speed limit.

Officer Marker eventually caught up to the black F-150 pickup at the intersection of Colfax and Chambers. The suspect truck pulled into the right turn lane at the intersection. This lane is used as a right turn only lane. When the light changed the truck did not turn right but accelerated straight through the intersection. Officer Marker activated his emergency lights and sirens. The black F-150 pickup began to pull over at the intersection of Colfax and Havana. Officer Marker indicated that he believed the truck was going to stop. However, the truck suddenly made a U-turn, squealing its tires and nearly striking an RTD bus and a small tan car as it made the U-turn. The black F-150 pickup continued toward Colfax and Chambers. The lights of the truck were turned off and the truck then went northbound on Chambers at a high rate of speed.

Officer Marker turned off his emergency lights and siren and advised dispatch of the direction of travel of the truck. He was able to identify the temporary tag in the rear window of the vehicle. He learned the truck was possibly owned by Carlos Jurado, who lived in a apartment complex in the area of 47th Avenue and Peoria Street in Denver. Officer Marker responded to the area of the apartment complex to see if he could locate the black F-150 pickup or Mr. Jurado. As he entered the parking lot, he noticed the suspect truck enter the parking lot behind him. The black F-150 pickup immediately turned around and left the parking lot.

He began following the truck again northbound on Peoria Street to E. 56th Avenue. He did not have his emergency lights activated at this time. The truck turned eastbound on E. 56th Avenue from Peoria with Officer Marker following at a distance of 1/4 to 1/8 of a mile behind. Officer Marker requested assistance from the Denver Police Department and other Aurora officers in an attempt to make a traffic stop on the vehicle. The suspect vehicle was driving erratically, swerving and driving on the wrong side of the road at varying speeds. He was concerned that a crash would occur due to the erratic driving.

A Code 10 request for assistance was made as Officer Marker's cover officer was quite a distance away and Officer Marker was by himself. Denver police officers responded to the Code 10 request as the suspect truck continued onto I-70 exiting northbound on Havana Street within Denver city limits. The truck slowed and Officer Marker again activated his emergency lights. Officer Marker stated that the truck appeared as if it was going to stop again, but at the bottom of the off ramp at Havana Street the truck sped up again. For a second time Officer Marker shut down all of his emergency lights. As Officer Marker approached 56th and Havana, Denver officers passed him and pursued the suspect truck. Officer Marker lost sight of the suspect vehicle and the Denver police vehicles shortly thereafter. He continued in the same direction in the event Denver was able to get the black F-150 pickup stopped. Aurora dispatch continued to update Officer Marker on Denver's police officers progress. He learned that the Denver officers had stopped the truck and shots were fired. He did not make contact with any of the involved officers, the driver or the passenger of the truck.

Officer DiManna: Officer DiManna is a six year veteran with the Denver Police Department assigned to the Gang Unit. Prior to the call to assist Aurora, Officer DiManna was on scene of a shooting investigation in the area of Bedford and Black Hawk in District 5 with his partner Officer Ernest Sandoval in a two man patrol vehicle. They received the request from Aurora for a Code 10 emergent cover. Officers DiManna and Sandoval responded and saw the black F-150 pickup in the area of I-70 and Havana Street. Officer Sandoval requested assistance from Air One police helicopter. Officer DiManna followed the suspect truck into an industrial lot in the area of E. 56th Avenue. The black F-150 pickup pulled between two tractor trailers. Officer DiManna stated that he thought the suspects might attempt to bail their vehicle. As the suspect vehicle stopped, Officer DiManna and Sandoval activated their spotlights on the suspect vehicle. Both officers exited their vehicle and stood at each corner of the front of their patrol vehicle. They gave loud verbal commands identifying themselves as police officers and for the occupants to get their hands up.

Two additional Denver Police units arrived on scene as well. One unit contained Officers Hassman and Kay and the other contained Officers Tritschler and McConnell. Officer DiManna could see Officer Tritschler, but not his partner, Officer McConnell, due to the position of the tractor trailers. Officer DiManna could see the passenger of the suspect truck put his hands up then back down. Neither the driver or the passenger were not complying with the officer's orders. Officer DiManna thought that Officer Kay broke out the passenger side window of the suspect truck with a baton. At that point, Officer DiManna heard the truck's engine start and he gave loud commands to "Shut off the truck. Don't back up." The black F-150 pickup accelerated in reverse towards Officers DiManna and Sandoval. Officer DiManna indicated that he thought he was going to be pinned between the suspect truck and his vehicle so he dove underneath a tractor trailer to get out of the way. He heard two gun shots. He was not sure if the sound of the gun shots was before or after he heard the suspect truck hit his patrol car. Officer DiManna believes the impact from the truck moved his patrol vehicle a couple of feet.

Officer Hassman: Officer Hassman is a seven year veteran of the Denver Police Department assigned to the Gang Unit. He was in a two man patrol vehicle with partner Officer Bruce Kay. They were at a shooting investigation in the area of 5500 Bedford when dispatch aired that Aurora police needed emergent cover. Officer Hassman saw the black F-150 pickup in the area of E. 56th and Monaco. Officer Sandoval aired directions and called for Air One. Two other Denver units also joined the pursuit.

Upon arriving at the industrial lot, Officer Hassman heard commands that were given to the occupants of the truck to "show hands." The driver of the vehicle kept ducking down and reaching under the passenger side glove box area. Someone yelled "break the window." As soon as the window was broken the truck started up. Officer Sandoval looked at Officer Hassman and said, "Dude, get the hell back! Get the hell back! He is going to ram us!" Officer Hassman heard the engine gunning and saw reverse lights come on. He ran back toward the patrol car as he feared he may become trapped between the vehicles. He estimated the distance between Officer Sandoval's vehicle and the suspect vehicle was about ten feet. He did not hear a crash but heard two pops. Officer Hassman indicated he could hear gravel underneath the tires and had no doubt that if he had not run he would have been struck by the suspect truck. He did not know who fired. He thought it may have been pepper gun fire. The passenger was removed from the truck by officers. The driver was pulled from the truck but still did not comply with orders to put his hands up. Upon trying to handcuff the driver of the truck on the ground, Officer Hassman noticed bleeding from the driver's upper right arm. The suspect did not make any statements at that time.

Officer Sandoval: Officer Sandoval is an eight year veteran with the Denver Police Department assigned to the Gang Unit. At the time of the call to assist Aurora he was investigating a shooting in the area of 5500 Bedford Court in District 5. Aurora called for emergent Code 10 response. Officer Sandoval, along with two other gang units, responded to the area and saw the black F-150 pickup traveling eastbound on E. 56th Avenue. Eventually Officer Sandoval caught up to the truck in the area of I-70 and Havana. He followed the truck at a distance without illuminating his emergency lights. He did call for Air One assistance. Officer

Sandoval aired to dispatch that units followed the suspect truck into Commerce City and continued to air updates on their location.

Officer Sandoval followed the suspect truck into an industrial lot. Initially, the suspect truck turned off its lights. Then the lights were turned back on while in the industrial lot. Once the suspect truck came to a stop, Officer Sandoval got out of the passenger side of his patrol vehicle. He made his way to the side of a tractor trailer, so he could see the entire suspect truck. The driver shut off the truck's engine but did not acknowledge commands to show his hands. Officer DiManna put his spotlight on the suspect vehicle. The driver put up his index finger and waved it as if to say "no" when given commands. The passenger of the black F-150 pickup put his hands up but then put them back down.

Officer Sandoval saw Officers Tritschler and Kay off to the passenger side of the suspect truck. Officer Kay approached the truck and broke the passenger window with a baton. At this point, Officer Sandoval was in front of his patrol vehicle and to the rear of the suspect truck. The passenger of the truck told officers he couldn't get out of the vehicle. The driver of the truck reached under the seat as commands were still being given for him to show his hands. Officer Sandoval heard the truck turn on and realized he and Officer Hassman were between the vehicles and in danger of being crushed. He heard the engine rev, tires spinning, and saw the truck accelerate towards him. Officer Sandoval ran out of the way and heard the suspect truck strike his patrol vehicle. At the same time he heard what he believes were gunshots. He recalls hearing two shots.

He heard moans and the passenger screaming. The driver shut off the truck. The driver was still sitting in the truck not complying with commands. The passenger said he couldn't get out. Officer Sandoval stated he knew he would have been crushed between his car and the truck if he would not have gotten out of the truck's path, and he believes that Officer DiManna probably would have been as well. He believed Officer Tritschler was aware of his position and that he was in danger of being pinned by the truck. Officer Sandoval believes the patrol vehicle was moved two to three feet from its original location from the impact of the suspect truck.

Officer McConnell: Officer McConnell has been with the Denver Police Department for 18 months, temporarily assigned to the Gang Unit. At the time of the call to assist Aurora he was working on a shooting investigation in the area of 5500 Belford Court in a two man patrol vehicle with Officer Tritschler. Dispatched aired that Aurora was requesting emergent cover.

Officer McConnell saw the black F-150 pickup in the area of E. 56th Avenue from approximately ¼ mile away. He saw the truck turn into a lot with Officers Sandoval and DiManna behind it. As Officer McConnell got out of his patrol vehicle, he heard commands being given to "show hands." Officer Tritschler and he began to give loud commands as well. He saw the driver shake his head at the commands as if to say he was not going to follow the commands. He then heard the vehicle go into reverse. He heard the engine rev and it "hailed ass" backwards. He did not know where the other officers were but believed they were going to be run over or pinned by the suspect vehicle. He believed the other officers' lives were in danger.

Officer McConnell heard three shots. He was approximately six feet away from the suspect truck when the shots were fired. Officer McConnell believed Officer Tritschler fired, as he was standing near him. He thinks the shots were fired as the truck was moving. Officer McConnell pulled the passenger out of the truck. As he handcuffed the passenger he noticed he had been shot in the right upper shoulder.

Officer Kay: Officer Kay is a ten-year veteran with the Denver Police Department assigned to the Gang Unit. He was on scene of a shooting investigation on Bedford Court when the call came out that Aurora requested emergent cover. He was in a two man patrol vehicle with Officer Hassman.

Officer Kay saw the suspect vehicle pull into the industrial lot. He followed behind Officer Sandoval's patrol vehicle. Officer Hassman was driving and pulled in directly behind Officers Sandoval and DiManna's patrol vehicle which was directly behind the suspect truck. Officer Kay heard verbal commands being given to the occupants of the truck. He thought the suspect truck was idling at the time. He believes it was illuminated by spotlight and takedown lights. The suspects were not showing their hands as he approached their truck in an effort to break the window. Immediately after breaking the window, he saw the driver reach under the seat. Officer Kay remembers the driver shaking his head at officers as if to say he was not going to comply. He then heard the engine rev and the truck went into reverse. He heard a collision and two shots. He knew Officer Sandoval was in harm's way and called out to see if all officers were okay as they could have been hit by the truck. Officer Kay asked who shot and Officer Tritschler responded it was him. He believes Officer Sandoval's life was in danger based on where Officer Sandoval was standing and where the vehicle ended up.

Officer Tritschler: Officer Tritschler is a twenty-year veteran of the Denver Police Department assigned to the Gang Unit. He was leaving a call in the area of 5500 Bedford Court when Aurora requested Code 10 cover. He was in a two man marked patrol unit with Officer McConnell. They followed the suspect truck behind Officers Sandoval and DiManna. They followed the suspect truck into the industrial trailer storage lot at 5570 E. 56th Avenue. As Officers Sandoval and DiManna followed the suspect truck between tractor trailers, Officers Tritschler and McConnell turned down a different parallel row of tractor trailers to cut off the suspect truck. Officer Tritschler parked his unit at the end of this row of tractor trailers on the passenger side of the suspect truck. He exited his patrol unit and saw Officers Sandoval and DiManna out of their patrol unit directly behind the suspect truck. He could also hear commands being given and gave commands himself for the occupants to turn off the vehicle and show their hands. A third Denver patrol unit arrived occupied by Officers Kay and Hassman. Officer Kay came up by Officer Tritschler as Officers Tritschler and Sandoval were discussing using an object to break out the passenger window to get a better view inside the suspect truck. Officer Kay then broke out the passenger window as Officer Tritschler acted as his cover with his service weapon drawn. Officer Tritschler advised that he felt both the passenger and the driver looked at him and could see he and the other individuals were uniformed police officers.

Officer Tritschler noticed Officers DiManna and Sandoval between their patrol vehicle and the suspect truck. The suspects were dropping their hands out of sight and Officer Tritschler could not tell if a weapon was present in the cab of the truck. The driver continued to ignore commands and was looking around. The driver looked Officer Tritschler in the eye and Officer Tritschler said, "Don't do it, Don't do it!", believing he was going to put the vehicle in reverse. The driver put the truck in reverse and Officer Tritschler heard officers yell, "Watch out! He's backing up!" According to Officer Tritschler, the driver gunned it backwards. He said there is no doubt that the driver was going to try to kill them, referring to Officers Sandoval and DiManna. Officer Tritschler had a clear view of the driver. He aimed center mass and fired his service weapon two or three times. Officer Tritschler said he had no intention of striking the passenger. The suspect truck came to a stop. Officer Tritschler was focused on the threat and does not know what caused the truck to stop completely.

SCENE

Crime Scene Investigator Dennis Davenport of the Commerce City Police Department processed the scene of the shooting. The scene consisted of the parking lot of the business located at 5570 E. 56th Avenue. The lot appears to be used primarily to park semi-truck tractors and trailers and there were several on scene. The entire lot was approximately 500 feet wide by 500 feet long. It was accessed on the south side of 56th Avenue, just to the west of Holly Street. The parking lot is surrounded by a wooden fence on the north side and a chain link fence on the other sides. The lighting was very dark, due to the time of day and the lack of street lights. The temperature was in the 30's and it was windy. The scene was located in the City of Commerce City, the County of Adams and the State of Colorado.

This incident occurred on the south side of the industrial lot between several parked semi-truck trailers. The suspect truck was identified as a 2000 Ford F-150 with a Colorado temporary tag of 776323M. The truck was registered to Carlos Jurado at 4762 Peoria Street #304 in Denver, CO. The truck was positioned at an angle facing towards the southwest on the far south side off the lot behind several semi-truck trailers. Immediately behind the suspect truck was Denver Police vehicle unit #4465. Behind that unit was DPD unit #4463. To the west separated by a parked semi-truck trailer was DPD unit #4442.

On the passenger side of the suspect truck, three fired 9mm casings were located on the ground. The casings were all Speer 9mm Luger casings. The three casings ranged between 6 and 14 feet to the west of the suspect vehicle.

The suspect truck had several scratches, dents, cracks and other minor damage to various parts of the vehicle. It was difficult to ascertain how much of the damage was related to this incident. The front passenger side window and rear passenger side window were broken out, along with the driver's side rear window. There were areas of suspected blood stains on the seats of the truck. There also appeared to be a bullet hole in the driver's seat headrest and the interior rear driver's side door molding was broken.

There were tire marks in the dirt in front and behind the suspect truck. It appeared the suspect truck had been positioned further to the west of its final resting spot, by approximately 12-15 feet. There were also several pieces of glass on the ground next to the tire tracks in this area, which would corroborate the vehicle's location to the west close to the lot's southern boundary chain link fence before it accelerated towards the officers in reverse. Immediately behind the suspect's truck were tire tracks that led into the patrol vehicle DPD #4465. It appeared that patrol vehicle had been positioned further to the west when it was struck and moved backward by the suspects truck.

The front tires on the DPD #4465 were not angled and pointed forward and the marks in the ground tend to indicate that when the suspect truck struck the patrol vehicle it was pushed backwards, while the tires were pointed forward. The tire marks from the patrol vehicle were consistent with it being pushed backward approximately four feet at a slight angle. The unit was equipped with a push bumper installed to the front of the vehicle. This bumper had been pushed and bent downward and back into the vehicle. The push bumper appeared to have been pushed into the front passenger side quarter panel, causing slight damage to the quarter panel. There was also what appeared to be a gauged impact in the front passenger side tire and rim of the patrol vehicle.

A certified mechanic examined the suspect truck for any abnormalities, specifically to examine the operation of the brakes and transmission. The mechanic drove the vehicle and stated it started and operated normally. He felt the brakes were a little soft to the touch but did operate correctly. The transmission seemed to operate correctly. The gear shift appeared to operate correctly and would not accidentally have moved into reverse from the park position. The brake pedal had to be applied and the gear shift pulled forward and down to move the gear from park to reverse. There were no other defects found with the vehicle.

Officer Tritschler's firearm is a Glock 19, 9mm firearm with serial # LYZ 606 with a Streamlight TLR-1 light mounted on the front of the firearm. It was loaded with 12 live 9mm rounds in the magazine and one live 9mm round in the chamber. Officer Tritscher had two additional magazines on his duty belt. Each magazine was loaded with 15 live 9mm rounds in each. Officer Tritschler confirmed that he had loaded each of his magazines with 15 rounds. This is consistent with discharging three rounds during this incident in conjunction with the three shell casings recovered from the scene.

Firearms Instructor Detective Lopez with the Westminster Police Department performed a functionality test on Officer Tritschler's firearm. His opinion is that the pistol functioned as designed and was in proper working order.

SUSPECT INFORMATION

Joel Jurado: Joel Jurado was the driver of the suspect truck. He sustained a gunshot wound to the right lateral bicep and right chest. The bullet fragment embedded in the right middle lobe lung. The bullet fragment was not removed. Toxicology results were unremarkable.

On November 24, 2014, Detective Jim Morgen and Detective Dale Hammell interviewed Joel Jurado at Denver Health Medical Center. He indicated that on the night of the incident he believed he was being followed by an undercover police officer. He said he knew he had a warrant for his arrest and did not want to be arrested. He noticed several officers behind him at one point and indicated he panicked. That was the reason he kept going. He advised he pulled into a random building around 56th Avenue past Quebec Street. He was surrounded by all the police officers. He stated, "Not once did I hear that they were gonna draw their guns or anything...Um, all that I remember you know, panic, on top of adrenaline, was that I got tased and then I got shot."

Joel Jurado admitted that the original officer attempted to stop him a couple of times but thought he was going to let him go. He admitted to seeing a white police SUV. He admitted to trying to hide from the police who were following him and knowing they were behind him. He indicated he asked his brother Carlos what they should do and Carlos said they should give up. He reached for his cellular phone on the floorboard because he knew he was going to be arrested. He said he was shot when he leaned forward to get his phone and wallet. He knew it was a police officer who had broken out his window. He believes he was tased right after the window was broken. He did not see or feel any probes. He estimated fifteen seconds passed from the time the window was broken to when shots were fired. He indicated he was shot first and then he turned off the truck. Joel Jurado believed he was the only person who was shot. He did not remember putting the vehicle into reverse. He does not recall hitting the Denver Police unit.

Joel Jurado's criminal history contains the following: Juvenile Adjudication for Theft by Receiving 2005, Juvenile Adjudication for Aggravated Motor Vehicle Theft, Theft by Receiving and Vehicular Eluding 2005, Juvenile Adjudication for Aggravated Motor Vehicle Theft 2006, Possession of Schedule II Controlled Substance and Driving Under Restraint 2011, Driving After Revocation Prohibited 2011, Driving After Revocation Prohibited 2012, Driving After Revocation Prohibited 2014. He was charged with two counts of Attempted Assault in the First Degree and Driving After Revocation Prohibited as a result of this incident.

Carlos Jurado: Carlos Jurado was the passenger of the suspect vehicle. He sustained two gunshot wounds with two points of entry and one point of exit. One round exited the body. The other bullet fragment projects over the back at the level of the left scapula. There are possible bullet fragments that overlie the right mid-lung along the back on lateral view. Toxicology results were unremarkable. Carlos Jurado's has a Robbery conviction from 2013.

LEGAL ANALYSIS

As was previously noted, this review is limited to determining whether criminal charges should be filed against the involved police officer or other involved parties. The decision to file criminal charges involves an assessment of all known facts and circumstances as well as an evaluation of whether there is a reasonable likelihood of conviction at trial under the applicable law. Generally speaking, criminal liability is established when the evidence is sufficient to prove all of the elements of a crime beyond a reasonable doubt. In addition to proving the elements of a crime, the prosecution must also disprove any statutorily recognized justification or defense beyond a reasonable doubt. In this instance, in order to file a criminal charge the District Attorney's office must prove beyond a reasonable doubt that Officer Tritschler actions were not justified under the circumstances surrounding this incident and the applicable law.

There is no dispute that Officer Tritschler fired his weapon and wounded both Joel and Carlos Jurado. The legal question presented to the Office of the District Attorney is whether, at the time Officer Tritschler fired his weapon, the Office of the District Attorney can prove beyond a reasonable doubt that his actions were not justified under Colorado law.

The use of force by a law enforcement officer necessarily invokes an analysis under C.R.S. § 18-1-707, the law applicable to the use of force by a peace officer. In pertinent part, the language of the statute reads as follows:

(1) A peace officer is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary:

(a) To effect an arrest or to prevent the escape from custody of an arrested person unless he knows that the arrest is unauthorized; or

(b) To defend himself or a third person from what he reasonably believes to be the use or immanent use of physical force while effectuating or attempting to effect such an arrest or while preventing or attempting to prevent such an escape.

(2) A peace officer is justified in using deadly physical force upon another person for a purpose specified in subsection (1) of this section only when he reasonably believes that it is necessary:

(a) To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or

(b) To effect an arrest, or to prevent the escape from custody, of a person whom he reasonably believes:

(I) Has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon; or

(II) Is attempting to escape by the use of a deadly weapon; or

(III) Otherwise indicates, except through a motor vehicle violation, that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay.

(3) Nothing in subsection (2) (b) of this section shall be deemed to constitute justification for reckless or criminally negligent conduct by a peace officer amounting to an offense against or with respect to innocent persons whom he is not seeking to arrest or retain in custody.

(4) For purposes of this section, a reasonable belief that a person has committed an offense means a reasonable belief in facts or circumstances which if true would in law constitute an offense. If the believed facts or circumstances would not in law constitute an offense, an erroneous though not unreasonable belief that the law is otherwise does not render justifiable the use of force to make an arrest or to prevent an escape from custody. A peace officer who is effecting an arrest pursuant to a warrant is justified in using the physical force prescribed in subsections (1) and (2) of this section unless the warrant is invalid and is known by the officer to be invalid.

"Deadly physical force" is defined as "force, the intended, natural, and probable consequence of which is to produce death, and which does, in fact produce death." C.R.S. §18-1-901(3)(d).

At the time that Officer Tritschler fired his service weapon, he had two suspects in a mobile truck who had already demonstrated a desire to flee from officers and a lack of desire to comply with lawful police orders. Immediately prior to firing his weapon, Officer Tritschler observed two fellow officers between the front of their patrol vehicle and the back of the suspect truck. He also saw the suspect truck move quickly in reverse, putting the lives of the officers in grave danger. Under the totality of the circumstances he made the decision to disable the threat to the officers and shoot at the driver. There is no evidence to suggest that Officer Tritschler had an intent to shoot the passenger of the truck.

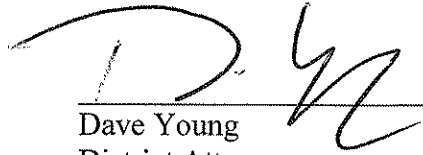
Based upon the circumstances known to Officer Tritschler, he reasonably concluded that the driver of the vehicle was putting the lives of Officers Sandoval, DiMatta and Hassman in grave danger. Officers on scene had made multiple attempts to get both occupants to comply with their commands and show their hands. The suspects did not comply with these lawful orders and instead the driver started the truck, placed the truck in reverse and accelerated towards Officers Sandoval, DiMatta and Hassman striking a patrol car that was behind the officers. Under these facts, the Office of the District Attorney cannot prove that Officer Tritschler's actions were not justified as applied to C.R.S. § 18-1-707. Therefore, the prosecution is unable to prove the elements of any crime beyond a reasonable doubt with regards to Officer Tritschler.

CONCLUSION

Applying the facts of this incident to the applicable law, the evidence does not support the filing of any criminal charges against Officer Tritschler for this incident involving Joel and Carlos Jurado on November 20, 2014.

Therefore, it is the conclusion of the Seventeenth Judicial District Attorney's Office that no criminal charges will be filed against Officer Tritschler. Please feel free to contact me if you have any questions or further investigation is needed.

Respectfully,



Dave Young
District Attorney