



## OFFICE OF THE DISTRICT ATTORNEY

Jefferson and Gilpin Counties  
Alexis D. King, District Attorney

November 8, 2021

Chief Link Strate  
Arvada Police Department  
8101 Ralston Road  
Arvada, Colorado 80002

Re: CIRT 21-05, the shooting of Mr. John Hurley

Dear Chief Strate,

The First Judicial District Critical Incident Response Team has completed its investigation into the June 21, 2021, fatal shooting of John Hurley, by Arvada Police Officer Kraig Brownlow in Olde Town Arvada. Jefferson County Sheriff's Office Commander Del Kleinschmidt presented the investigation to me, Assistant District Attorneys Jennifer Rhoads and Amanda Gall, and other CIRT members on September 9, 2021.

After a thorough review and analysis of the evidence, I find that Officer Brownlow's use of deadly physical force was legally justified to defend himself and others from the perceived threat posed by John Hurley. Given my conclusion, no criminal charges will be filed against Officer Brownlow. I am issuing this letter to you pursuant to § 20-1-114(1), C.R.S.

The First Judicial District Critical Incident Response Team investigates any incident in which a law enforcement officer within the First Judicial District uses deadly force, or attempts to use deadly force, against a human being while acting under the color of official law enforcement duties. The CIRT team is comprised of highly trained and skilled investigators working under my authority and appointed from multiple law enforcement agencies, including my office. This multi-jurisdictional team of objective professionals protects the integrity of the investigation by exercising independent judgment in conducting a thorough investigation. To maintain transparency and reduce conflict of interest, officers from the involved agency do not perform critical duties related to the investigation.

Here, the Arvada Police Department activated the CIRT team to investigate the use of deadly force by Officer Brownlow. Consistent with CIRT policy, APD did not perform critical duties related to the CIRT investigation. The CIRT team promptly responded to investigate, led by Commander Kleinschmidt. Under his direction, the CIRT team processed the scene, completed interviews with those who saw or heard the events, and preserved evidence. Officers provided voluntary statements and submitted to questioning. These interviews were recorded, reviewed as

part of the investigation, and included within the file. Commander Kleinschmidt briefed me, my leadership team, and CIRT team members on this investigation and provided the file for my review.

The team and I reviewed over 3,200 photographs and approximately 1180 pages of reports by the Lakewood Police Department, Jefferson County Sheriff's Office, Wheat Ridge Police Department, Golden Police Department, and other local and federal law enforcement agencies. We reviewed the recorded interviews, including statements of all witnesses who heard and saw the events, and evidence collected from the scene and evaluated by independent examiners.

As District Attorney, my role is to determine whether Officer Brownlow committed a criminal offense. No charges may be legally or ethically brought unless a crime can be proven beyond a reasonable doubt, a standard that applies to officers and civilians alike. Because this shooting was justified under Colorado law, no criminal charges can or should be filed against Officer Brownlow. A person may be held criminally liable under Colorado law only when the evidence proves beyond a reasonable doubt that they committed every element of an offense defined by Colorado statute. When a person intentionally shoots another person, resulting in that person's death, they commit the crime of murder, unless a legally recognized justification exists. If a justification exists, the person is not criminally liable. Acting in self-defense or defense of others are examples of such justification. These defenses are available to all Coloradans, including officers. Officers are also specifically authorized to use deadly physical force under certain circumstances.

As relevant here, a peace officer is justified in using deadly force if: 1) the officer has objectively reasonable grounds to believe that the officer or another person is in imminent danger of being killed or of receiving serious bodily injury; 2) the officer does in fact believe that the officer or another person is in imminent danger of being killed or of receiving serious bodily injury; and 3) the officer has an objectively reasonable belief that a lesser degree of force is inadequate. C.R.S. § 18-1-707(4.5). Acting in self-defense or defense of others is subject to the same analysis. C.R.S. § 18-1-704(1)-(2). By law, in deciding whether Officer Brownlow was justified in acting in self-defense or defense of others, it does not matter whether John Hurley was actually trying to injure the officer or another person, so long as a reasonable person, under like conditions and circumstances, would believe that it appeared that deadly physical force was necessary to prevent imminent harm. The facts must be viewed as they appeared to Officer Brownlow at the time; future developments are irrelevant to the legal analysis.

Therefore, I must determine whether, at the time Officer Brownlow shot John Hurley, he had objectively reasonable grounds to believe, and did in fact believe, that he or another person was in imminent danger of being killed or suffering great bodily injury, and whether he reasonably believed a lesser degree of force was inadequate. In other words, would a reasonable person, confronted with the same facts and circumstances, believe that it was necessary to use deadly physical force to defend himself or others from John Hurley? If so, the shooting is justified under Colorado law, and no criminal charges can be filed.

### **Facts Established Through Investigation**

On June 21, 2021, Officer Brownlow and Officers Hall and Boom were working as part of APD's Community Outreach Resource and Enforcement unit ("CORE"). CORE works with the unhoused community that accesses services available in Olde Town Arvada. The officers served as liaisons between businesses and the community as well as problem solvers around quality-of-life issues. Aside from services, Olde Town Arvada is home to many local businesses, shops, restaurants, and a public library branch. Much of the foot traffic is centered around a square that covers the southwest corner of a centrally located city block. The square has tables and chairs for restaurant goers, a splash pad for children, and islands of grass and trees. The street bordering the west side of the square, Olde Wadsworth, is closed for pedestrians only.

The CORE office, or substation, was housed within a small, single-story office building, tucked on the north side of the square facing west to Olde Wadsworth, with a parking lot stretching eastward to the alleyway. The building has two exterior office doors that are locked: one on the west side and one on the east side. APD used the east entrance as their patrol trucks were parked in the adjoining lot. The east door is a metal door with a window on the top half and a COVID protocol sign centered on the glass. From the east door, the ground slopes downward to the east and allows for visibility through the rear library parking lot all the way to Webster Street on the east side of the block.

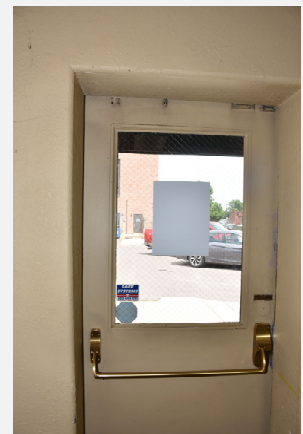
CORE occupied a single office on the north side of the building. There were no markings on the inside or outside of the building that identified the office as APD. There were no windows in the CORE office. A TV screen mounted in the workspace showed surveillance to the south (the square) and to the east (the alleyway). Interior doors separated the CORE office from the other offices. A narrow hallway ran down the middle of the building. To access the CORE door, officers entered through the east door, into a narrow hallway, passing a slightly curved wall to reach their office.

On the morning of Monday, June 21, 2021, work was slow and the three assigned officers, Hall, Boom, and Brownlow, were catching up on paperwork. Boom, a six-year police officer with two years of experience in Arvada and prior military experience, had only been assigned to CORE for a couple of weeks. Hall, a fifteen-year APD veteran, had been with CORE since its inception in 2019. Brownlow had six years of experience at Arvada and had been with the CORE team since 2019 too. That day they were dressed in shorts, polo shirts with fabric badges, and reflective "POLICE" written across their backs. They were armed with handguns and standard duty belt tools, Brownlow with a Glock 34, a 17-round magazine and one round in the chamber. They all qualified with their firearms quarterly, and Brownlow attended a single-officer response to active shooter training on March 31, 2021. Their rifles were secured in their patrol vehicles parked in the east lot.

The morning was quiet, and Brownlow and Boom had only responded to one call for service and returned to the office to continue work on administrative matters. As the team was finishing their lunch, Officer Gordon Beesley, working general patrol, responded to Olde Town on a call for service. It was just before 1:30 p.m. when the CORE team heard about three loud bangs or booms. They stopped talking and listened. There was no radio traffic in response to the sounds and they did not check the surveillance video streamed into their office. Then they heard another series of bangs and decided to go look out the nearest window – the east door. Boom wondered if it was the sound of maintenance in the building, but Brownlow and Hall guessed it was a person trying to connect with CORE by hitting the east door, as sometimes happened because people were aware of the CORE office location.



East door with end of curved wall on the left.



East door with view of parking lot, Qwest building visible.



East door window close-up.

*Photos taken after 6.21.21*

Exiting their office, Boom was the first to look out the window of the east door with Hall and Brownlow behind him in the narrow hallway, where it was difficult to stand shoulder to shoulder. Boom saw a man carrying an AR15 black carbine-style rifle with a long magazine, dressed in black, wearing an old-style ski mask and a black floppy hat. The man was near the dumpster at the far southeast end of the CORE parking lot, moving back and forth and almost tucked behind cars. Boom realized the banging sound was gunfire though he did not see the man fire the weapon. Boom aired “active shooter” on the radio and then aired a description. Initially, neither Hall nor Brownlow could see the man in black. Boom told Hall and Brownlow to take cover behind the slight curve in the hallway and drew his firearm. The man appeared to be looking at the east door, but Boom was unsure whether the man had seen him.

Boom started to open the east door but hesitated and Brownlow and Hall cautioned him not to engage. Boom estimated the distance between himself and the man in black near the dumpster was about 40 yards and was concerned that if he fired and missed, the man with the AR15 would start shooting at the east door and down the narrow hallway. Boom calculated that the door would not stop an AR15 round from hitting him, Hall, or Brownlow. Of personal concern, Boom only wore soft armor and knew his vest was not capable of stopping an AR15 round. As Boom watched, the man in black turned and started walking eastbound, farther out of range, away from CORE, and through the parking lot that ran behind the library towards Webster Street. The man was looking all around including back at the CORE building, and Boom continued to be concerned about whether their location was still concealed from the shooter.

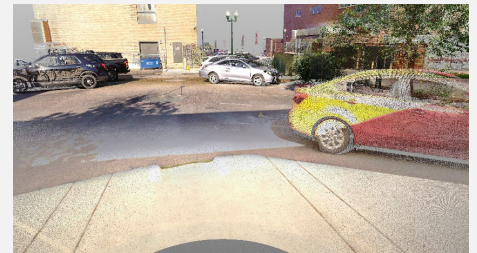
The man in black appeared to get into a grey/brown dually truck at the end of the parking lot. Boom aired this information though he could not tell what the man was doing in the truck. While the officers considered how to engage, the man in black started walking back west towards CORE and the square. The man was more visible to all of the officers as he walked westbound – they could clearly see his weapons and clothing. The officers tried to plan for the man reaching the square where they knew he would encounter people walking through the area, to the library, a restaurant, or other midday errand.

Hall knew that there were offices within the building that had windows looking towards the square, so he headed toward an office with a south facing window. At about the same time, Boom told Brownlow and Hall to keep eyes on the man and he ran to the west of the building in hopes of going out the west door and ambushing the man in black.

Hall entered an office on the south side of the building and told the woman inside that there was an active shooter, and she hid. While at the window Hall heard a third round of shots and prepared to engage the man in black through the window, but he never came into sight. Meanwhile, Boom found the west side door locked on the inside. Through the glass, Boom could see people running west in a panic, away from the square. Unable to exit through the west door, Boom decided to return to the east door.



Troyke’s rifle seized from where Hurley fell.



Digital scan of the view from where Brownlow fired on the day of the shooting.

### **Autopsy of John Hurley**

Dr. Carver, Forensic Pathologist, conducted the autopsy on June 22, 2021:

Gunshot wound to pelvis from an indeterminate range. Mr. Hurley’s blood was submitted for examination and did not reveal any positive findings of toxicological significance.

While Hall was at the window, Brownlow had been standing at the east door with his weapon drawn and pointed at the window. Brownlow watched the man in black walking westbound, back towards the square, while holding his rifle up and by the pistol grip. Most of the man's body was visible to Brownlow until he lost sight of him behind trees planted on the southeast end of the CORE parking lot. Like Hall, Brownlow heard a third round of gunfire but could not see the man in black or anyone else firing a weapon. Brownlow aired that the active shooter was firing into the air but was not certain since he could not see him.

Suddenly, a man with a red shirt stepped into Brownlow's view. The man in red was about 40 yards away, almost directly in front of Brownlow, with the solid brick Qwest building behind him. The man in black was not visible. The man in red held a rifle and a handgun, and it looked like he was either reloading the rifle or trying to fix something while holstering his pistol. The man in red was looking at the square, where Brownlow believed the other shots had been fired. Brownlow also saw glass and shattered windows on the patrol trucks in the parking lot. Brownlow opened the east door and the hinges squeaked. He held the door with his right foot and raised his firearm. He took aim, noted the safe brick backdrop that would avoid putting people or property at risk other than the man in red holding the rifle and handgun. Unlike the man in black, the man in red's focus on the firearms rendered him stationary and Brownlow took that opportunity to fire three rounds and the man fell to the ground. Brownlow aired "shots fired" on the radio.

Boom returned to the door as Brownlow fired but the hallway was so narrow, he could not see the target. Hall also returned and saw a man in a red shirt with an assault rifle on the ground. Boom and Hall realized that the man in black was unaccounted for and pushed out of the east door to find him. Boom immediately saw the man in red with an assault rifle on the ground. Boom and Hall yelled to take cover as there were possibly two shooters. Other police officers started arriving in the area.

As he ran out the door and into the parking lot, Hall saw Officer Beesley lying on the ground. Hall then headed north and saw the rear windows of the police trucks shot out, glass covering the parking lot. Hall found cover and focused on the man in the red shirt until additional officers arrived. Separately, Boom and Brownlow cut through the shrubs and trees to the south of the parking lot and found Officer Beesley, who had no signs of life. Boom ran to a wall and took cover. At that point, Brownlow walked east, saw the man in black down in the alleyway and just to the north, the man in red. An approach team formed with the arriving officers, as neither the man in black nor the man in red were responding to commands.

The approach team moved towards the man in red first and Hall rolled the man in red over, finding the assault rifle, the handgun, and a waist holster. Brownlow took the handgun, made it safe, and a JCSO Deputy picked up the rifle. They called for medical support and waited.

## **The Scene**

CIRT detectives processed the scene, coordinated the preservation and analysis of physical evidence, including surveillance videos, and obtained statements from all witnesses who saw or heard parts of the event. John Hurley was identified as the man in the red shirt and Ronald Troyke was identified as the man in the black clothing. The CIRT team utilized digital documentation to memorialize the scene which revealed that the first round of gunfire was from Troyke murdering Officer Gordon Beesley, the second round was Troyke shooting out the windows of the patrol trucks, and the third round was Hurley justifiably and bravely killing Troyke.

According to radio traffic and corresponding surveillance, Officer Beesley was murdered at 13:35:19, Troyke shot the windows out at 13:35:35, Hurley killed Troyke at 13:36:20, and Brownlow shot Hurley at 13:37:26. The full layout is depicted below from a drone used on June 21, 2021.





People who saw and heard events were interviewed at police departments around the First Judicial District. The tens of people who only heard the events were interviewed at the church near the square. Their observations were compared with the other evidence gathered at the scene to form an understanding of the day's events.

Brownlow was transported to APD for processing and connected to peer support. He was relieved of his firearm as well as Hurley's handgun. CIRT detectives and investigators interviewed Brownlow on June 24, 2021. Three casings were recovered from the corridor where Brownlow shot, and 15 rounds were found in Brownlow's magazine. All of the law enforcement interviewed were fully cooperative and voluntarily answered all questions and, like the citizens who were in the square that day, their observations were compared to other evidence to form a complete understanding of the events.

## Analysis

Officer Brownlow had a unique and limited vantage point from which to make his decision to shoot John Hurley. In a span of less than three minutes, Brownlow learned the following: A man dressed in black stalked Olde Town Arvada, on a warm summer day when the square and surrounding businesses and services were busy with folks getting lunch, playing in the square, and visiting the library. Officer Brownlow observed the man in black carrying an AR-style rifle similar to those used by mass shooters. Critically, Brownlow reasonably believed that the man in black was firing the weapon repeatedly, having heard at least three series of gunshots in or near the popular Olde Town square. Officer Brownlow also knew that APD vehicles had been shot, in the adjoining east side parking lot, behind a door that would not stop an AR15 round should a shooter decide to aim in his direction. It is after those observations that John Hurley appeared in view, about 180 seconds later.

When John Hurley stepped into view, he stood in the same area the CORE team had first observed the armed man in black. John Hurley carried a similar rifle as the man in black, as well as an additional handgun. While John Hurley's focus was on the rifle, his body faced the square where there were always pedestrians and where Brownlow believed the man in black had already fired his rifle. At that moment, from the information available to Officer

Brownlow, John Hurley was armed with a powerful rifle and handgun in a populated area amidst an active shooting. John Hurley looked intent on fixing or loading the rifle, and that pause in movement gave an opportunity to law enforcement that the man in black had not – John Hurley was still, highly visible, with a wall of bricks behind him. If Officer Brownlow engaged before John Hurley had a chance to fix or reload his rifle or turn his attention on the lesser-armed Brownlow, Brownlow would fire towards a safe backdrop that would not jeopardize others.

Though the acts of John Hurley were nothing short of heroic, the facts must be viewed as they appeared to Officer Brownlow at the time and future developments are irrelevant to the legal analysis. Officer Brownlow did not know, and could not have known from his vantage point, of the murder of Officer Beesley or of Hurley's role in eliminating the threat posed by the man in black. Rather, based upon information known to Brownlow, the presence of a mass shooter, and the potential for a second mass shooter in a red shirt carrying a rifle and a handgun turned toward a hub of community activity, warranted deadly force and no lesser degree of force would eliminate the potential threat. Given the number of factors observed by Officer Brownlow at the time of the shooting, the death of John Hurley, while painfully tragic, was justified as Brownlow acted in defense of others and himself. As stated above, these defenses are available to all Coloradans, including officers. By law, in deciding whether Officer Brownlow was justified in acting in self-defense or defense of others, it does not matter whether John Hurley was actually trying to injure the officer or another person, so long as a reasonable person, under like conditions and circumstances, would believe that it appeared that deadly physical force was necessary to prevent imminent harm.

Because Officer Brownlow's objectively reasonable belief that a lesser degree of force was inadequate to resolve the imminent threat posed by what he reasonably believed was a second mass gunman, and because Brownlow had objectively reasonable grounds to believe, and did believe, that he and other persons were in imminent danger of being killed or suffering serious bodily injury after hearing many gunshots, shooting John Hurley was legally justified despite his heroic actions that day. No criminal charges can or should be brought against Officer Brownlow under Colorado law.

Please do not hesitate to contact me with questions or concerns regarding my determination of this matter.

Sincerely,

A handwritten signature in cursive script that reads "Alexis D. King". The signature is written in black ink and includes a long horizontal flourish extending to the right.

Alexis D. King  
District Attorney  
First Judicial District