



July 2, 2018

Nicholas Metz
Chief of Police
15001 E. Alameda Parkway
Aurora CO 80012

Re: *Investigation of the officer-involved shooting of Tyrell Tyrone Jones that occurred on April 9, 2018 in Aurora, Colorado.*

Dear Chief Metz,

The Seventeenth Judicial District Attorney's Office has completed the review of the investigation regarding the officer-involved shooting of Mr. Tyrell Tyrone Jones occurring on April 9, 2018 in Aurora. The Aurora Police Department in conjunction with the Denver Police Department conducted the investigation into this matter. Detective Heath Graw with the Aurora Police Department presented the factual findings of the investigation to my office on May 21, 2018. Detective Graw presented law enforcement reports, audio and video recorded interviews, photographs, body cameras, and diagrams of the 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 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 officer, 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 your agency.

As further set forth herein, based upon the evidence presented and applicable law, there is no reasonable likelihood of success of proving beyond a reasonable doubt that the officer involved committed a crime, therefore, no criminal charges will be filed.

The Incident

On April 8, 2018, at approximately 1:25 p.m., officers with the Federal Heights Police Department were dispatched to the 8500 block of Stacy Boulevard in Federal Heights regarding a disturbance. Officer Brown spoke with Ms. Aura De-Paz, a witness, who said that she observed a male and female arguing and then the male shot a gun at the female. The female was running and screaming from the male party. The male and female were no longer on scene when Federal Heights Officers arrived. Corporal Lahr observed and collected a spent 9mm shell casing in the area.

A couple hours later, at 3:05 p.m., Aurora Police Officers responded to a call for shots fired at a 7-11 located at 14250 E. Iliff Avenue in Aurora. The victim of the shooting, Ms. Jennifer Arellano-Jones, explained to officers that she had previously been in Federal Heights earlier that day where she and a Mr. Jones were arguing and he fired a gun at her. Ms. Arellano-Jones explained that when they were in Federal Heights, she was arguing with Mr. Jones and started walking down 85th Avenue. Mr. Jones then said to her, "Bitch, I'm not playing," and fired a 9mm semi-automatic pistol at her. Mr. Jones then ordered Ms. Arellano-Jones into her silver Toyota Camry and they left the area before police arrived.

Ms. Arellano-Jones advised they went to a liquor store and then stopped at the 7-11 near the air pump station. Mr. Jones took the keys out of the ignition and began unloading his belongings from the car into a dumpster. Ms. Arellano-Jones observed a spare key fall out of his pocket and grabbed it and drove away from the 7-11. Mr. Jones chased after the vehicle on foot and she estimated he fired four shots at her vehicle at that time. Officer Michael Bender spoke with Ms. Arellano-Jones and observed two suspected bullet holes in the rear of her car. A spent bullet was later recovered from the driver's rear seat. A shell casing was also located and collected in the area where the shooting occurred. Ms. Arellano-Jones told Officer Bender that Mr. Jones had explained that if officers were to come after him, he was going to shoot at them.

On April 8, 2018, after the two shootings, the Aurora Police Department Fugitive Unit (FAST) made efforts to locate Mr. Jones at his family's residence and other addresses associated with him, but were unsuccessful. Officer Bond then disseminated a wanted person's bulletin for Mr. Jones advising he was wanted on charges of Attempted Murder and Second Degree Assault as acts of domestic violence. The bulletin also noted that Mr. Jones was armed and dangerous.

On April 9, 2018, Sergeant Sandoval spoke with Ms. Arellano-Jones and learned that Mr. Jones was attempting to contact her. Ms. Arellano-Jones expressed concerns for her safety and the safety of her family and agreed to assist the Aurora Police Department in the apprehension of Mr. Jones. The plan was for Ms. Arellano-Jones to set up a fictitious meeting location with Mr. Jones where officers could apprehend him. Mr. Jones and Ms. Arellano-Jones were exchanging text messages where he agreed to meet with her in Aurora. Sergeant Sandoval requested assistance from the Aurora Police Department SRT (SWAT) unit in taking Mr. Jones into custody.

Sergeant Barnes conducted a briefing of the SRT officers and developed an operations plan; to get Mr. Jones into the area, separate him from his vehicle, and arrest him. The goal of

the operations plan was to minimize risk to the officers, the suspect and members of the public. Members of the SRT team were aware that Mr. Jones had previously shot at his ex-wife and was still considered armed and dangerous.

SRT officers had Ms. Arellano-Jones tell Mr. Jones to meet her at the Crosslands Motel. Mr. Jones later arrived at the Corner Store located across the street from the Crosslands Motel in a metro taxi driven by Mr. Mengistu Helamo. The metro taxi drove to the Crosslands Motel and Mr. Jones briefly got out of the taxi. However, officers did not have time to apprehend Mr. Jones at that time. Mr. Jones sent Ms. Arellano-Jones a text message expressing frustration that she had not come outside to the metro taxi. Mr. Jones texted her that he was going to her mother's home to shoot at her house and the metro taxi then left the area.

Ms. Arellano-Jones, through text messages, convinced Mr. Jones to return to the Crosslands Motel. Officer Bond attempted to contact the metro taxi dispatch to advise the driver of the metro taxi to get out of the taxi when he arrives at the Crosslands Motel. Undercover officers were in the area of the Crosslands Motel and observed the metro taxi return to the location. Officers observed the taxi shaking and the driver's door open and close several times. Neither the driver, nor Mr. Jones left the taxi. Through radio traffic, officers learned that Mr. Jones took the taxi driver's phone and would not let him leave the taxi, which increased the concerns for the taxi driver's safety.

The metro taxi then left the Crosslands Motel location and began to drive southbound on Chambers Road. Several unmarked SRT vehicles followed the metro taxi. The metro taxi stopped at a red light at the railroad crossing at Chambers and Smith Road. Officers Jerothe and Dieck were in an unmarked vehicle on the east side of the metro taxi. Officers Cooley, Wicklund and Fox were in an unmarked vehicle behind the metro taxi. Officers Edwards, Ewen and Schol were in an unmarked vehicle to the west of the metro taxi. While waiting at the red light, Officer Jerothe and SRT members discussed the appropriate method to attempt to pin the metro taxi after the light changed to green. Officer Jerothe planned to pull ahead of the metro taxi when the light turned green. However, prior to the light changing to green, Officer Jerothe and Officer Dieck observed the taxi driver exit out of the driver's door and run eastbound.

Officer Jerothe and Officer Dieck immediately exited their vehicle and began to approach the metro taxi. Officer Jerothe observed Mr. Jones begin to exit from the rear of the taxi while holding a gun and pointing it at Officer Jerothe. Officer Jerothe announced that Mr. Jones had a gun. Mr. Jones then got back into the backseat of the taxi and shut the door. Officer Jerothe begins to approach towards the front of the vehicle as Officer Dieck approached from the rear driver's side of the taxi. Officer Dieck heard a gunshot from inside the taxi, and then began to fire into the rear driver's side window. The window shattered and Officer Dieck observed Mr. Jones positioned in the backseat with his back up against the door with a black handgun pointed at him and other officers. Officer Dieck then fired several more times at Mr. Jones.

SRT Officers then entered the back of the taxi and removed Mr. Jones. Officer Jerothe provided medical assistance prior to the arrival of emergency services. Mr. Jones was transported to the hospital and was treated for gunshot wounds. Mr. Jones was released from the hospital after several surgeries and was charged with seven counts of attempted murder, three

counts of kidnapping, one count of aggravated robbery, two counts of first degree assault, second degree assault, menacing, and possession of a weapon by a previous offender.

Witness Interviews

Investigators from the Aurora Police Department and the Denver Police Department conducted interviews of all necessary witnesses at the police department. Though there were many witnesses interviewed, only the involved officers and material witnesses are specifically summarized herein.

Officer Michael Dieck: Officer Dieck has been a police officer with the Aurora Police Department for the past six years. Officer Dieck has been a member of the Aurora tactical unit for approximately five years. His prior law enforcement experience includes; thirteen years with the Douglas County Sherriff's Office and six years with the Teller County Sherriff's Office.

At the time of the incident, Officer Dieck was on-duty wearing a dark blue standard SRT BDU uniform shirt and pants, affixed with "Aurora Police Department" patches on both shoulders, a name tag and badge on his left chest area. Officer Dieck carried his department issued M4 rifle, which fires .223 caliber rounds. Officer Dieck carried two thirty round magazines for his rifle. Officer Dieck was also outfitted with a police department issued body camera.

Detective Graw and Detective Ingui interviewed Officer Dieck on April 9, 2018 at the Aurora Police Department. Officer Dieck did not view his body camera footage prior to his interview, and stated the following:

Officer Dieck is currently assigned to the Aurora Police Department Strategic Response Tactics Unit (SRT) and was working in that capacity on April 9, 2018. Officer Dieck attended a briefing that afternoon for a wanted subject, Mr. Tyrell Jones. Officer Dieck advised the bulletin about Mr. Jones notated there was probable cause for his arrest on charges of attempted murder of Ms. Jennifer Arellano-Jones and that he was described as armed and dangerous. Officer Dieck advised the SRT members developed a basic plan for the arrest of Mr. Jones. The initial plan was to get Mr. Jones to the Crosslands Motel and arrest him in that area, as numerous undercover and fugitive units would be in the area. Officer Dieck was aware that Sgt. Sandoval was working with Ms. Arellano-Jones to develop a ruse to get Mr. Jones to the area of the Crosslands Motel.

Officer Dieck and Officer Jerothe arrived in the area of the Crosslands Motel sometime after 6:00 p.m. Officer Dieck was the passenger in an unmarked Ford F-150 driven by Officer Jerothe. Four unmarked SRT vehicles were set up on the east and west side of Chambers in anticipation of Mr. Jones' arrival. Officer Dieck noticed a taxi arrive in the area of the nearby Diamond Shamrock and members of the fugitive unit positively identified the passenger in the taxi as Mr. Jones. The taxi then drove around and entered the parking lot of the Crosslands Motel. Mr. Jones was in communication with Ms. Arellano-Jones and he told her that if she did not come down to the taxi soon he was going to leave. At one point, Mr. Jones briefly got out of

the taxi and approached the motel office, but officers were not able to apprehend him at that time. Officer Dieck explained there was insufficient time to get officers into position to separate Mr. Jones from the area of the taxi.

The taxi then left the Crosslands Motel. Officer Dieck and Officer Jerothe followed the taxi in their unmarked vehicle westbound on I-70. While in route, they learned that Mr. Jones had threatened to go to Ms. Arellano-Jones' mother's home and "shoot it up." The taxi then took an exit in Commerce City and made a U-turn and then proceeded back towards Aurora. Eventually, the taxi returned to the Crosslands Motel and parked. Ms. Arellano-Jones told Mr. Jones that she was in a room on the third floor. The plan was to have Mr. Jones get out of the taxi and walk towards the third floor and SRT officers would take him into custody once he got away from the taxi. Officer Dieck was advised that officers were in communication with the taxi dispatch working to try and get the taxi driver out of the taxi safely.

Surveillance officers then observed a possible struggle inside the taxi. Surveillance officers communicated over the radio that the taxi was shaking and the driver's door was opening and closing. The taxi then abruptly left the parking lot and started heading southbound on Chambers Road. Officer Dieck learned over the radio that Mr. Jones took the taxi driver's phone and that the driver was not able to get out of the taxi. Officer Dieck was concerned for the safety of the taxi driver, as he was a potential hostage at that time.

Officer Jerothe was driving and Officer Dieck was in the passenger seat as they began to follow the taxi southbound on Chambers Road. The taxi reached a red light just north of the railroad tracks on South Chambers and Smith Road. Officer Dieck's vehicle was in the left turn lane, and the taxi was in the middle through lane. Other unmarked vehicles approached the area and a plan developed to conduct a tactical vehicle contact on the taxi, to prevent the taxi from driving away. A tactical vehicle contact is used to safely immobilize a vehicle by blocking the front and rear of the vehicle with unmarked patrol vehicles. Officer Jerothe planned to pull the truck in front of the taxi when the light changed and provide the front block of the tactical vehicle contact.

Before the light changed, the taxi driver's door quickly opened and the taxi driver ran out in front of the unmarked truck. Officer Dieck lost sight of the taxi driver after he ran in front of the truck, as his focus was on the suspect in the taxi. At the same time, Officer Dieck observed the driver's rear door open and realized Mr. Jones might be attempting to exit the taxi. As Officer Dieck got out of the truck and advanced towards the taxi, he observed the rear door of the taxi close. Officer Dieck continued to move towards the rear driver's side of the taxi, and as this was occurring he heard Officer Jerothe (who was near the front of the SRT truck) yelling multiple times, "He's got a gun! He's got a gun!" The taxi windows were tinted making it difficult for Officer Dieck to see into the taxi at that time.

Officer Dieck was aware that other SRT officers were approaching the taxi on the passenger side. Officer Dieck then heard a noise that he recognized as gun fire. Officer Dieck was concerned that Mr. Jones fired a gun at him, Officer Jerothe or the taxi driver all of whom were still in the immediate area. Officer Dieck realized the driver's front door was still open,

exposing Officer Jerothe and the taxi driver to a line of fire from the taxi. Officer Dieck immediately was afraid for his life, the lives of the other officers and the life of the taxi driver.

Officer Dieck felt that he was the most vulnerable, since he was closest to the rear passenger door. Officer Dieck then fired his duty rifle approximately three to four times into the driver's side rear passenger seat of the taxi. Officer Dieck fired the rounds within seconds after hearing the shot being fired from inside the taxi. The rear passenger window shattered when he fired his initial rounds. Officer Dieck then could see Mr. Jones sitting with his back to the rear passenger side door facing the driver's side of the taxi. Officer Dieck observed Mr. Jones holding a black pistol in his right hand pointing it directly at Officer Dieck. Officer Dieck then fired another three to four rounds at Mr. Jones. Mr. Jones fell into the space between the back seat and the front seat on the floorboard. Mr. Jones was no longer holding the gun as the gun fell onto his stomach area.

Officer Dieck observed blood in the backseat and observed that Mr. Jones was conscious and breathing. Officer Dieck ordered Mr. Jones to put his hands up and keep them up. Mr. Jones complied with the orders, although he did not raise his hands all the way over his head. Mr. Jones held his hands near his chest, but the gun was still within his reach. Officer Dieck described this as being an intense moment. Officer Dieck continued to hold Mr. Jones at gunpoint until other SRT officers could remove him from the taxi. Officer Jerothe then immediately provided medical treatment to Mr. Jones on scene.

Officer Paul Jerothe: Officer Jerothe has been a police officer with the Aurora Police Department for the last twelve years. He is currently assigned as a member of the Strategic Response and Tactics Team (SRT). Officer Jerothe is also a paramedic.

At the time of the incident, Officer Jerothe was on-duty wearing a dark blue standard SRT BDU uniform shirt and pants, affixed with "Aurora Police Department" patches on both shoulders, a name tag and badge on his left chest area. Officer Jerothe's duty weapon is a 9mm Glock 17. Officer Jerothe was also outfitted with a police department issued body camera.

Detective Frederickson interviewed Officer Jerothe on April 9, 2018 at the Aurora Police Department. Officer Jerothe did not view his body camera footage prior to his interview, and stated the following:

Officer Jerothe became aware of the incident involving Mr. Tyrell Jones and Ms. Arellano-Jones in Federal Heights through email. Officer Jerothe learned that members of the Aurora Police Department were working with Ms. Arellano-Jones to set up a fictitious meeting with Mr. Jones in an effort to assist law enforcement with his apprehension. Officer Jerothe explained the initial plan was to separate Mr. Jones from the taxi once he arrived at the motel and take him into custody. Undercover officers setup in the area of the Crosslands Motel and observed the taxi arrive at that location. Officer Jerothe advised the taxi drove to the area of the motel, but positive identification of Mr. Jones could not be made at that time. Officer Jerothe was positioned in the area of a nearby Burger King, where the taxi drove by, but identification could not be made at that time either.

The taxi then left the motel area and was headed towards Commerce City as officers followed them. Officers learned during this time that Mr. Jones was texting Ms. Arellano-Jones advising that he was going to shoot up her mother's home. Sergeant Barnes advised him, and other members of the SRT team, that they needed to separate Mr. Jones from the taxi. This was based on the threats Mr. Jones had made, his prior shooting attempts, and to ensure safety of the taxi driver.

Officer Jerothe returned to the Crosslands Motel, positioning himself on the southwest corner of the motel in anticipation of Mr. Jones return. Officer Jerothe did not have visual sight of the taxi at this time and was relying on radio traffic for information. Once the taxi returned to the motel, Officer Jerothe learned over the radio that the taxi driver's door was opening and closing and the cab was shaking. Officers tried to contact the taxi cab company to get the taxi driver out of the vehicle. Officer Jerothe's concern for the safety of the taxi driver grew as he knew that Mr. Jones was likely armed and it sounded like the taxi cab driver was attempting to leave the taxi.

The taxi then abruptly left the motel and headed southbound on Chambers Road. Unmarked SRT vehicles then began to follow the taxi. Officer Jerothe was driving a brown Ford F-150 pickup and Officer Michael Dieck was in the passenger seat. The taxi stopped at a red light and Officer Jerothe positioned his truck in the left turn lane, to the east of the taxi. The taxi was stopped at the light for approximately ten seconds, when the driver suddenly exited the taxi and ran to the east in front of the truck.

Officer Jerothe observed, almost immediately, the left rear door of the taxi open and saw Mr. Jones in the backseat holding a black semi-automatic handgun pointed right at him. Officer Jerothe explained that it looked like Mr. Jones was going to exit the taxi however, he does not think he ever got out of the taxi. Officer Jerothe knew Officer Dieck was approaching the taxi and wanted him to know Mr. Jones had a gun. Officer Jerothe began to yell repeatedly, "He's got a gun!" Officer Jerothe was afraid Mr. Jones was going to shoot at him or Officer Dieck.

As Officer Jerothe came around the hood of his Ford F-150, he drew his duty weapon and took a tactical position. Officer Jerothe then could no longer see inside of the taxi. He then heard gunfire. Officer Jerothe heard several shots consistent with the sound of a rifle firing in rapid succession. Officer Jerothe knew it was Officer Dieck who fired as he was closest to the taxi. Officer Jerothe did not fire his duty weapon as he was in a bad position with other officers approaching the opposite side of the taxi. Once the gunfire stopped, he heard Officer Dieck say there was one suspect down.

Officer Jerothe approached the taxi and observed Mr. Jones in the backseat leaning against the rear door of the cab with his gun sitting on his chest with his hands near the gun. Several Officers yelled at Mr. Jones not to touch the gun. At one point, his hand dropped toward the gun again and Officer Jerothe yelled at him to not grab the gun. Mr. Jones said that he could not move. Officer Jerothe assisted in getting Mr. Jones out of the taxi and handcuffed. Mr. Jones had several gunshot wounds and Officer Jerothe retrieved his medical bag to assist with

treatment. He observed penetrating gunshot wounds to his left chest, left abdomen, left hip, two to his left leg and an open wound on his left forearm. Tourniquets were applied to Mr. Jones' left leg and left arm. Officer Jerothe observed a loaded magazine on the ground that did not belong to any members of the Aurora Police Department.

Officer Jerothe does not recall announcing "police" as his focus was on Mr. Jones and to advise other officers that he had a gun. Officer Jerothe said he had no time to engage in de-escalation tactics as it happened so fast. Officer Jerothe was not injured during the incident, but was surprised he was not shot, and believed that they were about to be shot. Officer Jerothe was concerned for his safety and the safety of Officer Dieck.

Mr. Mengistu Helamo: Mr. Mengistu Helamo was working for Metro Taxi on April 9, 2018. Sometime after 5:00 p.m., he received a work order from Metro Taxi dispatch advising him to pick up "Chris" in the area of East 6th Avenue and North Billings Street. When Mr. Helamo arrived in the area he called the number associated with "Chris" and spoke to a male who approached the taxi and got into the rear passenger seat. Mr. Helamo later identified "Chris" as Mr. Tyrell Jones. Mr. Jones directed Mr. Helamo to the area of 37th Avenue and Chambers to meet his girlfriend. Mr. Helamo drove the taxi to that area and parked at the Diamond Shamrock while they waited. Mr. Helamo became frustrated as he was not getting paid while he was waiting. Mr. Jones assured him his girlfriend was coming soon. Mr. Jones asked Mr. Helamo to drive across the street to the Crosslands Motel as his girlfriend was closer to that location. Mr. Jones repeatedly stated, "She's coming. She's coming."

At the Crosslands Motel, Mr. Jones got out of the taxi briefly and went to the office again, assuring Mr. Helamo that she was coming. Mr. Helamo indicated that they needed to leave the area soon and Mr. Jones stated he wanted to go to Thornton. Mr. Helamo was uncomfortable with the change and requested a specific address that was provided and he typed into his GPS system. Mr. Helamo left the Crosslands Motel and headed towards I-70, as Mr. Jones became increasingly more nervous. Mr. Helamo then headed from I-70 to I-270 northbound. Mr. Helamo drove a significant distance on I-270 and then Mr. Jones advised his girlfriend was calling and they needed to return to the Crosslands Motel. Mr. Jones assured Mr. Helamo he would pay the taxi fare.

Upon returning to the Crosslands Motel, the taxi dispatcher contacted him and advised him that he needed to get out of the taxi. The dispatcher suggested that Mr. Helamo should state he needs to use the restroom or something to that effect. Mr. Jones heard this exchange and pulled out a black pistol and pointed it at Mr. Helamo. Mr. Jones stated, "I already heard what she said, so drive!" Mr. Jones was still seated in the back passenger seat pointing the gun at Mr. Helamo. Mr. Helamo begged Mr. Jones not to shoot him; telling him he had children. Mr. Jones responded, "If you don't want to die, drive!" During this exchange, Mr. Jones grabbed the phone out of Mr. Helamo's hand.

Mr. Helamo drove out of the motel parking lot and headed towards Chambers Road. When he reached Chambers Road, he headed southbound and then began to consider jumping out of the taxi. Mr. Helamo moved the taxi into the middle lane of traffic. As he

approached the red light just North of Smith Road, he began to slow for the red light. Mr. Jones yelled at him to keep driving but Mr. Helamo advised he could not go through the red light as the arms for the railroad crossing were lowering and blocking the roadway.

Mr. Helamo reached down and released his seatbelt in anticipation of running from the taxi. A large truck pulled up next to him and Mr. Helamo took the opportunity to jump out and run from the taxi. Mr. Helamo thought if Mr. Jones managed to shoot and kill him, others would be around to stop and apprehend Mr. Jones. Mr. Helamo jumped from the taxi and ran to the east in front of the truck. As he ran around the front of the truck, he realized there were police officers around him. He did not realize this until exiting his taxi. Mr. Helamo described the police as angels. Officers contacted Mr. Helamo and then he heard several gun shots coming from the area of the taxi.

Other Witnesses:

Officer Jeremiah Cooley, Officer Scott Wicklund, Officer Rhett Fox are members of the SRT unit and worked to assist in the apprehension of Mr. Jones. All three officers were together in an unmarked silver Ford F-150 driven by Officer Cooley. They all observed the taxi traveling southbound on Chambers and stopping at a red light. Officer Cooley's vehicle was positioned one car length behind the taxi. They all observed the taxi driver run from the taxi, followed by SRT officers approaching the taxi to apprehend Mr. Jones. The officers were not in a position to observe the sequence of the shooting, but did hear shots being fired.

After the taxi driver ran, Officer Wicklund approached the passenger side of the taxi. Officer Wicklund observed Officer Dieck close to the rear driver's window with his rifle pointed downward towards the rear window area. Officer Wicklund heard Officer Jerothe stating, "He's got a gun! He's got a gun!" Officer Wicklund assumed that Officer Dieck was going to shoot, so he moved to the front area of the taxi to avoid any cross fire. Officer Wicklund heard Officer Dieck fire six to ten rapid rounds. Officers then removed Mr. Jones from the taxi and provided aid.

Officer Stephen Edwards, Officer Josh Schol, Officer Beau Ewen are members of the SRT unit and worked to assist in the apprehension of Mr. Jones. All three officers were together in an unmarked blue Ford F-150 driven by Officer Edwards. They all observed the taxi traveling southbound on Chambers and stopping at a red light. When the taxi stopped at the red light, Officer Edward's vehicle was positioned one car length behind the taxi in the right through lane on the west side of the taxi. They all observed the taxi driver run from the taxi and then SRT officers approach the taxi to apprehend Mr. Jones. The officers were not in a position to observe the sequence of the shooting, but did hear shots being fired. Specifically, Officer Josh Schol recalls that after Mr. Jones was removed from the taxi, Mr. Tyrell Jones advised he wanted them to shoot him; specifically, he asked them to shoot him in the head and that he did not want to go to jail.

Video Surveillance

During the investigation, several businesses were contacted and provided surveillance footage to members of the Aurora Police Department. Surveillance was obtained from the Diamond Shamrock gas station located at 3790 Chamber Road; showing the taxi parked directly in front of the front door entrance a few minutes after 7:00 p.m. The taxi remains parked in front of the door for a few minutes before backing into a different space at the northern area of the Diamond Shamrock. Surveillance was obtained from the Maverick Gas Station which captures the taxi intermittently, as it leaves the Diamond Shamrock, drives through the Maverick parking lot towards the Crosslands Motel.

Surveillance footage was obtained from the Crosslands Motel showing the area of the parking lot. The surveillance footage shows the taxi arriving and parking near the office entrance. Mr. Jones exits the rear passenger side of the taxi and walks towards the front office. Mr. Jones is only out of the taxi for approximately thirty seconds, and then returns to the backseat of the taxi, shutting the door. The taxi waits in the parking lot of the Crosslands for approximately five minutes before leaving the area. The taxi then returns a half an hour later, and the taxi pulls up again near the front office area and parks. The taxi pulls forward slightly, stops as the driver's door open then closes twice. The taxi then pulls forward, slows down, and then begins to drive out of the parking lot.

Surveillance footage was also retrieved from the Regional Transportation District (RTD) showing an overview from the area of Smith Road and Chambers Road. The point of view of the camera is from the west side of Chambers Road to the Northeast. The video shows traffic in the intersection and the taxi stopping in the number two through lane. Officer Jerothe's unmarked Ford F-150 truck stops in the number one lane next to the taxi. The taxi pulls ahead slightly of the other vehicles and then you can see a figure run from the driver's side of the taxi in front of the truck. Then several figures approach the taxi on the passenger and front side of the taxi. A large bright light comes from the right of the screen and washes out the view around the taxi. After the light, you see more figures enter the frame and move towards the taxi. Northbound traffic continues, and additional police and fire rescue arrive on scene.

Text Messages

On April 9, 2018, Ms. Arellano-Jones was working with the Aurora Police Department to set up a fictitious meeting to get Mr. Jones to a location so law enforcement could apprehend him. At approximately 7:30 p.m., Ms. Arellano-Jones missed a call from a number that was associated with Mr. Jones. These series of text messages then were sent between Mr. Jones and Ms. Arellano-Jones. Mr. Jones: I'm leaving going to federal heights you're a liar I left, Had me spend this fucking money for nothing, You put it on our kids now I'm fucking mad, You always testing me. Ms. Arellano-Jones replies: My phone died again im sorry please come back im sorry. Mr. Jones replies: No I'm on the highway to Commerce City and you gonna see I ain't playing. Ms. Arellano-Jones replies: Please come back just give me a couple of minutes to get myself together. Mr. Jones replies: Fuck no you had your minutes thought this dude was or I was going to keep waiting. Ms. Arellano-Jones replies: Dadi please come back. Mr. Jones

replies: You fucked up and lied again. Ms. Arellano-Jones replies: Im sorry im just really nervous. Mr. Jones: To late. Ms. Arellano-Jones: Im not lying. Mr. Jones: Watch I'm bout to shoot through your moms house. The text messages continue back and forth and Ms. Arellano-Jones convinces Mr. Jones to return to her location at the Crosslands Motel.

Crime Scene Investigation

On April 9, 2018, CSI Sarah Bailey assisted in the round accountability for Officer Dieck. Officer Dieck was outfitted with a department issued M4 rifle, which fires .223 caliber rounds. The rifle is a semiautomatic rifle which does not have the option of firing in bursts mode or as fully automatic. There was one (1) live cartridge in the chamber and twenty-one (21) live cartridges in the gun magazine removed from the rifle. The magazine holds a capacity of thirty (30) rounds. Officer Dieck keeps one (1) round in the chamber and twenty-eight (28) rounds in the magazine. Detective Hansen at the crime scene noted there were seven (7) spent .223 shell casings at the scene as well as seven rounds missing from Officer Dieck's rifle indicating that he fired his rifle seven times during this incident.

On April 9, 2018, CSI Sarah Bailey and Detective Randy Hansen responded to the crime scene in the area of Smith Road and South Chambers Road. The taxi was stopped in the number two lane just north of the railroad crossing, with the rear passenger door open. The rear driver's window and the rear passenger window were shattered. There was a bullet hole in the driver's side rear door of the taxi. A damaged handgun was observed in the back seat area of the taxi. On the ground behind the taxi were seven (7) fired .223 REM cartridge casings.

The Ford F-150 pickup, driven by Officer Jerothe, was stopped in the number one southbound lane. A second, Ford F-150 belonging to the Aurora Police Department SRT officers, was stopped southbound fifteen feet behind the taxi. A third Ford F-150 belonging to the Aurora Police Department SRT officers, was stopped in the southbound in the number four lane angled toward the taxi. The truck driven by Officer Jerothe was approximately even with the middle of the taxi. On initial examination of the SRT truck, a bullet hole was located in the passenger side wheel well. This bullet hole lines up with the bullet hole from the interior of the taxi rear door. The hole was approximately two feet, 9 ½ inches from the ground. The bullet hole matched closely in height with the bullet hole from the taxi.

An examination of the exterior of the taxi noted an exit bullet hole in the rear driver's side door approximately three feet from the ground. An examination of the interior of the taxi noted a bullet hole located on the rear driver side door frame near the door handle with a suspected exit through the door. The hole was consistent with a bullet being fired from the inside of the vehicle outwards. It appears that the same bullet fired from the interior of the taxi hit the SRT truck. Blood was observed on the lower rear passenger door frame. The rear driver and passenger windows were shattered.

In the rear of the taxi, penetrating bullet holes were located in the rear passenger's seat near the seatbelts and in the rear passenger side door. Using trajectory rods, three perforating bullet holes in the rear of passenger seat were located and examined and appeared in a downward

angle into the rear passenger area of the taxi. These bullet holes were consistent with the rounds fired by Officer Dieck into the rear area of the vehicle.

Located in the backseat was a Jimenez 9mm semi-automatic handgun with six live 9mm cartridges which fell out of the magazine upon examination. An examination of the handgun revealed one live round in the chamber. On the floor mat, one fired bullet, five live 9mm cartridges and a magazine spring with a metal fragment wedged in between were observed. Further examination revealed the 9mm handgun had a bullet strike located below the trigger guard which entered the magazine well. The bullet strike appeared to travel through the trigger guard and into the magazine well.

A request was submitted to the Denver Crime Lab to assist with the analysis of the 9mm shell casings. The casing collected from inside the taxi, the casing located outside the 7-11 and the casing found in Federal Heights were all analyzed. The Denver Crime Lab determined they were all fired by the same weapon.

During the investigation it was learned the Mr. Jones had rented a room at the Knights Inn (14200 E. 6th Avenue) under the name Amari Wright. A search of the motel room was conducted on April 10, 2018. CSI Castellano responded and collected live rounds of ammunition to include; forty-two rounds of 9mm Luger WIN, five rounds of FC 9mm Luger and one round of WMA 18.

Police Body Camera Footage

On April 9, 2018, Officer Michael Dieck was outfitted with an Aurora Police Department issued body camera. Once the body camera is activated by the user, it will capture the previous thirty seconds of video footage and then any ongoing footage until the camera is deactivated. The initial thirty seconds does not record audio. The body camera begins recording while Officer Dieck is seated in the front passenger seat of the unmarked Ford F-150 driven by Officer Jerothe. When the audio begins, the radio traffic requests all units to respond to the Crosslands Motel. Radio traffic advises they are contacting the taxi driver and surveillance officers are to advise when the taxi driver separates himself from the taxi. Officer Jerothe drives to the Crosslands Motel and they park the unmarked truck behind the building. Officer Dieck's camera shows part of the interior of the vehicle and a view out the passenger side windshield. Officer Dieck and Officer Jerothe are monitoring the radio traffic and are discussing how to approach the taxi once the driver leaves. Radio traffic then advises officers that the cab is shaking and the driver's door to the taxi is opening and closing. Officer Dieck expresses concern that the taxi driver might be in distress.

The radio traffic continues to explain that the taxi drove forward a little and then the driver's door opened and closed again. The radio advises that the taxi is now moving out of the parking lot and the taxi driver was unable to get out. Officer Dieck observes the taxi drive southbound on Chambers Road. Radio traffic advises officers that there is an issue in the taxi and that Mr. Jones has taken the driver's phone and will not let him out of the taxi. Officer Dieck consults with Officer Jerothe and they agree they need to go right now. Officer Jerothe

then proceeds to drive southbound on Chambers Road. SRT vehicles are now communicating on the radio and discussing how to appropriately pin the taxi. The radio advises that the taxi is stopped at a red light near Smith Road. Officer Jerothe advises they will have to do the pin in this area. Officer Dieck advises he is going to take the hammer and also states they have the rifle. Officer Jerothe stops the truck at the red light and advises over the radio that he will get in front to initiate the pin when the light changes. Officer Jerothe then states that the cab driver is out. Officer Dieck then exits from the front passenger door of the truck.

Officer Dieck states, "Police Officer, Let me see your hands!" as he approaches the rear driver's side of the taxi. A gun shot is heard as Officer Dieck is standing near the rear driver's door. Officer Dieck's camera is partially obstructed, as his .223 rifle is positioned towards the rear of the taxi. Officer Jerothe is heard yelling in the background, "He's got a gun! He's got a gun!" Officer Dieck advises repeatedly that he cannot see as the windows of the taxi are tinted. Officer Dieck then begins to fire his rifle through the rear passenger side window and the glass shatters. Other officers then inquire, if Mr. Jones is still moving or if he is down. Officer Dieck repeatedly states that Mr. Jones is still moving. Officers continue to give commands to Mr. Jones to not move and keep his hands up. Officer Dieck advises that Mr. Jones's gun is his lap. Officer Dieck then advises Mr. Jones again not to move and put his hands up.

As Officer Dieck is standing by the rear passenger door, the camera shows Mr. Jones on the floorboard between the backseat and the front seat with his hands up. There is some blood on the backseat with shattered glass. A gun is seen down on Mr. Jones' right hip area. Officers remove Mr. Jones from the rear of the vehicle and the gun falls down to the rear floorboard. Throughout this, Officer Dieck maintained his position by the rear driver's side door until Mr. Jones is taken out of the taxi. Officer Dieck walks over to Mr. Jones as officers are beginning medical treatment and then walks away and stands near the truck. Officer Edwards approaches to check on Officer Dieck, who advises that he was not injured. Officer Dieck advises that he felt glass blowback, but did not feel anything else. Officer Jerothe can be seen retrieving a medical bag from the back of the Ford truck and returning to the area of Mr. Jones. The footage is then discontinued.

Officer Paul Jerothe was also outfitted with an Aurora Police Department issued body camera. Officer Jerothe is the driver of the unmarked Ford F-150. The angle of his in camera while he is in the driver's seat shows the steering wheel, interior of the vehicle and has a partial view looking out of the front windshield. When the recording begins, Officer Jerothe is driving with Officer Dieck in the front passenger seat. When the audio begins, the radio traffic requests all units to respond to the Crosslands Motel. Radio traffic advises they are contacting the taxi driver and then surveillance officers are to advise when the taxi driver separates himself from the taxi. Officer Jerothe drives to the Crosslands Motel and they park the unmarked truck behind the building. Officer Jerothe asks Officer Dieck to tell him when he sees the taxi. Officer Dieck explains where the cab is parked, and Officer Jerothe states he will park his truck in the back of the Crosslands Motel. Officer Jerothe and Officer Dieck are monitoring the radio traffic and are discussing how to approach when the taxi driver leaves the taxi.

Radio traffic then advises officers that the cab is shaking and the driver's door to the taxi is opening and closing. Officer Jerothe expresses concern that Mr. Jones will take the cab driver

hostage. Officer Jerothe advises that they might have to assault the car. Officer Dieck expresses concern that the driver might be in distress. Officer Jerothe states that he might have to smash the car. The radio traffic continues to explain that the taxi drove forward a little and then the driver's door opened and closed again. The radio advises that the taxi is now moving out of the parking lot and the taxi driver was unable to get out. Officer Jerothe advised that they will have to take the car. Officer Dieck observes the taxi drive southbound. Radio traffic advises officers that there is an issue in the taxi and that Mr. Jones has taken the driver's phone and will not let him out of the taxi. Officer Dieck consults with Officer Jerothe and they agree they need to go right now.

Officer Jerothe then proceeds to drive southbound on Chambers Road. SRT vehicles are now communicating on the radio and discussing how to appropriately pin the taxi. The radio advises that the taxi is stopped at a red light near Smith Road. Officer Jerothe advises they will have to do the pin in this area. Officer Jerothe and Officer Dieck are discussing getting visual on the taxi. Officer Jerothe states they have to do the vehicle pin here, and he will move his vehicle in front of the taxi. Officer Dieck advises he is going to take the hammer and also states they have the rifle with them. Officer Jerothe's stops the truck at the red light and advises over the radio that he will get in front to initiate the pin when the light changes.

Officer Jerothe then states that the cab driver is out. Officer Jerothe jumps out of the driver's side of the truck stating, "Police Officer Don't Move!" The camera shows his driver's door open. Officer Jerothe then repeatedly yells, "He's got a gun! He's got gun!" Officer Jerothe closes his driver's door and is walking around the front of the truck. As Officer Jerothe is standing towards the front of his truck facing the taxi, the audio captures shots being fired. Officer Jerothe draws his weapon. Officer Jerothe then makes his way closer to the taxi and Officer Dieck is in view with a rifle pointed towards the rear passenger window. Officer Jerothe asks if he is down and if Officer Dieck is ok. Officer Jerothe then approaches closer to the rear passenger window and gives orders for Mr. Jones not to move and put his hands up. Several officers can be seen now standing around the taxi with weapons drawn. Mr. Jones is visible on the floorboard of the taxi between the front and backseat. Officer Jerothe is advised that the gun is down by Mr. Jones' right hip. Officer Jerothe walks around to the rear passenger side of the taxi and opens the door. Officers remove Mr. Jones from the taxi and lay him on the roadway. Officer Jerothe asks for someone to check Officer Dieck to make sure that he is not hurt. Officers put handcuffs on Mr. Jones.

Mr. Jones repeatedly states that he cannot move and that his arm is numb. Officer Jerothe returns to his truck and retrieves his medical bag and returns to Mr. Jones to begin providing first aid. Mr. Jones continues to scream out in pain. Officer Jerothe advises him to relax and that he is going to help him. Officer Jerothe works to cut off Mr. Jones' clothes to find where the bleeding is happening. Officer Jerothe sees a magazine and states that it is not associated with any Aurora Police Officers. Officers works to put a tourniquet on Mr. Jones' leg. Officer Jerothe talks to Mr. Jones and advises that he is trying to save him, to which he responds, "don't save me, just shoot me in the head." Officer Jerothe then puts a tourniquet on his arm as Mr. Jones is in distress. The footage is then discontinued.

A review of the other officer's body camera footage from April 9, 2018 did not capture the officer involved shooting incident.

Suspect Information

On April 9, 2018, Mr. Jones was transported to the hospital for treatment of his injuries. On April 23, 2018, Detective Graw responded and asked if Mr. Jones would like to speak with him about this incident and he declined. On May 2, 2018, Mr. Jones was released from the hospital and transported to the Adams County Detention Facility. Following this investigation, Mr. Jones was charged with seven counts of attempted murder, three counts of kidnapping, one count of aggravated robbery, two counts of assault in the first degree, second degree assault, menacing, and possession of a weapon by a previous offender. On April 9, 2018, a warrant was active for Mr. Jones for charges of Second Degree Assault Strangulation, Violation of a Protection Order and Criminal Mischief in Adams County Case # 18CR344.

Mr. Jones criminal history includes; conviction for felony menacing and third degree assault (2016), obstructing a peace officer (2012), distribution of a controlled substance (2010), possession of a weapon by a previous offender (2008), as well as several traffic and juvenile adjudications.

Legal Analysis

As previously noted, this review is limited to determining whether criminal charges should be filed against the involved officer. 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 Dieck's actions were not justified under the circumstances surrounding this incident and the applicable law.

In this case, there is no dispute that Officer Dieck fired his weapon and wounded Mr. Jones. At the time of the shooting, Officer Dieck was engaged in the course of his duties as a police officer to arrest a wanted suspect. Therefore, the legal question presented to the Office of the District Attorney is whether, at the time Officer Dieck 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 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 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).

On April 9, 2018, Officer Dieck was working with members of the Aurora SRT unit to apprehend Mr. Jones. Officer Dieck was advised that Mr. Jones was considered armed and dangerous. Officer Dieck was aware that Mr. Jones had recently fired a gun at Ms. Arellano-Jones in Federal Heights and in Aurora on April 8, 2018. Officer Dieck was aware that members of the Aurora Police Department were working with Ms. Arellano-Jones to set up a fictitious meeting to apprehend Mr. Jones. Officer Dieck was aware that Mr. Jones was in a taxi while in route to the meeting location.

Officer Dieck knew the apprehension plan was to separate Mr. Jones from the taxi and then effect the arrest. On April 9, 2018, Officer Dieck responded to the area of the Crosslands Motel and began receiving radio updates that the taxi driver appeared to be in distress. Officer Dieck was advised over the radio that Mr. Jones was in the taxi and had taken the taxi driver's phone and the driver was not free to leave. The taxi drove away from the Crosslands Motel, as Officer Jerothe and Officer Dieck followed the taxi southbound on Chambers Road. All the vehicles were stopped at a red light in the area of South Chambers and Smith Road. SRT members discussed over the radio a new plan to pin the taxi at this time to apprehend Mr. Jones. As the officers were waiting for the light to turn green to initiate the vehicle pin, Officer Dieck observed the taxi driver run from the vehicle.

Officer Dieck then approached the rear driver's side to arrest Mr. Jones. As he was approaching, Officer Dieck heard what he knew to be a gunshot, which is consistent with the physical evidence of the bullet hole in the taxi; in the direction from inside to outside. Officer Dieck also heard Officer Jerothe yell, "He's got a gun! He's got a gun!" Officer Dieck then fired his .223 rifle into the rear area of the taxi, shattering the glass window. After the glass was shattered, Officer Dieck had a better view of Mr. Jones who was seated in the back seat of the taxi with a black handgun pointed directly at Officer Dieck. Officer Dieck then fired several additional rounds at Mr. Jones until he was no longer a threat.

As the situation quickly unfolded, there was no time to use less lethal devices prior to the shooting. Officer Dieck indicated he felt his life, as well as the lives of the other officers and the taxi driver were in danger at the time he fired his weapon. Based upon the circumstances known to Officer Dieck, this was a reasonable conclusion when a wanted suspect fired a weapon at officers in an effort to escape and avoid apprehension, putting others at risk of serious bodily injury or death.

Under these facts, the Office of the District Attorney cannot prove that Officer Dieck's actions of firing at Mr. Jones 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 Dieck.

CONCLUSION

The evidence demonstrates Mr. Tyrell Jones kidnapped the taxi driver and would not let him leave the taxi at gunpoint. Mr. Jones insisted that he drive and leave the Crosslands Motel. At a nearby traffic light, the taxi driver used the opportunity to escape and run from the taxi. The officers then approached the vehicle to arrest Mr. Jones. Several Officers announced their presence while advising Mr. Jones to comply with their orders. As Officer Dieck approached the taxi, Mr. Jones fired a round through the driver's rear door at the officers and the taxi driver. Officer Jerothe quickly announced to all officers that Mr. Jones was armed with a gun. At the time Officer Dieck fired his weapon into the taxi, he was in fear for his life, the lives of his fellow officers and the taxi driver.

Applying the facts of this incident to the applicable law, the evidence does not support the filing of any criminal charges against Officer Dieck for the shooting of Mr. Tyrell Jones on April 9, 2018. Therefore, it is the conclusion of the Seventeenth Judicial District Attorney's Office that no criminal charges will be filed against Officer Dieck. Please feel free to contact me if you have any questions or if you believe that further investigation is warranted.

Respectfully,


Dave Young
District Attorney