



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

January 5, 2024

Chief Norm Haubert
Westminster Police Department
9110 Yates St.
Westminster, Colorado
80031

Re: *Officer Involved Shooting, July 25, 2023 at West 88th Avenue & Lamar Drive*

Dear Chief Haubert,

The Seventeenth Judicial District Critical Incident Response Team (CIRT) has completed its investigation into the fatal shooting of Alysha Duran, by Westminster Police Officer Nick Adams on July 25, 2023, around West 88th Avenue and Lamar Drive in the City of Arvada. Thornton Police Detectives Robin Danni and Garrett Dyrud presented the investigation to my office on September 26, 2023.

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

The Seventeenth Judicial District Critical Incident Response Team (CIRT) investigates any incident in which a Westminster Police Officer uses deadly force, or attempts to use deadly force, against a person while acting under the color of official law enforcement duties within the First Judicial District. The CIRT 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 Westminster Police Department immediately activated the CIRT team to investigate the use of deadly force by Officer Adams. Consistent with CIRT policy, the Westminster Police Department did not participate in the substantive portion of the CIRT investigation. The CIRT



team promptly responded to investigate, led by Detectives Danni and Dyrud. Under their direction, the CIRT team processed the scene, completed interviews with those who saw or heard the events, and preserved necessary evidence. Officer Adams provided a voluntary statement and submitted to questioning. The interview was recorded, reviewed as part of the investigation, and included within the file. Detectives Danni and Dyrud briefed me, my leadership team, and CIRT team members on this investigation and provided the file for my review.

My team reviewed over 948 photographs, numerous body-worn camera videos, and approximately 617 pages of reports by the Arvada Police Department, Westminster Police Department, Thornton Police Department, and my office. We reviewed the recorded interviews of the officers and 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 Officer Adams 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 Adams.

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 is one such justification. This defense is available to all Coloradans, including officers. 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 is in imminent danger of being killed or suffering serious bodily injury; 2) the officer does in fact believe that the officer 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 is subject to the same analysis § 18-1-704(1)-(2), C.R.S. By law, in deciding whether Officer Adams was justified in acting in self-defense, it does not matter whether Ms. Duran was actually trying to injure Officer Adams, 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 Adams at the time; future developments are irrelevant to the legal analysis.

Therefore, I must determine whether, at the time Officer Adams shot Ms. Duran, he had objectively reasonable grounds to believe, and did in fact believe, that he was in imminent danger of being killed or suffering great bodily injury, and whether he 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 Ms. Duran? If so, the shooting is justified under Colorado law, and no criminal charges can or should be filed.

Facts Established by Investigation

On July 25, 2023, at approximately 4:42 pm, Westminster Police Officer Nick Adams was driving westbound on West 88th Avenue at about Lamar Drive in a marked patrol car equipped with emergency lights when he observed a gray 2010 Toyota RAV4 facing westbound, the wrong direction, in the northbound turn lane of West 88th Avenue and a green 2008 Jeep Wrangler facing eastbound in the same turn lane.

At that time, Officer Adams had been with the Westminster Police Department for 27 years and during that time been a detective, motor officer, firearms instructor, officer survival instructor, field training officer, and was Crisis Intervention Team (CIT) trained. Prior to the Westminster Police Department, he was with the Grand County Sheriff's Office for four years, including one year as a sergeant. Officer Adams made a U-turn to come back around and see what was going on. He initially thought the driver of the RAV4 may be driving under the influence or be turned around. He activated his emergency lights and parked behind the Jeep.



This image was taken in the course of the CIRT investigation. Looking at the left hand turn lane, Officer Adams' patrol vehicle is on the far left, the green jeep is ahead of him and in the center of the image, and Ms. Duran's gray RAV4 is ahead of the jeep, on the far right of the image.

Officer Adams exited his patrol vehicle and contacted the driver of the Jeep. The driver of the Jeep did not know what was going on. The driver of the Jeep was trying to pull into the municipal service center at that location, flashed her lights and honked her horn at the RAV4, but it did not move. The driver of the Jeep had been there for a few minutes.

After contacting the driver of the Jeep, Officer Adams went to the driver of the RAV4, who was later identified as Alysha Duran. Ms. Duran's driver's side window was closed and she was looking straight ahead with what Officer Adams described as a "hundred-yard stare." Officer Adams rapped on the window; however, Ms. Duran initially did not acknowledge him. When Ms. Duran did not acknowledge him, Officer Adams thought there may be more to the situation. Through her window, he asked her to roll it down. He noticed she had a charm necklace in her hand that she was handling and she was not giving him any attention.

Eventually, Ms. Duran rolled down her window and Officer Adams asked if everything was okay, however, he received silence in response. He requested she speak with him and tell him what was going on. Based on the location of her vehicle, her stare, her playing with the charm, her not acknowledging him, and waiting for several taps before rolling down the window, he felt it was a little bizarre. He started to think there was more to it than a motorist assist. Thinking there may be something more and that he could not get much out of her, he requested an Arvada Police unit.

Thinking there may be medical or mental health issues, Officer Adams asked Ms. Duran if she needed an ambulance. She indicated she did not. Officer Adams tried to investigate for driving under the influence and asked if Ms. Duran had been drinking, however, she stopped responding, which he thought was unusual. She then acknowledged him and said she had not been drinking. He did not smell any alcohol. After responding to him, she looked straight ahead.

Ms. Duran then reached for the center console with her right hand and placed the charm in her other. Her reach raised Officer Adams' suspicion and he looked where she reached. He asked her what she was doing and leaned forward to see what she was trying to get. When Ms. Duran opened the center console, Officer Adams saw what looked to him like a .357 Magnum revolver. It looked to him like the gun was "ready to go," it was basically leaning against her thigh, and was perfectly tilted for her to grab.

Ms. Duran's hand immediately went for the gun. Officer Adams shouted and Ms. Duran grabbed the gun and was coming up with it when he drew his handgun and fired. In that moment, Officer Adams was moving away from Ms. Duran and her gun as much as he could, as he was in rush hour traffic, as he drew. Officer Adams stated that Ms. Duran pointed the gun at him and he also explained that saw the gun come out of the center console and explained he was not going to wait until it was clearly pointed at him or until she fired the first round. Based on the interaction, Officer Adams did not think Ms. Duran was going to hand him the gun, rather, he was concerned she was going to kill him. Approximately seven seconds elapsed from when she went for the center console and when Officer Adams fired his first round.



Still photo from Officer Adams' Body Worn Camera from the rear of Ms. Duran's RAV4. Ms. Duran's weapon is visible above the rear-view mirror and appears to be tilted towards where Officer Adams retreated.

Officer Adams fired two rounds toward the open driver's side window. After retreating, he fired an additional two rounds through the rear driver's side window. He could tell one of those rounds

struck Ms. Duran. Officer Adams did not recall hearing any gunshots from Ms. Duran. Officer Adams carried less lethal use of force options; however, he did not use them because he felt if he had not used his firearm, he would not have survived and the only option he had was to meet deadly force with deadly force.

Officer Adams was immediately concerned and screamed for the driver of the Jeep to ensure she was okay. He thought a round may have gone toward her and was worried about hitting the driver of the Jeep and she was not moving. He ran to the Jeep and pounded on the hood. He screamed at the driver and she popped up. There was a round through windshield of the Jeep that lodged in the steering wheel.

Officer Adams returned to the RAV4 and another Westminster police officer arrived. Officer Adams opened Ms. Duran's door and looked for her gun. Officer Adams found it in her lap with her finger still on the trigger. Officer Adams removed the gun from Ms. Duran and the other officer removed Ms. Duran from the vehicle and began performing CPR. That officer, along with another officer from the Arvada Police Department, continued to perform CPR until Westminster Fire-Rescue arrived. Westminster Fire-Rescue transported Ms. Duran to the hospital where additional life saving measures were taken, however, she later succumbed to her injuries.

The Scene

CIRT team detectives and analysts from the Arvada, Broomfield, and Thornton Police Departments 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. The CIRT team utilized digital documentation to memorialize the scene.

Officer Adams was relieved of his handgun, photographed, and processed. During the ammunition count, it was determined that Officer Adams fired four rounds. Officer Adams' body worn camera was collected and downloaded.

Ms. Duran was in possession of a black 9mm Taurus Tracker model 692 that was examined by a Police Firearms Armorer. The revolver was determined to be in good working order and appeared to function properly. There were seven rounds in the cylinder, one of which had been fired, and debris in the barrel and cylinder consistent with being fired. There was nothing at the scene to indicate that round was fired during Officer Adams' contact with Ms. Duran.

Analysis

On July 25, 2023, Officer Adams observed Ms. Duran's vehicle stopped the wrong direction in the northbound turn lane of West 88th Avenue at about Lamar Drive. Officer Adams' stopped his marked patrol vehicle in the area and contacted a witness in another vehicle who did not know what was going on, but advised she flashed her lights and honked her horn at Ms. Duran to no avail. Officer Adams then contacted Ms. Duran to determine what was going on. Ms. Duran was minimally responsive to Officer Adams and her demeanor struck him as bizarre. Ms. Duran indicated she did not need an ambulance and denied drinking.

After a short time of Officer Adams trying to engage with Ms. Duran, she reached for the center console. Upon opening the console, Officer Adams saw a revolver, leaning against Ms. Duran's thigh, and was perfectly tilted for her to grab. Ms. Duran reached for the gun. She grabbed it and was coming up with it when Officer Adams drew his firearm and fired. He was moving away as much as he could when he drew.

Officer Adams stated Ms. Duran pointed the gun at him and also explained that saw the gun come out of the center console and explained he was not going to wait until it was clearly pointed at him, or a round was fired. While these two statements offer different perceptions, the speed the event unfolded were a significant factor for Officer Adams' ability to react and recount the events.

None of his attempts to de-escalate or talk to Ms. Duran lead him to believe that she was going to hand him the firearm. He was concerned she was going to kill him. Based on the culmination of events, and the threat posed by Ms. Duran, Officer Adams fired two rounds through the open driver's side window and fired an additional two rounds through the rear driver's side window while retreating.

Because Officer Adams had objectively reasonable grounds to believe, and did believe, he was in imminent danger of being killed or suffering serious bodily injury, shooting Ms. Duran was legally

Autopsy

Forensic Pathologist Dr. John Carver conducted the autopsy on July 26, 2023, with the following results:

1. Gunshot wound of head, indeterminate range.
 - a. Entrance: posterior skull
 - b. Exit: none
 - c. Recovery: deformed 9mm bullet
 - d. Trajectory: back to front; slightly up; slightly left to right
2. Gunshot wound of left shoulder, indeterminate range.
 - a. Entrance: atypical entrance wound over top of left shoulder
 - b. Exit: none
 - c. Recovery: deformed 9mm bullet from inner surface of the right angle of the jaw
 - d. Trajectory: left to right; up; slightly back to front
3. Abrasions and lacerations of back of the left hand, left arm, left shoulder, left side of neck, left ear, face and forehead from fragments of bullet or other intermediate target materials.

Blood basic drug screen: None detected.

The cause of death was gunshot wounds of the head and neck. The manner of death was homicide.

justified. No lesser use of force could reasonably ameliorate that danger. Moreover, a reasonable person, under like conditions and circumstances, at the time Ms. Duran was shot, would believe it appeared that deadly physical force was necessary to prevent imminent deadly harm to Officer Adams. 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 Adams under Colorado law.

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

Regards,

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
Colorado