



October 9, 2015

Jim May
Chief of Police
Northglenn Police Department
11701 Community Center Drive
Northglenn, Colorado 80233

Re: The investigation of the officer involved shooting of Rickie Pacheco Jr., DOB 11/17/78, occurring on June 10, 2015

Dear Chief May:

The investigation and legal analysis of the officer involved shooting of Rickie Pacheco Jr. has been completed. The Seventeenth Judicial District Critical Incident Team investigated this matter. Detectives Brent Mullen of the Thornton Police Department and Casey Overton of the Adams County Sheriff's Department presented this investigation to the Seventeenth Judicial District Attorney's Office on August 17, 2015, which included police reports, videos and transcripts of interviews from lay witnesses and police officers, photographs, diagrams and the crime scene investigation. My review of these materials found the investigation to be thorough and complete.

The District Attorney's review of this investigation is limited to determining whether criminal charges should be filed against the involved officers or other involved parties. The standard of proof for filing a criminal case is whether there is sufficient evidence to prove any criminal violations beyond a reasonable doubt to a jury. 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 evaluate the appropriateness of the actions of the involved officers, whether department policies or procedures were followed, or whether the policies, practices, or training at the involved agency were sufficient. That evaluation is left to each individual agency.

Based on the evidence presented and the applicable Colorado law, no criminal charges will be filed against the officers involved in this incident.

OVERVIEW OF THE INCIDENT

On June 10, 2015 at approximately 3:18 p.m. Robert Deherrera called 911 to report a man with a gun. Mr. Deherrera reported seeing the man walking down the sidewalk, at Naiad Dr. and Livingston Drive. He describes the person with the gun as a Hispanic male wearing a red shirt and black or blue jeans. Robert Deherrera told dispatch that it was a black handgun that was in the person's right hand, and stated that person is in his twenty's or early thirty's. Mr. Deherrera then said that the person didn't threaten anyone with the gun, but was carrying it in his hand. Robert Deherrera told dispatch he has lost sight of the male at Huron St. and doesn't know if he turned right or left. Officers were dispatched to the area as the report was being given by Mr. Deherrera. Officers Jeramie Lund and Matthew Hindman

Officer Involved Shooting

Ricky Pacheco, Jr.

Page-2-

responded to the area pursuant to the dispatch call. While en route to the call, Officer Lund called the reporting party and was advised that the suspect was wearing a red shirt, which dispatch had not advised the officers of during the call. Officer Lund communicated this information to Officer Hindman via cell phone.

Officer Lund, in his patrol vehicle, drove past a male party walking Northbound in a red shirt who looked suspicious. Officer Lund stated that the male stared at him as he drove by and as Officer Lund looked in his rear view mirror the male continued to stare at him before briskly walking Northbound on Huron St. Officer Lund relayed this information to Officer Hindman and Officer Hindman parked his patrol vehicle in an attempt to contact the suspicious male that matched the description given by dispatch. At approximately 3:31 pm, Officer Hindman advised dispatch he was out with the suspect at the Pinnacle Creek Apartment Complex in the 11100 block of Huron St. Officer Hindman approached the individual but the male continued to walk away from him even after Officer Hindman asked him to stop. The suspicious male then began to run away from Officer Hindman. He ran off of the sidewalk and turned into an open field. Officer Lund drove upon the scene at this time and exited his vehicle in order to help Officer Hindman.

The individual running from Officer Hindman ran into the open field that was covered in tall grass and bordered by residential condominiums. As the individual was running into the field, he spun around, pulled out a handgun and began to fire shots at Officer Hindman and Officer Lund, who was running up to help Officer Hindman. Officers believed that the person fired at least two shots at them and that his gun was pointing directly at them. Officers Hindman and Lund returned fire and the person turned and continued to run away in the direction of the residential area.

Officers indicated that the individual shooting at them fell by the fence line in an area of tall grass and was on the ground making a gesture up out of the grass in what appeared to officers as raising the weapon again. As a result of this, Officer Lund fired the final shots towards the male. The suspect was lying face down in the field as Officer Hindman called out to dispatch for assistance. Officers Lund and Hindman then repeatedly called out for the suspect to show his hands, and this continues until other officers reach the scene.

After the dispatch of "shots fired" numerous officers responded directly to the location. Officers Hindman and Lund were aided in taking the suspect into custody. The person would later be identified as Rickie Pacheco Jr. Underneath Mr. Pacheco, lying by his head in the grass, officers found a Glock 26 handgun in the lock back position, indicative that all rounds in the gun had been fired. The gun was examined and there were no more rounds in the chamber or the magazine.

Mr. Pacheco was hostile, verbally abusive and aggressive to the police and the medical providers while being treated on scene by paramedics. Mr. Pacheco was restrained due to this behavior. A magazine with ten rounds was found on Mr. Pacheco while he was being treated during transport to the hospital.

Mr. Pacheco was transported to Denver Health Hospital for treatment of his wounds. Those injuries included gunshot wounds to his left leg, left forearm and right wrist. During the course of treatment the medical staff indicated to the anesthesiologist that the suspect's blood test was positive for marijuana, methamphetamine, and cocaine.

SUSPECT INFORMATION

Northglenn Detective Paul Gesi attempted to interview Mr. Pacheco at the hospital on June 14, 2015 to obtain his statement and Mr. Pacheco refused to give a statement. On that same day Officer Paul Skattum heard Mr. Pacheco make several unsolicited statements while at the hospital. Mr. Pacheco said, "I can't believe I put that many people in danger." He made references to being shot while he was shooting at the officers and thinking that the officers would shoot him. Mr. Pacheco also indicated that the officers were telling him not to grab the gun but he didn't listen because he wanted to kill himself and that he was messed-out of his mind and on methamphetamine. During conversations with nurses, Mr. Pacheco indicated that officers told him over and over to stop and that he shot at the officers first so they had every right to shoot him.

Rickie Pacheco Jr. is a convicted felon with a listing for multiple dates of birth as well as the use of up to nine different aliases. His criminal history includes arrests and he has convictions on multiple felonies and misdemeanors. There are juvenile arrests for felony criminal trespass and carrying a concealed weapon. He has adult arrests for felonies that include distribution of a controlled substance, tampering with physical evidence, theft by receiving, and eluding. He has misdemeanor arrests for domestic violence, criminal mischief, harassment and assaults.

ADAMS COUNTY INVESTIGATION CASE 2015-5391

On June 8, 2015, Michele Rodriguez reported to the Northglenn Police Department that Ricky Pacheco Jr. robbed her while she was staying at the Travel Lodge Motel on 58th and Broadway. She advised that Mr. Pacheco robbed her on June 6, 2015 of her Glock handgun (Sn-XRB518) and \$4000.00 in cash. Ms. Rodriguez said that she had purchased the Glock earlier in the day from Gander Mountain in the city of Thornton. She indicated that Ricky Pacheco Jr. injured her when he punched her in the throat and the right side of her head. It was reported by Ms. Rodriguez that there were two unidentified males and one unidentified female with Mr. Pacheco at the time of the robbery. Michele Rodriguez stated that Ricky Pacheco Jr. was her ex-husband's friend who she had known for nine months and that she did not report the robbery right away because Ricky Pacheco told her that he was going to kill the police. He also told her that the room she was in was her coffin, while he was robbing her. According to Ms. Rodriguez, Mr. Pacheco stated if she called the police it would add to the body count.

INVOLVED OFFICERS INTERVIEWS

Detective Mullen along with Detective Overton, interviewed Northglenn Police Officer Matthew Hindman on June 10, 2015. He stated that he had been a Northglenn Police Officer for approximately eight years. He stated that his duty weapon is a Glock that carries seventeen rounds in the magazine and one in the chamber. He advised he was responding to a dispatch of a man with a gun in the area of Livingston and Huron St.

Officer Lund informed him that he noticed a man matching the description walking northbound on Huron St. Officer Hindman did a U-turn in his patrol vehicle at the 11100 block of Huron St. and parked his patrol vehicle where the suspect was. Officer Hindman got out of his car and asked the

suspect if he could talk to him. The suspect said "why" as he began to briskly walk away from Officer Hindman. The suspect then took off running and went to the left into a field. Officer Hindman observed the suspects right hand move down and the suspect raised a black handgun in his hand. Officer Hindman stated that as the suspect turned to his left, he fired at least two shots towards Officer Hindman. Officer Hindman then drew his duty weapon and began shooting back at the suspect. Officer Hindman indicated that he felt his life, as well as the lives of the other individuals, were in grave danger at the time he fired his weapon. Officer Hindman continued to shoot at the suspect until he expended all of his rounds from his service weapon and the suspect went down. At some point during these shots Officer Lund was to his left next to him and began firing shots at the suspect as well. Officer Hindman described this incident as, "his life flashing before his eyes, I mean, I don't know how he didn't hit me, cause he was easily within ten yards of me."

As the suspect went down, Officer Hindman stated he could see Officer Lund approximately six feet left of him. Officer Hindman yelled at Officer Lund to cover him as he reloaded his service weapon. As he is reloading Officer Lund begins shooting at the suspect again as it appeared the suspect was raising his gun again as he laid in the weeds.

Detective Mullen along with Detective Overton also interviewed Northglenn Police Officer Jaramie Lund on June 10, 2015. He stated that he had been a Northglenn Police Officer for approximately thirteen years. He stated that his duty weapon is a Glock that carries seventeen rounds in the magazine and one in the chamber.

Officer Lund stated he was dispatched to a man with a gun in the area of Livingston and Huron St. He stated while in route to the call he was in phone contact with the reporting party who advised him that the suspect was wearing a red shirt. Officer Lund had passed a male individual matching that description walking Northbound on Huron St. He then relayed this information to Officer Hindman who also responded to the area. He observed Officer Hindman in his patrol vehicle do a U-turn in the 11100 block of Huron St., while Officer Lund was still several cars behind. He watched Officer Hindman park his car and get out and approach the suspect. He stated the suspect was not listening to Officer Hindman and kept walking away from him.

Officer Lund parked his car in the median of Huron and got out of his patrol vehicle. He stated he was two or three steps out of his car when the suspect spun, raised a handgun and shot two rounds towards Officer Hindman. The suspect then pointed the gun in Officer Lund's direction and another shot was fired. He specifically remembered seeing the muzzle flash from this third shot.

Officer Lund ran to the left side of Officer Hindman as Officer Hindman was firing his weapon at the suspect. Officer Lund began firing at the suspect as well, who was running through an open field. The suspect ran south and went down into the grass near the fence line. Officer Lund stated the grass was two to three feet tall. He stated he could see the suspects red shirt but could not see him. He was yelling at the suspect to show his hands. Officer Lund stated that the suspect's right hand came up and he could see an object in his hand that he assumed was a gun. He believes he fired three or four more shots at that time while yelling at the suspect to drop the gun.

Officer Jaramie Lund indicated that he felt his life, as well as the lives of other individuals were in grave danger at the time Mr. Pacheco shot in his and Officer Hindman's direction.

WITNESS INTERVIEW SUMMARIES

Robert Deherrera - was with friend Michael Walker when they passed by a man wearing a red shirt and jeans that was in his twenty's or early thirty's. The man pulled out a gun and held it to his side but kept walking. He called 911 to report it.

Michael Walker - was with Robert Deherrera when they saw a man in a red shirt and jeans pull out a gun and hold it in his hand as they walked by him.

Chelsea Borger - said she saw Officer Hindman pull his vehicle over, attempt to contact a man in a hoodie and that the man started to run away. She indicated that as the man ran away, he pulled out a gun and fired at the officer and that when the man was pointing the gun at him the officer still had his gun in his holster. After she saw the person fire at the officers she says she pulled into an office building to get away and that she heard more gunshots.

Jaime Fleagle - Was driving north on Huron and saw an officer trying to talk to a man in red when the man in red looked back said something and ran. The man in red pulled a gun out from his pants and pointed it at the officer. The officer then pulled out his gun and started shooting and the man in red then ran into the field as both officers were shooting at him.

Vail Silva - driving north on Huron with an officer following and saw officer going south on Huron. Officer got out of an SUV and the young man started running away. The officer from the SUV pulled his weapon and began firing as the other officer ran up and also began to fire. She heard about five shots and then saw the young man fall to the ground and then heard six or seven more shots. She indicated in the taped interview that as soon as the man began to run, she heard shots.

Britany Thomas: - Indicates she saw the officers trying to contact a person that ran from them into a field and that the officers shot at the person running and she saw him fall to the ground.

Jack Yi - was driving and says he saw an officer trying to stop a man in a red shirt. The man in the red shirt started running away and the officer pulled out his side arm and started shooting at the man in the red shirt. He says that he used his cell phone to get a small video clip. The video clip shows the later portion of the shooting as described by Officer's Hindman and Lund.

Kenneth Thomas - Was driving north on Huron and saw an officer contacting a pedestrian as another officer was approaching. The pedestrian took off running and ran into a field and then there were gunshots.

Patricia Wooldridge - Heard popping sounds and looked out the window to see a person running and police officers shooting at him. Saw the person running go behind a bush about twenty to twenty five feet from the fence and officers stopped shooting, but kept their guns pointed at him.

Aimee Ornales: - Indicates she was sitting at her desk facing the scene and she heard a few "pops." When she looked up she saw police cars in the street and officers in the field. When she moved to get a better view she saw officers firing their weapons. She then saw the officers wait until other officers arrived on scene.

Chris Culp - indicates he heard five to seven loud noises and looked out the window to see a police officer with a gun drawn. He says that he moved to another window and saw the last couple of shots fired by an officer.

Kimberley Espinosa - Heard shots and after the first shot looked up and saw a police officer in a shooting stance and then saw him shooting.

Merlyn Kleppen - Heard shooting looked up and saw two officers with guns drawn and shooting.

CRIME SCENE INVESTIGATION

On June 10, 2015, Criminalist Heather Hatfield with the Thornton Police Department was contacted as a member of the Critical Incident Team to assist in this investigation and processing of the scene at 11100 Huron Street. Members of the Critical Incident Team and others including CSI Nina Thomas, CSI Von Bailey, CSI Mara Blake, CSI Katie Patterson, Detective Terrie Houdak, Detective Paul Gesi, Detective Casey Overton, Detective Brent Mullen, and Commander Dante Carbone, all assisted Criminalist Hatfield with processing the scene.

During the processing of the scene the Critical Incident Team criminalists collected numerous items in, and around the field. Mr. Pacheco's red sweatshirt and shoe were collected in the area where he was laying, and where the paramedics provided treatment. A Glock .40 caliber handgun was found underneath Mr. Pacheco and was collected. The handgun was in the lock back position indicating that all rounds had been expended. There were no live rounds found in the magazine or the chamber. This is the handgun that was recently purchased by Michele Rodriguez a person known to Mr. Pacheco, who reported that he had taken her gun from her on June 6, 2015.

In the area where the officers indicated they fired from and witnesses indicate the officers were, CSI recovered twenty-eight 9mm shell casings. In the areas where Mr. Pacheco was running and fell there were four .40 caliber shell casings found.

The weapons that Officer Lund and Officer Hindman were using were collected and tested for functionality, and determined to be in working order. Officer Hindman was carrying a Glock 17 (9mm) handgun with seventeen rounds in the magazine and one in the chamber. Officer Lund was carrying a Glock 17 (9mm) handgun with seventeen rounds in the magazine and one in the chamber. After a review of the officers statements and the accounting of rounds from the collection of the officers firearms, as well as a review of the evidence collected at the scene, it was determined that a total of thirty three rounds were fired between the two officers. Officer Lund fired fourteen rounds and Officer Hindman fired nineteen rounds. Due to length of the grass and the size of the field, not every shell casing was found even with the use of metal detectors during the search.

Analysis of the weapons and shell casings revealed that Mr. Pacheco used a functioning .40 caliber Glock handgun to shoot at officers Lund and Hindman, and that they each returned fire with their own 9mm Glock handguns. This was determined through the comparison examination of the shell casings and the weapons.

MEDICAL TREATMENT AND ANALYSIS:

On June 10, 2015 Ricky Pacheco Jr. was treated for gunshot wounds to his left leg, left forearm and his right wrist. These wounds are documented in photographs obtained at the hospital. The wounds and their placement are consistent with the statements made by witnesses and the officers regarding how Mr. Pacheco was running and the different directions he was facing during the incident.

LEGAL ANALYSIS:

As was previously noted, this review is limited to determining whether criminal charges should be filed against the involved officers. 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 Officers Jeramie Lund and Matthew Hindman's actions were not justified under the circumstances surrounding this incident and the applicable law.

There is no dispute that Officer Jeramie Lund and Officer Matthew Hindman fired their weapons and wounded Mr. Pacheco, and that they are both law enforcement peace officers. The legal question presented to the Office of the District Attorney is whether, at the time Officer Jeramie Lund and Officer Matthew Hindman fired their weapons, is whether the Office of the District Attorney can prove beyond a reasonable doubt that their 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 imminent 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 they 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 affecting 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.

LEGAL ANALYSIS AS TO OFFICERS HINDMAN AND LUND

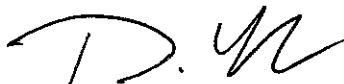
At the time that Officers Matthew Hindman and Jeramie Lund fired their service weapons, they had an unknown armed male shooting at them. The male disobeyed lawful police commands and shot his weapon at the officers in a residential area. Officers Lund and Hindman also observed that during the time the male was shooting at them and fleeing, that the male was running in the direction of a residential area, potentially putting residents in danger of being injured or taken hostage. Both officers indicated that they felt their life, as well as the lives of other individuals were in grave danger at the time they fired their weapon when the armed Mr. Pacheco was shooting at officers in a residential area while at the same time trying to run to hide. It is a reasonable conclusion that the lives of the officers and the public were in danger of serious bodily injury or death. It is additionally clear that both officers reasonably believed that the male shooting at them had committed a felony, was trying to escape by the use of a deadly weapon, and there was an imminent need for public safety to prevent this person from making it to a place of concealment.

Under these facts, the Office of the District Attorney cannot prove that Officers Matthew Hindman and Jeramie Lund'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 both officers.

CONCLUSION

Applying the facts of this incident to the applicable law, the evidence does not support the filing of any criminal charges against Officer Jeramie Lund and Officer Matthew Hindman for the shooting incident involving Ricky Pacheco Jr. on June 10th, 2015. Please feel free to contact me if you have any questions or further investigation is needed.

Respectfully,

A handwritten signature in black ink, appearing to read 'D. Young', with a stylized flourish at the end.

Dave Young
District Attorney