



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

August 18, 2022

Chief Ed Loar
Lakewood Police Department
445 South Allison Parkway
Lakewood, CO 80226

Dear Chief Loar,

The First Judicial District Critical Incident Response Team has completed its investigation into the use of force against Lyndon James McLeod by Lakewood Police Agent Brianna Hagan at 310 South Teller Street and the fatal shooting of Mr. McLeod by Agent Ashley Ferris at the intersection of West Alaska Drive and South Vance Street on Monday, December 27, 2021, within the Belmar Shopping district. Jefferson County Sheriff's Office Commander Kleinschmidt presented the investigation to my office on March 30, 2022.

After a thorough review and analysis of the evidence, I find that the Agents' use of deadly physical force was legally justified to defend themselves and others from the threat posed by Mr. McLeod. Given my conclusion, no criminal charges will be filed against the Agents. 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 conflict of interest, officers from the involved agency do not perform critical duties related to the investigation.

Here, the Lakewood Police Department (“LPD”) immediately activated the CIRT team to investigate the use of deadly force by the Agents. Consistent with CIRT policy, LPD did not participate in the substantive portions of 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 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 Kleinschmidt briefed me, my leadership team, and CIRT team members on this investigation and provided the file for my review.

My team reviewed over 2,100 photographs and approximately 900 pages of reports by the Arvada Police Department, Jefferson County Sheriff’s Office, Wheat Ridge Police Department, Golden Police Department, and other CIRT agencies throughout the First Judicial District. We also 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 Agents 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 these shootings were justified under Colorado law, no criminal charges can or should be filed against the Agents.

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 Agents were justified in acting in self-defense or defense of others, it does not matter whether Mr. McLeod was actually trying to injure the Agents 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 Agents at the time; future developments are irrelevant to the legal analysis.

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

Facts Established by Investigation

During the early evening of December 27, 2021, Mr. McLeod murdered three people, in two separate locations in the City of Denver. The Denver Police Department attempted to arrest Mr. McLeod in his van, but it led to a pursuit and an exchange of gunfire between Mr. McLeod and DPD officers.

Mr. McLeod eluded capture and proceeded to the Lucky 13 Tattoo Parlor located at 1550 Kipling Street in Lakewood, where he entered the shop and shot and killed the manager, Danny Scofield. Mr. McLeod then fled the scene in his van, southbound on Kipling street from West Colfax Avenue. The shooting at the Lucky 13 Tattoo Parlor was reported to the Jefferson County Communications Center (Jeffcom).

That day, Agent Hagan, who has four years of law enforcement experience, was assigned to the Patrol Division. She was dressed in her LPD uniform and driving a fully marked patrol vehicle. At approximately 5:52 p.m., Agent. Hagan and a second agent, who was also in uniform and a marked patrol car, were dispatched to the Belmar Best Buy to check on a car in the parking lot.

At about 5:59 p.m., Jeffcom aired a tone alert for the shooting at the Lucky 13 Tattoo Parlor, and that the suspect was driving a black van with out of state license plates. Moments later, at approximately 6:02 p.m., Jeffcom aired that DPD was investigating a double homicide and the suspect was driving a black Econoline van with possible South Dakota license plates with the number 7B1000. Jeffcom then shared that the van was last seen leaving the Lucky 13 Tattoo Parlor and was heading southbound on Kipling Street from West Colfax Avenue.

About a minute later, at 6:03 p.m., Agent Hagan and the second agent were notified that the car at the Best Buy had left the Belmar Shopping District and was last seen eastbound on West Alameda Avenue. Agent Hagan and the second agent drove around the area to check for the vehicle. While they were looking, they saw a black van with out of state plates as described in the Denver homicides and the shooting at the Kipling tattoo shop. The van was traveling eastbound on West Alameda Avenue, bearing license plate 7B5120U, though the agents could not tell which state the license plate was from. The agents followed the vehicle to the parking lot of the Wells Fargo bank at 310 South Teller Street in the Belmar Shopping District.

Using overhead emergency equipment, Agent Hagan coordinated a traffic stop with the second agent. In response, the van stopped abruptly in the parking lot on the east side of the bank, across from the front doors. The van was facing north and slightly canted while the agents' patrol cars were parked behind it in a small and winding parking lot. Agent Hagan positioned her patrol vehicle about three car lengths behind the van, while the second agent positioned his patrol vehicle about one car length behind Agent Hagan.

As Agent Hagan hopped out of her patrol vehicle, Mr. McLeod quickly stepped out of the van dressed in all black. He immediately shot at Agent Hagan with what she perceived as a rifle or long gun. Agent Hagan estimated eight to ten rounds fired at her before she drew her duty weapon and fired two rounds at Mr. McLeod. From the time Agent Hagan got out of her car, was then shot at by Mr. McLeod, and ultimately returned fire, only seven seconds passed.

As Agent Hagan engaged Mr. McLeod at 6:04 p.m, the second agent called out on the radio, "Shots fired," but did not return fire due to his position. Mr. McLeod ran away from the agents and dropped his gun. He then went westbound along the north side of the bank. Additional gunshots were heard from the area where Mr. McLeod had fled. Several windows along the north and west sides of the Wells Fargo bank were damaged by suspected gunfire from a second weapon. No pedestrians or officers were in the line of fire or harmed.

Agent Hagan and the second agent could not tell if there was anyone else in the van or where Mr. McLeod went, so they took cover and tried to protect the scene of the shooting while the waited for other agents to come and help them. At 6:05 p.m. Agent Hagan aired a brief description of Mr. McLeod as a Hispanic man wearing a black jacket heading westbound on foot. As other agents arrived, a woman, who had been using the ATM when Mr. McLeod pulled into the parking lot and shot at Agent Hagan, was found hiding in the bushes.

Between approximately 6:05 p.m. and 6:12 p.m., other agents began setting up perimeter positions around the Belmar Shopping District to make sure Mr. McLeod could not leave the area. Within the perimeter and unbeknownst to the agents, Mr. McLeod turned left and proceeded southbound on South Teller Street and walked into a busy Ted's Montana Grill. A patron videoed Mr.



The far-left shows Mr. McLeod's passenger side taillights, Agent Hagan's patrol car on the left, and the second agent's vehicle in the foreground.



The rifle Mr. McLeod dropped as he left Wells Fargo.

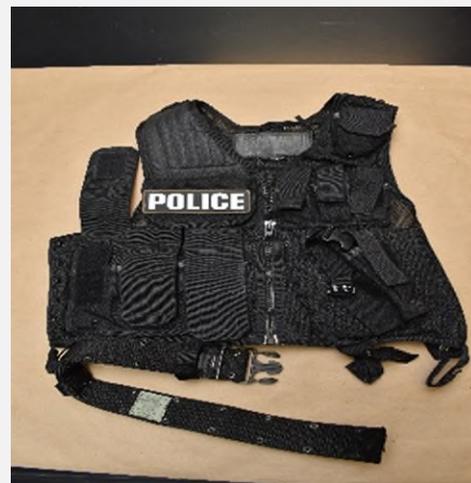
McLeod holding a handgun in his right hand, pointing it at a female employee and yelling at her. Mr. McLeod left Ted's Montana Grill at about 6:07 p.m.

Mr. McLeod proceeded southbound to West Alaska Drive, where he turned right and walked into the Hyatt House Hotel. Mr. McLeod approached the front desk and shot the desk clerk. Mr. McLeod walked out of the hotel and proceeded toward the intersection of West Alaska Drive and South Vance Street. Later agents learned that the clerk was transported to St. Anthony's Hospital where she died from her wounds.

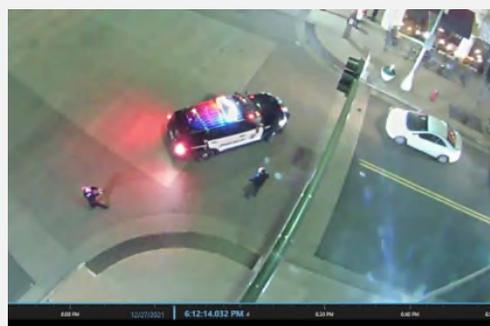
Agent Ferris, who has 4 years of law enforcement experience, was assigned to the Patrol Division. That night she wore her LPD uniform and drove a fully marked patrol vehicle in the southeast sector of Lakewood, which included the Belmar Shopping District. Radio traffic alerted Agent Ferris to the Denver homicides involving a dark colored van, along with shots fired at the Lucky 13 Tattoo Parlor. While driving north on Wadsworth Boulevard, Agent Ferris heard Agent Hagan air that she may have observed the black van in the area of West Alameda Avenue and South Wadsworth Boulevard. As Agent Ferris began to drive to intersection, she heard that Agent Hagan and a second agent had stopped the van near the Wells Fargo bank and shots had been fired. Agent Ferris was aware the suspect had fled on foot, along with a brief physical description.

Agent Ferris drove into the Belmar Shopping District to help set up the perimeter. She parked her patrol car, with overhead emergency lights activated, at the intersection of West Alaska Drive and South Vance Street. Her car was parked facing the pizza restaurant on the northeast corner of the intersection. She got out of her car and stood near the tailgate. She saw that businesses were open, and there were a lot of folks walking around. Over the radio, Agent Ferris heard that Mr. McLeod may have gone into Ted's Montana Grill.

A short time later, Agent Ferris observed Mr. McLeod walking toward her, from the west, on Alaska Drive. Agent Ferris saw that Mr. McLeod was wearing a black vest with the word "POLICE" in white lettering along the right side of his chest. Mr. McLeod looked like he was loading handgun magazines. Agent Ferris readily determined that Mr. McLeod was not a LPD agent, and wondered if he was armed security for the Belmar



Mr. McLeod's vest that he wore when he approached Agent Ferris.



From the HALO camera, Agent Ferris is visible on the left, having backed away from Mr. McLeod, before he shot her, and she fell backward.



This is the second firearm recovered from Mr. McLeod after other officers arrived and approached him.

Shopping District. Once he was close enough, Agent Ferris asked Mr. McLeod where he was coming from, and he replied, "Wells Fargo." Agent Ferris then asked Mr. McLeod if he was armed security at Wells Fargo, but with a noisy radio near her ear, she did not hear his response.

At that point, Agent Ferris realized Mr. McLeod matched the description of the man from the Wells Fargo shooting. Agent Ferris then reached out with her left hand toward Mr. McLeod, and told him, "Don't hurt other people, please." Seeing that Mr. McLeod had a handgun magazine in his left hand, Agent Ferris said, "Don't do this" and began backing away from Mr. McLeod. Agent Ferris drew her duty weapon and attempted to use her radio. Agent Ferris then saw Mr. McLeod open either his jacket or a closely held bag and all of a sudden he was holding a handgun. Mr. McLeod pointed the gun directly at her and said, "I'll show you what I'll do." As Agent Ferris began to turn away, Mr. McLeod fired multiple rounds in her direction. Agent Ferris was struck with at least one round, causing serious injury to her lower torso. The force of the gunshot pushed Agent Ferris backwards and she fell to the ground. As she was falling, Agt. Ferris returned fire.

At approximately 6:12 p.m., while she was lying on the ground, Agent Ferris aired, "Shots fired. I'm hit." About eighteen seconds passed from the point Mr. McLeod began to approach Agent Ferris, to when Mr. McLeod fired his first round at her.

Mr. McLeod turned away from Agent Ferris and went toward the northeast corner of the intersection. From the ground, Agent Ferris fired at least seven more rounds at Mr. McLeod, causing him to fall to the ground in front of her patrol vehicle. Despite her position and wound, Agent Ferris maintained a sight picture on Mr. McLeod because she was concerned he was still a threat. He appeared to be moving and possibly taking up a prone shooting position or reloading his handgun. Agent Ferris then performed a tactical reload of her firearm, stretched out her right arm, and fired at least five more rounds at Mr. McLeod. Mr. McLeod remained on the ground in front of her patrol vehicle until other agents arrived.

An agent arrived on scene and pulled Agt. Ferris from Mr. McLeod's line of fire and into a patrol car to take her to the emergency room.

The Scene

CIRT detectives and analysts from the 1st Judicial District 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 utilized digital documentation to memorialize the scene, which corroborated the statements provided by the agents and folks near both shootings. After Mr. McLeod left the Wells Fargo, analysts determined that there were broken out windows and suspected gunshot damage along the large glass windows on the north side of the Wells Fargo, on the south and west facing walls of the pizza restaurant, and suspected gunshot damage to some of the windows and walls along the east facing sides of the Xfinity store on the southwest corner of West Alaska Drive and South Vance Street.

The Jefferson County Regional Crime Laboratory (JCRCL) examined, and test fired Agent Hagan's and Agent Ferris's duty weapons which were used in the shootings and were found to be operable. Upon review of the firearms by the CIRT team, it was determined that Agent Hagan fired two rounds and Agent Ferris fired twenty-three rounds from two different magazines.

Eight .223 shell casings were recovered from the Wells Fargo scene and determined to have been fired from Mr. McLeod's Palmetto PA-15 semi-automatic rifle before he dropped it on the ground. Agent Hagan fired two rounds at Mr. McLeod and two casings were recovered at her location.

Agent Ferris fired her duty weapon, then performed a tactical reload, and fired at least five more rounds at Mr. McLeod. Twenty-three spent 9 millimeter shell casings were recovered relative to the positions where Agent Ferris fired her weapon. Mr. McLeod fired multiple rounds towards Agent Ferris and six 9 millimeter spent shell casings were recovered relative to Mr. McLeod's position at the time he fired at Agent Ferris.

Neither Agent was equipped with a body-worn camera during their shift.

Analysis

Agents Hagan and Ferris knew a number of troubling facts when they encountered Mr. McLeod in the Belmar Shopping District. Agent Hagan believed the van was similar to the van described fleeing two murder scenes and after pulling in behind the van, and going to step out, Mr. McLeod immediately opened fire on her and the second agent with her in the parking lot. Agent Hagan only used deadly force after she was fired upon.

Like Agent Hagan, Agent Ferris was also aware of the radio traffic regarding the van at other homicide scenes and then the driver jumping out and shooting at Agent Hagan only blocks away. When Mr. McLeod approached Agent Ferris, she quickly discerned that his police insignia was false and that he was armed. Knowing that he had just shot at Agent Hagan and the second officer, she tried to talk to him but perceiving danger, she backed away only to be shot. Agent Ferris returned fire and ultimately killed Mr. McLeod.

Autopsy

The autopsy was performed by Dr. John D. Carver, MD, Pathologist, on December 28, 2021. Mr. McLeod sustained the following injuries:

1. Gunshot wound from an indeterminate range to the left chest that moved from left to right, up and with no front to back deviation.
2. Gunshot wound to the right thigh from an indeterminate range that moved from left to right, slightly back to front, and very slightly upward.
3. Gunshot wound to the left foot from an indeterminate range that moved from left to right, slightly front to back, and with no up or down deviation.

A blood sample was tested by NMS labs which found blood diazepam (29 ng/ml), nordiazepam (42 ng/ml), blood hydrocodone-free (72 ng/ml), dihydrocodeine/hydrocodol-free (12 ng/ml), and hydromorphone-free (1.1 ng/ml).

Dr. Carver ruled that the cause of death was a gunshot wound to Mr. McLeod's chest and the manner of death was homicide.

Both Agents had an objectively reasonable belief that a lesser degree of force was inadequate to resolve the threat posed by Mr. McLeod. Because the Agents 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. McLeod 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. McLeod was shot, would believe that it appeared that deadly physical force was necessary to prevent imminent deadly harm to the Agents 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 Agent Hagan and Agent Ferris 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