



**OFFICE OF THE FIRST JUDICIAL
DISTRICT ATTORNEY OF COLORADO**
District Attorney Alexis King

April 28, 2022

Chief Link Strate
Arvada Police Department
8108 Ralston Road
Arvada, Colorado 80002

Dear Chief Strate,

The First Judicial District Critical Incident Response Team has completed its investigation into the fatal shooting of Eugene Milo Matthews, by Arvada Police (the "Officers") on June 2, 2021, at 8180 Garland Drive in the City of Arvada. Lakewood Police Commander Mark Reeves presented the investigation to my office on September 14, 2021.

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

The First Judicial District Critical Incident Response Team (CIRT) 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 person 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, dispassionate professionals who protect 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 (“APD”) immediately activated the CIRT team to investigate the use of deadly force by the Officers. Consistent with CIRT policy, APD did not participate in the substantive portion of the CIRT investigation. The CIRT team promptly responded to investigate, led by Commander Reeves. Under his direction, the CIRT team processed the scene, completed interviews with those who saw or heard the events, and preserved necessary evidence. The involved officers provided voluntary statements and submitted to questioning. These interviews were recorded, reviewed as part of the investigation, and included within the file. Commander Reeves briefed me, my leadership team, and CIRT team members on this investigation and provided the file for my review.

My team reviewed over 1,175 photographs and approximately 515 pages of reports by the Arvada Police Department, Jefferson County Sheriff’s Office, Wheat Ridge Police Department, Golden Police Department and our other CIRT agencies throughout the First Judicial District. I reviewed the recorded interviews of the officers, witnesses who heard or saw the events, and evidence collected from the scene and evaluated by independent examiners.

As District Attorney, my role is to determine whether the Officers 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 the Officers.

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 shooter is not criminally liable. Generally, acting in self-defense or defense of others is one such justification. These defenses are available to all Coloradoans, 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 suffering serious bodily injury; 2) the officer does in fact believe that the officer or another person is in imminent danger of being killed or suffering serious bodily injury; and 3) the officer has an objectively reasonable belief that a lesser degree of force is inadequate. § 18-1-707(4.5), C.R.S. Acting in self-defense or defense of others is subject to the same analysis. § 18-1-704(1)-(2), C.R.S. By law, in deciding whether the Officers was justified in acting in self-defense or defense of others, it does not matter whether Mr. Williams, was actually trying to injure the Officers 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 the Officers at the time; future developments are irrelevant to the legal analysis.

Therefore, I must determine whether, at the time the Officers shot Mr. Matthews, 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 Mr. Matthews? If so, the shooting is justified under Colorado law, and no criminal charges can or should be filed.

Facts Established by Investigation

On June 2, 2021, Mr. Matthews drove a stolen, white, Nissan Truck into the Target parking lot at 7899 Wadsworth Boulevard. At about 7:30 a.m., he parked the truck, got out, and started walking towards a woman idling her white Ford Escape. Mr. Matthews tapped on her front passenger window with a handgun and the woman immediately drove her Escape away from him, towards the end of the parking lot. Once she was away from Mr. Matthews, she called the store and told them there was a man with a gun outside. The woman sat and watched Mr. Matthews as he walked up to a black vehicle. The woman could not see what happened at the black vehicle but soon after she saw him walking up to it, the black vehicle drove past her and out of the lot. As the woman drove home on Pomona Drive, the same black vehicle sped past, traveling northbound.

The black vehicle was a GMC Yukon. Like the woman in the white Escape, the owner of the Yukon was confronted by Mr. Matthews tapping a gun on her window in the Target parking lot. As she sat in her Yukon, Mr. Matthews told her to get out of the truck. As she got out, Mr. Matthews held the gun at waist level, pointed it at her, and demanded her wallet, keys and phone. Mr. Matthews wanted the code to unlock her phone, but something distracted him, and she took off running toward Target. When she looked back, her Yukon was gone. She called 911 from a borrowed phone.

APD sent multiple officers to the area to find the Yukon and respond to the victim and witnesses at Target. As APD searched for the Yukon, it was seen speeding down Pomona Drive where it missed a turn and careened through the grounds of a church on West 84th Avenue, hitting a fire hydrant and a ditch before continuing into the neighborhood. Witnesses described the Yukon traveling 80 miles per hour and oddly described the driver as a woman with blond hair. Based on a careful canvas of the area, including private surveillance cameras, there is no reason to believe that anyone other than Mr. Matthews drove the Yukon after it left the Target parking lot.

APD spent about ten minutes driving through the neighborhood looking for the Yukon. In their search, they found evidence of Mr. Matthew's path. A detective was driving around West 84th Avenue, just east of Garrison, when a sergeant aired that there were vehicle debris around West 86th and Garrison Street. Then the detective heard dispatch air about a menacing at 8180 Garland Drive. As the detective was southbound on Garland Drive, a man and woman were standing in the street around the 8200 block. The citizens told the detective that someone just hit their boat. Ultimately, the heavily damaged Yukon stopped southbound at 8185 Garland Drive, just northing of a three-way intersection.

After Mr. Matthews stopped the Yukon, he got out and walked to 8180 Garland Drive where there was a large camper parked in the driveway. The neighbor across the street watched Mr. Matthews and thought he looked suspicious. The neighbor went into her garage, opened the overhead door, and walked down her driveway. She did not see Mr. Matthews and decided to go back inside.

When she turned around, Mr. Matthews was standing between the trailer and the residence. Mr. Matthews said, “don’t move” but she ran into the garage yelling “911!” at her husband. As she ran inside, she saw that Mr. Matthews had a gun in his hand, pointed at the ground. Once inside, she saw Mr. Matthews get back into the Yukon. She called 911 to report Mr. Matthews at 8:54 a.m.

Officers Brumbaugh and Mazone were the first to arrive from the south. Officer Brumbaugh had ten years of experience at APD and on that day, he was assigned to the traffic unit. He had other areas of expertise within the department including as a firearms instructor, field training officer, and tactics instructor. Officer Brumbaugh was working Tuesday through Friday, from about six in the morning to four in the afternoon. He had slept well and got to work on time. He arrived at the intersection on a fully marked APD motorcycle, wore a APD motorcycle uniform with “Police” visible as well as a high visibility yellow jersey.

Officer Mazone had nine and a half years of experience and was assigned to the patrol division. He also served as a firearms instructor and had prior SWAT experience. Officer Mazone’s schedule was Monday through Thursday, from about six in the morning to four in the afternoon. Officer Mazone had a normal night’s sleep before arriving to work. That morning, Officer Mazone wore an APD uniform and drove a fully marked Patrol SUV Ford Explorer. Both parked their vehicles south of the Yukon and carefully walked toward the Yukon.

Before parking, Officer Mazone and Brumbaugh had heard an alert over the radio regarding the woman who had been held at gunpoint while her belongings and truck were taken. Dispatch advised it was a black Yukon, newer, with temp tags which matched the Yukon they found on South Garland Drive. Officer Brumbaugh stood to the west, next to a parked RV, about twenty feet from the Yukon. Officer Mazone stood behind a small blue SUV in the same driveway as the RV, about thirty feet from the Yukon. The Officers pointed their firearms at the Yukon while they communicated with each other about what they could see and the safety of the neighbors and other officers arriving on scene.

It was a sunny morning and from the Officers’ position, there was a lot of glare on the Yukon’s front windshield. Officer Brumbaugh started to yell commands to the driver to show his hands, but the driver did not follow the commands. They were able to see the driver move inside the Yukon, but they could not see



View from Brumbaugh’s parked motorcycle.



Officer Brumbaugh’s position.



Officer Mazone’s position.



Officers’ positions from above.

details like his facial features. The Officers were certain that the driver was not putting his hands up as directed by Officer Brumbaugh.

The commands continued as other officers arrived in the area. A sergeant came from the north with another officer in full uniform. The sergeant and the officer could hear commands being given to the driver of the Yukon by Brumbaugh, so they worked with neighbors to get everyone inside, including a woman who was dropping off her children with the woman who had encountered Mr. Matthews on her driveway. The sergeant also assessed the potential crossfire issues with officers to the south, and the north. Officers called for a less lethal option to break the windows of the Yukon so the Officers could see inside. The sergeant went to the trunk of his car to get a 40-millimeter baton launcher to break the Yukon's windows when he heard shots fired. He and the other officers to the north ducked down, concerned about crossfire.

In that moment, as Officer Brumbaugh's voice started to wane, he heard a pop that sounded like a gunshot. Officers Brumbaugh and Mazone saw glass shatter on the windshield and Brumbaugh lurched behind the RV, leaving Mazone to wonder if Brumbaugh had been shot. Mazone also saw the glass windshield flakes fly outward, towards him and Brumbaugh. In response, Mazone and Brumbaugh fired at the Yukon, toward the windshield and where Mr. Matthews appeared to be huddled under the dash. Mazone fired seven rounds from his Glock 9mm and Brumbaugh fired twelve rounds from his .40 caliber Sig Sauer. Both Officers fired until they no longer saw any movement inside the Yukon's cabin.

The sergeant was ready with the baton launcher and shot out the back rear window, rear passenger door window, and front passenger door window from the east. The sergeant fired five foam baton rounds at the Yukon. Once the windows were broken, the officers were able to see inside, and the driver was still. Officers did not find any sign of life and Mr. Matthews grasped a handgun in his right hand.

The Scene

CIRT detectives processed the scene, coordinated the preservation and analysis of physical evidence, and obtained



Close up of the Yukon.



Windshield bullet hole, likely fired from inside the Yukon.



Closer view of the preceding photo.



Pistol in Mr. Matthew's right hand.

statements from all community witnesses who saw or heard parts of the event. APD offered criminalist support, with oversight from CIRT.

The CIRT team utilized digital documentation to memorialize the scene. Ballistics examination was conducted by the Jefferson County Regional Crime Laboratory (JCRCL).

Trajectory rods were used to analyze the bullet holes in the windshield and elsewhere. One of the rods pointed in the direction where Officer Mazone and Officer Brumbaugh were standing during the shooting.

Further processing of the Yukon revealed multiple bullet fragments, and three .45 caliber casings. Two bullets recovered appeared to be consistent with a .45 caliber cartridge. Mr. Matthews was found with a .45 caliber pistol in his right hand. It was loaded with a magazine and a live round in the chamber. JCRCL tested Mr. Matthews' firearm and concluded that it was functional.

Analysis

Two officers used deadly force the morning of June 2, 2021, when they confronted Mr. Matthews in an Arvada neighborhood. Officers Brumbaugh and Mazone were similarly situated, having heard about the man with the gun at Target who stole the Yukon at gunpoint. Their search for the suspect ended when they entered the neighborhood from the south and found the Yukon parked southbound. After they found cover in a driveway, they were 20-30 feet from the Yukon and could see the driver moving in the cabin. Once settled behind vehicles, Officer Brumbaugh gave clear, consistent commands, to which the driver did not respond. Both were also surprised when they heard a pop and saw the Yukon's windshield broken, by what appeared to be a gunshot. The sound and the damage to the windshield led Brumbaugh to jump back and Mazone to question whether Brumbaugh had

The Autopsy

An autopsy was conducted on Mr. Matthews by Forensic Pathologist Dr. John Carver on June 3, 2021, and attended by CIRT investigators, with results as follows:

1. Gunshot wound, indeterminate range, left upper arm, limited to the skin, subcutaneous tissues, and skeletal muscle of the left upper arm. The trajectory is front to back, slightly left to right, and slightly down.
2. Gunshot wound, indeterminate range, right upper arm, limited to skin, subcutaneous soft tissues, and skeletal muscle. The wound trajectory is slightly front to back, up, and with minimal right to left deviation. A deformed jacket fragment was recovered from the right bicep muscle.
3. Gunshot wound, indeterminate range, to the left parietal scalp and are limited to the scalp. The trajectory is slightly front to back, down, and with no right to left deviation.
4. Gunshot wound, indeterminate range, to the head. The wound path passes between the left and right parietal lobes at midline, through the deep white matter of the right parietal and temporal lobes, lacerates the posterior aspect of the right cerebellar hemisphere, and exits the skull through a defect in the right posterior fossa. A deformed, partially jacketed caliber bullet was recovered at the right base of the skull. The trajectory is down, slightly left to right, and with no front to back deviation.
5. Gunshot wound, indeterminate range, to the left parietal scalp with a fracture to the left parietal bone, with radiating fractures involving the left temporal and left occipital bones. Lacerations are to the left posterior temporal and parietal lobes. Among the soft tissue and skull fragments was found a deformed large caliber, partially jacketed bullet. The wound trajectory is front to back, slightly left to right and slightly down.

Blood samples were sent to NMS labs, and based on the results, Dr. Carver found Mr. Matthews was positive for methamphetamine, THC, and fentanyl.

Dr. Carver found the cause of death was gunshot wounds to the head and ruled manner of death a homicide.

been shot. Only upon these series of events did Brumbaugh and Mazone decide to use lethal force and fire at the windshield of the Yukon. After the Officers fired a series of rounds, they stopped, a sergeant engaged in less lethal force, and APD was able to assess Mr. Matthews.

Officers Brumbaugh and Mazone had an objectively reasonable belief that a lesser degree of force was inadequate to resolve the threat posed by Mr. Matthews, given his tried and failed attempt steal a vehicle at gunpoint and then successfully steal an occupied vehicle with a firearm, the nature of his driving, the failure to comply with Officer Brumbaugh's commands, culminating with the Officers reasonably believing that Mr. Matthew's shot at them through the front windshield. Because the Officers had objectively reasonable grounds to believe, and did believe, that they and the neighborhood were in imminent danger of being killed or suffering serious bodily injury, shooting Mr. Matthews was legally justified. No lesser use of force could reasonably ameliorate that danger. Moreover, a reasonable person, under like conditions and circumstances, at the time Mr. Williams was shot, would believe that it appeared that deadly physical force was necessary to prevent imminent deadly harm to the officers or other persons. As there is no evidence proving, beyond a reasonable doubt, that a legally unjustified homicide occurred, no criminal charges can or should be brought against Officers Brumbaugh and Mazone 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