



October 12, 2017

Karl Wilmes
Chief of Police
Federal Heights Police Department
2380 W. 90th Ave
Federal Heights, CO 80260

Re: *The investigation of the officer involved shooting of Juan Carlos Manriquez, DOB: 2/19/1987, occurring on July 4, 2017.*

Dear Chief Wilmes:

The investigation and legal analysis of the officer involved shooting of Juan Carlos Manriquez is complete. The 17th Judicial District Critical Incident Investigation Team (CIIT) conducted the investigation into this matter, led by Detectives Frederick Longobricco of the Thornton Police Department and Detective Sarah Jourdan of the Westminster Police Department. 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. The factual findings of the investigation were presented to my office on September 5, 2017. The CIIT presented police reports and videos of the interviews of witnesses, along with photographs and diagrams of the scene investigation and bodycam footage from officers who were wearing body cameras. 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 officer. 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 each individual agency.

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

OVERVIEW OF THE INCIDENT

On July 4, 2017, Naomi Loucero called the Federal Heights Police Department to report that her uncle, Juan Manriquez, was on his way to her location and had threatened to break into her apartment. Several days prior, Ms. Loucero had called police regarding Mr. Manriquez to report that he'd been acting violent and aggressive towards her and that she was afraid of him. Since the initial call, Federal Heights police officers had been on the lookout for Mr. Manriquez, as he had two pending warrants for his arrest. A description as well as a picture of Mr. Manriquez was displayed in the patrol room of the police department. Ms. Loucero told police that Mr. Manriquez was armed and dangerous and would engage in a shootout with police officers if confronted. Mr. Manriquez had a lengthy criminal history of arrests and charges, including an arrest for attempted murder of a police officer and a felony conviction for assault on a police officer.

When Ms. Loucero alerted police on July 4, 2017 that Mr. Manriquez was on his way to her apartment complex, police set up a perimeter in the parking lot to intercept him before he could get to Ms. Loucero and potentially harm her. Sergeant Jon Hess took command of the scene and knew of the circumstances surrounding Mr. Manriquez, including that he was likely armed and dangerous. An officer was stationed with Ms. Loucero in her apartment while other officers staged in various areas in the apartment complex. Ms. Loucero and Officer Williams observed Mr. Manriquez arrive in the parking lot and back his red Mercedes into a parking space outside her building. Officer Williams observed four adults get out of the vehicle, two men and two women. One adult woman left the scene while the other three gathered around the trunk of the vehicle.

Corporal Valandra, Sergeant Hess and Officer Warren moved in on the parked vehicle with their duty weapons drawn, in order to confront Mr. Manriquez. Once Mr. Manriquez saw the officers approaching him, Mr. Manriquez pushed past the other male passenger of the vehicle and got into the driver's seat of the vehicle. Sergeant Hess moved to the front of the vehicle with his rifle pointed at Mr. Manriquez, while Corporal Valandra moved around the back of the vehicle and stood outside the driver's side door. Sergeant Hess yelled loud commands to Mr. Manriquez, including "Don't do it!" and "You're gonna get shot!" Naomi Loucero was watching from her second story window and could see Mr. Manriquez with one hand on the steering wheel while another hand fidgeted with what she thought was the gear shift. The vehicle lurched forward slightly and Sergeant Hess saw Mr. Manriquez reach for what he believed to be a handgun on his right side. Sergeant Hess then fired three shots from his rifle. The shots punctured the front windshield of the Mercedes and struck Mr. Manriquez. Immediately thereafter, Mr. Manriquez drove the vehicle forward, turned to the right, accelerated and crashed into a parked car. Sergeant Hess and Corporal Valandra ran after the vehicle and confronted Mr. Manriquez again, who was sitting in the driver's seat not moving. Officer Williams pulled Mr. Manriquez out of the car and, while turning his body over to get him in handcuffs, located a handgun in Mr. Manriquez's right waistband. Medical professionals arrived shortly thereafter to take Mr. Manriquez to the hospital, where he was pronounced deceased. The scene was cordoned off with crime tape and an investigation ensued.

SYNOPSIS OF WITNESS AND OFFICER INTERVIEWS

All of the involved witnesses, both officers and lay witnesses, were identified and contacted within a short time after this incident. Investigators from multiple police departments, including Thornton, Westminster, Commerce City, Adams County Sheriff's Office and the District Attorney's Office, conducted the witness interviews. All officer and lay witnesses were interviewed within hours of the incident at the Thornton Police Department, with the exception of Sergeant Jon Hess, the officer who had deployed his weapon. Sergeant Hess and his attorney informed investigators that he wanted to have a "sleep cycle" and would make himself available twenty four hours later for an interview. An interview was scheduled for Thursday, July 6th at 1:00 p.m. The following are summaries of the interviews of the involved officers and material witnesses.

Naomi Loucero

Thornton Detective Frederick Longobricco and Westminster Detective Sarah Jourdan interviewed Naomi Loucero on July 5, 2017, hours after the shooting incident. Ms. Loucero is the niece of Juan Carlos Manriquez and stated that he had been violent, threatening and aggressive towards her recently. She stated that he had called her a few weeks before at 2:00 a.m. and wanted to pick up a television she was storing at her apartment. She did not want to meet him at that hour and said her uncle became verbally aggressive, then later picked up the television at 6:00 a.m. She did not hear from him again until July 4, 2017 when he called to say he wanted to pick up a purse that he had left at her apartment. Ms. Loucero was at her grandmother's house and said she was not going to drop everything to meet him. Mr. Manriquez became aggressive with her and threatened to break into her apartment. He then came to her Grandmother's house and Ms. Loucero hid in the house so he wouldn't see her. She then called the police to say her uncle was on his way to her apartment. A Federal Heights police officer met her at her apartment and stayed with her until her uncle arrived. She saw her uncle arrive in his Mercedes and told the officer "he's here." The officer told her to go to the back of her apartment and then left. She then heard officers screaming and looked out her apartment window and saw Mr. Manriquez sitting in the driver's seat of his red Mercedes. She could see officers confronting two adults, a male and female, who were lying down on the ground by the Mercedes. She could see another officer in front of the car pointing a rifle at Mr. Manriquez. She could see Mr. Manriquez with his hands on the steering wheel and described seeing his right hand reach down for something, which she assumed was the vehicle gears. She then saw three flashes from the officer's rifle. Ms. Loucero stated that the officer in front of the car could easily have been hit by Mr. Manriquez and was likely in fear of his life. She said Mr. Manriquez had an attempted murder of a police officer on his criminal record and had been in situations like this before.

Officer Mike Shipley

Westminster Detective Troy Gordanier interviewed Officer Mike Shipley on July 5, 2017, a few hours after the incident. Officer Shipley has been an officer with Federal Heights for eleven months and had 20 years' experience with the Adams County Sheriff's Office prior to that. He was assigned to the graveyard shift and worked 6:00 p.m. to 6:00 a.m.

Around 9:45 pm, Officer Shipley got a call regarding a burglary in progress. He arrived on scene and was told that the "burglar" was actually not there. He and Officer Williams spoke with the

reporting party, Naomi Loucero, who spoke to them about her uncle, Juan Manriquez. Officer Shipley remembered at that time seeing Mr. Manriquez's information on the board in the patrol room and that he was armed and dangerous. Naomi informed him that Mr. Manriquez was definitely armed and that he was likely on his way. Officer Shipley and his fellow officers were concerned about the suspect getting to Ms. Loucero's apartment and hurting her or taking her hostage. They felt that confronting the suspect in the parking lot was the best course of action. Sergeant Hess asked Officer Shipley to stay in Ms. Loucero's apartment to keep her safe. While he was in the apartment, Ms. Loucero told him that her uncle had arrived and had people with him. Officer Shipley told her to go to the back bedroom to be safe. He stood by the front door. He could hear radio chatter about moving in and then heard two shots. He opened the door from the apartment and heard Sergeant Hess yell "shots fired." He then ran down to the scene and assisted with the people on the ground. Mr. Manriquez's Mercedes had already pulled out of the parking space at that time.

Sergeant Jon Hess

Detective Fred Longobricco of the Thornton Police Department and Detective Sarah Jourdan of the Westminster Police Department conducted the interview of Sergeant Jon Hess on July 6, 2017 at 1:00 p.m. with his attorney present.

On July 4, 2017, Sergeant Hess reported to work at 6:00 p.m. He works a twelve-hour graveyard shift from 6:00 p.m. to 6:00 a.m. According to Sergeant Hess, when he reported to work the previous Sunday, July 2, 2017, a dry erase board in the patrol division had information regarding Juan Carlos Manriquez as a wanted suspect who should be treated as armed and dangerous. A photograph of Mr. Manriquez was hanging from the dry erase board as well. The suspect had two warrants out for his arrest. Sergeant Hess learned at that time that the suspect's niece had called in to say that Mr. Manriquez might show up at her apartment in the area of 85th and Pecos Street and that she was fearful for her safety and the safety of her daughter. He also stated that he had heard, informally through other officers, that Mr. Manriquez would "shoot it out with police" if contacted.

On July 4th, 2017 Sergeant Hess was working a domestic disturbance call when he was asked to respond to the Tuscan Heights apartment complex at 85th and Pecos. Upon arriving, he was briefed by fellow officers that the suspect, Juan Manriquez, had contacted his niece and might be coming to the above location, which is where she lived. Sergeant Hess directed several officers to take up positions near the location where the suspect was expected to come. There are only two entrances to the parking lot for this apartment complex and he had both entrances under surveillance. Once officers were set in place, Ms. Loucero called to say that Mr. Manriquez was on his way. Sergeant Hess spoke to her by phone and she stated that she was scared. She also provided a physical description of Mr. Manriquez, describing him as roughly 5'10" to six feet tall, a buzzed haircut, and fully tattooed arms and a spider web tattoo on his neck. Sergeant Hess asked if her uncle would be armed and she replied that he always carries a handgun, sometimes a rifle, and would likely be armed. Ms. Loucero also indicated that there would be a shoot-out with police if the police contacted Mr. Manriquez.

Sergeant Hess directed Officer Shipley to go to Ms. Loucero's apartment. Shortly thereafter, Officer Williams radioed that he observed a red Mercedes with a license plate known to be associated with Mr. Manriquez on Stacy Drive near the apartment complex. Sergeant Hess saw the vehicle drive past him at that time. Officer Williams then radioed that the vehicle was parked in one of the parking

spaces outside Ms. Loucero's apartment building. Sergeant Hess directed the other officers to move in. He positioned his car on the corner of building 20, then exited and retrieved his long gun which is an AR15. He then followed Corporal Valandra, who had begun an approach to the parking lot where Mr. Manriquez's vehicle was parked. Officer Williams radioed that four people had exited the vehicle, two men and two women. At that time Corporal Valandra came upon the scene, with Sergeant Hess directly behind him. As he approached the vehicle, Sergeant Hess could see that it was backed into the parking space with the driver's side door open. He illuminated the vehicle with the light from his rifle and gave commands of "Police. Stop. Don't move." He saw one male standing in the threshold of the open driver's side door and then witnessed a different male rush towards the vehicle. That male matched the description of Mr. Manriquez and Sergeant Hess assumed he was Mr. Manriquez at that time. Mr. Manriquez pushed the other male out of the way and stepped into the vehicle. Sergeant Hess was standing just to the right of the front panel of the car. As Mr. Manriquez got into the driver's seat of the vehicle, Sergeant Hess says he saw a large bulge on the right side of Mr. Manriquez's waistband which he identified it as a gun once Mr. Manriquez was seated. Sergeant Hess was holding Mr. Manriquez at gunpoint giving him commands to stop and "Don't do it." He then saw Mr. Manriquez reach downward in a motion to turn the vehicle on and Sergeant Hess told him to put both hands up, which Mr. Manriquez initially did. Sergeant Hess and Mr. Manriquez made eye contact at this time. Mr. Manriquez then started reaching down again and Sergeant Hess yelled "Don't do it! You're going to get shot!" Mr. Manriquez then made a quick movement with his right hand directly toward the handgun on his right side. Sergeant Hess looked down at the weapon and feared that Mr. Manriquez was going to kill him if he got it and/or would run him over with the vehicle. He said he felt fear for the other officers and the community as well. At that point, Sergeant Hess fired three rounds into Mr. Manriquez's torso area. Mr. Manriquez looked at Sergeant Hess, looked down, reached for the steering wheel and began to drive forward toward Sergeant Hess. Sergeant Hess stepped out of the way and watched the vehicle make a right turn and accelerate westbound in the parking lot before hitting a parked vehicle. Sergeant Hess ran after the vehicle, approached the driver's side door and saw Mr. Manriquez inside. He ordered Corporal Valandra to get Mr. Manriquez out of the vehicle and into custody. When Corporal Valandra had difficulty getting Mr. Manriquez completely out of the vehicle, Officer Williams stepped in and helped pull Mr. Manriquez out onto the street. Officer Williams turned Mr. Manriquez over on the street, handcuffed him and then informed Sergeant Hess that Mr. Manriquez had a handgun on him. Officer Williams lifted Mr. Manriquez's shirt, which revealed a handgun. Sergeant Hess ordered Officer Williams to set the handgun aside. Sergeant Hess then ordered medical attention for Mr. Manriquez, which was initiated right away. Medical personnel arrived on scene quickly thereafter and carried Mr. Manriquez away to a waiting ambulance. Sergeant Hess then directed the rest of the Federal Heights police personnel on scene to begin taping off the area with crime scene tape and to secure the scene for further investigation.

Corporal Shane Valandra

Westminster Detective Troy Gordanier interviewed Corporal Shane Valandra on July 5, 2017, a few hours after the incident. Corporal Valandra has been with the Federal Heights Police Department for ten years. He is a Field Training Officer and has SWAT training. Corporal Valandra was assigned to the night shift, working from 5:00 p.m. to 5:00 a.m.

Corporal Valandra's shift began normally until he received a call to assist at the site of the incident. He knew of the history of the suspect, Mr. Manriquez, before arriving on scene. Corporal

Valandra had seen the picture of the suspect in the patrol office, knew the suspect had a violent history and felony warrants and knew the suspect was known to be armed. He arrived on scene around 9:30 p.m. and set up a perimeter to observe and confront the suspect. When Officer Shipley radioed that Mr. Manriquez was on scene, Sergeant Hess said to move in. Corporal Valandra moved his car, joined Sergeant Hess and they both approached Mr. Manriquez area on foot. He was armed with his M4 rifle and was prepared for a confrontation. As he came on scene, he saw that the red Mercedes was backed into a parking spot. He came around a van next to the car and saw Mr. Manriquez near the trunk of his car with two other people. He announced himself and the two passenger suspects got down on the ground. Mr. Manriquez, who Corporal Valandra recognized from his picture, made eye contact with Corporal Valandra, shut the trunk of the car, scurried around the driver's side and got into the car. Corporal Valandra followed him around the car and stood outside the driver's side door. He was close enough to the car to touch it and was focused on the back of Mr. Manriquez's head. Corporal Valandra said he could not see Mr. Manriquez's hands at this time. Sergeant Hess was engaging Mr. Manriquez from the front of the car. The car lurched forward and then Sergeant Hess fired three rounds into the car. The car then drove forward through the parking lot and hit a parked car. Corporal Valandra followed the car and attempted to pull Mr. Manriquez out of the car, but had trouble getting a firm grip on him. He could see that Mr. Manriquez had been shot at that time. Officer Williams then helped him get Mr. Manriquez out of the car.

Officer Patrick Warren

Commerce City Detective Derek Aragon interviewed Officer Patrick Warren. Officer Warren is a patrol officer who was serving his sixth day as a police officer with the Federal Heights Police Department. He was being trained by his field training officer, Corporal Valandra, and works a 5:00 p.m. to 5:00 a.m. shift.

On July 4, 2017, while responding to another call, Officer Warren received a call of an attempted burglary in progress at the Tuscan Heights apartment complex. Officer Warren and Corporal Valandra responded to the Tuscan Heights complex after finishing their previous call and were briefed about Juan Manriquez making threats to Naomi Loucero. Officer Warren had seen the information about Mr. Manriquez on the patrol office white board prior to his shift and knew he was wanted on outstanding warrants. Officers had discussed prior that they would stage in the parking lot of the Tuscan Heights complex in order to intercept Mr. Manriquez if he attempted to come there.

Officer Warren was staged near the south entrance to the complex to watch for Mr. Manriquez. It was dispatched that the suspect was armed and had three other people in his vehicle. Officer Williams radioed that the vehicle had entered the complex and Officer Warren then observed a maroon vehicle through his binoculars turning into the parking lot. Officer Warren, Corporal Valandra and Sergeant Hess then moved in on the parking lot where the vehicle had parked. Sergeant Hess went towards the front of the suspect vehicle and issued commands to the suspect. Officer Warren observed the suspect run back into the vehicle from the trunk area and try to accelerate the vehicle. Officer Warren then went around the van to the other side of the vehicle and gave commands to the male party on the ground. He then heard three consecutive shots and the squealing of tires and watched the car drive off. Officer Warren then assisted in handcuffing the two passenger suspects who were on the ground. He pulled a small caliber handgun out of the waistband of Rudolf Medina, the male passenger, and delivered the magazine and gun to other officers for safe keeping.

Officer Ryan Williams

Thornton Police Detective Brent Mullen interviewed Officer Ryan Williams on July 5, 2017, approximately five hours after the shooting incident. Officer Williams is a patrol officer and has worked for the Federal Heights Police Department for four months. He works the graveyard shift from 6:00 p.m. to 6:00 a.m.

On July 4, 2017, Officer Williams responded to the Tuscan Heights apartment complex on a report of an attempted burglary. On scene, he spoke to Naomi Loucero, who stated her uncle, Juan Manriquez, was going to break into her apartment to steal a purse, and that he was wanted by police. Officer Williams recognized this name as the name of someone the police department had been looking for and who had warrants out for his arrest. Officer Williams moved his police vehicle so that he and other Federal Heights officers could set up a perimeter to intercept Mr. Manriquez and then stationed himself where he could watch for Mr. Manriquez's car. He then observed a red sedan matching the description of Mr. Manriquez's vehicle coming into the complex and watched as it backed into a parking space in front of the building. He observed two males and two females get out of the vehicle and observed one female run towards the apartment building. The remaining three adults stood near the car. Officer Williams moved to the corner of a nearby building for a better view of the scene. He then heard his fellow officers announce themselves and saw Sergeant Hess, Corporal Valandra and Officer Warren around the vehicle. He began approaching the vehicle and then heard gunshots. He approached the scene, gun drawn, and observed the red vehicle pull away from its parking space. Sergeant Hess and Corporal Valandra followed the vehicle. Officer Williams assisted in handcuffing the two passenger suspects, then searched for the vehicle and found where it had collided with another vehicle. Corporal Valandra was attempting to take Mr. Manriquez out of the vehicle and was struggling, so Officer Williams helped pull Mr. Manriquez out of the vehicle. As he rolled Mr. Manriquez onto his stomach, he observed a handgun in his waistband. (*Officer Williams' bodycam video footage shows Mr. Manriquez's handgun to have been in his right side waistband*). He removed the suspect's gun and placed it on the ground. He then applied pressure to Mr. Manriquez's chest area until emergency medical personnel arrived.

Rudolf Medina

Thornton Detective Brent Mullen and Commerce City Detective Derek Aragon interviewed Rudolf Medina on July 5, 2017, just hours after the incident. Mr. Medina stated he had recently been released from prison and that Mr. Manriquez, whom he called "Solo," had taken him under his wing. On July 4, 2017 Mr. Manriquez told Mr. Medina that he had a job for him that night and that they had initially gone to the apartment complex so that they could kick in a door and grab a purse and some powder that were hidden in one of the apartments. Mr. Medina decided not to kick in the door because there were families present. They then picked up his girlfriend, Cynthia Herrera, and another woman, whom he called Mary Jane. They returned to the apartment complex so that Mary Jane could fight Mr. Manriquez's niece. They arrived and Mary Jane disappeared somewhere in the apartment complex. While they were waiting, police came with their guns drawn and Mr. Manriquez pushed him aside to get back into the car. When Mr. Manriquez started driving away in the car, shots were fired. He said that Mr. Manriquez had a gun with him all day and keeps a Hi-point rifle in the trunk and a pistol on his waist. Mr. Medina had a gun in his waistband which he alerted officers to as soon after he was handcuffed on the ground.

Cynthia Herrera

Thornton Detective Brad Barkley and Commerce City Detective James Zamora interviewed Cynthia Herrera on July 5, 2017, just hours after the incident. Ms. Herrera was a passenger in suspect Juan Manriquez's vehicle and arrived on scene with him on July 4, 2017. She referred to Mr. Manriquez as "Solo." Ms. Herrera was one of four people inside the red Mercedes, including her boyfriend, Rudolph Medina, the suspect, Juan Manriquez, and a fourth woman whom she called Mary Jane. When they arrived on scene, Mary Jane left to retrieve a purse and Ms. Herrera smoked a cigarette with Mr. Manriquez and Mr. Medina by the trunk, which was open at the time. Mr. Manriquez had given Mr. Medina a gun in the car before arriving at the scene of the incident. After Mary Jane left, officers arrived on scene and told them to get down. Mr. Manriquez shut the trunk, pushed Mr. Medina out of the way, and jumped into the driver's seat. She heard officers say "Don't drive or we'll shoot" and heard Mr. Manriquez reply "Ok, I won't." She said Mr. Manriquez then moved the car forward a few inches and then she heard two or three shots. She said she saw muzzle flashes from the police officer's gun and heard the windshield glass break. She heard Mr. Manriquez say "Fuck this" and drive away.

SYNOPSIS OF BODY CAMERA VIDEOS

Federal Heights Police Officers were equipped with body cameras during this incident. The body cameras were attached to the officers' chests and were worn and activated by Officers Warren, Williams, Shipley, and Ortiz. Corporal Valandra's bodycam was inexplicably not turned on during the incident, although he was wearing it and he did turn it on after the incident was over. Corporal Valandra did not give an explanation as to why his body camera was not turned on. Sergeant Hess wore a body camera which was turned on during the incident, therefore capturing, on video, much of the incident itself. The volume on Sergeant Hess's body camera did not trigger on, however, until after Sergeant Hess had deployed his rifle. The body cameras video starts immediately when turned on however, there is an approximately thirty second delay before audio is recorded. Audio of the incident can be heard from Officer Warren and Williams' body cameras, however.

Sergeant Hess's bodycam video shows him approaching Mr. Manriquez's vehicle behind Corporal Valandra. As Mr. Manriquez's parked vehicle appears on the bodycam, Sergeant Hess raises his rifle and points it in the direction of the vehicle and Mr. Manriquez. Again, the sound is not on at this time, but the video itself is visible. Sergeant Hess approaches the parked vehicle from the left, front side of the vehicle. Sergeant Hess walks past the left front of the vehicle, crosses in front of the hood to the right side, then crosses back to the left-center portion of the front of the vehicle and stops, with his rifle pointed at Mr. Manriquez the entire time. The car is illuminated brightly by the lights from Sergeant Hess's rifle and the lights from other officers. Without the sound, it is impossible to hear what Sergeant Hess says to Mr. Manriquez or anyone else. It is also not possible to hear when Sergeant Hess fires his shots. Immediately after shots are fired, however, the sound is triggered and Sergeant Hess yells "shots fired!" Mr. Manriquez's car then lurches forward, turning in front of Sergeant Hess, where it drives several feet away before hitting another car and coming to a stop. Body camera footage shows Sergeant Hess chasing the moving vehicle. Once he comes up to it, Sergeant Hess directs another officer to take Mr. Manriquez out of the vehicle while Sergeant Hess continues to point his rifle at Mr. Manriquez. The incident, from start to finish, including Sergeant Hess's approach to the vehicle, the shooting itself, and Mr. Manriquez driving

away and hitting another vehicle, lasts approximately 44 seconds. Once he arrives at the vehicle for the second time, Sergeant Hess directs his fellow officer to handcuff Mr. Manriquez who, at this point, has clearly been wounded and is making no movements, furtive or otherwise. In the process of handcuffing Mr. Manriquez, a handgun is retrieved from inside the suspect's pants. Sergeant Hess then calls for medical and directs other officers to secure the scene.

Officer Warren's bodycam video shows him walking behind Sergeant Hess and Corporal Valandra as they quietly approach the parking lot where Mr. Manriquez has parked his car. Sergeant Hess raises his rifle as they approach. As the two officers in front of him come upon the vehicle, the audio from Officer Warren's bodycam records one of the officers yelling, "Police officer put your hands up! Do it now!" and the other yelling "Hands up!" Although the bodycam video does not capture who says this, the audio clearly captures an officer yelling, loudly and urgently; "You're gonna get shot! You're gonna get shot! You're gonna get shot!" and then "Don't do it!" Immediately thereafter, gunfire can be heard. Officer Warren turns behind a white van and comes around the back of the car, arriving after Sergeant Hess has fired his weapon. The body camera captures Mr. Manriquez's vehicle driving away from Officer Warren. Officer Warren with his gun drawn, then handcuffs the suspect passenger, who is on the ground in front of him.

Officer Williams' bodycam video begins with Officer Williams taking a position behind a large bush next to the corner of a building overlooking the parking lot where Mr. Manriquez has already arrived. He announces via radio to his colleagues that he is in position and can see the parties but that they cannot see him. Once either Sergeant Hess or Officer Valandra announce "Police officer!" Officer Williams begins running towards the parking lot with his weapon drawn. Audio captures another officer yelling "You're gonna get shot!" and "Don't do it!" As Officer Williams arrives on scene, the taillights of Mr. Manriquez's vehicle can be seen, fully lit, with the car having moved forward a small amount. As he comes fully on scene, Mr. Manriquez's vehicle pulls forward and drives to the right. Officer Williams helps secure the two suspect passengers, then runs after Mr. Manriquez's car, where Sergeant Hess is already on scene with his rifle drawn and aimed at the driver. Mr. Manriquez appears to have been partially pulled out of the vehicle. Officer Williams drags Mr. Manriquez's limp body further away from the car, then turns him over, at Sergeant Hess' direction, and handcuff's Mr. Manriquez. He notes the presence of Mr. Manriquez's handgun in Mr. Manriquez's waist, announces it and takes the handgun out, in the presence of Sergeant Hess. Medical personnel arrive shortly thereafter and takes Mr. Manriquez away.

Sergeant Hess and Officer Williams discuss the incident briefly (Minute 5:16 on Sergeant Hess's bodycam; Minute 6:34 on Officer Williams) immediately after medical personnel take Mr. Manriquez away. Their conversation goes as follows:

Officer Williams: I didn't know you guys were that close

Sergeant Hess: I saw the weapon when he rolled up.

Officer Williams: I was right there on that corner, I didn't know you guys were close...(unintelligible)

Sergeant Hess: I saw the weapon when he rolled up and as he was trying to get into the car, I saw the weapon lift up and he got into the car and he started the car and put his hands and then he reached down for that waistband

Officer Williams: Are you the only one that shot?

Sergeant Hess: Yep

Officer Shipley's bodycam video begins from inside Naomi Loucero's apartment at the complex. Once the volume triggers, a very loud noise can be heard, which are likely the gun shots from Sergeant Hess's rifle. Officer Shipley exits the apartment, goes down two flights of stairs, and enters the scene, where Mr. Manriquez's car has already driven away. He then assists with the two suspect passengers on scene.

As noted above, Corporal Valandra, who was a central player in this event, did not have his body camera turned on during the incident. His bodycam video footage begins after the incident and shows him taping off the crime scene and assisting with the two suspect passengers.

CRIME SCENE INVESTIGATION

Criminalists Chris Pardo and Mike Schultz of the Westminster Police Department and Criminalist Doug Young of the Thornton Police Department processed the evidence in this case.

Criminalist Pardo and Young assessed and processed all Federal Heights police officers who had any involvement in the incident, including Officers Shane Valandra, Mike Shipley, Dan Mason, Iris Ortiz, Ryan Williams, Patrick Warren and Sergeant Jon Hess. Each officer was photographed and checked for injuries or stains to their person. The criminalists examined each officer's weapons for ammunition accountability and collected all body cameras for video downloading. With the exception of Sergeant Hess, all firearms were confirmed to have no rounds missing. Sergeant Hess's M6-G auto/semi selective rifle was collected along with the ammunition used in the shooting, including two magazines and three Hornady brand 223 Rem cartridges. Criminalist Pardo found that the magazine that was in Sergeant Hess's rifle had twenty-five live rounds in it. Assuming all magazines were loaded with 28 rounds each, plus one in the chamber, this accounts for three rounds missing from Sergeant Hess's rifle. In addition to the rifle that he used during the incident, Sergeant Hess was also carrying a 10mm Glock model 20 semi-automatic pistol, which was fully loaded and had no rounds missing.

The shooting scene was located in the parking lot of the 1740 W. 85th Ave. Building #18, commonly known as the Tuscan Heights Apartment Complex. Crime scene tape cordoned off the parking lot, encompassing the area where Mr. Manriquez was shot and where he had driven and crashed his vehicle. There was a grouping of three Hornady brand 223 caliber spent casings in the parking lot approximately ten inches behind the sixth parking space from the east end, in front of Building #18, where the red Mercedes had initially been parked. Mr. Manriquez's vehicle was examined where it had come to a stop. It is a 2004 burgundy Mercedes-Benz C240, license plate XQA-605, with a VIN of WDBRF61J24F465056. Criminalists found the trunk and driver side door open on scene. A .40 caliber Smith & Wesson, model 4043, semi-automatic pistol, serial # VYZ5090, silver colored with black grips was located on the ground eight inches away from the open driver side door. The pistol was covered in apparent blood stains. It contained a 15 capacity magazine with seven .40 caliber cartridges, both Federal and Winchester brands.

Mr. Manriquez's vehicle was secured and towed to the Westminster Police Department processing bay for further processing, where it was examined closely. The vehicle sustained three direct bullet impacts that perforated the front windshield near the bottom center. It was clear that the projectiles fragmented after going through the windshield because no complete projectiles were found inside the vehicle. (No complete projectiles were found in Mr. Manriquez's body at autopsy either.) Criminalists collected several items of evidence from inside Mr. Manriquez's vehicle, including: a gray colored folding knife; .40 caliber Hi-Point semiautomatic rifle; three magazines containing 20 .40 caliber cartridges; a silver and black Husky folding knife; 112.81 grams of suspected Methamphetamine in one baggie; .99 grams of suspected Methamphetamine in another baggie; 29 .9mm cartridges of assorted brands; one .22 caliber federal LR cartridge; and a wallet containing eight small green baggies of suspected Methamphetamine.

SUSPECT INFORMATION

Mr. Juan Carlos Manriquez is a convicted felon per NCIC/CCIC. His criminal history includes arrests for multiple felonies as well as misdemeanors.

AUTOPSY AND ANALYSIS

On July 5, 2017, Dr. Stephen Cina conducted an autopsy of Juan Manriquez, DOB: February 19, 1987, at the Adams County Coroner's Office.

Mr. Manriquez sustained multiple gunshot wounds, which ultimately led to his death. These gunshot wounds did not present as "classic gunshot wounds," according to Dr. Cina, but rather as shrapnel wounds and areas of "pseudostippling" on the chest, arms, neck and right side of the face, consistent with bullets penetrating a glass windshield before hitting the body of the decedent. Projective fragments caused lacerations and injury to the left lung, the pericardium, the heart, the epicardium, the left and right ventricle, the abdomen, both arms, the chest, neck and face.

Mr. Manriquez's toxicology report revealed the presence of methamphetamine and heroin in his body. Dr. Cina determined the cause of death to be multiple gunshot wounds and the manner of death to be homicide.

LEGAL ANALYSIS

As previously noted above, this review is limited to a determination of whether criminal charges should be filed against Sergeant Jon Hess for the shooting that took place in the late evening of July 4, 2017. 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 Sergeant Hess' actions were not justified under the circumstances surrounding this incident and the applicable law.

In this case, there is no dispute that Sergeant Hess fired three rounds into the person of Juan Carlos Manriquez and that Mr. Manriquez died from the ensuing gunshot wounds. At the time of the shooting, Sergeant Hess was lawfully engaged in the course of his duties to effect an arrest on Mr. Manriquez, who had a felony and misdemeanor warrant pending. Therefore, the legal question presented to the Office of the District Attorney is whether, at the time Sergeant Hess fired his weapon, the prosecution can prove beyond a reasonable doubt that Sergeant Hess's 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.

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

(4) For purposes of this section, a reasonable belief that a person has committed an offense means a reasonable belief in facts or circumstances which if true would in law constitute an offense. If they believed facts or circumstances would not in law constitute an offense, an erroneous though not unreasonable belief that the law is otherwise does not render justifiable the use of force to make an arrest or to prevent an escape from custody. A peace officer who is 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.” §18-1-901(3)(d), C.R.S. (2015).

Sergeant Hess was engaged in the pursuit of Mr. Manriquez who was known to be armed and dangerous, for whom warrants existed for his arrest, who was known to pose a risk to the community and who had spoken of having a shootout with police. Mr. Manriquez had most recently acted in a threatening and violent manner to his niece, Naomi Loucero, the reporting party. After setting up a perimeter to intercept Mr. Manriquez, Sergeant Hess approached Mr. Manriquez’s vehicle once it had parked outside Ms. Loucero’s apartment building. As officers came upon the scene, Mr. Manriquez disobeyed commands by Sergeant Hess and Corporal Valandra to get down. Instead, he aggressively pushed past his other companion and got into the vehicle, which was parked facing Sergeant Hess. Sergeant Hess himself was facing Mr. Manriquez at this time with his rifle pointed at him. Sergeant Hess says he saw a bulge in Mr. Manriquez’s waistband and confirmed it was a handgun when Mr. Manriquez sat down in the driver’s seat of the car. Sergeant Hess gave many loud commands to the suspect, saying “Don’t do it!” and “You’re gonna get shot!” while Mr. Manriquez sat in the vehicle, not responding to said commands. The vehicle lurched forward a small amount and then Sergeant Hess saw Mr. Manriquez reach down towards his right side near where he had his handgun. Naomi Loucero, who was watching from her second story apartment window, also saw Mr. Manriquez reach down for something on his right side, though she thought he was reaching for the gear shift. At this point, Sergeant Hess stated he was in fear for his life as well as in fear for the safety of his fellow officers. Sergeant Hess then fired three rounds into Mr. Manriquez’s torso through the front windshield of the vehicle. Even after being shot, Mr. Manriquez proceeded to drive the vehicle forward, turn right, and crash into another parked vehicle.

The public rightfully demands scrutiny of all officer involved shootings, which is why this incident was investigated thoroughly. Sergeant Hess has deployed his weapon in a previous instance where a suspect was killed, so this is not his first time facing a situation such as this, nor is this the first time his actions, after a death, have been scrutinized and investigated.

However, under these facts, the prosecution cannot prove that Sergeant Hess’s action of firing three rounds at Juan Manriquez was not justified in protecting himself and other officers from what he perceived 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 Sergeant Jon Hess for discharging his weapon in the fatal shooting incident involving Juan Carlos Manriquez on July 4, 2017.

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 read 'DY' followed by a stylized flourish.

Dave Young
District Attorney