



For Immediate Release:
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April 3, 2023

Decision Letter:

Attached is the decision letter issued by District Attorney Brian Mason related to an officer-involved shooting on an RTD Bus in Aurora on October 2, 2022.

Warning, Graphic Content Contained in the Links Below:

Link to Aurora PD Body Cam Video:
[APD Body Cam Video RTD Bus Shooting](#)

Link to RTD Bus Video:
[RTD APD Shooting 10.02.2022](#)

Link to Summary PowerPoint:
[OISDecisionLetterPowerPoint10222.pdf](#)

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District Attorney Mason assumed the oath of office on January 12, 2021. The 17th Judicial District Attorney's Office endeavors to seek justice on behalf of the citizens of Adams and Broomfield counties in felony and misdemeanor cases. DA Mason and his staff are dedicated to transforming the criminal justice system to better serve the citizens of the 17th Judicial District.

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April 3, 2023

Interim Chief Art Acevedo
Aurora Police Department
15001 East Alameda Parkway
Aurora, CO 80012

Re: The officer-involved shooting of Alexander Collins, occurring on October 2, 2022

Dear Chief Acevedo:

The 17th Judicial District Critical Response Team (CIRT) recently completed its investigation into the October 2, 2022 shooting death of Alexander Collins. Westminster Police Department Detectives Reggie English and Matt Neihart led the investigation. The remaining investigators on the CIRT who worked on this case are associated with law enforcement agencies independent of the Aurora Police Department. The Office of the District Attorney concludes that the investigation was thorough and complete. This letter includes a summary of the facts and materials that the CIRT presented for review.

The 17th Judicial District Attorney's review is limited to determining whether any criminal charges should be filed against any of the involved officers for a violation of Colorado law. The standard of proof for filing a criminal case is whether there is sufficient evidence to prove all the elements of a crime beyond a reasonable doubt. The prosecution also has the burden to prove beyond a reasonable doubt that the use of force was not legally justified. This independent investigation and review is not intended to take the place of an internal affairs investigation by your agency. As such, the 17th Judicial District Attorney's review does not evaluate compliance with any departmental policies, standards, or procedures.

I find the actions of the involved officers to be justified in this incident. Furthermore, based on the evidence presented and applicable law, there is no reasonable likelihood of proving the elements of any crime beyond a reasonable doubt against the involved officers. Therefore, no criminal charges will be filed against the officers involved in this incident.

FACTUAL SUMMARY OF THE INCIDENT

In July of 2022, Alexander Collins was admitted into a housing program as part of his sentence for a felony conviction out of an Arapahoe County criminal case. The housing program, ADMIT (Arapahoe Diverts the Mentally Ill for Treatment) is a community-based sentencing option that offers mental health and substance abuse treatment as an alternative to incarceration. The ADMIT program is located at 1601 Nome Street and is operated by the Arapahoe County Sheriff's Office.

At approximately 4:30 p.m. on October 2, 2022, an ADMIT client, “J.M.”¹ called Arapahoe County Sheriff’s Office Deputy Kraig Conger and expressed concern that Mr. Collins was acting strange—that he had stayed up all night drinking alcohol and smoking “blues,” street slang for fentanyl. According to J.M., Mr. Collins repeatedly stated, “I’m not going back to jail.” Deputy Conger was not working at the time, so he notified Deputy Anthony Archuleta of the information and requested Deputy Archuleta respond to the facility to check on Mr. Collins and place him on a detoxification hold.

At approximately 5:30 p.m., Deputy Conger called J.M. to give Deputy Archuleta access to the facility. J.M. advised that Mr. Collins left the facility and went to the bus stop located at the corner of westbound Colfax Avenue and Moline Street. J.M. further reported that he could see Mr. Collins with a woman and that he had a “butcher knife” in his pocket. Deputy Archuleta drove his unmarked silver Ford Fusion to the RTD bus stop, where he recognized Mr. Collins standing nearby. He activated the emergency red and blue lights, parked the vehicle and got out. Deputy Archuleta, dressed in civilian clothing, held up his law enforcement badge on a neck chain and announced himself as “police” and asked to speak with Mr. Collins. Mr. Collins appeared angry and responded with profanities. Mr. Collins pulled out a large knife and held it up in his right hand. Deputy Archuleta described the knife as a “large butcher knife,” and did not respond or further engage Mr. Collins because he did not have any armor or communications device. Mr. Collins walked across Colfax Avenue to the south, still holding the knife. Deputy Archuleta watched as Mr. Collins entered the Moline Corner Store, located on the southwest corner of the intersection of Colfax Avenue and Moline Street. Deputy Archuleta went back into his vehicle and observed Mr. Collins from a distance. He provided informational updates to the police communication dispatch center and asked the Aurora Police Department to respond with emergency police assistance due to Mr. Collins’s behavior and the fact that he was armed with a large knife.

Mr. Collins entered the Moline Corner Store and confronted the clerk by demanding cigarettes. The clerk recognized Mr. Collins as a regular and saw that he was holding a large knife. The clerk placed a box of cigarettes on the counter and asked Mr. Collins if he was going to pay for the cigarettes. Mr. Collins did not respond and simply took the cigarettes, put the knife in his pocket, and walked out of the store. The clerk locked the door and called 911.

Mr. Collins proceeded north across Colfax Avenue to the bus stop on the northwest corner of Colfax Avenue and Moline Street. Mr. Collins boarded the westbound RTD bus from the front without paying bus fare. The bus driver attempted to confront Mr. Collins but Mr. Collins ignored him and continued to walk down the aisle to the back of the bus. The bus driver stopped the bus because he heard sirens and saw emergency vehicles approach.

¹ Initials are used to maintain confidentiality of civilian witnesses who participated in this investigation.



Aerial image of the locations associated with this incident.

Uniformed Aurora Police Officers responded to the location and surrounded the bus. Deputy Archuleta advised Aurora Police K9 Officer Robert Wong what had occurred, identified Mr. Collins, and advised that Mr. Collins was armed with the knife inside the bus. Officer Wong saw Mr. Collins inside the bus and noticed passengers moving away from Mr. Collins. Officer Wong drew his handgun, pointed it at Mr. Collins and ordered him to exit the bus. Mr. Collins said “No” and started moving toward the back of the bus in the direction of the passengers. Officer Kevin Manley boarded the rear door of the bus and instructed Mr. Collins to get off the bus. Mr. Collins refused. Officer Manley repeatedly ordered Mr. Collins to show his hands and to sit down. Mr. Collins stated “No!” and continued to ignore the commands. Mr. Collins held his right hand down behind his back and appeared to move away from Officer Manley. Several passengers walked by Officer Manley, proceeding to crowd the aisle toward the back of the bus, away from Mr. Collins.



Still image of Officer Manley's BWC displaying Mr. Collins on the bus as he held his right hand near his right back pocket.

Officer Wong boarded the bus from the front door with his K9 officer. Officer Wong observed a knife in Mr. Collins's back pocket. Officer Wong released his dog to take down Mr. Collins. The dog bit Mr. Collins from behind but did not take him down. Both Officer Wong and Officer Manley saw Mr. Collins holding a large knife in his right hand as he continued to advance toward the passengers huddled at the back of the bus. Officer Wong attempted to stop Mr. Collins by grabbing him from behind.



Still image of Officer Manley's BWC displaying Officer Wong attempting to stop Mr. Collins as Mr. Collins proceeded to the back of the bus armed with the knife.

As Mr. Collins continued to walk toward the back of the bus with Officer Wong grabbing him from behind, Officer Manley stepped back. Officer Manley got behind Officer Wong and tried to help Officer Wong physically restrain Mr. Collins. Within seconds, Officer Manley deployed his Taser to stop Mr. Collins. The Taser was ineffective, and Mr. Collins continued to pull away from the officers' grip while still holding the knife.



Still image from Officer Manley's BWC displaying the officers' attempts to manually restrain Mr. Collins while he was armed with the knife.



Still image from Officer Wong's BWC displaying the relative proximity of Mr. Collins to other passengers on the bus.

Officers Jordan Diekneit and Jason Oviatt stood outside the bus at the open rear door as Officers Wong and Manley struggled to control Mr. Collins inside the bus. They heard officers give commands, “Get off the bus!” and “Drop the knife!” while the dog made contact with Mr. Collins. They observed Mr. Collins armed with the knife as he continued to move toward the passengers on the back of the bus. As Mr. Collins pulled away from Officers Wong and Manley, Officers Diekneit and Oviatt fired their handguns at Mr. Collins, shooting him in the left side of the lower chest and abdomen. Mr. Collins was subsequently removed from the bus and officers rendered medical aid. Mr. Collins died as a result of the gunshot wounds. A later autopsy confirmed that Mr. Collins had ingested fentanyl, cocaine, methamphetamine, and alcohol prior to his death.



Still image from Officer Diekneit's BWC displaying the officers' attempts to physically restrain Mr. Collins while he was armed with the knife.



Still image from Sergeant Oviatt's BWC displaying the officers' attempts to physically restrain Mr. Collins while he was armed with the knife.



Still image from Officer Diekneit's BWC of Mr. Collins armed with a knife and moving in the direction of passengers moments prior to the officers' firing their weapons at Mr. Collins.

INVOLVED OFFICER INTERVIEWS

Westminster Police Department Detectives Reggie English and Matt Neihart interviewed the involved Aurora Police Department Officers. Officer Robert Wong was interviewed the day of the incident. Officers Diekneit, Manley, and Sergeant Oviatt gave interviews on October 6, 2022 in the presence of their legal representatives. All interviews were audio and video recorded. The involved officers were interviewed prior to viewing any footage from their body-worn camera or other materials related to this investigation. The following is a synopsis of each interview:

Officer Jordan Diekneit. On October 2, 2022, Officer Diekneit was working a regular patrol shift in a marked police vehicle. He wore a standard issue Aurora Police Department uniform with a police badge and was equipped with a body-worn camera. He carried a Glock 19, 9-millimeter handgun. Around 6:00 p.m., he recalled seeing a dispatch notation on his in-car computer device that alerted him that a deputy requested “emergent cover, suspect brandished knife.” He didn’t recall the address, but remembered it was at the intersection of Colfax Avenue and Moline Streets. The notation was subsequently updated to report that the suspect committed an armed robbery at a nearby business.

Officer Diekneit drove to the location with his emergency lights and siren activated. As he arrived, he saw an RTD bus parked on the north side of Colfax Avenue, facing westbound. He heard over the radio that the suspect with the knife entered the bus. Officer Diekneit got out and positioned himself at the rear door of the bus. He explained his recollection of the events as he observed from the curb just beyond the threshold of the rear door of the bus. He saw Officer Manley on the bus confronting a white male holding a “large kitchen knife” in his right hand. He also described seeing civilians at the back of the bus. Officer Wong was positioned near the front door of the bus giving the suspect commands to drop the knife. The suspect said “No” and stepped toward Officer Manley. Officer Wong released his dog to stop the suspect, but the suspect kept moving to the back of the bus while holding the knife in his hand.

Officer Wong grabbed the suspect by his shoulder or shirt collar and pulled the suspect backwards to prevent him from contacting the civilians at the back of the bus. Officer Diekneit described a “wrestling match” between the two, as Officer Wong was unable to control the suspect from advancing toward the civilians. Officer Diekneit saw that the suspect still had the knife in his right hand as he was pulling away from Officer Wong. Officer Diekneit repeatedly ordered the suspect to drop the knife and heard the other officers giving similar commands. Officer Diekneit saw the Taser strike the suspect and heard the Taser discharge, but it appeared to have no effect on the suspect.

The struggle took place on the platform of the rear door of the bus. From his vantage point on the curb, Officer Diekneit stated that he had a direct line of sight of Mr. Collins and had a clear backdrop. He estimated that the suspect was within three to five feet of the officers and expressed concern that if the suspect broke free from the officers’ grasp, he would harm them with the knife. He explained that he discharged his firearm at the suspect because the suspect still had his knife in his hand and he believed that the suspect presented a threat to the officers and the civilians on the bus. He recalled firing his weapon three to four times. He

stated that he stopped firing because the suspect fell to the ground and he no longer perceived him as a threat to others. Officer Diekneit further explained that he did not consider a less lethal alternative because the K9 officer and Taser were both ineffective in stopping the suspect, who still possessed the knife.

Sergeant Jason Oviatt. On October 2, 2022, Sergeant Oviatt was working a swing shift as a supervising patrol officer in a marked patrol vehicle. He wore a standard issue Aurora Police Department uniform with a police badge and was equipped with a body-worn camera. He carried a Glock 22, .40 caliber handgun. Sergeant Oviatt recalled that at the time of the call for this incident, he heard a patrol officer report over the radio that they were responding to a plain-clothed deputy who requested emergency assistance for a person who threatened him with a knife. Sergeant Oviatt activated his lights and sirens and responded to the area of the incident, the intersection of Colfax Avenue and Moline Street.

As Sergeant Oviatt got to the area, he heard an update over the radio that the suspect also committed a robbery with the knife. He heard that the suspect boarded the westbound bus that was parked at the bus stop. Sergeant Oviatt observed other uniformed patrol officers get into the bus and heard them yell commands to someone to get off of the bus. From the threshold of the rear door opening of the bus, Sergeant Oviatt saw multiple people running to the back of the bus. He heard Officer Wong command his dog to “hit,” or bite, the suspect. While he didn’t see the dog, he observed the suspect moving down the aisle toward the back of the bus with an officer pulling him from behind, actively trying to gain physical control of the suspect. Based on what he heard and saw, Sergeant Oviatt knew the suspect was not compliant with the officers. He saw passengers on the bus cower and try to avoid the suspect. He awaited the opportunity to intercede and help the officer gain control of the suspect. However, he resisted when he saw what he described as a “full sized chef knife” in the suspect’s hand. Sergeant Oviatt called out, “He’s got a knife!” and stepped back.

Sergeant Oviatt expressed his concern that the suspect was armed with a knife, threatened multiple people, ignored officers’ commands, and actively resisted the officers’ attempts to control the situation in a peaceful manner. He estimated that he was within a foot of the suspect and stated his belief that given the confined area, the suspect presented a threat to the officers, as well as the civilians. Specifically, Sergeant Oviatt stated:

All [the suspect] would have had to do was turn and thrust over his shoulder at the officer trying to gain control of him would likely be dead. Or if he had gone the other direction, he could have...he could have done the same thing to the people who were cowering away from him. Or grabbed one of them and then he has a hostage. Um and he...the way that he was standing for just a moment um I...he...I thought that I had one chance to stop him from killing anyone. Um I could see an opening where I could shoot him in the torso without hitting anyone else. Um and so I did. That was the only chance that I had to stop him from killing the officer that was trying to arrest him or one of the people who’s running from him and I didn’t think the chance would come again.

He recalled shooting his firearm two to three times at the suspect until the suspect stopped

moving toward the people on the back of the bus. At that point, he believed the suspect no longer presented a threat. When asked whether he considered non-lethal force, Sergeant Oviatt explained that other options would have been insufficient to stop the suspect from the deadly threat he presented with the knife.

Officer Kevin Manley. On October 2, 2022, Officer Manley was working an off-duty shift in his Aurora Police Department issued uniform, equipped with a police badge and body-worn camera. He was armed with a Glock 17, 9 millimeter handgun. He heard a dispatch call for help on his radio and added himself to the call for assistance. While en route, he heard a call related to a robbery at the same location. By the time he arrived on the scene, he heard over the radio that the suspect entered an RTD bus.

Officer Manley drew his handgun and got on the bus to confront the suspect. He observed the suspect holding a “butcher knife” in his right hand. Passengers ran past Officer Manley to the back of the bus. A K9 officer boarded the bus and ordered the suspect to get off the bus. The suspect appeared to be in a “zombie state” and refused the officer’s commands. The K9 officer released the dog and it bit the suspect. The officers tried to grab the suspect, but the suspect pulled away from the officers. The suspect still had the knife in his hand. Officer Manley said that he feared for his life, as well as the life of his partner officer and the passengers on the bus. He stepped back and tried to use his Taser to subdue the suspect, but it had no effect. About the same time, shots were fired at the suspect and the suspect fell down. He didn’t know who fired or where the shots came from. When asked why he didn’t use deadly force, Officer Manley explained that he didn’t fire his handgun because of the civilians at the back of the bus.

Officer Robert Wong. On October 2, 2022, Officer Wong was working as a K9 patrol officer. He was outfitted in an Aurora Police Department issued uniform, equipped with a badge and body-worn camera. He carried a Glock 17, 9 millimeter handgun. He recalled responding to a dispatch request for assistance for another police department. There was also a robbery reported from the same location. Upon arriving at the scene, he met with a deputy sheriff from Arapahoe County Sheriff’s Office. The deputy advised that he was picking up an individual who pulled a knife on him. He identified the suspect and pointed to an RTD bus that the suspect entered.

Officer Wong was concerned about the risk that the suspect might use the knife to take hostages on the bus. He blocked the bus with his marked patrol vehicle so the bus wouldn’t be able to drive away. He approached the bus with his dog and could see the suspect standing on the bus and several passengers moving away from him. He pointed his handgun at the suspect and ordered him to exit the bus. The suspect yelled in response, “No!” Another officer was at the back of the bus, causing the suspect to move to the front of the bus. Officer Wong entered the bus at the front door with his dog. The suspect moved to the back of the bus toward the other passengers. Officer Wong saw a knife in the suspect’s back pocket. He released his dog, hoping it would take down the suspect. The dog bit the suspect, but the suspect did not go down. At this point, the suspect armed himself with the knife in his right hand and Officer Wong was concerned that he was going to kill the passengers at the back of the bus. He expressed that he needed to end the situation with the use of deadly force, but he could not

shoot the suspect because there were passengers in the back of the bus that were in the backdrop of his gunfire. Officer Manley helped Officer Wong try to gain control of the suspect by using his Taser. While they were struggling with the suspect, gunshots were fired at the suspect from outside the bus. The suspect fell but still had the knife. Officer Wong exited the front door of the bus and went to the back area of the bus where he redeployed his dog to remove the suspect from the bus. The knife was secured and officers rendered medical aid.

CIVILIAN WITNESS INTERVIEWS

There were multiple civilian witnesses on the bus at the time of the incident. Some of the witnesses identified themselves to police and agreed to participate in interviews, while others left the scene prior to giving any information. In the interest of necessity and convenience, many of these witnesses were initially interviewed by officers with the Aurora Police Department. Of the witnesses who were identified, some were uncooperative with police officers seeking to gather information relative to the incident. Investigators with the CIRT attempted to follow up with the identified witnesses, but were not successful with some of them, either because the address locations were invalid or because the witnesses did not return calls. The following summary includes the relevant information discovered during a portion of the witness interviews.

J.M. J.M. was a resident in the ADMIT housing program and was acquainted with Mr. Collins. J.M. was interviewed by CIRT investigators on the evening of the incident. He recalled that on October 1, 2022, Mr. Collins was drinking alcohol and “smoking blues” with two other people. The next day, one of the Mr. Collins’s associates inferred that he had to administer “Narcan” (a medication used for emergency treatment of known or suspected opioid overdose) to Mr. Collins and that Mr. Collins appeared to be agitated about it. J.M. prepared food for Mr. Collins and the others and then told them to leave his residence. J.M. was later contacted by Mr. Collins, who asked him for \$10. When J.M. refused, Mr. Collins said that he was “going to go do something stupid.” J.M. followed Mr. Collins on foot to the intersection of Colfax Avenue and Moline Street. He called Deputy Conger and advised him of the situation, including the fact that Mr. Collins was armed with a large butcher knife. Deputy Conger told J.M. to go back to the facility to find Deputy Archuleta, who had been looking for Mr. Collins. As he walked back, J.M. heard gunfire and suspected that Mr. Collins had been shot. From a distance across the parking lot, he could see multiple uniformed officers rendering aid to Mr. Collins outside the bus.

A.P. Shortly after the incident, a police officer with Aurora Police Department interviewed a woman identified as A.P. A.P. described being near the Moline Corner Store when a male came up to her asking for drugs. She recognized the male from around the area. She told him that she did not have any drugs and the male threatened her, saying that he was going to blow her up with a propane tank. The male walked away and then came back, this time holding a knife she described as a “large butcher knife with a white handle.” She watched the male walk into the store. She saw the male pull a knife on another male and take a pack of cigarettes. A.P. advised that she reported what she observed to a police officer. The male with the knife apparently saw her talking to the police and came after her. The male chased her around the parking lot with the knife saying he was going to kill her before he fled northbound

toward the bus stop. A.P. stated that she was in fear for her life when the male chased her with the knife.

A.A. Aurora police contacted and identified the clerk/owner of the Moline Corner Store, A.A. He was interviewed on the day of the incident and the following day. A.A. advised that he recognized Mr. Collins as a regular customer who comes into the store daily to purchase a specific brand of cigarettes. During the evening of October 2, 2022, Mr. Collins came inside and stepped in front of other customers waiting at the counter. A.A. stated that Mr. Collins did not appear himself and was acting different than normal, as if he were either drunk or high. He asked for cash and cigarettes while holding up a white-handled kitchen knife up at his side. A.A. was scared, so he gave Mr. Collins the cigarettes. A.A. asked Mr. Collins if he was going to pay and Mr. Collins did not respond. A.A. told him that he could pay the next day. Mr. Collins walked out of the store and A.A. locked the door. A.A. saw Mr. Collins walk to the bus stop on the northwest corner of Colfax Avenue and Moline Street.

Q.G. Q.G. was initially contacted and interviewed by an officer with the Aurora Police Department immediately after the incident. An investigator with CIRT conducted a follow up interview with her a few days later. Q.G. advised that she was on the westbound Colfax Avenue bus joined by her two children, ages 6 and 7. She sat in the row behind her children, who sat in the row immediately behind the rear door of the bus. She noticed police officers board the bus and give multiple commands directed to a person to exit. She identified the person as a white male with long dark hair and a “scruffy face.” She described him as noncompliant and having a blank expression. She observed the male trying to get away from the police. She heard the officers yell, “Drop the knife!” and saw a large butcher knife in the suspect’s hand. The male ran toward the back of the bus where she and others were seated. Q.G. believed the suspect wanted to cut somebody or take somebody with him and felt that her children were in danger. As people ran towards the back of the bus, she saw that officers attempted to pull the male back as his right arm was still holding the knife. The knife was pointed towards other people. She estimated the male with the knife was within three feet of her children when he was stopped by the police officers. She described her children as being terrified. Fearing for her safety and that of her children, she grabbed ahold of them and pulled them over the seat into her row. She covered her children and then heard gunshots. She stated that she expected the officers to shoot because of the severity of the situation. The officers rendered aid to the male who was shot.

A.R.-H. A.R.-H. was initially interviewed on scene by officers with the Aurora Police Department and again later by investigators with the CIRT. She advised that the white male who was shot by police initially boarded the bus with her and sat down just behind her. An unknown female advised her to watch out and get away from the male because he had a large knife. The male got up and was acting nervous, as he started to pace back and forth on the bus. She could see that the male had a knife she described as a “straight knife with a white handle grip.” People started to move to the back of the bus to avoid the male. Uniformed police officers boarded the bus from the front door and told the male to drop the knife and get off the bus. The male turned and started to walk toward the back of the bus with the knife extended outward and pointed at her. She tried to get to the back of the bus, but another person in the aisle prevented her from passing through and used her to “shield” himself from the male with

the knife. She thought that she was going to die because she was closest to the male with the knife and feared that he was going to stab her. The shooting occurred near the rear door of the bus as the male continued to walk toward her.

J.G. J.G. was interviewed on scene by an officer with the Aurora Police Department, but did not respond to the CIRT investigator's requests for follow up. J.G. stated that he was sitting on the bus when a white male got on the bus. J.G. saw a "big kitchen knife" in the back of the male's pants. Police officers boarded the front of the bus and the male fled to the back of the bus and grabbed the knife from his pocket. As the officers approached the male, the male swung the knife around at the passengers who had retreated to the back of the bus. J.G. stated that the suspect swung the knife attempting to cut the passengers who were "trapped" on the back of the bus. An officer tried to Tase the male, but the Taser did not work. J.G. said that the officers had to shoot the male, or the passengers would have gotten hurt.

E.A. and K.P. An officer with the Aurora Police Department contacted E.A. and K.P. and interviewed them together on scene. The CIRT investigator was unable to locate them for follow up interviews. They both stated that they saw officers board the bus and tell a male to get off the bus and to calm down. The male held a large knife with a white handle on his side. The male pulled out the knife and moved to the back of the bus towards kids while holding the knife. They said that they were scared of the male.

C.S. During an initial interview with Aurora police, C.S. advised that he was about 8-10 rows back on the driver's side of the bus but that he didn't see much as he was asleep. He stated that all he recalled was being awakened by officers yelling and then shooting. During a later interview with a CIRT investigator, he stated that he recalled police officers yelling at a male with long hair to "Get off the bus!" The male held a "butcher knife" and acted aggressive while disregarding police commands. A short time later, C.S. heard gunshots and the man fell to the ground.

CRIME SCENE INVESTIGATION AND VIDEO EVIDENCE

Criminalists assigned to the CIRT gathered evidence and processed the scene, including all four officers' firearms. Based on an examination of the firearms and evidence at the scene, the criminalists concluded that Officer Diekneit and Sergeant Oviatt each discharged four rounds at Alexander Collins. Officers Manley and Wong did not fire their handguns. The investigators also collected evidence of Taser cartridge and copper wiring confirming that a Taser was deployed. The knife held by Mr. Collins was collected near his final resting place.



Photograph of the knife recovered from the ground following the incident.

Records with the Aurora Dispatch Center show the call for service was initiated at 6:02:08 p.m. and was reported as a “work release deputy” requesting emergency assistance to the Moline Corner Store at 11490 East Colfax Avenue for an “inmate that brandished a knife.” Updates to the dispatch notes include physical and clothing descriptions for the suspect. The notes also reference a description of the knife as a “large kitchen knife with white handle.” At 6:05:33 p.m., the notes reference that the suspect “might be getting on a bus.” The notes reference “shots fired” at 6:07:57 p.m.

Close examination of the body-worn camera evidence reveals the details and timing of the events. Each of the involved officers arrived on scene at approximately 6:06 p.m. At that time, Mr. Collins is already on the bus. At 6:06:50 p.m., Mr. Collins stood inside the bus at the open front door watching Officer Wong approach on the sidewalk. Officer Wong draws his handgun and holds Mr. Collins at gunpoint. Officer Wong yells, “Get off the bus right now! Get on the ground!” Mr. Collins walked away from the front door toward the back of the bus.

Officer Manley is first the officer to board the bus from the rear door at 6:06:54 p.m. At that time, Mr. Collins is walking toward Officer Manley, but then stops and begins to step back.

Officer Manley immediately orders Mr. Collins to get off the bus. Starting at 6:06:57 p.m., Officer Manley repeatedly commands, "Show me your hands!" four times as Mr. Collins walks backward down the aisle to the front of the bus. At 6:07:02 p.m., Mr. Collins responds, "No!" At 6:07:04 p.m., Officer Manley yells, "Sit down!" two times. Mr. Collins has his right hand on the handle of the knife in his back pocket. Officer Diekneit looks inside the bus through the threshold of the rear door opening at 6:07:02 p.m., just as Mr. Collins was refusing Officer Manley's repeated commands.

Officer Wong and his dog enter and step inside the front door of the bus at 6:07:05 p.m. At 6:07:07 p.m., Officer Wong commands his dog to "Hit!" and the dog immediately pursues Mr. Collins. At 6:07:08 p.m., Officer Manley physically grabs Mr. Collins shoulders from behind. Officer Manley joins in the struggle to control Mr. Collins for the next several seconds. At 6:07:14 p.m., Officer Manley advises Officer Wong, "He's got the knife in his hands," to which Officer Wong responds, "Yep."

Officers Diekneit and Oviatt stand at the threshold of the rear door opening watching the other two officers struggle to control Mr. Collins. At 6:07:18 p.m., Officer Diekneit shouts, "He's got a knife!" Additional commands, "Drop the knife!" continue until 6:07:21 p.m. The first shots are fired at 6:07:21 p.m. and continue for three seconds to 6:07:24 p.m.

The RTD surveillance cameras from the interior cabin of the bus captured the incident, though there are no timestamps imprinted on the RTD surveillance. There is no audio on this surveillance system. The first observation of Mr. Collins is when he boards the bus without paying a fare. He immediately walks to the back of the bus and sits down amongst other passengers. Within about a minute, Mr. Collins gets up and walks to the front of the bus. During that period of time, the bus pulled forward only a short distance before it stops and the bus driver opens the front door. Mr. Collins walks up to the front door and peers through, appearing to notice Officer Wong and his K9 officer walking in front of the bus. Mr. Collins walks toward the back of the bus until he is confronted by Officer Manley at the rear door. The white handle of the knife is seen protruding from the right rear pocket of Mr. Collins' shorts. Mr. Collins appears to reach for the handle immediately upon seeing Officer Manley. Mr. Collins then returns to the front of the bus until Officer Wong enters and confronts him at the front door, at which point the physical confrontation ensues in the aisle. Mr. Collins appears to draw the knife from his pocket with his right hand just prior to the moment Officer Wong grabs him from behind.



Still image from RTD surveillance camera depicting Mr. Collins peering out the front door opening of the RTD bus as Officer Wong approaches the bus with his K9 Officer.



Still image from RTD surveillance camera depicting Mr. Collins grabbing hold of the knife handle in his back pocket as Officer Manley confronts him from the rear door opening.



Still image from RTD surveillance camera depicting Officer Wong confronting Mr. Collins as Mr. Collins held the knife out and moved toward the back of the bus.



Still image from RTD surveillance camera depicting Officer Wong attempting to physically restrain Mr. Collins from other passengers.

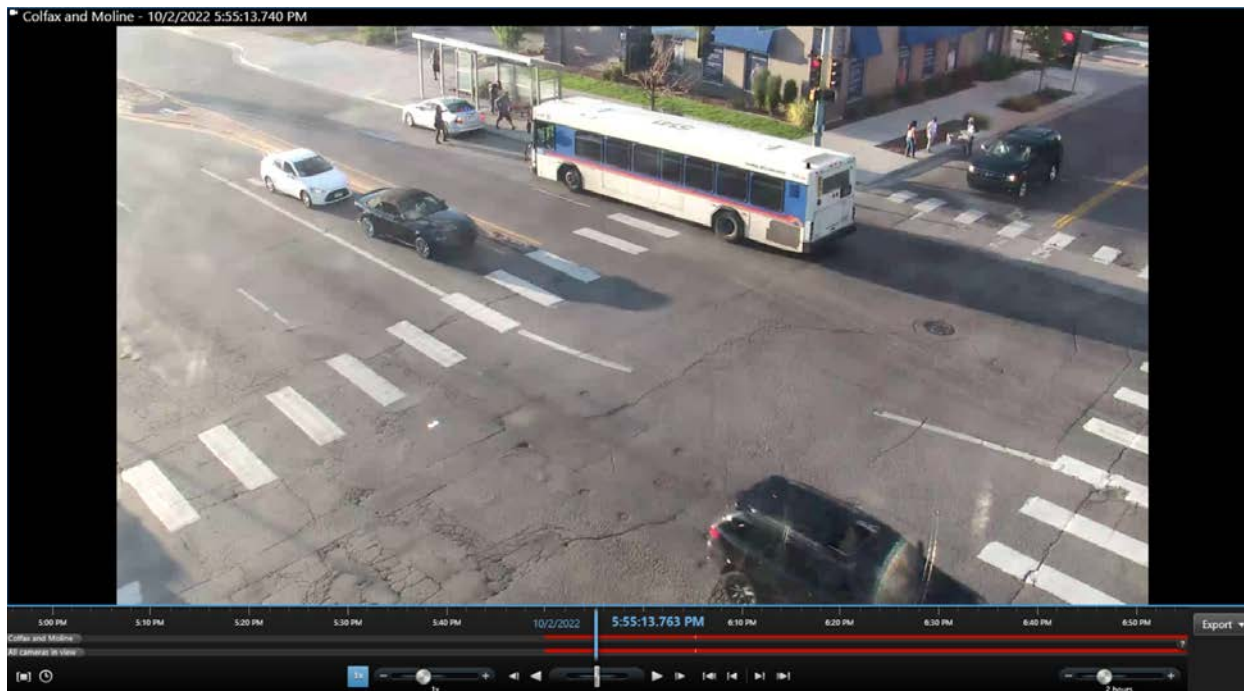


Still image from RTD surveillance camera depicting Officer Manley deploying the Taser while Officer Wong attempts to physically restrain Mr. Collins moments before shots were fired by Officer Diekneit and Officer Oviatt from outside the rear door opening.

Other video evidence of this incident includes video surveillance from the Moline Corner Store, as well as the City of Aurora MESH Camera Surveillance. The surveillance video from the Moline Corner Store does not have an accurate time stamp. Nevertheless, the video footage confirms that Mr. Collins entered the store and stepped in front of a line of people at the front counter. The clerk, A.A., hands a pack of cigarettes to Mr. Collins. Mr. Collins appears to open the cigarettes and then flips the knife around in his hand multiple times before leaving the store.

The MESH camera system has a camera mounted on the traffic light at the southeast corner of Colfax Avenue and Moline Street. From a distance, the camera first captured Mr. Collins walking northbound across Colfax Avenue to the bus stop at 5:51 p.m. At 5:55 p.m., a silver Ford Fusion pulls up and stops at the bus stop. Emergency lights are activated on the Fusion and Deputy Archuleta gets out to confront Mr. Collins, who appears to walk away. For the next minute, Deputy Archuleta follows Mr. Collins as he crosses back and forth across Colfax Avenue. At 5:57 p.m., Mr. Collins runs west out of sight of the camera. Deputy Archuleta enters his vehicle and drives west. At 5:59 p.m., Mr. Collins reappears running north, stands in the median and walks back and forth from the median to the bus stop for the next several minutes. At 6:02 p.m., Mr. Collins walks back to the bus stop where he waits until the bus arrives at 6:05 p.m. The view of Mr. Collins is obstructed by the bus and he is no longer

seen on this video recording. The bus pulls forward slightly and stops. At 6:06 p.m., the bus is surrounded by patrol cars with the Aurora Police Department.



Still image from the MESH camera system of Deputy Archuleta's initial confrontation of Mr. Collins at the bus stop at 5:55 p.m.

LEGAL ANALYSIS

This review is limited to a determination of 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. Criminal liability is established when the evidence is sufficient to prove all 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. Consequently, to file a criminal charge, the District Attorney's Office must be able to prove beyond a reasonable doubt that the involved law enforcement officers' actions were *not* justified under the circumstances surrounding this incident and the applicable law.

In this case, there is no dispute that Officer Diekneit and Sergeant Oviatt fired their weapons at Alexander Collins causing his death. There is also no dispute that Officers Wong and Manley used physical force upon Mr. Collins just prior to his death. The question is whether these involved officers' conduct, considering the actions of each individual officer as well as an assessment of the officers' mental state at the time of the incident, amounts to a criminal offense.

Under Colorado law, a law enforcement officer may use an amount of force – including deadly physical force – that is necessary and reasonable. Additionally, under Colorado law,

police officers, like any other individual, have the right to defend themselves or others from the use or imminent use of unlawful physical force. An officer's right to use reasonable force is an affirmative defense, meaning that the prosecution must prove beyond a reasonable doubt that the use of force was not justified. The affirmative defenses applicable to the officers' use of force at the time of this incident are found at §18-1-707, C.R.S. (2022), and the relevant portions of that subsection provide:

(1) Peace officers, in carrying out their duties, shall apply nonviolent means, when possible, before resorting to the use of physical force. A peace officer may use physical force only if nonviolent means would be ineffective in effecting an arrest, preventing an escape, or preventing an imminent threat of serious bodily injury or death to the peace officer or another person.

...

(2) When physical force is used, a peace officer shall:

(a) Not use deadly physical force to apprehend a person who is suspected of only a minor or nonviolent offense;

(b) Use only a degree of force consistent with the minimization of injury to others....

(3) A peace officer is justified in using deadly physical force to make an arrest only when all other means of apprehension are unreasonable given the circumstances and:

(a) The arrest is for a felony involving conduct including the use or threatened use of deadly physical force;

(b) The suspect poses an immediate threat to the peace officer or another person;

(c) The force employed does not create a substantial risk of injury to other persons.

(4) A peace officer shall identify himself or herself as a peace officer and give a clear verbal warning of his or her intent to use firearms or other deadly physical force, with sufficient time for the warning to be observed, unless to do so would unduly place peace officers at risk of injury or would create a risk of death or injury to other persons.

(4.5) Notwithstanding any other provisions in this section, a peace officer is justified in using deadly physical force if the peace officers has an objectively reasonable belief that a lesser degree of force is inadequate and the peace officer has objectively reasonable grounds to believe, and does believe, that he or another person is in imminent danger of

being killed or of receiving serious bodily injury.

The United States Supreme Court has set forth a standard of “objective reasonableness” in evaluating the use of force by a police officer. Under this standard, the inquiry into the appropriateness of an officer’s use of force must (1) take into consideration the totality of the circumstances, including factors such as the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether the suspect is actively resisting arrest or attempting to evade arrest by flight; and (2) be judged from the perspective of an objectively reasonable officer on the scene “in light of the facts and circumstances confronting them, without regard to [his] underlying intent or motivation.” Further, the United States Supreme Court notes, “[t]he calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” *Graham v. Connor*, 490 U.S. 386, 396-97 (1989).

Accordingly, applying the proper legal standard in this case, the critical inquiry is whether an objectively reasonable officer, confronted with the same facts and circumstances, would have concluded that Alexander Collins posed an immediate threat to the safety of the officers or another person such that the use of force, including deadly physical force, was necessary. Here, the involved officers responded to call for assistance made by Deputy Anthony Archuleta from the Arapahoe County Sheriff’s Office. Deputy Archuleta reported that he attempted contact with an individual who threatened him with a knife and fled. The officers received a further update through the dispatch center that the same individual committed an armed robbery at a store nearby. Consequently, each of the involved officers arrived on scene with the purpose of contacting a suspect who was potentially armed with a deadly weapon.

On scene, Officer Wong spoke with Deputy Archuleta, who confirmed the information and pointed out the suspect, later identified as Alexander Collins. Believing that Mr. Collins was armed with the knife on board the RTD bus with several other civilians, Officers Manley and Wong boarded the bus to detain Mr. Collins and resolve the situation. These officers did not immediately resort to the use of force. On the contrary, Officer Wong initially ordered Mr. Collins to get off the bus. Officer Manley also commanded Mr. Collins to get off the bus and gave him multiple orders to show his hands. Mr. Collins refused those commands and attempted to evade police contact. The officers involved here were clearly identifiable as police officers, not only by their appearance, but also by their actions in trying to contact Mr. Collins. In addition, Mr. Collins appeared to recognize them as police officers by his effort to avoid contact with them. When the uniformed officers were on the bus giving orders, Mr. Collins displayed the knife and demonstrated an intent to potentially cause harm to the officers or other passengers on the bus.

The evidence also supports a conclusion that the law enforcement officers used every effort to avoid using force upon Mr. Collins. Some twelve minutes prior to the shooting incident, Deputy Archuleta tried to contact Mr. Collins peacefully by identifying himself as a police officer. Mr. Collins successfully eluded Deputy Archuleta and walked back and forth across Colfax Avenue, eventually brandishing the knife to Deputy Archuleta, as well as the clerk at the Moline Corner Store. By his conduct, Mr. Collins demonstrated to these officers

that nonviolent means of apprehension would be ineffective.

Once Mr. Collins displayed the knife, Officer Wong engaged in the use of physical force by deploying his dog and by grabbing Mr. Collins from behind. As expressed by Officer Wong, he believed that Mr. Collins presented a threat to the other passengers on the bus and Officer Wong believed that “this [situation] has to end immediately.” Likewise, Officer Manley expressed his effort to help restrain Mr. Collins due to fear for himself, his fellow officer, and the other people on the bus given Mr. Collins’ noncompliance and his possession of the knife within close proximity to others. Under these circumstances, these two involved officers used a degree of force that was necessary and appropriate to prevent the threat of harm to others.

Thirteen seconds elapsed between the time Officer Wong attempted to restrain Mr. Collins and the time shots were fired. The evidence reveals that within that time frame, Mr. Collins aggressively resisted officers’ attempts to restrain him while armed with a large knife. Officer Diekneit and Sergeant Oviatt stood in close proximity and observed the several seconds of struggle between Mr. Collins and the officers. Both Officer Diekneit and Sergeant Oviatt expressed their belief that, based on Mr. Collins’s actions with the knife, someone could have been killed or seriously injured if they did not use deadly force to stop Mr. Collins. Based upon the observations of these officers, nonlethal means of apprehension proved unreasonable under the circumstances.

I find the conduct of all four officers to be reasonable, justified and even heroic. Mr. Collins presented a clear threat to the lives of the passengers, including small children, on that bus. He also presented a clear threat to the officers who were seeking to intervene. The officers used verbal commands and other non-lethal means – including a taser – to prevent the armed suspect from harming anyone. These efforts proved futile. The decision to use physical force and then lethal physical force may well have saved innocent lives that day. The officers were clearly justified in doing so.

Furthermore, there is no evidence to suggest that an objectively reasonable officer would have acted differently than the officers who were involved in this incident. Mr. Collins was reported to have engaged in criminal activity by threatening others with a knife. Mr. Collins, by his actions, demonstrated an intent to avoid police contact and ignore reasonable commands to drop the weapon. Mr. Collins also presented a threat to others by continuing to possess, display and brandish a deadly weapon. Although Mr. Collins may have ingested an intoxicant that may have altered his state of mind, that fact does not change the law applicable to these officers’ right to exercise self-defense and defense of others when they were faced with what they perceived to be an imminent threat of death or injury.

Mr. Collins’ refusal to obey commands and his actions with a deadly weapon caused these officers to make a split-second and, indeed, reasonable judgment in a tense and quickly evolving situation, as clearly shown in the video evidence. The evidence presented in this investigation supports a conclusion that Officers Wong and Manley were justified in the use of physical force upon Mr. Collins and that Officer Diekneit and Sergeant Oviatt were justified in the use of deadly physical force against Mr. Collins.

CONCLUSION

Given the totality of the circumstances and evidence, the prosecution cannot prove that the involved officers were not justified in using reasonable force under §18-1-707, C.R.S. (2022). Therefore, applying the facts of this incident to the applicable law, no charges will be filed against Officer Robert Wong, Officer Robert Manley, Officer Jordan Diekneit, or Sergeant Jason Oviatt for their use of force against Alexander Collins on October 2, 2022.

Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brian S. Mason". The signature is fluid and cursive, with the first name "Brian" being more prominent than the last name "Mason".

Brian S. Mason
District Attorney