

Dave Young
District Attorney



17th Judicial District
Adams & Broomfield Counties
District Attorney's Office

June 11, 2019

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

Re: The investigation into the Officer involved shooting death of Shamikle Jackson occurring on March 4, 2019.

Dear Chief Metz:

The investigation and legal analysis of the officer-involved shooting death of Shamikle Jackson is complete. The Aurora Police Department, with the assistance of the Denver Police Department conducted the investigation into this matter. Aurora Police Detective Jamie Kreiger presented the factual findings of the investigation to our office on May 9, 2019. The Aurora Police Department presented police reports, officer body worn camera footage, videos and transcripts of the interviews of witnesses, along with photographs and diagrams of the scene investigation. The Office of the District Attorney concludes that the investigation was thorough and complete.

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

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 at trial. Therefore, no criminal charges will be filed against the law enforcement officer involved in this incident.

The Incident

On March 4th, 2019, at approximately 8:52 a.m., Aurora Police Officers were dispatched to 2210 N. Dallas Street #2 in Aurora. While officers were responding, dispatch informed them that the male reporting party said that he had hostages and that two people were dead.

As Officers arrived to 2210 N. Dallas Street #2, a garden level apartment, they noticed that the door to Unit #2 was ajar. Officers gave loud verbal orders for the occupants to come out of the apartment, and a black female, later determined to be Shaquayla Jackson came out. Ms. Jackson told Officer Bridget Johnson that she and her brother were the only ones inside the residence. Officers Henderson, Matthews, Hannon and Orchard made entry to apartment to search for any injured parties. Upon entry into the residence, Officers shouted out commands, "Aurora Police, present yourself." A male voice was heard coming from a bedroom at the end of the hallway saying, "you're going to have to come back and get me." At this point, officers still were unaware if there were hostages, or people injured or deceased inside the apartment.

Officers begin to clear the residence, room by room. The apartment had two bedrooms, one bathroom, a living room, and a kitchen. Officers did not locate anyone in the living room or the kitchen. They continued down the hallway, shouting out commands for anyone in the residence to present themselves with their hands up. Each time officers made an announcement, they received the same answer from the same male voice coming from the back bedroom of the apartment. Officers confirmed that the bedroom to the south at the end of the hallway, was where the male voice was coming from. The door to the bedroom was slightly ajar. Officer Justin Henderson yelled, "Aurora Police, come out with your hands up." There was no response to this command. Officer Henderson then informed the officers positioned behind him that he intended to kick in the bedroom door.

Officer Henderson, with his duty weapon drawn, then kicked the door to the bedroom. The door opened momentarily, then instantly closed. Almost immediately after this action, the door comes open again, and a tall black male emerged from the doorway. Officer Henderson takes a step or two backwards to give ground. The officers behind him in formation do the same. The male approached Officer Henderson quickly and very aggressively with a very large knife or machete with a black handle in his right hand above his head. Officer Henderson then shot his firearm four times at the male. Officer Matthews simultaneously deployed his taser. Officer Henderson's bullets struck the suspect, later identified as Shamikle Jackson, three times. Mr. Jackson fell to the ground on his right shoulder. The machete he was wielding in his right hand also fell to the ground. The machete was kicked away from Mr. Jackson and officers placed handcuffs on him.

Once it was safe, Officer Toney Hannon immediately began life saving measures by using chest compressions. Aurora Fire and Rescue arrived on scene within seconds. Mr. Jackson was soon transported emergently to the University of Colorado Hospital in Aurora, CO. All attempts at medical intervention were unsuccessful. Mr. Jackson was pronounced dead at 9:37 a.m.

Witness Interviews

Officer Keith Matthews: Detective Jamie Kreiger of the Aurora Police Department and Detective Louis Estrada with the Denver Police Department interviewed Officer Keith Matthews on March 4, 2019. Officer Matthews has been a patrol officer with the Aurora Police Department since October, 2014. Prior to his employment with the Aurora Police Department, Officer Matthews spent eight years as a deputy with the Denver Sheriff's Department. He is trained to respond to service calls, including domestic violence disturbances and medical calls. Officer Matthews has received firearms training and use of force training, which is a defensive tactics training.

On March 4, 2019 at approximately 8:51 a.m., Officer Matthews received a dispatch call referencing a hostage situation with two individuals possibly deceased. Officer Matthews proceeded to the location of 2201 N. Dallas St. Officers Justin Henderson, Bridget Johnson, Clark Orchard, and Toney Hannon also arrived at this location. Officer Matthews checked with other officers on scene to determine who had "less lethal" force options. It was determined at this time that the only "less lethal" force option available was department issued tasers. Each officer on scene had access to a taser. Each officer was given an assignment as to how they would achieve entry and subsequently clear the residence. Once each officers' assignment was established, Officer Johnson knocked on the open door with her gun drawn. A black female, later identified as Shaquayla Jackson answered the front door. Ms. Jackson "seemed confused" and did not seem to know why police officers were there. Ms. Jackson said that she and her brother, later identified as Shamikle Jackson were the only ones inside the apartment.

Once Officer Johnson removed Ms. Jackson from the entryway, the remaining officers entered the residence in "a stack." Officer Matthews was "third in the stack," and his responsibilities was the deployment of his taser if necessary. Officer Henderson was first in the "stack," and that his responsibility was to lead the search throughout the apartment. As the officers progressed through the apartment, there existed no signs of hostages or injured persons in the apartment. Once the officers progressed towards the last bedroom inside the apartment, they came to a door that was closed. Officer Henderson gave a loud command "Aurora Police, come out with your hands up." There was no response to this command. Officer Matthews observed Officer Henderson try to push open the closed bedroom door with his foot. Officer Matthews observed the door open, a male come out of the bedroom and approached officers very quickly. At this point each officer took a step back in a tactical defensive position. Officer Matthews observed a male with a black machete held above his head coming towards the officers in an aggressive manner. Officer Matthews used his taser to try to subdue the male. At the same time, Officer Henderson fired his duty weapon "four or five times," and the male fell to the ground.

Officer Matthews stated that Officer Hannon assisted Officer Henderson in placing the subject in handcuffs. Officer Hannon began chest compressions. Officer Matthews indicated that the subject made no statements when he emerged from the bedroom holding the machete.

Officer Clark Orchard: Aurora Police Detective Jamie Kreiger and Denver Detective Louis Estrada interviewed Officer Clark Orchard on March 4, 2019. Officer Orchard has been employed as a patrol officer with the Aurora Police Department since 1996. Officer Orchard has approximately twenty-three years of experience as a patrol officer. He is trained to respond to service calls, including domestic violence disturbances and medical calls. Officer Orchard has received firearms training and use of force training, which is a defensive tactics training.

On March 4, 2019, Officer Orchard was working routine patrol and at 8:51 a.m. he was dispatched to the area of 2210 N. Dallas St. referencing a hostage situation in progress that was reported to have four hostages and two individuals possibly deceased. Officer Orchard thought that the call was some type of prank, as the Aurora Police Department had been receiving prank calls for service recently. Officer Orchard indicated that upon arrival at the apartment, other Aurora Police Officers were on scene.

When Officer Orchard approached the residence he noticed that the front door to Unit #2 was open. Officer Johnson was engaged in a conversation with a black female, later identified as Shaquayla Jackson, just outside of the apartment. Officer Orchard heard Ms. Jackson state "I don't know what's going on." Officer Orchard made a decision to make immediate entry into the residence because of the emergent nature of the call. Officer Orchard gave a loud verbal command, "Aurora Police, come out brother." Officer Orchard then directed his accompanying officers to clear the residence, room by room, starting with the living room. Officers then went down the hallway of the apartment.

Officer Henderson was the first officer in line to go down the hallway with his gun drawn. Officer Orchard was in a stack formation with two other officers behind Officer Henderson. As the officers proceeded down the hallway, Officer Orchard heard Officer Henderson yell, "Aurora police, show yourself." Officer Orchard heard Officer Henderson say "I'm going to kick the door open." The officers were in a tight bunch formation towards the door at the end of the hallway. He stated "we were stacked up in the hall." Officer Orchard observed Officer Henderson's "eyes get big as he's backing up." Officer Orchard said that at this point, "a guy just appeared quickly from the bedroom." Officer Orchard ducked into another bedroom and heard gunshots. Officer Orchard heard Officer Henderson shout "knife's over here."

Officer Hannon then handcuffed the male and began CPR. Officer Orchard used his radio to request Fire and Rescue to respond to the scene. Officer Orchard observed a large machete with a serrated spine near the male. He also observed a deployed taser filament on the ground, as well as three spent shell casings. When asked by Detective Kreiger about Officer Henderson's decision to discharge his service weapon in this incident, Officer Orchard stated, "the guy was right on top of Officer Henderson when he fired."

Officer Toney Hannon: Aurora Police Detective Todd Fredricksen and Detective Louis Estrada of the Denver Police Department interviewed Officer Toney Hannon on March 4, 2019. Officer Hannon has been employed with the Aurora Police Department since 2007. Previously, Officer Hannon was also employed with the Bakersfield Police Department in California from 2002 to 2007. Officer Hannon is assigned to the patrol division. He is trained to respond to service calls, including

domestic violence disturbances and medical calls. Officer Hannon has received firearms training and use of force training, which is a defensive tactics training.

On March 4, 2019, Officer Hannon was working routine patrol. Officer Hannon was at the corner of 25th Avenue and Florence Avenue when he received a tone alert on his radio. The nature of the call was a hostage situation with two dead and four people being held in an apartment located at 2210 N. Dallas Street. Officer Hannon was less than one minute from the apartment complex and immediately proceeded to the location. When Officer Hannon arrived at the apartment building several officers were already on scene, he found the front door to be unlocked. Officer Hannon opened the front door to the apartment building then proceeded downstairs to his right. Officer Hannon observed Officer Bridget Johnson standing outside of an open door to Unit #2. Officer Hannon heard several officers shout into the apartment "Aurora Police, come out with your hands up." Officer Hannon observed a female come out of the apartment. At the same time, Officer Hannon heard a male's voice coming from inside the apartment, "you're going to have to come in and get me." Officer Hannon did not know at this time if there "were dead or injured" people in the apartment.

Officer Hannon made entry into the apartment with three other officers. Officer Hannon stated that the first priority for the officers was to clear the residence to determine if there were individuals inside who were in need of assistance. Each officer took a position in line and went down a narrow hallway. Officer Henderson was in the front of the group of officers with his gun drawn. Once the officers reached the end of the hallway, Officer Hannon observed a south bedroom with the door closed. Having previously cleared the rest of the residence, Officer Hannon felt that this room could be the only place where the male's voice was coming from.

Officer Henderson advised the other officers that he was going to attempt to force the closed door open. Officer Hannon observed Officer Henderson push open the door with his foot. Officer Hannon said that this is where things escalated quickly. Officer Henderson shouted out "he's got a...." as they all backed up. Because of Officer Hannon's position in the formation, he was unable to see over the other officers in front of him. Officer Hannon heard at "least two shots." Officer Hannon "immediately checked other officers to see if they were okay." Officer Hannon saw a male suspect on the ground with a "machete two or three feet long" next to him. Officer Hannon immediately began life saving measures in the form of chest compressions until emergency medical professionals arrived on scene.

Officer Justin Henderson: Aurora Police Detective Jamie Kreiger and Denver Detective Louis Estrada interviewed Officer Justin Henderson with his attorney present on March 4, 2019. Officer Henderson has been employed with the Aurora Police Department since June of 2017. He is assigned to the patrol division. He is trained to respond to service calls, including domestic violence disturbances and medical calls. Officer Henderson has received firearms training and use of force training, which is a defensive tactics training.

On March 4, 2019 at approximately 8:50 a.m., Officer Henderson was in his patrol car at the intersection of 17th Street and Daytona. He received a tone alert regarding a situation at 2201 N. Dallas Street. Officer Henderson was not originally dispatched to the location and added himself to the call for

service due to his proximity to the location. The call for service made reference to a hostage situation with "people dead inside the apartment."

Officer Henderson went to the scene where other officers were already present. All officers on scene had a sense of urgency to "preserve life." Officer Henderson was the second officer to the front door of unit #2. Officer Bridget Johnson was first on scene, and noticed that the front door to the residence was ajar. Officer Johnson shouted out commands into the residence. Officer Henderson stated that after the commands were shouted into the residence, a black female emerged, "looking confused." Officer Johnson patted down the black female, then took her to the upstairs landing of the apartment building.

Officers on scene decided to make entry into the apartment. Officer Henderson took the lead into the residence. Officer Henderson asked which of the other officers on scene were in possession of "less lethal" options. The only less lethal force option available to officers on scene was tasers. With his gun drawn, Officer Henderson shouted "Aurora Police, come out with your hands up." In response to his commands, he heard a male voice yell back to the officers "you're going to have to come back and get me." Officer Henderson could not see anyone else in the apartment. Officer Henderson continued to give the same verbal commands. Again, the male voice was heard stating "come and get me." Officer Henderson gave verbal commands a third time. Again, a male voice was heard stating "come and get me." Officer Henderson was inside the apartment with Officer Keith Matthews, Officer Toney Hannon, and Officer Clark Orchard. Officer Henderson stated that he had been working with these specific officers for over a year, and that they had experience working together. The officers discussed taking a tactical position, with Officer Henderson in the front of the formation with his service weapon drawn.

Each of the four officers had a particular role in terms of duties and rooms inside the residence to clear. Through the residence, there were no signs of anyone other than the area where the male's voice was heard coming from. This turned out to be a bedroom at the end of the hallway. Officer Henderson described the hallway as a "super, super small hallway." When officers reached this area of the residence, Officer Henderson could see that the door to the bedroom was ajar. Officer Henderson attempted to kick the bedroom door open. The door opened and then immediately returned to being slightly ajar and the door appeared to be barricaded. A "split second" passed, and a black male emerged from the room with his right hand above his head. Officer Henderson observed a large metal item in the suspect's right hand, and initially "did not know what it was." Officer Henderson again gave verbal commands "show me your hands."

Officer Henderson took a step back, and the officers behind him took a step back as well. At the same time the male quickly approached the officers out in the hallway. The male suspect was immediately on top of him and "ready to swing." Officer Henderson described the male suspect as having a "determined angry face" and could now see that the male had a large machete raised over his head in his right hand as if he intended to strike officers with it. Officer Henderson described the machete as being approximately two feet long. Officer Henderson then shoots the male "three or four times in the chest."

The male fell to the floor and dropped the machete and Officer Henderson put his foot on the machete. He then assisted Officer Hannon in placing the suspect in handcuffs for officer safety reasons. Officer Henderson thought at the time he shot his weapon that it would have been very easy for the male to gain ground on him and his fellow officers due to the close proximity in the tight quarters of the hallway. Officer Henderson stated that he shot because the male suspect posed an instant threat when he rapidly approached Officer Henderson and his "partners" with a very large knife raised over his head that demonstrated the male suspects desire to kill the officers in that hallway. Officer Henderson said he stopped shooting, "because I stopped the threat."

Shaquayla Jackson: Aurora Police Detective Todd Fredricksen interviewed Shaquayla Jackson on March 4, 2019 at the Aurora Police Department. Ms. Jackson is the sister of Shamikle Jackson, and that they have lived at the 2201 N. Dallas Street #2 address together since 2017. Ms. Jackson said that her brother, Shamikle Jackson is twenty two years of age, and has lived in Colorado since 2017. Her parents reside in Louisiana, and that they had no other family present in Colorado.

Ms. Jackson described her brother as someone who keeps to himself, and doesn't share much information with her. Ms. Jackson and her brother work different shifts, and do not communicate directly with each other very often. During the prior week, Mr. Jackson had visited Aurora Mental Health. She was not sure of the purpose of the visit, but that her brother had paperwork regarding the visit in his room. Mr. Jackson was "acting weird" in the past month and he hasn't been eating or sleeping well. Mr. Jackson had been having problems with his "baby momma," and has been isolating himself. Ms. Jackson did not know the name of Mr. Jackson's ex-girlfriend, only that she had to ask her to leave the house in a prior month because she was not contributing to the finances of the residence. Ms. Jackson said that her brother understood this decision and "agreed with it."

Ms. Jackson described today's events as Mr. Jackson frequently asking to borrow her cell phone because his phone was broken. In the morning, Mr. Jackson borrowed Ms. Jackson's phone and he returned it after a brief period of time to her bedroom and dropped the phone on her bed as Ms. Jackson was getting ready for work. Shortly after this, Ms. Jackson heard yelling from outside of her apartment door. She opened the door and saw three police officers, all with guns drawn. She was then taken from the front of her residence to an upstairs location. She told the police officers that Mr. Jackson was still inside the apartment. Ms. Jackson did not know what was going on. A very short time later, Ms. Jackson heard "two or three gunshots."

Medical Analysis

On March 4, 2018, Mr. Jackson was transported in an ambulance to University of Colorado Hospital in Aurora, Colorado. Despite numerous and continued efforts of medical intervention, Dr. Vikhyat Bebarta pronounced Mr. Jackson dead at 9:37 a.m.

On March 5, 2019 at 9:00 a.m., Forensic Pathologist Dr. Stephen Cina performed an autopsy on Mr. Jackson at the Office of the Coroner in Adams County, Colorado. Dr. Cina concluded that Mr.

Shamikle Jackson sustained three separate gunshot wounds during this incident. A gunshot wound to his left forearm, a gunshot wound to his back, and a gunshot wound to his head.

Dr. Cina specified that Mr. Jackson's blood analysis was positive for THC, the active ingredient in marijuana. Dr. Cina rendered the following opinion in his autopsy report:

"This 22-year-old, African American male, Shamikle Jackson, died of multiple (3) gunshot wounds. Entrance wounds to the back and to the head each would have individually been fatal; there was an additional gunshot wound to the left forearm. The circumstances of death suggest some features of suicide by cop."

Crime Scene Investigation

Criminalist Carlie Lowe and Criminalist Sarah Bailey, from the Aurora Police Department processed the scene and the evidence. Criminalist David Ord conducted the round accountability investigation with regards to Officer Justin Henderson's service weapon.

Officer Henderson was wearing a standard blue in color Aurora Police Department uniform. Officer Henderson was also wearing a department issued body worn camera, which was in operation at the time of the incident. Officer Henderson carried a Glock 9mm semiautomatic handgun bearing serial number BEAV664 as his duty weapon in his holster. The handgun had one live cartridge in the chamber and the magazine had fifteen cartridges in it. The magazine has a capacity of nineteen live cartridges. Officer Henderson stated that he carried a full magazine with a live round in the chamber. The round accountability suggests that Officer Henderson fired his weapon four times during this incident.

Additionally, Officer Henderson had three nineteen round capacity magazines on his duty belt, with each magazine contained nineteen live cartridges. Officer Henderson also had a backup handgun in a pocket holster. The handgun was a Glock 9mm with a serial number of BEUN771. The handgun had one live cartridge in the chamber and the magazine had twelve cartridges in it. The magazine has a capacity of twelve live cartridges.

On March 4, 2019 at 9:45 a.m., Criminalist Carlie Howe responded to 2210 N. Dallas Street #2 for scene processing. Prior to processing the scene, Criminalist Howe was provided background information regarding the incident from supervisors. The structure was a three-story apartment building on the east side of N. Dallas Street. The apartment building has entrances on both the east and west sides of the building.

Unit #2 was a ground level unit, partially below ground level. From the doorway to unit #2, Criminalist Howe observed a taser cartridge, blood, and a pile of clothes in the living room. The residence is a two bedroom apartment with the front door standing open. At the west end of the apartment was the living room with an attached kitchen. East of the front door was a long narrow

hallway. The bedroom belonging to Shaquayla Jackson was at the start of the hallway on the south side of the hall. At the east end of the hallway is a bathroom and Shamikle Jackson's bedroom.

Criminalist Howe collected the wallet of Shamikle Jackson, taser wires, and a black coat from the front entry way of the apartment. Attached to the black coat above the left front pocket were two taser probes.

Criminalist Howe located four fired cartridge casings down the hallway towards Shamikle Jackson's bedroom. Also in this area was a large bloodstain on the carpet, a copper colored metal fragment, and a black hat with a suspected bullet hole in it. Blood spatter was observed near the baseboard of the protruding corner of the hall wall. Located on the east wall above a litterbox were two suspected bullet holes. Just inside the bedroom door, Criminalist Howe observed a large double edged machete with an approximate eighteen inch blade. The machete had blood on the handle. Laying on a pile of clothing in the bedroom was a sheath for the machete and another knife with an eleven inch blade.

Inspection of Body Worn Camera

The Aurora Police Department provided this office with officer body worn camera videos, which were collected during this investigation. The most pertinent videos were preserved from the body worn cameras from Officer Henderson, Officer Hannon, Officer Matthews, and Officer Orchard. These four officers were identified as the only police officers who entered into the residence during this incident. Of the four involved officers inside the residence, Officer Henderson has been identified as the sole officer who discharged his firearm, which resulted in the death of Shamikle Jackson. The following information is based on my review of video footage taken from Officer Henderson's body worn camera;

All camera footage is from March 4, 2019:

1. 8:57 a.m., Officer Henderson arrives at 2210 N. Dallas Street. He opens the front door of the apartment building and proceeds downstairs. At this time he joins four other officers at the front door to Unit #2.
2. 8:58 a.m., several officers can be heard shouting commands into the open door of the apartment, "Aurora Police, come out."
3. 8:58 a.m., Shaquayla Jackson is ordered out of the residence by several Aurora Police officers. On the video, it is seen that several of the officers have their service weapons drawn.
4. 8:58:50 a.m., Shaquayla Jackson is asked if she is alone in the residence, and asked whether anyone is hurt inside Ms. Jackson states that she does not know if anyone is hurt, and that her brother, Shamikle, is inside the apartment with her.
5. 8:59 a.m., Officer Orchard yells into the apartment "Shamikah, come out brother." At this time, Officer Henderson can also be heard asking other officers if they were in possession of "less-lethal."
6. 8:59 a.m., a male voice can be heard on the video stating "you gotta come get me."
7. 9:00 a.m., four officers make entry into the residence. They begin to clear the residence, starting with the living room.

8. 9:00:36 a.m., Officer Orchard is seen clearing Shaquayla Jackson's bedroom as officers proceed down a narrow hallway.
9. 9:01:03 a.m., Officer Henderson reaches a bedroom at the end of the narrow hallway. The door is closed. An officer yells out, "Aurora Police, if you're in there make yourself known." Officer Henderson can be heard stating, "I'm going to kick in the door." Officer Henderson pushes the door open with his foot, the door opens slightly then closes again as if something was blocking the door preventing the door from opening.
10. 9:01:14 a.m., the door opens suddenly with a male approaching officers quickly, right hand raised above his head with an item in it. At this time Officer Henderson can be heard stating "show me your..." Officer Henderson then discharges his service weapon four times in the direction of the individual emerging from the bedroom. A taser is seen being deployed simultaneously from another officer.
11. 9:02 a.m., a tall black male is seen on the ground with a black machete on the floor right next to him. Officers move the machete away from the suspect, place him in handcuffs, and begin life saving measures.

Legal Analysis

As was previously noted, this review is limited to a determination of whether to file criminal charges against the involved officer. The decision to file criminal charges involves an assessment of all known facts and circumstances as well as an evaluation of whether there is a reasonable likelihood of conviction at trial under the applicable law. Generally speaking, criminal liability is established when the evidence is sufficient to prove all of the elements of a crime beyond a reasonable doubt. In addition to proving the elements of a crime, the prosecution must also disprove any statutorily recognized justification or defense beyond a reasonable doubt. In this instance, in order to file a criminal charge, the District Attorney's Office must prove beyond a reasonable doubt that 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 Officer Henderson fired his handgun at Shamikle Jackson causing his death. At the time of the shooting, Officer Henderson was engaged in the course of his duties as a law enforcement officer seeking to assist other officers in investigating a 911 call where deaths and hostages were reported. Based on the review of the body worn camera footage, it is clear that Mr. Jackson emerged from a back bedroom with a machete raised over his head in close proximity of Officer Henderson and the other officers directly behind him. Mr. Jackson approached Officer Henderson very quickly in close quarters. Officer Henderson was the sole police officer who discharged his firearm during this incident. The legal question presented to the Office of the District Attorney is whether, at the time Officer Henderson fired his weapon, the prosecution can prove beyond a reasonable doubt that his actions were not justified under Colorado law.

The use of force by a law enforcement officer necessarily invokes an analysis under §18-1-707, C.R.S. (2018), 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...

(3) 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. (2018).

The crime scene investigation conducted by Criminalists Carlie Howe and Sarah Bailey from the Aurora Police Department, as well and Criminalist David Ord from the Aurora Police Department corroborate Officer Henderson’s version of events. The body worn camera footage retrieved from Officer Henderson, Officer Matthews, Officer Hannon, and Officer Orchard fully corroborate Officer Henderson’s version of events.

Here, Officer Henderson was dispatched to the location in reference to a possible hostage situation. At the time he fired his weapon, it is reasonable for him to believe that under these circumstances of an unknown male with a large machete knife raised over his head in close proximity to Officer Henderson and other officers in a very narrow hallway that not only his life was in danger, but

also the lives of his fellow officers. There is certainly no evidence to dispute that Officer Henderson fired his weapon at Mr. Jackson because he reasonably believed it was necessary to defend himself or Officers Orchard, Matthews, and Hannon from what he perceived to be the imminent use of deadly physical force. Mr. Jackson's actions dictated Officer Henderson's response in this incident. Under the circumstances of this case, the prosecution cannot prove beyond a reasonable doubt that Officer Henderson's actions were not justified as applied to C.R.S. §18-1-707.

Conclusion

Applying the facts of this incident to the applicable law, the evidence does not support the filing of any criminal charges against Officer Henderson for the shooting death of Mr. Jackson on March 4, 2019. Please feel free to contact me if you have any questions or if you believe that further investigation is warranted.

Respectfully,


Dave Young
District Attorney