



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

July 11, 2022

Chief Link Strate
Arvada Police Department
8101 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 Kenneth Hutcheson by Arvada Police Officers Wonderly and Van haeck (the “Officers”) on Wednesday, January 12, 2022, at about 6805 W 56th Avenue. Lakewood Police Commander Randy McNitt presented the investigation to my office on April 14, 2022.

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. Hutcheson. 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 protect the integrity of the investigation by exercising independent judgment in conducting a thorough investigation. To maintain transparency and reduce conflicts 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 portions of the CIRT investigation. The CIRT team promptly responded to investigate, led by



Commander McNitt. 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 McNitt briefed me, my leadership team, and CIRT team members on this investigation and provided the file for my review.

My team reviewed over 675 photographs and approximately 870 pages of reports by the Lakewood Police Department, Jefferson County Sheriff's Office, Wheat Ridge Police Department, Golden Police Department, and other CIRT agencies throughout the First Judicial District. I reviewed the recorded interviews of the officers and witnesses who heard or saw the events and the 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 Coloradans, including an officer. An officer is 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 were justified in acting in self-defense or defense of others, it does not matter whether Mr. Hutcheson 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. Hutcheson, they had objectively reasonable grounds to believe, and did in fact believe, that they or another person was in imminent danger of being killed or suffering great bodily injury, and whether they 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. Hutcheson? If so, the shooting is justified under Colorado law, and no criminal charges can or should be filed.

Facts Established by Investigation

In the early hours of Wednesday, January 12, 2022, at 1:18 a.m., Officers Wonderly and Van haeck responded to the area of 5553 Newland Way, after an individual called 911 to report a suspicious Ford pick-up truck with two men getting in and out of the truck on their quiet, residential street. The men were later identified. One of them was Kenneth Hutcheson. Officers Wonderly and Van haeck were dispatched to the resident's call and arrived on Newland Way at about 1:22 a.m.

Officer Wonderly is a veteran APD officer with seven years of experience. That morning, Officer Wonderly was halfway through his shift, dressed in full uniform, wearing a functioning body-worn camera as part of a pilot program, and driving a fully marked APD vehicle.

Officer Van haeck has four years of experience. That morning Officer Van haeck was also halfway through his shift, dressed in full uniform and driving a fully marked APD vehicle. Officer Van haeck was not wearing a body-worn camera.

Officer Wonderly walked up to the driver's side door to talk to Mr. Hutcheson. As Officer Wonderly approached, the truck lurched forward and stalled out. When Officer Wonderly reached the driver's side door, he saw that Mr. Hutcheson had a pry tool in his left hand, inside the cab of the truck. Though Officer Wonderly had approached the truck with a flashlight, he drew his sidearm when he saw the pry tool. Officer Wonderly told Mr. Hutcheson to get out of the truck. Mr. Hutcheson initially followed Officer Wonderly's directions and stepped out of the Ford truck. As Mr. Hutcheson stepped out, he dropped the pry tool on the ground.

Body-worn camera images from Officer Wonderly.



Officers engage with Mr. Hutcheson outside of the truck.



Mr. Hutcheson takes off running northbound.



Mr. Hutcheson drops a knife on West 56th Avenue.



Mr. Hutcheson appears from behind the apartment building heading back towards West 56th Avenue.

Simultaneously, Officer Van haeck arrived to help Officer Wonderly.

Once out of the truck, Mr. Hutcheson quickly changed course and ran away from the Officers. Mr. Hutcheson headed north on Newland Way, then turned left (west) on West 56th Avenue. The Officers ran after him. While running, Officer Wonderly saw that Mr. Hutcheson had a knife in his hand. Mr. Hutcheson dropped the knife as he ran on West 56th Avenue, he then changed direction again and ran into an apartment complex on the north side of the street at about 6805 West 56th Avenue.

Officer Van haeck continued to follow Mr. Hutcheson into the apartment complex, while Officer Wonderly continued down the sidewalk on West 56th Avenue, in parallel with Officer Van haeck on the other side of the apartment building. Officer Van haeck saw Mr. Hutcheson run south, around the northwest corner of the building, heading back towards West 56th Avenue and Officer Wonderly. Officer Van haeck slowed as he lost sight of Mr. Hutcheson.

Officer Wonderly watched Mr. Hutcheson appear along the west side of the apartment building and run into West 56th Avenue. Officer Wonderly saw Mr. Hutcheson had another knife in his hands, this time a machete style knife. He gave several loud and clear commands for Mr. Hutcheson to drop the knife and was joined by Officer Van haeck in demanding that Mr. Hutcheson drop the knife. Mr. Hutcheson did not respond to the commands given by the Officers. Mr. Hutcheson was walking in the lane on the south side of West 56th Avenue, as Officers Wonderly and Van haeck stepped into the street to the north of Mr. Hutcheson. Without any communication from Mr. Hutcheson, he began walking towards Officer Wonderly. When Mr. Hutcheson was about fourteen feet from Officer Wonderly, both officers shot at Mr. Hutcheson. Officer Wonderly fired four times and Officer Van haeck fired seven times. Mr. Hutcheson fell to the ground and dropped the machete. Approximately one minute later, officers, including a third officer who arrived on West 56th Avenue, began rendering aid to Mr. Hutcheson and looking for the other man from the Ford truck.



Mr. Hutcheson heads into the street and the Officers order him to, "Drop the knife!"



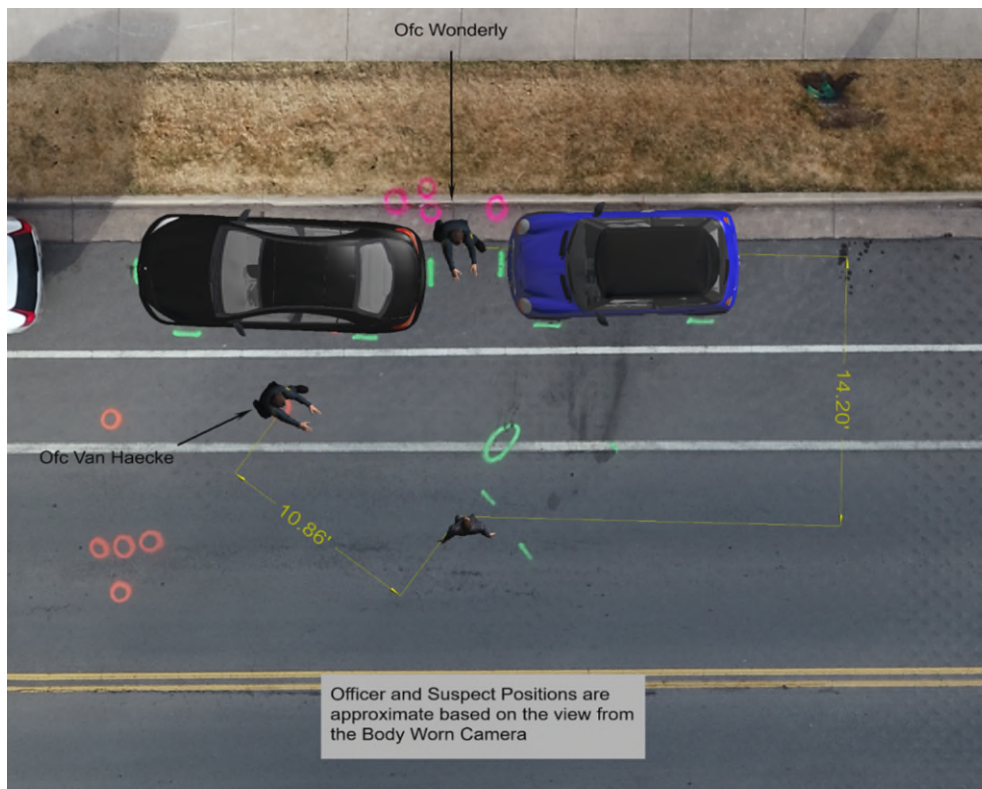
Mr. Hutcheson continues walking with the knife in his right hand and not responding to the Officers.



As the Officers yell commands to Mr. Hutcheson, he turns towards Officers and begins his walk towards them without stopping.

Unbeknownst to the Officers, a man was staying in a camper, parked in front of the apartments, at 6805 West 56th Avenue, on the north side of the street. The camper was parked a few cars down from where the Officers came face to face with Mr. Hutcheson. From inside his camper the man heard yelling coming from the east of him. He thought a male voice was yelling something like "What do I do?" He then heard footsteps running past the side of his camper. He peeked out of his window and saw what he thought was a police officer because he may have had a flashlight. A couple of seconds after hearing the footsteps, he heard a voice, which sounded similar, saying "drop the knife, drop the knife, drop the knife." He then heard between seven and ten gunshots. When the gunshots stopped, he looked out from his camper and saw three officers standing around a man who was lying on the ground. After canvassing the apartment buildings, CIRT could not find anyone else who witnessed the events.

While Officer Wonderly and Officer Van haeck were responding to the call on Newland Way, a third officer was driving over to help them when he heard the Officers on the radio say that they were in a foot pursuit westbound on West 56th Avenue. As the third officer drove westbound on 56th, from Lamar Street, he saw Mr. Hutcheson walk south onto West 56th Avenue. The third officer saw Mr. Hutcheson holding a machete. From his car, he saw Mr. Hutcheson walk very fast towards Officer Wonderly and Officer Van haeck. He heard the Officers say, "drop the knife." When Mr. Hutcheson was only a handful of feet from the Officers, he heard six gunshots and saw Mr. Hutcheson drop to the ground. The third officer told dispatch that shots had been fired and then joined Officers Wonderly and Van haeck to approach Mr. Hutcheson and render aid. Once they came up to Mr. Hutcheson, the third officer put on gloves and began to apply pressure to Mr. Hutcheson's wounds.



Officers' positions and location of suspect and knife. The orange circles indicate where casings were found, and the green circle is where the machete was found.

The Scene

CIRT and analysts from the Jefferson County Regional Crime Lab (JCRCL) processed the scene, coordinated the preservation and analysis of physical evidence, and obtained statements from all witnesses who saw or heard parts of the event. CIRT investigators went through the area of the 6800 Block of W. 56th Ave. and the 5500 block of Newland Way where several pieces of evidence were located to include a pry tool, a large fixed blade knife, and a machete. Several shell casings fired by the Officers were also found, along with suspected bullet fragments near a fence on the south side of West 56th Avenue. The fence stretches from east to west, and was behind Mr. Hutcheson when the Officers fired. The CIRT team utilized digital documentation to memorialize the scene.

At APD, Officer Wonderly was relieved of his firearm, photographed, and processed. During the ammunition count of Officer Wonderly's firearm, it was determined he fired four rounds. Officer Wonderly and Officer Van haeck's encounter with Mr. Hutcheson was captured on body worn camera. Officer Van haeck was also relieved of his firearm, photographed, and processed. During the ammunition count of Officer Van haeck's firearm, it was determined he fired seven rounds. The JCRCL determined that Officer Wonderly and Officer Van haeck's firearms were operational the night of the shooting.

Later investigation revealed the Ford truck occupied by Mr. Hutcheson was stolen outside of the First Judicial District on January 7, 2022.

Analysis

Officer Wonderly and Officer Van haeck encountered Mr. Hutcheson in the middle of a residential street, in the early morning hours, in a vehicle that Mr. Hutcheson seemed unfamiliar with when it lurched forward and stalled. Before Mr. Hutcheson got out of the truck, in response to Officer Wonderly's commands, Mr. Hutcheson had a pry tool in his hands that he dropped to the ground as he got out of the car. At that point, Officer Van haeck stood at the rear of the truck and suddenly Mr. Hutcheson took off running. Both Officers followed on foot and could see that Mr. Hutcheson was armed with a knife as he ran toward an apartment complex. Officers saw Mr. Hutcheson drop a

The Autopsy

An autopsy was conducted on Mr. Hutcheson by Forensic Pathologist Dr. John D Carver on January 12, 2022, and attended by CIRT investigators, with results as follows:

1. Gunshot graze wound of posterior scalp from an indeterminate range with a right to left trajectory that is slightly back to front, and slightly up.
2. Gunshot wound of right base of skull from an indeterminate range with a right to left trajectory that is very slightly down and very slightly back to front.
- 3-6. Cluster of four gunshot wounds to right elbow from an indeterminate range with a front to back trajectory and no determinable right to left deviation.
7. Gunshot wound to abdomen from an indeterminate range with a front to back, down, and very slightly left to right trajectory.
8. Gunshot wound to left fifth finger, from an indeterminate range.
9. Gunshot wound to left thigh from an indeterminate range with a front to back trajectory that is slightly left to right and roughly horizontal.

A blood sample was forwarded to NMS labs, which completed a toxicology report. Mr. Hutcheson was positive for Methamphetamine, amphetamine, Morphine-free, fentanyl, and norfentanyl.

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

knife and continued to follow him. As Mr. Hutcheson came out of the complex parking lot and back into the street, Officer Wonderly had him at gunpoint, ordering him to get on the ground and drop a second knife. As Officer Van haeck joined Officer Wonderly, Mr. Hutcheson turned toward the Officers with a knife in his hand and did not respond to commands. As he approached them, they shot at him.

The Officer's brief contact with Mr. Hutcheson including him running away, armed, non-responsive, and ultimately walking towards them with machete in hand, gave both Officers an objectively reasonable belief that a lesser degree of force was inadequate to resolve the threat posed by Mr. Hutcheson. Because the Officers had objectively reasonable grounds to believe, and did believe, that they were in imminent danger of being killed or suffering serious bodily injury, shooting at Mr. Hutcheson 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. Hutcheson 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 Officer Wonderly and Officer Van haeck 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