



September 20, 2018

U.S. Marshal David A. Weaver
U.S. Courthouse
901 19th St., 3rd Floor
Denver, Co 80294

Mr. Stuart Browne
Division Counsel – Denver Field Division
Bureau of Alcohol, Tobacco, Firearms and Explosives
950 17th Street, Suite 1800
Denver, Colorado 80202

Re: The investigation into the officer-involved shooting of Bruce Allee, dob 9/22/1986,
occurring in Thornton, Colorado on April 13, 2018

Dear Mr. Marshal Weaver and Mr. Browne:

The investigation and legal analysis of the officer-involved shooting of Bruce Allee is complete. The 17th Judicial District Critical Incident Investigation Team (CIIT) conducted the investigation into this matter, led by Thornton Police Detective Fred Longobricco and Westminster Police Detective Bernard Vonfeldt. 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 our office on July 10, 2018. 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 law enforcement officers. The standard of proof for filing a criminal case is whether there is sufficient evidence to prove any criminal violations beyond a reasonable doubt. In this instance, the prosecution also has the burden to prove beyond a reasonable doubt that the use of force was not justified under Colorado law. This review does not evaluate the appropriateness of the actions of the involved law enforcement 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 agencies that employs the involved officer.

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

Background Investigation and Overview of the Incident

On March 31, 2018, Mr. Bruce Allee reportedly removed his intravenous therapy lines and left St. Anthony's North Health Campus Hospital located at 14300 Orchard Parkway, Westminster, CO 80023 against medical advice. He had an infection and his treatment revealed positive levels of narcotics.

On April 10, 2018, at approximately 12:30 a.m., troopers with the Colorado State Patrol contacted an occupied stolen Ford F-150 pickup truck in the median near Berthoud, Colorado. During the attempted contact, the suspect driver fled from the scene in possession of a handgun. Troopers detained an associate, identified as Adrianna Ellis, who was a passenger in the truck. She identified the suspect driver as Bruce Allee and confirmed he was in possession of a handgun. She further reported that Mr. Allee stated that he would, "kill a cop today." Troopers discovered various rounds of ammunition and methamphetamines in the truck. Shortly after the incident, a fifteen-foot white Ford Transit Van was reportedly stolen from a nearby residential construction site. The Colorado State Patrol issued a state-wide investigative report ("BOLO") that detailed the nature of Mr. Allee's criminal conduct.

Later that day, the Colorado State Patrol requested assistance from the Colorado Bureau of Investigation to locate Mr. Allee. On April 11, 2018, a coalition of law enforcement fugitive investigators known as the Colorado Violent Offender Task Force took up the search. The Task Force is comprised of investigators from the U.S. Marshal's Service, the Colorado Bureau of Investigation, and the Federal Bureau of Alcohol, Tobacco, and Firearms. The search included geographical tracking of a telephone believed to be in Mr. Allee's possession.

On April 13, 2018, the phone revealed locations across various jurisdictions in Adams County. At approximately 6:00 a.m., the phone was tracked to a gas station at 62nd Avenue and Broadway Street. There, investigators observed the stolen white passenger van and confirmed it was driven by Mr. Allee. A female passenger got out and went into the convenience store while Mr. Allee remained in the vehicle. Investigators driving unmarked police vehicles tried to block the van. Mr. Allee crashed the van into the unmarked police vehicles and fled the scene. The pursuit of the van was called off near 120th Avenue and Sheridan Boulevard just after 7:00 a.m. The female passenger was detained and again identified as Ms. Ellis.

Mr. Allee's phone was tracked to Broomfield. While developing an operations plan, investigators learned of a carjacking incident that occurred at 7:22 a.m. in a residential garage near the intersection of W. 131st Avenue and Umatilla Street in Westminster. A silver Toyota Camry was stolen from its owner after the suspect shot the owner two times. The suspect matched the description of Mr. Allee. The stolen white van was located at 7:45 a.m. in the same area.

At 8:21 a.m., the Toyota Camry was found abandoned in the area of 70th Avenue and Broadway. At 8:33 a.m., a large Kenworth box truck was stolen from a nearby business. The suspect's description matched Mr. Allee.

During the afternoon hours, investigators located a purple 2004 Dodge Stratus driven by Mr. Allee's mother, Lillian Dailey in Commerce City. Investigators followed this vehicle to Thornton and identified Ms. Ellis as a passenger. Around 3:30 p.m., surveillance revealed Mr. Allee get into the stolen white box truck near the location where the Dodge Stratus was located. Mr. Allee drove the box truck and the Dodge Stratus followed behind to a strip mall located in the 800 block of E. 88th Avenue. Mr. Allee parked the box truck and got into the front passenger seat of the Dodge Stratus.

Officers with the Colorado Violent Offender Task Force pursued the Dodge Stratus in several unmarked vehicles with emergency lights and sirens activated. Officers observed Mr. Allee hanging out the front passenger side window pointing a gun back at the vehicles in pursuit. As the pursuit ended, Mr. Allee got out of the Stratus and ran while carrying a handgun. Mr. Allee stopped and turned toward the officers. He raised the handgun and pointed it at the officers in their vehicles. Two of the officers fired their weapons at Bruce Allee, striking and killing him. At 3:37 p.m., Thornton Police Department dispatch records reveal a request for assistance at the Family Dollar Store located at 831 E. 88th Avenue to find the stolen white box truck. At 3:41 p.m., the dispatch records reveal shots fired.

Mr. Allee's mother and girlfriend both confirmed that Mr. Allee was armed with a handgun and knew he was being pursued by the police. These witnesses also saw Mr. Allee point the gun at the officers during the chase. Mr. Allee's mother advised that Mr. Allee recently commented that he would rather die than go to jail.

Witness Interviews

Investigators from various law enforcement agencies including the Westminster Police Department, Thornton Police Department, Broomfield Police Department, and the District Attorney's Office conducted interviews of the necessary witnesses. The following are summaries of the interviews pertinent to this review.

Special Agent Ryan McKone Ryan McKone is a special agent with the Federal Bureau of Alcohol, Tobacco, and Firearms and is assigned to the Colorado Violent Offender Task Force. Thornton Detective Fred Longobricco and Westminster Detective Bernard Vonfeldt interviewed him on April 16, 2018.

On April 13, 2018, Special Agent McKone received information about an armed and dangerous fugitive that the U.S. Marshal was seeking to apprehend. He was asked to report to 70th Avenue and Broadway to receive additional details. He drove his unmarked maroon Ford Explorer to the location where he met with Deputy U.S. Marshal Bryan Bailey and was briefed as to the events leading to the search of Bruce Allee. At that time, Special Agent McKone

understood Mr. Allee to be a parolee who had cut off his ankle monitor and subsequently carjacked a vehicle and shot the vehicle's owner. At the time of the briefing, Mr. Allee's whereabouts were unknown, but the officers believed that he was driving a large stolen Kenworth box truck.

Special Agent McKone later attended an investigative meeting where he learned the details of incidents that led to the search for Bruce Allee. Additionally, he received photographs of Mr. Allee and his female associates, along with address locations that Mr. Allee was known to frequent. Special Agent McKone understood Mr. Allee to be armed and dangerous. He heard about Mr. Allee's criminal record and past few days of violent behavior. The reports included a briefing of three incidents of car theft, one of which involved a Colorado State Trooper seeing Mr. Allee possess a firearm, another of which involved Mr. Allee shooting a vehicle's owner. He heard reports of Mr. Allee declaring that he would not be arrested, and that he was going to "kill cops." He did not perceive Mr. Allee to be the type who would surrender or give himself up to officers.

Special Agent McKone and other investigators developed a "running" operations plan and visited some addresses associated with Mr. Allee. Through this surveillance, Special Agent McKone learned that one of Mr. Allee's female associates was driving a dark colored Dodge Stratus. He drove his unmarked Ford Explorer with Ernie Sandoval, his partner riding in the passenger side, and followed the Stratus as it drove toward Commerce City. He observed the Stratus occupied by two females. At some point during the surveillance, the Stratus parked and Special Agent McKone parked a distance away so he would not be identified. He heard another officer confirm over the radio that Bruce Allee got into the passenger side of the Stratus. Shortly thereafter, Special Agent McKone watched a female drive the Stratus with Mr. Allee seated in the front passenger seat. He recognized Mr. Allee from the photographs he was provided.

According to Special Agent McKone, the surveillance team followed the Stratus in a "train of unmarked police vehicles." Special Agent McKone believed Bruce Allee and the females in the Stratus knew the unmarked vehicles behind them were police, as Mr. Allee was looking around and the female driver accelerated and drove erratically. Special Agent McKone was directly behind the Stratus when he activated his emergency equipment, which included blue and red lights in the front grill, visor, sides, and rear of the vehicle. He also activated the siren. The other officers followed, also with lights and sirens activated. Special Agent McKone and Ernie Sandoval placed Velcro "POLICE" patches on their vests to further identify themselves as law enforcement.

The pursuit continued westbound on 88th Avenue at a high rate of speed. Special Agent McKone heard his partner exclaim, "He's got a gun! He's got a gun! He's got a gun!" Special Agent McKone saw Mr. Allee lean his body out of the front passenger window and point a gun back at Special Agent McKone's vehicle. Special Agent McKone did not know if Mr. Allee fired, but he swerved to avoid being shot. As Special Agent McKone got back behind the Stratus, he again saw Mr. Allee reach out the passenger window with a gun pointed at them. He swerved again.

The Stratus turned right into a parking lot of a strip mall and drove toward a large Kenworth moving truck. Special Agent McKone believed that truck matched the description of the vehicle Mr. Allee was suspected of stealing earlier. Special Agent McKone was concerned that Mr. Allee could not be stopped if he were to get away driving the Kenworth truck. Special Agent McKone followed the Stratus into the parking lot. He observed the unmarked Chevy Suburban police vehicle driven by Deputy U.S. Marshal Eric Helsing also turn into the parking lot. The two police vehicles brushed up against each other as they entered the lot. Special Agent McKone drove to the right of Deputy U.S. Marshal Helsing's vehicle.

Special Agent McKone saw Mr. Allee get out of the passenger side of the Stratus and immediately point his gun at Deputies U.S. Marshal Helsing and Bailey. Special Agent McKone estimated a distance of approximately eight feet between Mr. Allee and the Marshal's vehicle upon which he took aim. Special Agent McKone withdrew his Glock 22, .40 caliber handgun as he continued to drive slowly. Believing Mr. Allee was aiming to kill the officers in the other vehicle, he fired his weapon at least two times at Mr. Allee through the driver's side window. He heard other gunshots in addition to his own, but did not know where they were coming from. He saw Mr. Allee lower the gun and "wince." He stopped the vehicle and watched as Mr. Allee ran toward the Kenworth truck. Mr. Allee stopped, turned around and pointed the gun at Special Agent McKone, who was still seated in the driver's seat. Special Agent McKone stated that he fired his weapon a second time at Mr. Allee to protect himself and his partner sitting next to him. He believed that he fired three to four times from a distance to be twenty-four to thirty-five feet away. He heard other shots fired at the same time. Special Agent McKone recalled being in front and to the right of Deputy U.S. Marshal Helsing's vehicle at the time he fired the second round of shots.

Mr. Allee fell backward to the ground. As Special Agent McKone got out of his vehicle, he saw Mr. Allee face toward U.S. Deputy Marshal Bryan Bailey, who was standing nearby. Mr. Allee raised his right arm holding the gun pointed at U.S. Deputy Marshal Bailey. Special Agent McKone advanced toward Mr. Allee and fired another round of shots at him. He heard the female voice screaming, "please just give up, give up!" Once Special Agent McKone saw that the handgun was no longer in Mr. Allee's possession, he called for medical attention.

Deputy U.S. Marshal Bryan Bailey Bryan Bailey is a Deputy on the Fugitive Unit with the U.S. Marshal's Service. He is assigned to the Colorado Violent Offender Task Force. Thornton Detective Fred Longobricco and Westminster Detective Bernard Vonfeldt interviewed him on April 16, 2018.

On April 11, 2018, Deputy U.S. Marshal Bailey was requested to assist with the Bruce Allee fugitive investigation. He met with the other investigators of the Task Force and was briefed on the nature of the investigation and operations plan. From the information shared, he understood Bruce Allee to be driving a stolen white van and armed with a handgun. The Task Force members continued their effort to locate Mr. Allee in the van over the course of the next day in the areas of Commerce City, Westminster, and Thornton.

During the early morning hours of April 13, 2018, investigators observed Mr. Allee driving the white van with an unknown female passenger. Mr. Allee drove into a gas station

around 61st Avenue and Broadway. The female, later identified as "Adriana," got out and went in the store. Deputy U.S. Marshal Bailey and the other investigators prepared a plan to apprehend Mr. Allee by pinning in the van. Deputy U.S. Marshal Bailey activated his emergency lights and attempted to immobilize the back end of the van while another investigator drove his vehicle with emergency lights to block the front of the van. Mr. Allee crashed the van into both police vehicles and eluded the parking lot at a high rate of speed. He swerved the van toward an investigator in the process of getting away. Deputy U.S. Marshal Bailey chased the van with his emergency lights and siren activated for two blocks. Mr. Allee refused to stop the van and Deputy U.S. Marshal Bailey eventually lost sight of it in the area of 120th Avenue and Sheridan Boulevard.

A short time later, as investigators were discussing the operation, Deputy U.S. Marshal Bailey received information of an incident in north Westminster where Mr. Allee was suspected of carjacking a silver Toyota Camry where he shot the vehicle's owner. Deputy U.S. Marshal Bailey responded to the area of 70th Avenue and Washington, where he located the stolen Camry. He and other investigators searched the area for Mr. Allee, but were unsuccessful. At the conclusion of the search, Deputy U.S. Marshal Bailey heard information that Mr. Allee stole a white cargo truck in the area of 64th Avenue and Washington Street. The investigators got together for another briefing at the Westminster Police Department. Deputy U.S. Marshal Bailey assisted with designation of duties in the surveillance and apprehension of Mr. Allee.

Deputy U.S. Marshal Bailey returned to surveillance duties with Deputy U.S. Marshal Erik Helsing in Helsing's silver Chevrolet Suburban because Deputy U.S. Marshal Bailey's vehicle was damaged in the earlier pinning effort. They learned that Mr. Allee was in a Dodge Stratus registered to "Lillian Dailey." Through radio reports, they learned the location of the Stratus and eventually caught up to it. The Suburban entered a long line of unmarked police cars pursuing the Stratus. Deputy U.S. Marshal Bailey described the Suburban as being the fifth or sixth in the line. The Stratus started to elude and the unmarked cars activated lights and sirens during the pursuit. The Stratus did not stop.

The pursuit continued eastbound down 88th Avenue. The Suburban with Deputy U.S. Marshal Bailey passed a number of other police vehicles and was now the second or third police vehicle behind the Stratus. Near the intersection of 88th Avenue and Corona Street, Deputy U.S. Marshal Bailey noticed the passenger door open on the right side of the Stratus. The Stratus drove into a parking lot and Deputy U.S. Marshal Bailey saw Mr. Allee kick open the door to the Stratus. Mr. Allee was hanging onto the side of the car looking back at the police cars as the Stratus continued to drive. Mr. Allee jumped out of the Stratus and started running toward the strip mall. He appeared to be heading toward a white cargo truck that was parked in the lot. Deputy U.S. Marshal Bailey was concerned that if Mr. Allee got into the large cargo truck, he could not be stopped and would further threaten the officers or the public.

Deputy U.S. Marshal Bailey saw a handgun in Mr. Allee's hand as he ran. Deputy U.S. Marshal Bailey estimated that the Suburban was fifteen feet away from Mr. Allee. Deputy U.S. Marshal Bailey said, "Gun!" as he saw Mr. Allee look back and raise the gun. Mr. Allee pointed the gun directly at Deputies U.S. Marshal Helsing and Bailey, who remained in the Suburban. Deputy U.S. Marshal Bailey had his rifle held up in the passenger side window and fired at Mr.

Allee. Deputy U.S. Marshal Helsing turned the Suburban head on with Mr. Allee, who remained standing and pointing the gun at the Suburban. Deputy U.S. Marshal Bailey then fired through the windshield at Mr. Allee. Deputy U.S. Marshal Bailey stated that he fired at Mr. Allee because he feared for his own life and the lives of the other investigators nearby who could have been killed. Deputy U.S. Marshal Bailey stopped shooting when he saw Mr. Allee fall and drop the gun. He estimated that he shot between eighteen and twenty-five rounds.

Deputy U.S. Marshal Bailey suffered moderate hearing loss and went to the hospital to be treated.

Deputy U.S. Marshal Erik Helsing Erik Helsing is an investigator with the U.S. Marshal's Service assigned to the Colorado Violent Offender Task Force. Thornton Detective Scott Hendrickson and Adams County Sheriff's Detective Lilliana Cano interviewed him hours after the incident.

On April 13, 2018, Deputy U.S. Marshal Helsing was aware that the Task Force was in search of an auto thief who was alleged to have drawn a gun and fled from the Colorado State Patrol. He was also aware that the suspect committed a carjacking and shot a person in the process. He was asked to assist with the search after the suspect eluded officers and damaged a Task Force vehicle. Once he received word that investigators identified the suspect in a particular location and were attempting to make an arrest, he drove his unmarked 2011 silver Chevrolet Suburban to the location. He had Deputy U.S. Marshal Bryan Bailey as his passenger.

Deputy U.S. Marshal Helsing recalled driving to an area near E. 84th Avenue and Washington Street in pursuit of the suspect, who was reported to be riding in the passenger seat of a Dodge Stratus. He was driving a few car lengths behind the Stratus and recalled a Ford Explorer in front of his vehicle. The vehicle's emergency lights and siren were activated. He noticed the other unmarked police vehicles also activated their lights and sirens. The Stratus turned and proceeded down E. 88th Avenue, where he observed the passenger door open and a male with red hair hang half his body out of the door. Deputy U.S. Marshal Helsing pursued the Stratus as it turned into the parking lot north of E. 88th Avenue. He watched the male jump out of the Stratus and run towards a box truck parked in the lot.

Deputy U.S. Marshal Helsing stopped the Suburban approximately twenty feet from the male. The male stopped running and turned around, facing the Suburban. Deputy U.S. Marshal saw that the male was holding a handgun. At that point, his passenger, Deputy U.S. Marshal Bailey, fired his assault rifle at the male from the passenger seat of the enclosed Suburban. Deputy U.S. Marshal Helsing saw the male fall to the ground. Though he had his rifle accessible, he did not fire it. He got out of the Suburban and walked up to the male and saw no signs of life. He also noted that the gun was laying on the ground by the box truck. Concerned for the safety of others, Deputy U.S. Marshal Helsing went back to the Stratus to contact the occupants and secure the scene.

Deputy U.S. Marshal Helsing was having some difficulty hearing due to the fact that the shots were fired from close proximity inside an enclosed vehicle.

Officer Ernest Sandoval Ernest Sandoval is a detective with the Denver Police Department assigned to the Federal Bureau of Alcohol, Tobacco, and Firearms. Thornton Detective Fred Longobricco interviewed him on April 20, 2018.

Task Force Officer Sandoval was requested to assist the U.S. Marshal Service to search and locate a fugitive. He was briefed on the suspect and the events leading up to the search. Photographs and other information were distributed to Task Force Officer Sandoval and the other officers during the course of the investigation. He understood the suspect to be armed and dangerous. He also was aware that the suspect had reportedly crashed into unmarked police vehicles while eluding and shot at a victim during a carjacking.

On April 13, 2018, Task Force Officer Sandoval participated in surveillance activity with Special Agent McKone. He rode as the sole passenger in Special Agent McKone's unmarked maroon Ford Explorer as the two drove to locations in the metro area associated with Mr. Allee. Through the surveillance activity, they were able to locate a Dodge Stratus occupied by Mr. Allee's female companions. Task Force Officer Sandoval described following the Stratus to a location where Mr. Allee was identified driving a stolen box truck. Special Agent McKone and Task Force Officer Sandoval followed the Stratus and box truck to the parking lot of the Family Dollar near the intersection of E. 88th Avenue and Corona. At that location, Task Force Officer Sandoval observed Mr. Allee get out of a white box truck and into the front passenger seat of the Stratus with a female driving.

Special Agent McKone followed the Stratus out of the parking lot and through the area. There were about five other unmarked police vehicles following the Stratus. At some point, Special Agent McKone's Explorer ended up being the lead unmarked car behind the Stratus. From that vantage point, Task Force Officer Sandoval could see Mr. Allee looking around as if he was aware they were being followed. About the same time, the Stratus began to drive through stop signs and run red lights. Once it became apparent that the occupants of the Stratus knew they were being followed, Special Agent McKone activated his emergency lights and siren.

The pursuit continued through a residential neighborhood at a high rate of speed. The unmarked vehicles followed the Stratus with lights and sirens. As Special Agent Ryan McKone was planning to ram the Stratus, Task Force Officer Sandoval saw Mr. Allee put his arm out the window holding a handgun. He saw Mr. Allee turn and point the gun back at the Explorer. Task Force Officer Sandoval yelled, "Gun! Gun! Gun!" Special Agent McKone hit the brakes and swerved to the left so as to make it difficult for Mr. Allee to shoot at the Explorer. They continued to follow the Stratus as it proceeded onto E. 88th Avenue westbound. Task Force Officer Sandoval watched as Mr. Allee's arm remained out the passenger side window.

The Stratus slowed as it approached the intersection at Corona Street. As the Stratus continued to drive, Task Force Officer Sandoval saw the front passenger door open. Mr. Allee stood up on the floorboard of the Stratus as he clung to the open door with his left hand. Task Force Officer Sandoval saw a gun in Mr. Allee's right hand. The Stratus turned into the parking lot of the Family Dollar Store where the white box truck remained parked. Task Force Officer Sandoval became concerned that Mr. Allee might get back into the box truck and they would not be able to stop him.

Special Agent McKone followed the Stratus into the parking lot and his vehicle collided with an unmarked silver SUV that was also part of the Task Force. Mr. Allee was still standing up out of the door about twenty feet ahead. As the pursuit continued through the lot, Task Force Officer Sandoval saw Mr. Allee raise his gun up again and point it back at the Explorer. At that moment, Task Force Officer Sandoval believed that they would be shot. He ducked down and drew his handgun. The Explorer turned and Mr. Allee was to the left of the Explorer. Task Force Officer Sandoval did not shoot his weapon at Mr. Allee because he would have had to shoot across Special Agent McKone.

Task Force Officer Sandoval observed Special Agent McKone fire his weapon at Mr. Allee out the driver side window as the Explorer continued to move. Task Force Officer Sandoval heard other shots being fired. He saw Mr. Allee fall down as if he were shot. Mr. Allee was not moving, so Task Force Officer Sandoval walked back to the Stratus to help secure the scene.

Adrianna Ellis Westminster Police Detective Bernard Vonfeldt interviewed Adrianna Ellis hours after the incident. Ms. Ellis was Bruce Allee's girlfriend. Ms. Ellis admitted that she was with Mr. Allee a few days prior when he was contacted by Colorado State Patrol. She was detained by the police, but Mr. Allee fled the scene. She knew he possessed a semi-automatic handgun at that time. She thought that he kept the gun on his hip or in his backpack. She denied having personal knowledge of Mr. Allee's other criminal activity including the theft of the box truck or the carjacking incident. She claimed that she heard about this information online and simply believed that Mr. Allee was the one responsible for committing these crimes.

Regarding the events of April 13, 2018, Ms. Ellis stated that she was with Lilly, Mr. Allee's mother, driving around in a Dodge Stratus looking for Mr. Allee. They contacted Mr. Allee at a friend's house, where he had a box truck parked across the street. Lilly and Adriana followed Mr. Allee in the box truck to the parking lot at the Family Dollar Store off of E. 88th Avenue, where he parked it. Mr. Allee then got in the passenger seat of the Dodge Stratus while Lilly drove around. Ms. Ellis sat in the middle front.

Ms. Ellis described seeing Mr. Allee looking around at the vehicles that were chasing them. He saw the flashing lights. He said he knew the police were following him. He pulled out his handgun. He told Lilly to just pull over and let him out. He also told her to just go back to the box truck at the Family Dollar Store. He told Lilly he was sorry. Mr. Allee told Adriana that he loved her and that none of this was their fault. Ms. Ellis knew he was going to shoot at the police. Lilly told Mr. Allee not to shoot.

Ms. Ellis said that she heard the police sirens when they reached E. 88th Avenue. They turned left onto E. 88th Avenue. As they got near the parking lot to the Family Dollar Store, Mr. Allee opened the passenger side door, stood up on the "edge of the car" and pointed the gun at the police. He shot at the police while the Stratus was still driving. Mr. Allee then got out of the car and ran through the lot toward the box truck. He still had the handgun. The police then shot at Mr. Allee. Mr. Allee went down and the police stopped shooting.

Lillian "Lilly" Dailey Thornton Police Detective Bryan Adair and Adams County Sheriff's Office Detective Dylan Lussier interviewed Lilly Dailey hours after the incident. Ms. Dailey is Bruce Allee's mother. Mr. Allee called her around 7:30 a.m. on April 13, 2018 and said, "sorry" and "I love you." She asked him what he meant and he said, "I didn't mean to" and hung up.

Later, around 9:00 a.m., Adrianna Ellis called Ms. Dailey and asked to be picked up near 60th Avenue and Broadway. Ms. Dailey drove her 2004 Dodge Stratus to the area and picked up Ms. Ellis. According to Ms. Dailey, Ms. Ellis showed her a news story online about a carjacking where the car owner was shot. She believed that Mr. Allee was the suspect and that if he did not turn himself in, he would be shot by the police. She wanted to find Mr. Allee to convince him to turn himself in. Ms. Dailey drove around with Ms. Ellis to addresses where they were likely to find Mr. Allee. They found him and followed him as he drove a big truck to the Family Dollar Store parking lot north of E. 88th Avenue.

Ms. Dailey said that she was trying to take Mr. Allee to the police department to turn himself in. She told Mr. Allee that he would end up getting shot by the police. As she was driving, Mr. Allee said, "They're following you. That's a policeman behind you now." He further stated, "I told you I shouldn't go with you." According to Ms. Dailey, that is the moment Mr. Allee pulled out his handgun. Mr. Allee then told her where to drive and repeated, "Don't you dare stop."

Ms. Dailey expressed that she was in fear while driving. She also talked about her fear once Mr. Allee got out of the vehicle because she believed he was shooting back at her and Ms. Ellis in the Stratus. She described Mr. Allee hanging onto the door of the car, screaming, "I knew I shouldn't have went [sic] with you." She then saw the gun pointed in her direction and heard a lot of gunshots. She believed Mr. Allee was shooting at them, as she thought she saw flashing coming from the end of his gun.

Ms. Dailey expressed that Mr. Allee's behavior has not been normal over the course of several months. She begged him for an explanation, but the only thing he said was, he'd rather die than go back to jail.

Frank Salais Thornton Police Detective Bryan Adair interviewed Frank Salais hours after the incident. Mr. Salais works as the manager of the Family Dollar Store located at 831 E. 88th Avenue. At the time of the incident, Mr. Salais was taking trash out to the dumpsters located in the parking lot. Mr. Salais heard gunshots and saw a grey sedan drive through the parking lot from west to east at approximately twenty miles per hour. He saw a male passenger of the sedan leaning out of the passenger side window turned backward. The sedan was being followed by two unmarked police cars with emergency lights activated. Mr. Salais observed the male fire multiple rounds from a handgun at the police following him. He thought he heard twelve gunshots and described them as being from a small caliber weapon. The vehicles were still moving at the time of the gunshots. He ran inside for safety.

Officer Jessika Black Jessika Black is a patrol officer with the Thornton Police Department. Westminster Detective Matt Calhoun and Adams County Sheriff's Detective Mark Faulhaber interviewed her hours after the incident.

On April 13, 2018, Officer Black was called around 3:30 p.m. to assist with the investigation into an unoccupied stolen box truck located at the Family Dollar parking lot near the intersection of 88th Avenue and Corona Street. She had no further information. Officer Black was driving a marked patrol vehicle eastbound on 88th Avenue from Washington Street when she saw several unmarked police vehicles with emergency lights chasing another vehicle. She pulled over. She observed the vehicles turn into the Family Dollar parking lot.

Officer Black noticed a man hanging out of the passenger side of the vehicle that was being chased. She saw the door open, as if the man was getting out of the vehicle. Officer Black drove into the parking lot. As she drove forward, she saw muzzle flashes come from one of the vehicles. She saw a man in the parking lot drop to the ground. She was uncertain who fired the gun, as it happened fast and her view was partially obstructed from a dumpster in the parking lot. Officer Black reported shots fired on her radio immediately after the event.

Officer Black stated that she recognized the individuals chasing the car as police because their vehicles displayed activated emergency lights, their clothing was clearly marked as law enforcement, and they wore badges.

Crime Scene Investigation

Criminalists from the Adams County Sheriff's Office, Westminster Police Department, and Thornton Police Department gathered evidence and processed the scene. The scene was generally situated within the parking lot to the east of the Family Dollar Store located at 831 E. 88th Avenue. During the evening hours of April 13, 2018, the temperature decreased rapidly and the wind increased, threatening to disturb the scene and evidence.

There were ten vehicles located within the crime scene perimeter. Investigators examined all of the vehicles and identified five vehicles associated with law enforcement officers who were not involved in the incident and one that belonged to a local business owner who was also not involved. As such, only four of the vehicles had evidentiary value to this investigation—the purple Dodge Stratus, a maroon Ford Explorer, a silver Chevrolet Suburban, and a white Kenworth box truck. These vehicles were towed from the scene and later examined.

Near the E. 88th Avenue entrance to the parking lot, Criminalist Bailey located broken plastic, consistent with debris from a broken headlight. Approximately one hundred feet north of the broken plastic, Criminalist Bailey documented a grouping of three vehicles, one was the Dodge Stratus identified as being registered to Lillian Dailey. The ignition of the Stratus was on and the engine was running. A search of the Dodge Stratus revealed a backpack on the passenger side floorboard. Inside the backpack, Criminalist Bailey found four "R-P 38 SPL" bullets.

Directly north, at the opposite end of the parking lot, Criminalist Bailey noted a Kenworth box truck parked facing south. The box truck's engine was running and the driver's door was open.

Criminalist Bailey documented a .32 caliber Deutsche Werke semi-automatic handgun laying on the pavement just east of the driver's side door of the box truck. This is the handgun that Mr. Allee possessed during this incident. Criminalist Bailey removed the magazine and found that it was empty. There was one "Western 32 Auto" bullet in the chamber of the weapon.

A maroon Ford Explorer was located east of the box truck. Criminalist Bailey noted damage on the driver's side front headlight and quarter panel, consistent with the plastic debris found at the entrance of the parking lot. The vehicle's engine was also running. Criminalist Bailey found a total of eight "Speer 40 S&W" bullet casings inside the Explorer—five on the driver's side front floorboard, one on the passenger's side front floorboard, and two on the driver's side rear passenger floorboard.

A silver Chevrolet Suburban was parked southwest of the Explorer. The rear cargo door was open. Criminalist Bailey located a Colt Carbine 5.56 mm semiautomatic rifle laying on an aluminum box in the cargo area. He also found a Rock River Arms LAR-15 5.56 mm semiautomatic rifle between the driver's seat and center console area of the vehicle. He documented a total of nineteen defects in the passenger side of the windshield, consistent with a projectiles passing through the windshield from the interior of the vehicle. In addition, the passenger side window was broken, appearing to have been from an object striking the window from the inside. Criminalist Bailey found seventeen "Hornady 5.56 NATO" cartridge cases inside the passenger compartment of the Suburban.

Criminalist Bailey located seven "Speer 40 S&W" bullet shell casings spread about the parking lot. These casings were consistent with the five located in the maroon Explorer. Two 5.56 mm "Nato" bullet casings lay on the pavement near the passenger door of the Suburban.

The body of a deceased male, later identified as Bruce Allee, was found on the pavement just southeast of the box truck. Criminalist Bailey found a silk bag containing a glass pipe commonly used for smoking methamphetamine between the decedent and the silver Suburban. He located another broken glass pipe near the decedent's foot. Both pipes appeared to have methamphetamine residue inside of it. He also found a small clear plastic baggie containing a crystal substance later confirmed to be 2.2 grams of methamphetamine. A butane torch commonly used to smoke methamphetamine was also found near the handgun.

Examination of the box truck revealed a number of bullet holes passing through the vehicle. Criminalist Bailey identified a hole in the approximate center of the driver's side door. Upon removing the door panel, Criminalist Bailey located a projectile consistent with a bullet inside the door. He also located a defect in the upper portion of the driver's side door near the "A pillar" that was consistent with a bullet strike. In addition, he observed a defect in the side of the dashboard consistent with a bullet passing through the door. He also found a hole in the approximate center of the windshield near the top of the glass and defects in the interior of cab of the vehicle that appeared to be consistent with a bullet that perforated the windshield.

Investigators collected and examined the firearms reported to have been fired by officers during the incident. Special Agent Ryan McKone used a .40 caliber Glock model 22 semi-automatic handgun. The magazine holds a maximum fifteen rounds. Special Agent McKone reported to carry a full magazine and one in the chamber of the gun, for a total of sixteen rounds in his weapon. Examination of the firearm and magazine revealed one bullet in the chamber and five bullets in the magazine, leading to the conclusion that Special Agent McKone fired his weapon ten times. There were a total of fifteen .40 caliber shell casings discovered on scene and in the interior of Special Agent McKone's Explorer. The difference between the evidence of shots fired from Special Agent McKone's weapon and the total number of casings was explained during Special Agent McKone's interview. He stated that he had a number of .40 caliber shells from the shooting range that he had not yet cleaned out of his vehicle.

Based on the statements of the witnesses and assessment of the evidence, investigators determined that Deputy U.S. Marshal Bailey fired the Colt Carbine 5.56 mm semi-automatic rifle that was identified in the rear of the silver Suburban. An examination of the weapon revealed one bullet in the chamber. The magazine holds a total of thirty rounds. Criminalist Bailey found eight bullets in the magazine. Deputy U.S. Marshal Bailey explained that he fully loaded his weapon with one in the chamber. Considering a total of thirty-one rounds in the weapon, Deputy U.S. Bailey fired his assault rifle twenty-two times during the incident. There were only a total of nineteen bullet casings located, supporting a conclusion that three were not located.

Investigators discovered an external-facing camera belonging to a laundromat located at 8876 Washington Street. The camera faces south toward the parking lot. The video recovered shows the unmarked police vehicles enter the parking lot, a brief view of an individual running from a vehicle, and officers getting out of their vehicles with weapons drawn. The shooting is not captured on the video.

Suspect Information

Bruce Allee had multiple active warrants for his arrest at the time of the incident. In addition, Mr. Allee's criminal history reveals arrests for damaging property, assault/menacing, trespassing, theft, indecent exposure, various traffic offenses, sex offender registration violation, dangerous drugs, stalking/intimidation.

Medical Examination Analysis

On April 16, 2018, Dr. Stephen Cina conducted an autopsy of the male identified as Bruce Allee, date of birth, 9/22/1986. The examination revealed one fatal gunshot wound to the chest. The bullet pathway was identified as front to back, left to right and downward. The bullet exited the back, appearing to have traveled through the spine. One fragmented projectile was discovered in the decedent's clothing. Other injuries included superficial blunt force trauma and an abrasion to the right forearm area near the decedent's elbow. Dr. Cina concluded that the abrasion on the forearm appeared consistent with a graze gunshot wound.

The decedent's toxicology report revealed positive levels of methamphetamine. Dr. Cina determined the cause of death to be a gunshot wound and 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 the 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 any of 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 Special Agent McKone and Deputy U.S. Marshal Bailey fired their weapons at Bruce Allee. Likewise, there is no dispute that the death of Mr. Allee resulted from a gunshot wound to the chest. A question remains as to which of the involved officers actually caused the death, as the investigation does not reveal forensic evidence that would conclusively distinguish the fatal shot. However, for purposes of this review, it is assumed that either of the shooting officers actually caused the death of Mr. Allee.

At the time of the shooting, both law enforcement officers were engaged in the course of their duties to arrest a wanted suspect. Therefore, the legal question presented to the Office of the District Attorney is whether, at the time the officers fired their weapons, the prosecution can prove beyond a reasonable doubt that the officers' actions were criminal and 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. (2017), 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. (2017).

Both of the involved officers were engaged in the pursuit of a wanted suspect who was considered to be armed and dangerous. Fellow officers observed Mr. Allee with a handgun, and his associate, Adrianna Ellis, confirmed that he possessed a gun. Additionally, Ms. Ellis reported that Mr. Allee claimed that he was going to “kill a cop today.” Mr. Allee used a stolen vehicle to crash into law enforcement vehicles, including the one driven by Deputy U.S. Marshal Bailey. Mr. Allee also shot the car owner who tried to resist the carjacking earlier.

During the pursuit, Mr. Allee got out of the Dodge Stratus, raised his handgun and fired at the officers. Special Agent McKone had to make evasive driving efforts to avoid being shot.

At the conclusion of the pursuit, both officers observed Mr. Allee raise his handgun again. Special Agent McKone saw Mr. Allee point the gun and take aim at his fellow officers from a short distance. Special Agent McKone stated that he fired his weapon as he continued to drive toward Mr. Allee in an effort to protect these fellow officers. He fired again to protect himself when he saw Mr. Allee point the gun in his direction.

Deputy U.S. Marshal Bailey was riding as a passenger in a vehicle when he observed a handgun in Mr. Allee's possession. Mr. Allee stopped and turned, at which point Deputy U.S. Marshal Bailey saw Mr. Allee raise and point a gun directly at his vehicle. Deputy U.S. Marshal Bailey believed that Mr. Allee was about to shoot at the investigators. Acting in an apparent sense of urgency, Deputy U.S. Marshal Bailey fired his rifle through the windshield of his vehicle at Mr. Allee. He later explained that he feared for his own life and the lives of the other investigators nearby.

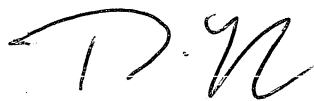
The evidence conclusively demonstrates that Mr. Allee knew he was being chased by police officers. The evidence further supports a conclusion that he used deadly physical force against the officers in order to avoid being arrested. The evidence in this incident also clearly suggests that Special Agent McKone and Deputy U.S. Marshal Bailey were justified when they fired their service weapons at Mr. Allee. Certainly under these facts, the prosecution cannot prove that either of the involved officers were not justified in using reasonable force to protect themselves and the other officers from what they reasonably perceived to be the use of deadly physical force under §18-1-707, C.R.S. (2017).

Conclusion

Applying the facts of this incident to the applicable law, the evidence does not support the filing of any criminal charges against either Special Agent Ryan McKone or Deputy U.S. Marshal Bailey for discharging their weapons in the fatal shooting incident of Bruce Allee on April 13, 2018.

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 dark ink, appearing to read 'D. Young', written in a cursive style.

Dave Young
District Attorney