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State of Colorado

OFFICE OF THE DISTRICT ATTORNEY
DENVER

August 27, 2003

Gerald Whitman
Chief of Police
Denver Police Department
1331 Cherokee Street
Denver, CO 80204

**RE: Investigation of the shooting of Lyle Larsen,
DOB 8/2/50, by Corporal Randy Murr, 95106, on
April 15, 2003, at 3325 Navajo Street, Denver,
Colorado.**

Dear Chief Whitman:

The investigation and legal analysis of the shooting death of Lyle Larsen have been completed, and I conclude that under applicable Colorado law no criminal charges are fileable against Corporal Murr. My decision, based on criminal-law standards, does not limit administrative action by the Denver Police Department where non-criminal issues can be reviewed and redressed, or civil actions where less-stringent laws, rules and legal levels of proof apply. A description of the procedure used in the investigation of this shooting by a peace officer and the applicable Colorado law is attached to this letter. The complete file of the investigation will be open to the public at our office and any interested party is welcome to review the investigation and my decision in greater detail.

SYNOPSIS

At about 12:50 a.m. on April 15, 2003, a Denver police 9-1-1 operator received a call from a man identifying himself as Lyle Larsen. The Computer-Aided Dispatch ("CAD") reports show that the caller, who was calling from 3325 Navajo Street, stated that he was "going to kill someone or himself" and that "he was going nuts." According to the CAD records, Larsen refused to answer the call-taker's questions, but indicated that he would wait outside of the house for officers and requested that they hurry.

The car dispatched to the call was unit 115A, a solo-officer unit driven on this night by Corporal Randy Murr, 95106. Corporal David Brase, assigned on this night to unit 125A, was leaving Denver Police Headquarters when he heard the radio dispatch. He volunteered to "cover" Corporal Murr.

Corporal Murr arrived at the location first, followed one or two minutes later by Corporal Brase. Corporal Brase parked his car at the south end of the street, at the corner of 33rd Avenue and Navajo Street, while Corporal Murr, who arrived from the north, parked his police car just south of 34th Avenue on Navajo Street. Because of the nature of the call, both officers began approaching the address on foot with great caution. As Corporal Brase walked toward the location on the sidewalk, he saw a man, later identified as Lyle Larsen (“Larsen”), standing on the porch of the address. As he drew closer he saw that Larsen was holding what he later described as either a “very large knife or a small sword.” Corporal Brase warned Corporal Murr that the man on the porch was armed and Corporal Brase drew his service pistol at this point. Corporal Murr, approaching from the north, also saw Larsen standing on the porch. As he got closer he saw that Larsen was holding what he first believed was a metal pipe. However, at about the time that Corporal Brase warned Corporal Murr that Larsen was armed with a knife, Corporal Murr saw that the object was a long-bladed knife. As the officers approached, Larsen came down the two steps from the porch to the front lawn and walkway area. The front lawn and walkway of the residence are above the street level. A six step flight of stairs leads from the street-side sidewalk to the lawn. Both officers immediately began ordering Larsen to drop the knife. To each officer it appeared that Larsen was going to comply as he bent over as if he was going to place the knife on the ground. He then abruptly stood back up, knife in hand, and turned toward Corporal Murr.

Corporal Murr was standing at the bottom of the stairs and within approximately seven to twelve feet of Larsen. Corporal Murr told investigators that as Larsen stood back up and turned toward him he changed the manner in which he was holding the knife from an under-hand grip to an “over-hand grip.” Corporal Murr shouted, “Drop the knife or I’m gonna shoot.” Corporal Murr stated that, at this point, his “threat perception went way up” and “once [Larsen] turned and pointed the knife at me and faced me, I shot twice.” Larsen fell to the ground. Corporal Murr maintained his position and, with his pistol trained on Larsen, advised the police dispatcher that he had been involved in a shooting and requested an ambulance, “CODE 10.” This call was made at 1:00 a.m. CAD records indicate that Denver paramedics arrived on scene by 1:05 a.m., but despite medical intervention, Larsen succumbed to his wounds and was pronounced dead at the scene.

STATEMENT OF INVESTIGATION

This investigation involves the shooting death of Lyle Larsen by uniformed Denver Police Officer Randy Murr, 95106. Both Corporal Brase and Corporal Murr were dressed in full blue Denver Police Department uniforms and each was driving a fully marked Denver Police patrol car. Corporal Murr was armed with a Glock model 21, .45 caliber semi-automatic pistol. This weapon has a magazine capacity of thirteen rounds and was being carried with an additional round in the chamber. At the time of the incident, Corporal Murr’s weapon was fully loaded with DPD-issued ammunition. Following the incident and in compliance with the protocols established for officer-involved shootings, the officer’s weapon was given to Denver police crime lab personnel for appropriate testing.

On April 15, 2003, Dr. Amy Martin, a forensic pathologist with the Denver Coroner's Office, conducted an autopsy on Larsen's body. Dr. Martin documented two gunshot wounds: one, a "perforating gunshot wound" to the right-upper chest; the second, a "penetrating gunshot wound" to the left shoulder. Dr. Martin determined that the bullet that caused the wound to the shoulder entered 3¼ inches to the left of the midline of the body, striking and fracturing the left "midclavicle" which, Dr. Martin opined, caused the bullet to deflect downward. The bullet fractured at least two of the upper ribs as it entered the chest cavity, perforated the left lung, and then exited the lower left chest cavity, passing through two lower ribs. This bullet was recovered underneath the skin of the back. The second bullet¹ entered Larsen's upper-front chest 2 ¾ inches to the right of the midline. The bullet passed through and fractured an upper rib and then passed through the right-upper lung. It then exited the chest cavity, passing through two other ribs, and exited the body, causing an exit wound to Larsen's upper back. Dr. Martin described the path of the bullet wound track as "predominantly front-to-back, with almost insignificant down-to-up deviation and very slight left-to-right deviation.

No other significant signs of trauma were observed, although Dr. Martin did find some bruising and abrasions on Larsen's forehead and face and also on his left knee and right forearm. Additionally, "faint indentations" consistent with handcuff type restraints were noted around both wrists. Toxicological analysis of blood and urine samples obtained from Larsen's body showed that, at the time of his death, Larsen's blood ethanol level was 0.254%. This is a level approximately 2.5 times the level at which Colorado law presumes a driver to be operating a motor vehicle under the influence of alcohol. Larsen's urine screen was positive for the presence of THC, the psychotropic agent in marijuana.

Investigators at the scene recovered two spent .45 caliber shell casings on the street in front of the subject address. Found a short distance from Larsen's body was a knife.² The knife was taken to the Denver police property custodian. It was later measured and determined to have an overall length of 15¼ inches and a blade length of 10½ inches.³ Investigators located two apparent bullet strikes to the front door of 3325 Navajo Street. They located and recovered a large bullet fragment in the west wall of the living room, which corresponded with one of the bullet holes in the door. The door was further examined and a second bullet fragment was found behind the other bullet hole in the door.⁴

¹ Bullets are numbered for ease of reference. The forensic pathologist was unable to determine which bullet struck Larsen first.

² Officers who covered the "shots fired" call arrived almost immediately. Two of these officers, Anthony Montoya, 96046, and Steve Kimberly, reported in their written statements that, when they arrived, Corporals Brase and Murr were covering Larsen with their weapons drawn and that Larsen was still moving. Officer Montoya approached and saw "what appeared to be a knife" under Larsen. He "approached and grabbed the knife from under him [and] moved the knife approximately 5 – 6 feet from the person as other officers handcuffed him." These actions explain why the knife was recovered by investigators a short distance from where Larsen fell.

³ A photograph of the knife is attached as Appendix 1.

⁴ Scene investigators apparently concluded that the holes in the door were caused by two separate bullets. A careful review of all of the evidence suggests that these two bullet holes were caused by one bullet that separated as or after it passed through Larsen's body. The combined weight of the bullet fragments is consistent with the .45 caliber bullets issued by the Denver police department and it is significant that one fragment is consistent with a bullet missing the nose; the other consistent with a bullet missing the base. Corporal Murr told investigators he fired two rounds and Corporal Brase told investigators he heard two gunshots. The "un-loading sheet" prepared when Corporal Murr's weapon was examined shows that the weapon had eleven live rounds in the magazine and an

These two-bullet fragments, the bullet recovered from Larsen's body and the two shell casings recovered at the scene were provided to the Denver police department's crime laboratory for analysis and comparison with bullets test-fired from Corporal Murr's pistol.

When Corporal Murr's pistol was unloaded by firearms examiners, it was found to contain twelve live rounds. As noted above, when fully loaded, it has a fourteen-round capacity. The two shell casings recovered at the scene were positively identified to Corporal Murr's pistol as was the bullet recovered from Larsen's body at autopsy. The bullet recovered from the living room wall was found to be consisted with a .45 caliber JCP [jacketed hollow point] bullet. Firearms examiners concluded: "The bullet is missing its base and is damaged. This bullet is consistent with being fired from a Glock-.45 handgun, but is too damaged and cannot be identified or eliminated as having been fired from [Corporal Murr's] firearm." Recovered from inside the door was a bullet fragment that was missing the nose of the bullet. Firearms examiners determined that it was "consistent with being a .45 Cal jacketed bullet fragment . . . consistent with being fired from a Glock .45 handgun, but lacks sufficient identifying characteristics for identification purposes. This bullet cannot be identified nor eliminated as having been fired from [Corporal Murr's] handgun." (As discussed above and in footnote # 4, the evidence is that two shots were fired and both shots were fired by Corporal Murr.)

The shooting took place in a residential neighborhood and a number of residents were awakened either by the sounds of the shots or of people shouting just before the gunshots were heard. Investigators performed a neighborhood survey, identified those ear witnesses and obtained written statements from them.

Larsen lived with family members at the duplex addresses 3325 and 3327 Navajo Street.⁵ Still other family members lived at the neighboring address of 3331 Navajo Street. At the time of the incident, Larsen's mother, Florence Mae Sturdivan, 6-23-31, was home at 3327 Navajo Street. At home at 3331 Navajo Street were Ms. Strudivan's daughter, Glenda Lopez, 5-16-53, Ms. Lopez's husband, Lorenzo Lopez, 9-05-54, and her daughter Dia Lovato, 5-12-80. Mr. Lopez told investigators that he was aware of some of the issues that Larsen had been having with family members the day before, but that he had been asleep at the time of the shooting. Investigators obtained a written statement from him. Ms. Lovato, Mrs. Lopez and Ms. Sturdivan were eyewitness to some of the events surrounding the shooting and to events earlier in the evening which shed some light on Larsen's state of mind. Each woman provided written and video-taped statements.

Following the shooting, Corporal Brase and Corporal Murr were separated and brought to Denver Police Headquarters in accordance with the protocol established for officer-involved

additional round in the chamber. This is consistent with two shots having been fired. Finally, in a supplemental lab report, dated August 19, 2003, examiners stated:

Item # 5 [recovered from the living-room wall] is a bullet fragment that is missing its base and weighs 153.48 Grains. Item # 6 [recovered from the door] is a bullet fragment and a major portion of the bullet is missing. However, the base is almost entirely intact and weighs 4251 Grains. Together the two fragments weigh 196.09 Grains. The [Denver Police] Department issued 45 cal. Ammunition weighs 200 Grains. It is this examiner's opinion that it is possible that item #5 and item #6 were once part of the same bullet.

⁵ A diagram and photos showing the duplex is attached as Appendix 2.

shootings. Each of the involved officers voluntarily provided a video-taped statement regarding the incident.

Members of Larsen's family advised investigators that Larsen had been drinking and acting in a somewhat erratic manner during the afternoon and evening of April 14, 2003. In her written statement, Dia Lovato stated:

It started earlier this evening. [Larsen] & my mom got into an argument, nothing out of the unusual. He went home. Now, around 1:00 a.m., [or?] shortly before, I heard him in my house talking to my mom. He wanted to use the phone, so he call someone maybe 911 told them they need to get down here before he kills someone or himself. They probably asked what's going on, he said he'll tell them later. He will be standing outside of his house @ 3325 Navajo St. . . .

In her video-taped statement, Ms. Lovato told investigators that earlier in the evening Larsen started talking about his intentions to move out. He became argumentative and they had to "take him out of the house." She stated that thereafter she went to sleep and that at about 12:30 a.m. she woke up to his voice on the telephone. She believed that he had been drinking and, from the context of the telephone call, that he was calling 9-1-1. She got up and went into the bathroom to put in her contact lenses. She came out and found that he had left. She looked out the window and saw him standing on the level between the stairs leading down to the street and the stairs leading up to the duplexes. She then saw a police car and a police officer to the north on Navajo Street.

Ms. Sturdivan's statement was "dictated" to Officer B. Aloia, 88016 and, thereafter, signed by her as indicating that she read the statement and that it was accurate. In the statement, she advises that her son, Larsen, lived next door to her at 3325 Navajo Street and that they had been arguing for a "couple of weeks" about his girlfriend, Denise, whom Ms. Sturdivan believed was a bad influence on her son. The following is a significant portion of that statement—verbatim:

AT ABOUT 4 P.M. [LARSEN] GOT HOME FROM WORK, DENISE GOT HOME AT THE SAME TIME & WAS YELLING AT ME & MY DAUGHTER, SOMETHING ABOUT HER WALLET; THEN LYLE AND DENISE ARGUED WITH EACH OTHER. ABOUT NOT WANTING TO BE [WITH] EACH OTHER & THEY ARGUED ABOUT EVERYTHING. SHE WAS DRUNK, HE COULD HAVE BEEN DRINKING. THEN I WENT TO MY DAUGHTER'S, GLENDA LOPEZ 3331 NAVAJO FOR DINNER.

ABOUT 7 – 7:30 P.M., WHILE I WAS OVER THERE EATING DINNER LYLE SHOWED UP, IT WAS APPARENT HE HAD BEEN DRINKING, HE'S AN ALCOHOLIC, HE SHOWED UP & WANTED TO ARGUE, BECAUSE I WANTED HER [DENISE] OUT & WANTED HIM TO GET SOME HELP, HE WOULDN'T LISTEN HE WAS DRUNK & HE JUST WANTED TO ARGUE WITH ME . . .

AT ABOUT 10 P.M. GLENDA CALLED ME & TOLD ME SHE WAS GETTING HANG-UP CALLS FROM DENISE. LYLE WAS OUT ON THE FRONT PORCH PACING & OUT ON THE FRONT SIDEWALK, DRUNK, SOUNDED MAD & UPSET. GLENDA CALLED ME & TOLD [ME] NOT TO GO OUT THEIR[SIC], & HE'LL PASS OUT PRETTY SOON.

AT ABOUT 12:30 A.M. HE STARTED BANGING ON MY FRONT WINDOW, YELLING THAT HE NEEDED HELP, HE WANTED TO GO TO THE HOSPITAL I IGNORED HIM AND CALLED MY DAUGHTER

GLENDIA, & TOLD HER HE WAS BANGING ON MY WINDOW, WANTED HELP. SHE SAID SHE WOULD GO OUT & CHECK ON HIM & SHE'D CALL ME BACK. SHE CALLED ME BACK & SAID LYLE CALLED THE POLICE, JUST STAY IN AND LET THE POLICE HELP HIM; THEY PROBABLY TAKE HIM TO DETOX.

Ms. Sturdivan stated that she was in her room and did not hear anything unusual until she heard three gunshots "pretty close together." When she heard the gunshots she looked out the window and realized that the police had arrived. Ms. Sturdivan's video-taped statement essentially confirms the information she provided in the written statement.

Corporal Brase was leaving Denver Police headquarters when he heard the radio dispatcher broadcast a call on a suicidal party. He advised the dispatcher that he would cover the call. He was one or two minutes away from the address when he heard Corporal Murr advise the dispatcher that he had arrived at the scene. As he approached the address, he heard Corporal Murr "say on my radio – in my, in my headset, - watch out, uh, Dave. There's somebody on the porch." Corporal Brase saw Corporal Murr approaching on the sidewalk from the north and then, as he neared 3325 Navajo Street, he saw Larsen, illuminated by a streetlight which lit up the front yard of the address. Corporal Brase saw Larsen walking toward Corporal Murr, carrying what he told investigators he "thought might be a small sword . . . you, know, very large knife or at the time it looked to me like a very large knife or a small sword." When he saw the weapon, Corporal Brase drew his pistol and shouted a warning to Corporal Murr. Corporal Brase then yelled to Larsen, identifying himself as a police officer and ordering Larsen to drop the weapon. From Corporal Brase's position at the base of the retaining wall, it appeared that Larsen "looked right at [him] and he began to comply." Corporal Brase estimated that he was about fifteen feet away from Larsen at the time this exchange took place. In his interview with investigators, Corporal Brase gave the following description of the events:

Corporal Brase: He was looking at me and he started to put the knife down. From a standing position he started to put it down on the ground. And I was thinking "thank goodness . . .this person is, it, this, this is gonna resolve itself and this'll be alright."

Question by investigator: Okay. Did he ever put the knife on the ground?

Corporal Brase: No

Question by investigator: What'd he do?

Corporal Brase: He almost put it on the ground. And he started, he's looking at me, he, and I'm pointing my gun right at his chest. He starts to go like this [demonstrating], he's putting down and then he star . . he picks it back up. And then starts walkin' again.

When Larsen returned to his standing position, still holding the weapon, Corporal Brase again ordered him to drop the knife. He heard Corporal Murr also yelling at Larsen to drop the knife. He then saw Larsen change the position of the knife so that the blade "came up, again," and then saw him turn towards Corporal Murr. "I could see this movement going in that direction and then I heard two gunshots." Corporal Brase told investigators that Larsen was "right about the top of the stairs" when he heard the gunshots. He stated that Corporal Murr had been ordering Larsen to drop the knife in a tone that he described as "louder and more emphatic. . . he was shouting at him, 'Denver Police! Drop the knife. Drop the fucking knife!'" Corporal Brase estimated that Corporal Murr fired his pistol five to ten seconds after he issued the commands. When asked why he didn't fire his pistol,

Corporal Brase said “I saw the first bullet hit him and it seemed to you know, have an impact . . . and then the second round hit him and then he fell down.”

When Larsen fell, Corporal Brase heard Corporal Murr advise the dispatcher that he had been involved in a shooting and needed “cover cars.”⁶ He also saw that Larsen was still moving and “starting to get back up.” He also heard people screaming “behind the door at 3327 Navajo Street” and determined that the safest option would be for him and Corporal Murr to hold their positions, weapons trained on Larsen, until additional officers arrived.

Corporal Murr told investigators that he was dispatched on what he understood to be a “suicidal-party” call. He confirmed that he arrived north of the address, parking just south of 34th Avenue, and that as he approached the address he saw “a guy on the porch at 3325 [Navajo Street].” He advised Corporal Brase of this fact by police radio. Corporal Murr continued to approach the address. He told investigators that when he was about 35 feet away he saw Larsen holding what he first believed to be a “metal pipe.” He then heard Corporal Brase warn that Larsen had a knife. Corporal Murr got a little closer and saw Larsen “with this big knife. And it looked like the blade was twelve inches long, anywhere from nine to twelve inches.” Corporal Murr got on his radio and “said, ‘hold the air. He’s got a knife.’ And I remember telling the party that was holding the knife, ‘drop the knife or I’m gonna shoot.’” Corporal Murr told investigators that, at this point, he was on the sidewalk at the bottom of the stairs and “seven to twelve feet” away from Larsen. He stated that when he told Larsen to drop the knife, Larsen “hesitated and then, once he hesitated I don’t know how long it was. He turned his hand and the knife and pointed the knife at me and turned his body towards me and pointed the tip of the knife at me.” Corporal Murr told investigators that when Larsen turned toward him he changed the manner in which he was holding the knife from an underhand position to an “over-hand grip.” Corporal Murr stated that, at this point, his “threat perception went way up” and “once [Larsen] turned and pointed the knife at me and faced me, I shot twice.” Corporal Murr was asked why he fired and he replied, “because he was -- the distance he was from me. All he had to do is jump off these stairs or come around to this wall and he coulda [sic] stabbed me or my partner.” When asked why he thought Larsen had initially “hesitated,” he stated: “Just my opinion. I think he was gathering his thoughts. Either drop the knife or not. And once he made the decision to bring the knife back over in an overhand grip and turn towards me and point the knife towards me, he made his mind up. He was going to come after me or my partner.” After he fired his pistol, Murr remained in his position with his pistol trained on Larsen. He also made the appropriate radio calls noted above.

LEGAL ANALYSIS

Criminal liability is established in Colorado only if it is proved beyond a reasonable doubt that someone has committed all of the elements of an offense defined by Colorado statute, and it is proved beyond a reasonable doubt that the offense was committed without any statutorily-recognized justification or excuse. While knowingly or intentionally shooting another human being and causing

⁶ CAD reports reflect that at 12:59 a.m., Murr advised the dispatcher that he had a “PARTY ARMED W/KNIFE C10 [CODE 10].” At 1:00 a.m., he aired that there had been a “POLICE SHOOTING.” An ambulance was requested, CODE 10, at 1:02 a.m.

their death is generally prohibited as homicide in Colorado, the Criminal Code specifies certain circumstances in which the use of deadly physical force by a peace officer is justified. As the evidence establishes that Lyle Larsen was shot by Corporal Murr, the determination of whether his conduct was criminal is primarily a question of legal justification.

Section 18-1-707(2) of the Colorado Revised Statutes defines the circumstances under which a peace officer can use deadly physical force in Colorado. In pertinent part, the statute reads as follows:

- (2) A peace officer is justified in using deadly physical force upon another person ... only when **he reasonably believes** that it is necessary:
 - (a) **To defend himself or a third person** from what he reasonably believes to be the use or imminent use of deadly physical force; or
 - (b) To effect the arrest or to prevent the escape from custody of a person whom he reasonably believes:
 - 1. Has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon; or
 - 2. Is attempting to escape by the use of a deadly weapon.

Section 18-1-901(2)(e) of the Colorado Revised Statutes defines the term “Deadly weapon” as follows:

(2)(e) “Deadly Weapon” means any of the following which in the manner it is used or intended to be used is capable of producing death or serious bodily injury: (I) A firearm, whether loaded or unloaded; (II) **A knife**; (III) A bludgeon; or (IV) Any other weapon, device, instrument, material, or substance, whether animate or inanimate.

Also pertinent to the facts and circumstances of this case is Section 18-3-202 (1)(e), Assault in the first degree, of the Colorado Revised Statutes, which reads as follows:

- (1) A person commits the crime of assault in the first degree if:
 - (e) With intent to cause serious bodily injury upon the person of a peace officer or firefighter, he or she threatens with a deadly weapon a peace officer or firefighter engaged in the performance of his or her duties, and the offender knows or reasonably should know that the victim is a peace officer or firefighter acting in the performance of his or her duties.

In reference to the pertinent section of the “Assault in the first degree” statute in which the victim is a peace officer, in *People v. Prante*, 177 Colo. 243, 493 P.2d 1083 (1972), the Colorado Supreme Court stated:

“The General Assembly recognizes that peace officers are placed in a position of great risk and responsibility, so to invoke a special punishment for an assault upon a peace officer acting in the scope of his official duties is neither arbitrary, capricious, nor unreasonable.”

Therefore, the question presented in this case is whether, at the instant Corporal Murr fired the shots that killed Lyle Larsen, he reasonably believed that Larsen was directing or was about to direct deadly physical force against him or another person. In order to establish criminal responsibility for an officer knowingly or intentionally causing the death of another, the state must prove beyond a reasonable doubt that the officer doing the shooting either did not really believe in the existence of these requisite circumstances, or, if he did hold such belief, that belief was, in light of all available facts, unreasonable.

CONCLUSION

When the officers responded to the 9-1-1 call, they had limited information transmitted to them by the dispatcher. They were informed by the dispatcher that the party calling 9-1-1 was “Lyle Larsen, age 52, black shirt, grey jacket, black pants, wants to hurt himself.” No information was provided to the officers as to whether Larsen was armed. In their statements the officers indicated they believed they were responding on a possible suicidal party.

As they approached Larsen’s location, they became aware he was armed with a large knife or sword. They were in a tactically disadvantageous position below Larsen on the street-side sidewalk. Larsen’s position at the top of the steps above them increased their vulnerability in the event of an attack.⁷ Corporal Murr estimated that he was between seven and twelve feet from Larsen at the time of the shooting.

As I have stated in other cases where officers have been confronted by individuals with knives (edged weapons), a threat with a knife against an officer can very quickly turn to an attack. It can happen in the blink of an eye. This has happened to Denver officers and in some instances with the infliction of significant injury. All officers are mindful of this as they approach these situations. Officers have a broader range of options available to them to deal with threatening behavior by an unarmed non-compliant individual than with those who choose to arm themselves with guns, knives,

⁷ Even with a firearm drawn, officers within this close a proximity to a suspect armed with a knife are within the zone of near zero response time. Zero response time exists when the amount of time it would take the suspect to close the distance and inflict injury on the officer is equal to or less than the time it would take the officer to respond to defend and protect himself. It is within this zone that the officer is extremely vulnerable, and even the slightest incremental change of behavior or action by the suspect can trigger a lethal response. While the tolerance for accepting risk will vary from one officer to the next, every officer has his or her limit when confronted within this zone by an armed non-compliant suspect who continues to close distance or makes aggressive moves.

or bludgeons. Where knives are involved, a threat exists by the mere presence of the weapon combined with non-compliant behavior. The lawful and expected response to officer commands to “drop the weapon”—is the dropping of the weapon. This is precisely what happens in scores of encounters each year that end peacefully.⁸ When individuals comply with officer commands, the level of threat is immediately reduced and the options available to the officer broaden. But, when individuals do not comply, the level of perceived threat immediately increases and the options available to the officer narrow.

There are encounters where there is no prior threat, no warning, just an instantaneous attack. The officer’s reaction is generally an instinctive-survival response. In this case, there was a clear threat as the officers responded to Larsen’s location on the elevated area of the porch and steps. As Larsen moved off the porch to the yard-level landing at the top of the steps, the officers delivered commands to “drop the knife.” At first, it appeared that this confrontation would end peacefully—but that changed very quickly. Larsen gave the appearance of compliance by bending down as if to place the knife on the ground. Had he done so, it is highly likely this encounter would have ended peacefully. Unfortunately, for reasons known only to Larsen, he had something else in mind.

Instead of placing the knife on the ground, Larsen abruptly began to rise with the knife still in hand. As he rose to an upright position, he turned in the direction of Corporal Murr and, as he did so, he changed the position of the knife from an under-hand grip to an over-hand grip. It was these aggressive actions measured against his prior behavior that caused Corporal Murr to perceive an imminent threat of deadly force. Under these circumstances, the distance that separated Larsen from Corporal Murr became critical in Corporal Murr’s assessment of the level of danger and the available response options. In this very compressed time frame, Corporal Murr had to perceive the threat, evaluate his response options, select the best option, and take the actions. Under the specific facts of this case, Larsen’s actions instantly changed the de-escalating flow of the encounter to intense escalation and forced the split-second decision to shoot. These “final frames” of the confrontation occurred very quickly—in a matter of seconds. Corporal Murr controlled his fire to two shots. He stopped firing at the instant he perceived the threat was neutralized.

A statement that I made in the recent decision letter concerning the shooting death of Christopher Jones also applies in this case. Whether Lyle Larsen actually intended to stab Corporal Murr, or was just setting up a “suicide by cop” response, or had some other purpose in mind, will never be known with certainty. It was, however, clearly reasonable for his actions to be perceived by Corporal Murr as life threatening during the “final frames” of this encounter.

Based on the totality of the facts developed in this investigation, as summarized in this letter, there is no reasonable likelihood of proving beyond a reasonable doubt that Corporal Murr committed

⁸ The life-threatening encounters that end “successfully” rarely receive much attention or media coverage. The public is generally unaware of the encounters with “successful” conclusions. Nevertheless, they represent the overwhelming body of work of Denver police officers. Noteworthy is the fact that the training and experience the officers bring to the “successful” encounter and the tactics they used to resolve it are often precisely the same as in another encounter that ends in a shooting. The most significant variable that leads to a justified shooting is the conduct of the armed suspect.

any criminal act. Therefore, I conclude that under applicable Colorado law no criminal charges are fileable against Corporal Murr in the shooting death of Lyle Larsen.

As in every case we handle, any interested party may seek judicial review of our decision under C.R.S. 16-5-209.

Very truly yours,



Bill Ritter, Jr.
District Attorney

cc: Corporal Randy Murr
Tina Habas, Esq.
John W. Hickenlooper, Mayor
All City Council Members
Alvin J. LaCabe, Jr., Manager of Safety
Dave Abrams, Deputy Chief
Mary Beth Klee, Deputy Chief
Dan O'Hayre, Division Chief
Armedia Gordon, Division Chief
Steve Cooper, Division Chief
Juan Maldonado, Division Chief
Jon Priest, Lieutenant, Homicide
Joel Humphrey, Detective, Homicide
John Brinkers, Detective, Homicide
Marco Vasquez, Commander
Chuck Lepley, First Assistant District Attorney
Lamar Sims, Chief Deputy District Attorney
Henry R. Reeve, General Counsel, Deputy District Attorney
Justice William Erickson, Chair, The Erickson Commission

Appendix #1

Note: The blade portion of this knife alone is 10.5 inches long, which is almost the length of this 8.5 x 11 inch piece of paper.



Appendix #2

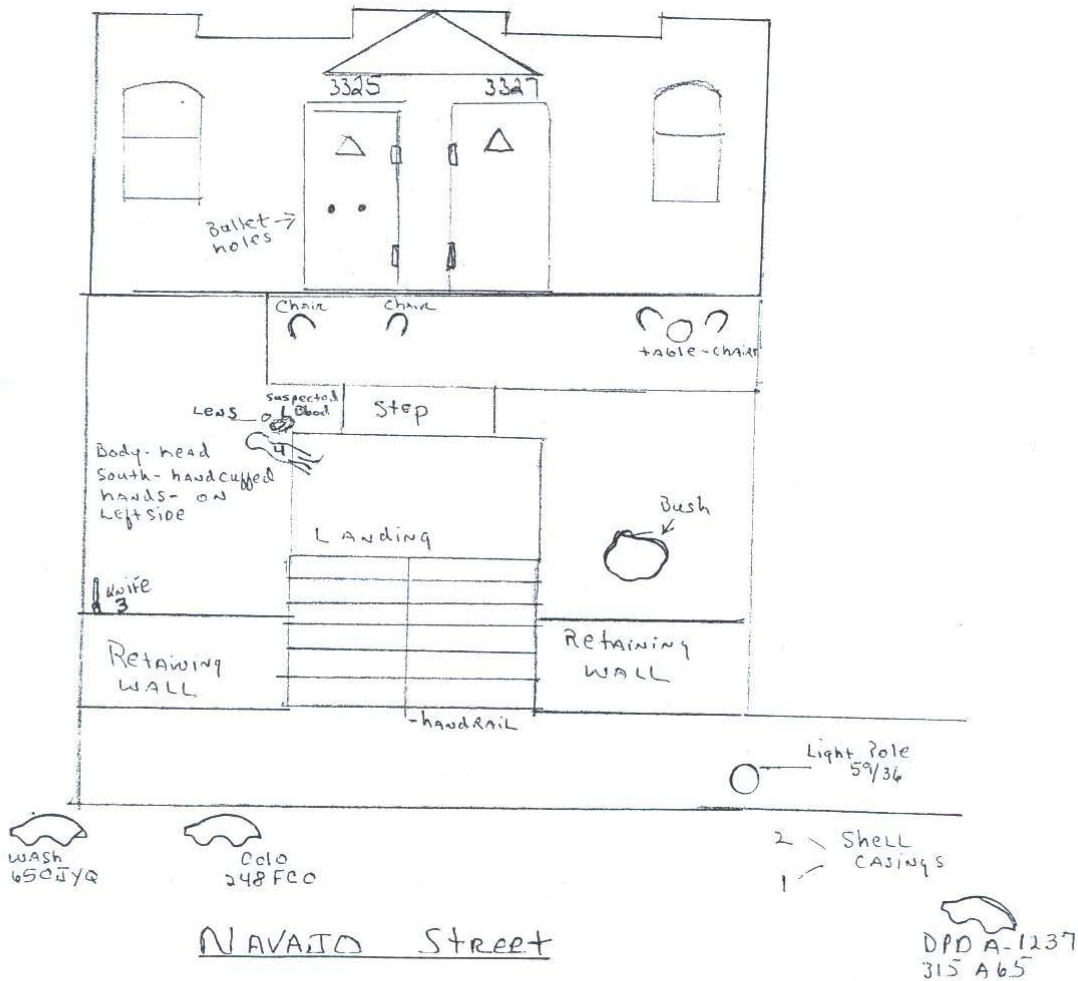
DENVER POLICE DEPARTMENT
CRIME SCENE MAP

LOCATION: 3325 NAVAJO Street

DATE: 4/21/03 TIME: 07:00AM

DRAWN BY: Det. Frank R. Rino 74053

(NOT DRAWN TO SCALE)



Appendix #2

3325

3327



3325

3327

