



June 22, 2016

Chief Randy Nelson
Thornton Police Department
9551 Civic Center Drive
Thornton, CO 80229

Re: The investigation of the officer-involved shooting of Daven Hannu, dob 9/25/1964,
occurring on March 23, 2016

Dear Chief Nelson:

The investigation and legal analysis of the officer involved shooting of Daven Hannu is complete. The 17th Judicial District Critical Incident Investigation Team (CIIT) conducted the investigation into this matter, led by Detectives Dale Hammell of the Broomfield Police Department and Eric Brodheim of the Adams County Sheriff's Office. The CIIT is comprised of detectives and crime scene technicians from multiple police agencies within the 17th Judicial District, as well as investigators from the Office of the District Attorney for the 17th Judicial District. The factual findings of the investigation were presented to my office on May 10, 2016. The CIIT presented police reports, videos and transcripts of the interviews of witnesses, along with photographs and diagrams of the crime scene investigation. The Office of the District Attorney concludes that the investigation is thorough and complete.

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

Based on the evidence presented and the applicable Colorado law, there is no reasonable likelihood of success of proving that the involved officers committed any crimes beyond a reasonable doubt at trial. Therefore, no criminal charges will be filed against the officers involved in this incident.

Overview of the Incident

During the early morning hours of March 23, 2016, Thornton Police Sergeant Pat Long made contact with the driver of a suspicious vehicle in the parking lot of the RTD Park-n-Ride, located at 8703 Grant Street in the City of Thornton. While Sergeant Long was conducting a records check of the vehicle, he looked up and saw a male party get out of the vehicle and walk toward him with a raised shotgun. The male fired the shotgun five times, striking Sergeant Long as he sat in his patrol car. Sergeant Long leaned over and was able to back away as he reported the shooting to dispatch. The suspect returned to his vehicle and drove away. Sergeant Long suffered non-life threatening injuries.

Thornton Police Officers Anthony Jenkins and John Martinez arrived shortly after the shooting to assist. Officer Jenkins fired his rifle at the suspect vehicle as it left the location of the incident. The vehicle proceeded southbound on Grant Street and stopped. The male driver got out with a shotgun and proceeded to walk toward the officers with the shotgun aimed at them. The male refused commands to stop and drop the weapon. As he continued to advance toward the officers, Sergeant Long and the two Officers fired their weapons at him, killing him. The male was later identified as Daven Hannu.

Witness Interviews

Investigators from various law enforcement agencies including the Broomfield Police Department, Adams County Sheriff's Office, Westminster Police Department, Commerce City Police Department, and the District Attorney's Office conducted interviews of the necessary witnesses.

Sergeant Pat Long Pat Long is a supervising patrol officer who has maintained employment with the Thornton Police Department for twenty-four years. Broomfield Detective Dale Hammell and Adams County Detective Eric Brodheim conducted his interview on March 25, 2016 with his attorney present.

On March 22, 2016, Sergeant Long was assigned to patrol and was working the graveyard shift from 10:00 p.m. to 8:00 a.m. At approximately 12:50 a.m. on March 23rd, he noticed a black sedan driving without headlights in the parking lot designated for the RTD Park-n-Ride. The vehicle drove up to a storage unit within the parking lot and parked. Sergeant Long thought perhaps the driver of the vehicle might be about to burglarize the unit. As Sergeant Long drove his patrol vehicle closer the sedan, the sedan drove away from the storage unit. Based on his observation of suspicious activity, Sergeant Long activated his overhead lights in an effort to stop the vehicle.

The vehicle parked, and Sergeant Long parked approximately fifteen feet behind the vehicle. With his overhead lights and spotlight activated, Sergeant Long approached the vehicle on foot and made contact with the driver, who was the sole occupant of the vehicle. The driver identified himself by name and date of birth, but stated that he had no driver's license because it was suspended for "alcohol reasons." The driver further claimed that he was driving his sister's vehicle and was driving in the area to get a *Westword* newspaper. During his contact with the

driver, Sergeant Long smelled an odor of alcohol and observed that the driver appeared to be wearing shorts and no shoes. He also saw what appeared to him to be a silver windshield sun shield that was opened and extended, covering the front passenger's seat from the floorboard to midway up the seat. The driver provided Sergeant Long with the insurance and registration for the vehicle and Sergeant Long returned to his patrol car.

While Sergeant Long examined the driver's documentation, he momentarily looked up and saw the driver out of the vehicle with a shotgun or rifle raised up to his shoulder. Almost immediately, the man fired a round at Sergeant Long's vehicle, shattering the windshield. Sergeant Long leaned over and ducked below the windshield to avoid being hit. He then heard another shot fired and felt the windshield breaking. About the same time, he felt a burning sensation in his upper left arm. He glanced up to see the shooter walking closer and thought to himself that he needed to "get out of the kill zone" because the man was trying to kill him. Accordingly, Sergeant Long put the vehicle in reverse and accelerated, hoping to avoid hitting any barrier behind his vehicle that would stop him from getting out of the line of fire.

Once Sergeant Long moved his vehicle out of the immediate area of the shooter, he peered over the steering wheel and saw the man getting back into the driver's side of the sedan. He also noticed a marked Thornton Police Department vehicle pull into the entrance of the Park-n-Ride. The sedan drove away at a slow rate of speed, without headlights, toward the marked patrol vehicle. As the vehicles passed each other, Sergeant Long heard several more gunshots. Although he did not see it, he believed it to be an exchange of gunfire between the man who shot at him and Thornton Police Officer Anthony Jenkins, who earlier advised over the radio that he was en route to provide cover for the initial stop. Sergeant Long watched the sedan continue to drive out of the parking lot and south on Grant Street at a slow rate of speed.

As Sergeant Long turned onto southbound Grant Street behind the sedan, he realized that he had also been shot in the neck. He drove to Officer Jenkins' location and advised Jenkins that he was shot and needed to go to the hospital. Sergeant Long parked his car facing south on Grant Street. Officer Jenkins continued driving south on Grant Street in pursuit of the suspect. The suspect stopped his vehicle and got out. Officer Jenkins also stopped his vehicle and got out. Another officer pulled up in a marked patrol car and parked in between Sergeant Long and the suspect vehicle. The second officer got out and moved around the trunk area to the right side of the vehicle. From Sergeant Long's vantage point, both officers appeared to be in close proximity of the suspect, off to the right of their patrol vehicles. Given what had just taken place, Sergeant Long thought the two officers should have given themselves more distance from the suspect.

Sergeant Long got out of his patrol car and saw the man with the long gun focused on the two officers. The man had the gun aimed at the officers and was walking toward them. The gun appeared to him to be the same gun he saw during the previous shooting. Sergeant Long then heard more gunshots and, while he did not see any flashes from the gun, he knew that the man was shooting at the officers. Sergeant Long raised his gun and aimed it at the man. Given his position, he had "a clear shot" of the man and he believed that he had to try to "take him out," as the man had just tried to kill him and was now trying to kill the other officers. Sergeant Long fired his weapon two times and saw the man drop to the ground without further movement. He stopped shooting and re-holstered his weapon because he knew the man was "out of the fight."

Other officers came to assist and assessed Sergeant Long's injuries. Sergeant Long was treated for his injuries on scene and then taken to North Suburban Medical Center in an ambulance. He suffered multiple gunshot wounds to the right side of his neck, left upper arm, left side of his torso, and left hand. Foreign particles identified as BBs from the shotgun rounds were located in his neck and left abdomen.

Sergeant Long turned his .45 caliber handgun over to one of the officers. Sergeant Long stated that he carries fifteen rounds in the magazine and one in the chamber of his weapon for a total of sixteen live rounds of ammunition.

Officer Anthony Jenkins Officer Anthony Jenkins is a patrol officer for the Thornton Police Department with twenty-five years of experience as a peace officer in the state of Colorado. Detectives Hammell and Brodheim conducted his interview within hours of the incident in the presence of his attorney.

On March 22, 2016, Officer Jenkins was working the graveyard shift. Around 12:30 a.m. on March 23, 2016, Officer Jenkins conducted a walk-through of the North Suburban Medical Center. While doing so, he heard Sergeant Long report to dispatch a suspicious vehicle at the Park-n-Ride approximately one block from North Suburban. Due to the nature of the call, Officer Jenkins responded that he was en route to cover Sergeant Long.

Officer Jenkins drove south on Grant Street and stopped at a red light at the intersection of 88th Avenue. From a distance of approximately seventy-five yards, Officer Jenkins saw Sergeant Long's patrol car, illuminated with flashing overhead lights, parked behind the suspect vehicle in the parking lot. Once the light turned green, Officer Jenkins proceeded through the intersection and turned his attention back to the location of the traffic stop. At that point, he saw a man with a long gun standing at the rear driver's side of the suspect vehicle. He did not see Sergeant Long outside. The man appeared to be walking toward Sergeant Long's vehicle. He saw the man "level off" the gun and start shooting at Sergeant Long's vehicle. With each round fired, Officer Jenkins saw the muzzle flash and powder from the gun. Officer Jenkins stopped his vehicle at the entrance of the Park-n-Ride, got on the radio and yelled "shots fired." Officer Jenkins estimated that the man fired a total of three to four shots at Sergeant Long from close range.

Sergeant Long's patrol car backed away from the man as he continued to shoot. After Sergeant Long's vehicle moved away, the man returned to his vehicle, got in the driver's seat and started to drive through the parking lot toward Officer Jenkins' location. Officer Jenkins retrieved his rifle and got out of his car. He trained his rifle on the suspect vehicle and shouted "Stop! Police!" several times. As he watched the vehicle draw nearer, he became fearful that the man would hit him with the car. He also saw what appeared to be the silhouette of the gun barrel through the windshield of the car and started to think that the man might drive by and shoot at him. With the vehicle approximately thirty yards away and approaching, Officer Jenkins fired his rifle five to seven times. The suspect vehicle did not stop. Officer Jenkins continued to shoot at the vehicle until it was approximately ten yards away. Officer Jenkins then took cover at the rear of his patrol car. The suspect vehicle passed by him with no headlights and continued onto Grant Street heading southbound at a slow rate of speed.

Officer Jenkins got back inside his patrol car just as Sergeant Long drove up. Sergeant Long advised that he had been hit and that he was going to the hospital. Officer Jenkins continued on after the suspect with his overhead lights flashing, keeping some distance away for safety. He watched the suspect stop his vehicle on Grant St. and get out. The man appeared to reach back inside the vehicle and pull out the long gun. The man walked toward Officer Jenkins' vehicle, "leveled" the gun, pointing it at Officer Jenkins. Officer Jenkins tried to back out, but could not move as another patrol car was parked behind him. Officer Jenkins knew Sergeant Long was behind him and that there was another officer nearby. He expected the man to open fire on the officers, so he got out of the car and stood between the pillar and the open door with his handgun pointed at the man. The man was still advancing toward the officers, but appeared to be having difficulty manipulating the gun. Officer Jenkins screamed, "Drop the gun! Stop!" multiple times. The man ignored the commands and continued walking toward the officers with the shotgun raised and pointed at them. Officer Jenkins thought the man was going to kill him or one of the other officers.

With the man approximately twenty feet away and continuing to advance, Officer Jenkins fired his 9 millimeter handgun at the man. He fired repeatedly until he ran out of ammunition. The man was still advancing. He saw Officer Martinez and yelled, "cover" in hopes that Officer Martinez would address the threat while he reloaded. During the reload, Officer Jenkins noticed the man fall to the ground about ten to fifteen feet away. Seeing there was no longer a threat, Officer Jenkins did not fire any bullets after he loaded the second magazine. He stated that each magazine he carries holds seventeen rounds. He starts his shift with one bullet in the chamber of his gun for a total of eighteen bullets loaded in the weapon.

As Officer Jenkins saw that other officers were taking care of the man, he ran over to administer aid to Sergeant Long. He noticed pellet holes in the windshield of Sergeant Long's vehicle. Sergeant Long was covered in glass and appeared to have gunshot injuries to his arm, neck, and hand.

Officer John Martinez Officer John Martinez is a patrol officer employed by the Thornton Police Department for more than nine years. Detectives Hammell and Brodheim conducted his interview within hours of the incident in the presence of his attorney.

During the early morning hours of March 23, 2016, Officer Martinez was in a marked Thornton Police Department patrol vehicle stationed in a parking lot located at 88th Avenue and Pearl Street observing traffic. He overheard on the radio that Sergeant Long was contacting a suspicious vehicle in the parking lot of the Park-n-Ride on the east side of I-25. He also heard Officer Jenkins report that he was en route to cover Sergeant Long. A short time later, Officer Martinez recalled Sergeant Long say over the radio, "shots fired," and further state "the suspect vehicle is blacked out southbound on Grant Street." Officer Martinez drove his patrol car westbound on 88th Ave. and then southbound on Grant Street toward the location of the dispatch call.

As Officer Martinez drove southbound on Grant St., he saw Officer Jenkins and Sergeant Long's patrol cars driving slowly, side by side. He came up from behind those vehicles and passed them in pursuit of the suspect vehicle which was just ahead. The suspect vehicle stopped

and the male driver got out holding a shotgun. Officer Martinez stopped his patrol car behind the suspect vehicle a distance he estimated to be four or five car lengths away. He parked at somewhat of an angle to provide himself cover and got out, drawing his weapon. The man began to walk toward Officer Martinez with the shotgun held at his hip, pointing it directly at Officer Martinez.

Officer Martinez fired two rounds at the man, but the man continued to advance with his weapon drawn. Officer Martinez heard Officer Jenkins yell, "drop the weapon," and heard a gunshot that he thought came from Officer Jenkins' handgun. The man's focus appeared to turn to Officer Jenkins. Officer Martinez saw the man point his shotgun at Officer Jenkins and believed that he had to stop the threat to Officer Jenkins. Recognizing that Officer Jenkins was positioned to his right and trying to avoid a crossfire situation with Officer Jenkins, Officer Martinez moved toward the man with the shotgun and continued to shoot at him until the threat was over. Officer Martinez stated that the man's actions caused him to fear for his life and that of Officer Jenkins.

Officer Martinez carries a .45 caliber handgun with an eight-round capacity magazine. His weapon was fully-loaded with eight rounds, plus one in the chamber of the gun for a total of nine bullets. Officer Martinez fired his weapon until it was out of ammunition. He then reloaded another magazine into the gun, but did not fire it anymore because the man had fallen and lay motionless to the ground. Once he could see that the man was no longer moving, Officer Martinez approached and kicked the shotgun away from the man. He then stood by until other officers arrived.

Crime Scene Investigation

Criminalists from the Adams County Sheriff's Office and Westminster Police Department gathered evidence and processed the scene. The weather conditions deteriorated rapidly during the course of the scene investigation, with cold rain turning to snow. The scene consisted of three cordoned off shooting scenes—the parking lot of the Park-n-Ride, the Grant Street entrance to the Park-n-Ride, and the southbound lanes of Grant Street near 86th Avenue.

The parking lot of the Park-n-Ride is located at 8703 Grant Street. Approximately one hundred yards to the west of the Grant Street entrance into the parking lot, investigators discovered five shotgun shell casings. Each were identified as "Sellier and Bellot" 2¾" 12 gauge shells. The casings were located within an area measuring eight feet in diameter.

The entrance to the Park-n-Ride parking lot is off of Grant Street, and is the only entrance for civilian traffic. Investigators located a total of eight .223 caliber shell casings just inside the roadway entrance.

A marked Thornton Police Department patrol vehicle was parked in the left lane of southbound Grant Street approximately one hundred yards south of the Park-n-Ride entrance. This vehicle was assigned to Sergeant Long. The vehicle had holes in the driver's side windshield, hood and headlight consistent with pellets from a shotgun shell. The holes in the windshield were lateral to the approximate location of the driver's head. The face and side of the

headrest revealed several impacts consistent with shotgun pellets. One pellet was recovered from the headrest. Multiple metal fragments consistent with projectiles from shotgun rounds were also recovered in the interior driver's side of Sergeant Long's vehicle. Based on the location and trajectory of the bullet holes in Sergeant Long's vehicle, crime scene investigators estimate that the shooter was an approximate distance of at least eight feet from the driver's seat the time he fired into the vehicle. Three .40 caliber shell casings were located in the street near Sergeant Long's patrol vehicle.

A marked Thornton Police Department sport utility vehicle assigned to Officer Martinez was parked approximately twenty yards south of Sergeant Long's vehicle. The vehicle was parked at an angle, with the front portion of the vehicle in the left lane of Grant St. and the rear portion in the right lane. There were no bullet impacts to this vehicle. A .45 caliber shell casing was found approximately ten feet behind this vehicle.

A marked Thornton Police Department sport utility vehicle assigned to Officer Jenkins was parked in the right lane of Grant St., with the rear bumper near the passenger's side front door of Officer Martinez's vehicle. There were no bullet impacts to this vehicle. The body of a deceased male was laying face down, approximately ten yards south of Officer Jenkins' vehicle in the left lane of Grant Street. A shotgun was located near the body. Between the body and Officer Jenkins' vehicle, investigators located a series of shell casings consistent with being fired from 9 millimeter and .45 caliber firearms. An empty 9 millimeter magazine was discovered under Officer Jenkins' vehicle.

A black Honda Prelude was parked in the left lane of Grant St., facing southbound approximately thirty yards south of Officer Jenkins' vehicle. The driver's door was opened and the key of the vehicle was in the "on" position, but the engine was not running. The vehicle sustained seven bullet impacts to the hood and front grill consistent with .223 caliber ammunition. Investigators located a silver sun shade on the passenger seat inside the vehicle.

The distance between the driver's door of Sergeant Long's patrol vehicle and the deceased measured one hundred thirty four feet, ten inches. The distance between the driver's door of Officer Jenkins' patrol vehicle and the deceased measured nineteen feet, four inches. The distance between the deceased and the driver's door of the Honda measured one hundred fourteen feet, five inches.

All of the involved law enforcement officers were wearing official police uniforms. Sergeant Long's uniform shirt was covered in a fine dust material believed to be glass particles from the shattered windshield. Examination of the shirt revealed five defects in the front left sleeve and one over the right breast pocket. The defects were consistent with projectiles from a shotgun round.

Investigators collected and examined the firearms reported to have been fired by officers during the incident. Sergeant Long's duty weapon is a .40 caliber Glock model 22 semi-automatic handgun. He reported that he carries fifteen rounds in the magazine and one in the chamber of his weapon for a total of sixteen live rounds of ammunition. Sergeant Wayne Atkins contacted Sergeant Long in the ambulance and took possession of the handgun Sergeant Long

fired in the incident. Sergeant Atkins cleared the weapon and removed a cartridge from the chamber of the weapon. He also noticed two rounds missing from the magazine, leading to the conclusion that Sergeant Long fired three rounds. This conclusion is consistent with the number of .40 caliber casings located near Sergeant Long's vehicle.

The rifle Officer Jenkins used is a Colt 5.56 caliber carbine that fires .223 caliber bullets. Officer Jenkins reported that although the magazine capacity is twenty rounds, he only keeps eighteen loaded. When collected, the magazine contained nine live rounds, suggesting that Officer Jenkins fired the rifle nine times. Investigators only recovered eight .223 casings at the scene.

Officer Jenkins also used his semi-automatic handgun, a 9 millimeter Glock model 17. The magazine capacity is seventeen rounds. Officer Jenkins stated that he carries a full magazine and one bullet in the chamber for a total of eighteen rounds in the weapon. Officer Jenkins turned over his weapon that contained a magazine with sixteen bullets and a live cartridge in the chamber, consistent with his statement that he fired all of the ammunition from the first magazine and reloaded with another magazine but did not fire. Investigators located a total of sixteen 9 mm shell casings and an empty magazine under Officer Jenkins' patrol vehicle. This evidence supports the conclusion that Officer Jenkins fired eighteen rounds from his handgun.

Officer Martinez's weapon is a .45 caliber Smith and Wesson semi-automatic handgun. The magazine capacity is eight bullets. Officer Martinez stated that he carries a fully-loaded magazine and one round in the chamber for a total of nine live bullets in the weapon. Upon examination, Officer Martinez's weapon contained a magazine with seven cartridges and one round in the chamber of the gun. He also had an empty magazine on his duty belt. Officer Martinez reported that during the shooting, he reloaded his weapon with a fully-loaded magazine, but did not fire any additional rounds. The evidence reveals that Officer Martinez fired his weapon nine times. Only six .45 caliber shell casings were recovered.

Based on the overall round accountability, there were a total of thirty-nine rounds fired by the three law enforcement officers. The majority of shell casings were observed and collected. However, the extreme weather conditions made it difficult to collect all of the casings prior to them being washed away by rainwater and otherwise becoming obstructed by the snow.

There was no camera surveillance footage of the incident. Investigators contacted the Regional Transportation District in an effort to recover any recorded surveillance of the Park-n-Ride location. Apparently, the cameras in that area were not functional. In addition, none of the officers involved carried a body camera and the patrol vehicles were not equipped with dashboard cameras.

Medical Examination and Analysis

On March 24, 2016, Dr. Michael Arnall conducted an autopsy of the male identified as Daven Hannu, date of birth, 9/25/1964. The decedent had a total of sixteen penetrating gunshot wounds to the head, chest, abdomen and arm. The wounds to the head, chest and abdomen were

considered to be fatal wounds. The wound pathways varied in direction. Seven copper-jacketed gray metallic projectiles were recovered from the body of the decedent.

The decedent's toxicology report revealed positive levels of THC and a Blood Alcohol Concentration (BAC) of .129 g/100 mL. Dr. Arnall determined the cause of death to be multiple gunshot wounds; the manner of death to be homicide.

Legal Analysis

As was previously noted, 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. 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 the involved law enforcement officer's actions were not justified under the circumstances surrounding this incident and the applicable law.

In this case, there is no dispute that Sergeant Long and Officers Martinez and Jenkins fired their weapons at Daven Hannu. Likewise, there is no dispute that Daven Hannu's death was a consequence of multiple gunshot wounds. The issue of which of the involved officers actually caused the death is complicated, as Mr. Hannu suffered many fatal gunshot wounds. There were a total of sixteen penetrating gunshot wounds to the head, chest and abdomen, any of which could be deemed fatal. However, the investigation does not reveal forensic evidence that would conclusively distinguish the fatal shot. Therefore, for purposes of this review, it is assumed that any one of the shooting officers actually caused the death of Daven Hannu.

At the time of the shooting, the law enforcement officers were actively engaged in the effort to contact a suspicious person later identified as Daven Hannu. Therefore, the legal question presented to the Office of the District Attorney is whether, at the time the officers fired their weapons at Daven Hannu, the prosecution can prove beyond a reasonable doubt that the officers' actions were not justified under Colorado law.

The use of force by a law enforcement officer necessarily invokes an analysis under §18-1-707, C.R.S. (2015), 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.

“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.” §18-1-901(3)(d), C.R.S. (2015).

Analysis as to Sergeant Pat Long

Sergeant Long contacted the driver of a vehicle to investigate into the possibility of criminal behavior in the parking lot of the Park-n-Ride. During the course of his contact with the driver, Daven Hannu, he smelled an odor of alcohol and discovered that Mr. Hannu was driving without a license due to “alcohol reasons.” While Sergeant Long returned to his patrol car to investigate these issues, Mr. Hannu armed himself with a shotgun, got out of his vehicle, walked toward a patrol car with flashing overhead lights and started firing at Sergeant Long sitting in the driver’s seat. Sergeant Long felt the pain associated with the gunshot wounds he suffered. As he perceived Mr. Hannu continuing to advance toward him while shooting a firearm, Sergeant Long had the presence of mind to put his vehicle in reverse and create distance as the only alternative to suffering further injury or death.

The physical evidence corroborates Sergeant Long’s account of events. Investigators collected five shotgun shells at the location of the initial contact. Sergeant Long’s patrol car has a number of defects consistent with projectiles from shotgun rounds penetrating the windshield. Several of those projectiles struck the headrest where Sergeant Long was seated. Sergeant Long’s uniform shirt reveals penetrating holes also consistent with projectiles from a shotgun round. In addition, Sergeant Long suffered injuries consistent with being shot by projectiles

from a shotgun round. As such, the evidence supports a reasonable belief that Mr. Hannu committed a felony offense with a deadly weapon.

Sergeant Long followed Mr. Hannu out of the parking lot and watched as Officer Jenkins and Officer Martinez engaged in pursuit of Mr. Hannu. Given the incident that just occurred, Sergeant Long was concerned that the two officers did not create enough distance from Mr. Hannu's vehicle. Sergeant Long saw Mr. Hannu get out of his vehicle and point the shotgun in the direction of the two officers. At the time Sergeant Long fired his weapon; Mr. Hannu was armed with the shotgun and appeared ready to engage in the use of force similar to that which he brought upon Sergeant Long. Sergeant Long explained that he had "a clear shot" and believed that he had to try to eliminate the threat that Mr. Hannu presented to the other officers. Therefore, there is substantial evidence to support Sergeant Long's reasonable belief that Mr. Hannu was about to use deadly physical force upon Officers Jenkins and Martinez. Under these facts, the prosecution cannot prove that Sergeant Pat Long's actions were not justified as applied to §18-1-707, C.R.S. (2015).

Analysis as to Officer Anthony Jenkins

As Officer Jenkins proceeded to cover Sergeant Long on a routine traffic call, he observed Mr. Hannu shoot multiple rounds of a long gun at Sergeant Pat Long's vehicle. He also perceived Mr. Hannu driving a vehicle in his direction with knowledge that Mr. Hannu possessed either a rifle or shotgun. He could see the barrel of the gun moving in the window of the vehicle. Officer Jenkins stated that at the time he fired his rifle, he perceived Mr. Hannu as a threat not only to Sergeant Long and to himself, but also to other officers if Mr. Hannu were able to leave the parking lot. As such, the prosecution cannot prove that Officer Jenkins' action of pulling the trigger of the rifle intending to shoot Mr. Hannu was not justified as applied to §18-1-707, C.R.S. (2015).

Once the pursuit on Grant Street ended, Officer Jenkins saw Mr. Hannu get out of the driver's seat and arm himself with the shotgun. Mr. Hannu refused to obey Officer Jenkins' repeated commands to stop and drop the weapon. He continued to threaten Officers Jenkins and Martinez by approaching them with the shotgun pointed at them. Officer Jenkins explained that, at the time he fired his weapon, Mr. Hannu's actions caused him to fear for his own life as well as that of Officer Martinez. The crime scene analysis corroborates Officer Jenkins' perception, as it demonstrates that Mr. Hannu walked a distance of more than one hundred fourteen feet armed with a shotgun before he was incapacitated. Under these circumstances, the prosecution cannot prove that Officer Jenkins' action of firing his handgun was not justified as applied to §18-1-707, C.R.S. (2015).

Analysis as to Officer John Martinez

Officer Martinez had knowledge from his fellow officers that Mr. Hannu was in possession of a firearm and had discharged it at Sergeant Long during a traffic stop. He was engaged in the pursuit to arrest Mr. Hannu at the time he observed Mr. Hannu, armed with a shotgun, walk over one hundred feet pointing it at him and Officer Jenkins. Officer Martinez stated that, based on Mr. Hannu's actions, he was in fear for his life and that of Officer Jenkins.

Consequently, the prosecution cannot prove that Officer Martinez was not justified in protecting himself and Officer Jenkins from what he reasonably believed to be the use of deadly physical force under §18-1-707, C.R.S. (2015).

Conclusion

Applying the facts of this incident to the applicable law, the evidence does not support the filing of any criminal charges against any of the law enforcement officers who discharged their weapons in the fatal shooting incident involving Daven Hannu on March 23, 2016. Please feel free to contact me if you have any questions or if you believe that further investigation is warranted.

Respectfully,

A handwritten signature in black ink, appearing to be 'DY' with a stylized flourish.

Dave Young
District Attorney