



Second Judicial District
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Decision Letter

February 26, 1998

Contact: Lynn Kimbrough, 720-913-9025

David Michaud
Chief of Police
Denver Police Department
1331 Cherokee Street
Denver, CO 80204

RE: Investigation of the shooting of DeShawn Hollis, DOB 05-09-85, by Officer Keith Cowgill, 85-20, on January 27, 1998, at 5559 Tucson Street, Denver, Colorado.

Dear Chief Michaud:

The investigation and legal analysis of the shooting of DeShawn Hollis have been completed, and **I conclude that under applicable Colorado law no criminal charges are fileable against Officer Keith Cowgill.** 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 addressed, 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 at the conclusion of the prosecution of Hollis and Ball, and any interested party will be welcome to review the investigation and my decision in greater detail at that time.

SYNOPSIS

At 1:04 p.m. on Tuesday, January 27, 1998, Denver police received a 911 telephone call from Mr. Keith Pettit at 5563 North Tucson Street. Mr. Pettit was calling to report a burglary in progress at the house just south of his location. The computer records indicate that Mr. Pettit told the call-taker that two black males about 15 years old were breaking into the back of the residence at 5559 North Tucson Street. At 1:05 p.m., uniformed patrol cars were dispatched to cover the burglary. The first officer to arrive was Officer Steve Wampler, 73-54. Mr. Pettit met him in front of his house and advised him that the parties were still inside the residence. While Officer Wampler was checking the back of the house, Officer Keith Cowgill, 85-20, arrived and

took a position near the front northeast corner of the house. Mr. Pettit and the officers were able to hear the sounds of people moving about inside. Mr. Pettit returned to his house. Officer Wampler took a position in the southwest corner of the backyard, and when Officer Cowgill heard noises which suggested to him that the intruders were moving from the front of the house to the back of the house, he moved to a point near the back side door at the northwest corner of the house. The officers were in these approximate positions when a black male came running out the back side door. This individual, later identified as Donielle Ball, 12-19-81, ran to the back yard where he was ordered to the ground at gunpoint by Officer Wampler. As this was taking place, a second male came out of the same door carrying a semi-automatic pistol in his right hand in a ready position. This individual, later identified as DeShawn Hollis, turned toward Officer Cowgill as if to run toward the front of the house. Upon seeing Officer Cowgill, Hollis continued turning to his right in an uninterrupted motion with the pistol in his right hand. Cowgill attempted to stay ahead of Hollis' turning motion by moving quickly to his left in an effort to avoid having the pistol barrel pointed directly at him. In doing so, Officer Cowgill could move no further when he hit against the side of the house, and at that point, with Hollis continuing to turn in the uninterrupted, fluid motion, with the pistol still in the ready position, Officer Cowgill fired a single shot. The shot was fired while Hollis was continuing his 360 degree turning motion. Hollis took one or two steps away from Cowgill toward the back yard and fell to the ground. The officers approached Hollis to place him in custody, realized that he was injured, and immediately requested an ambulance. Hollis was rushed to Denver Health Medical Center, where he was treated for a gunshot wound that entered his upper back shoulder area and traveled from left to right across his upper back and exited on the back right side of his neck.

STATEMENT OF INVESTIGATION

This investigation arose from the shooting and wounding of DeShawn Hollis during the course of a burglary at 5559 North Tucson Street, Denver, Colorado on January 27, 1998. Hollis and another burglary suspect, Donielle Ball, were confronted by two uniformed Denver Police officers as they attempted to flee the scene. Hollis was armed with a handgun and was shot by Denver Police Officer Keith Cowgill. The officers immediately advised the police dispatcher that there had been a police-involved shooting and that an ambulance was needed. This call was made at 1:14 p.m. The scene was secured by numerous Denver police officers, and medical personnel arrived shortly thereafter to assist the injured party.

The gun Hollis was carrying was found underneath him when the officers placed him in custody. The gun was taken into custody by District 5 Captain Dan Rubin, 72-34, who maintained custody of the firearm until the crime-lab personnel took it into their possession. This firearm was identified by Denver Police Department Crime Lab personnel as a .380 caliber Jennings Bryco, model 59, semi-automatic pistol. It is a stainless-steel weapon with black grips and an overall length of 6.75 inches and a barrel 3.75" long. At the time the weapon was recovered, there was no round in the chamber, no magazine in the magazine well, and the firing pin was missing. ¹

Following the incident and in compliance with the protocols established for officer-involved shootings, Officer Cowgill's weapon was given to Denver police crime lab personnel for

appropriate testing. Officer Cowgill was armed with a .45 caliber Glock, model 21, semi-automatic pistol. It has a thirteen round magazine capacity and carries an additional round in the chamber. It was fully-loaded with ammunition issued by the Denver Police Department. One spent casing was recovered at the scene at the location where Officer Cowgill fired the shot. This casing was identified to his weapon. A possible bullet strike was found in a tree in the northeast corner of the yard and in a relative trajectory consistent with the positions of the parties at the time of the shooting as described by Officer Cowgill.

Hollis was treated at Denver Health Medical Center for a gunshot wound. The bullet entered Hollis' upper back shoulder area and traveled from left to right across his upper back and exited on the back right side of his neck. Although he survived the wound, some paralysis resulted from trauma to his neck. The extent to which he will recover is unknown at this time.

Mr. Pettit and Donielle Ball were taken to Denver police headquarters where videotaped statements were obtained from each of them. Ball gave his statement in the presence of and with the concurrence of his mother, Lyteece Hartzog. Officers Wampler and Cowgill were transported in separate police cars to police headquarters and they remained separated from each other and from all other witnesses until they gave their videotaped statements to investigators. A canvassing of the neighborhood produced several residents who heard the gunshot, but were not eye-witnesses to the shooting. Written statements were taken from these witnesses. A written statement was also obtained from Ms. Lisa Christy, 3-12-66, the resident of the burglarized home at 5559 North Tucson Street. Ms. Christy advised investigators that she lived at the address with her two sons, both pre-teens, and that she did not give authorization or permission to Ball or Hollis to enter her home or attempt to take anything from her home. She also confirmed that she did not own any pistols, nor were any kept in her home.

The point of entry for the burglary was a basement casement window in the rear of the house.² Ms. Christy advised investigators that her home had been burglarized in the recent past and that entry had been made through the same portal. As of January 27, 1998, the date of this shooting incident, no one had been apprehended in the previous burglary.³

Mr. Pettit told investigators that he was leaving for work when he noticed two young black men walking up and down the street. He felt that something was suspicious and decided to drive off and then return to his home to see what the two were doing. When he got back, he went into the back yard of his home at 5563 North Tucson Street and looked over the fence into the yard behind 5559 North Tucson Street. He saw the same two individuals at the back of the house, "one of them standing by the back window and the other one was going in." Mr. Pettit immediately went into his own home and called the police. When Officer Wampler arrived, Mr. Pettit met him in front of his house and directed his attention to the back yard of the Christy residence. Officer Wampler asked Mr. Pettit to remain near the front of the house until other officers arrived. Mr. Pettit was standing near the northeast corner of the house when Officer Cowgill drove up. Mr. Pettit told investigators that he could hear people inside moving about and that it sounded to him as if the intruders were attempting to leave through the front door. He told Officer Cowgill that the burglars were still inside. Mr. Pettit saw Officer Cowgill draw his pistol and at that time he returned to his own home. He was not witness to the actual confrontation and

shooting, although he did hear the single gunshot.

In his videotaped statement, Ball admitted that he and Hollis had broken into the Christy residence. The two had met up around noon and were walking around the neighborhood where the burglary took place. Ball stated that they saw the house and decided to enter it. Ball claimed that it was not his intent to steal anything. The two walked into the back yard through the open fence, Ball "opened" the back basement window, and Hollis entered the residence. Hollis opened the back door and Ball entered through the back door. Ball stated that he moved around in the kitchen and living room, but was unaware of what Hollis was doing, because Hollis was in a different room. It was while he was in the living room that he heard a car door shut. He looked out the window and saw a police car. Ball stated that he ran back through the house and out the back door. When he came out the door, he saw a police officer standing to the north of him, in the side yard. Ball turned and heard someone yell "freeze" and "stop." Ball saw another officer standing near a shed at the southwest corner of the house holding a gun. Ball had no doubt that the men in the yard were police officers and he stopped immediately. Ball stated that Hollis was behind him leaving the home and when he stopped, Hollis kept running. Ball was going to the ground when he heard a shot.⁴ [Ball mistakenly believes that the officer standing near the shed (Wampler) was the officer who fired his gun, going so far as to say that he saw "the smoke come out from the gun." Ball states this was the only shot fired and confirms that the incident occurred in a very short time.] Ball heard one of the officers make a radio call advising the dispatcher that shots had been fired and requesting an ambulance.

When investigators inquired about weapons, Ball at first denied knowing that Hollis was armed. After some conversation, he admitted that Hollis had shown him his gun earlier that day and that Ball had actually held and "looked at" the pistol. Ball described Hollis' pistol as a "silver or chrome" automatic pistol, which Hollis was carrying in an unloaded condition. He stated that Hollis had been carrying it in or near his waistband on his right side.

Officer Wampler told investigators that he was the first officer on the scene. He stated that when he first arrived, he was going to wait at a nearby intersection until another car arrived, but that he saw Mr. Pettit come out of his house and flag him over. Officer Wampler confirmed that Mr. Pettit told him that "they're still in there." Officer Wampler asked him to remain near the front of the house until other officers arrived, and proceeded around to the back of the house. In the rear, Officer Wampler observed the broken basement window. He heard some noises in the house and advised the dispatcher that he believed the suspects were still inside. It was during this time that he heard Officer Cowgill tell the dispatcher that he was "Code 6" (Present at the location).

Officer Wampler took a position near the shed at the southwest corner of the house because he believed he heard noises coming from the southern part of the house. He told investigators that "it wasn't twenty to thirty seconds later, [he] heard . . . either 'Police! Freeze!' or 'Freeze! Police!' He's got a gun!" From his position, he was unable to see the north side yard area or the side door because the house walls obstructed his view. Immediately after he heard the commands, Officer Wampler saw one male turn the corner of the house and come running toward him. He heard one gunshot and saw another male (Hollis) running from the corner of the house toward the west and fall. The above events happened almost simultaneously. Officer Wampler then ordered the man approaching him (Ball) to the ground at gunpoint. He then

determined that Hollis had been shot and requested an ambulance. Officer Wampler approached Hollis when another cover officer, Pat Anderson, 79-63, arrived. The two checked the area and located Hollis' pistol underneath his body. As noted above, Captain Rubin then took custody of the firearm.

In his formal videotaped statement, Officer Cowgill corroborates the statements of Mr. Pettit and Officer Wampler regarding his arrival at the scene. He told investigators that when he pulled up, he saw Mr. Pettit standing near the corner of the house. He approached and Mr. Pettit told him "they're still in there." Officer Cowgill stated that he, too, heard noises coming from inside the house which he described as "a commotion at the front door." When he heard the sounds inside the house, Officer Cowgill drew his service pistol and a canister of mace. He held the mace in his left hand and his pistol in his right hand. Officer Cowgill then heard the sounds of people running through the house and then the sound of the back door opening. He told investigators that he went toward the back of the house. He stated that he had just passed the fence,

"when the first black male came through the door and as he came through the door he turned right and right towards me. And I was really paying attention to his hands. I came up with my gun and my mace, you know, I know I came up with my gun. I'm not sure what I did with my mace. And I said, "Police! Freeze!" And he looks at me and he turns and runs and books. . . and I knew there was two of 'em in there, you know, at least there was two. So I was expecting the second guy to come out the door and sure enough he comes out and one of the first things I see as he comes out the door, I see a stainless steel semi-automatic gun, uh, with black grips. I mean I can close my eyes and I can picture that scene clear as day, and he's got his finger on the trigger."

Officer Cowgill told investigators that the party came out the door and started turning toward the east. Whether he saw Officer Cowgill is speculation, but he continued the turn almost as if to make a full circle. Hollis was holding the gun up with his right hand and as he was turning, he was bringing the gun to bear on Officer Cowgill. Officer Cowgill, who was standing in an area near the fence-gate, moved to his left and closer to the house so as to avoid being in a line of fire. Officer Cowgill told the investigators,

"I mean, I don't know if he ran out and saw me and then decided to go, but as I'm going up against the wall, he keeps coming around. And the reason I say I wasn't sure if he was gonna go back into the house is he continues to turn this way, like back towards the door. [Demonstrating a 360 degree type turning motion.]"

Officer Cowgill continued pressing up against the wall and Hollis continued to spin in his direction. It was while Hollis was spinning toward Officer Cowgill with the muzzle of his gun coming to bear on the Officer that Officer Cowgill fired one shot. Hollis continued to spin, took one or two steps toward the west and fell.

Officer Cowgill estimated that at the time he fired the shot, Hollis was within five or six feet of him. After the shot was fired, Officer Cowgill saw the first party go down to the ground and then saw Hollis fall. As Ball went to the ground first, Officer Cowgill was somewhat unsure whether the shot he fired had hit anyone. He heard Officer Wampler yelling "are you hit?" At first he

believed that Officer Wampler was asking one of the burglars, but then realized that Officer Wampler might be asking about him. Officer Cowgill stepped out into the back yard so that Officer Wampler could see him and assured him that he was uninjured. The appropriate radio calls were made to notify dispatch of the need for an ambulance and that there was an officer-involved shooting.

CONCLUSION

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 and causing injury to another human being is generally prohibited as assault in Colorado, the Criminal Code specifies certain circumstances in which the use of physical force or deadly physical force is justified. As there is no dispute that Officer Cowgill intended to fire his weapon at the person he said pointed a firearm at him, the determination of whether his conduct was criminal is primarily a question of legal justification.

Section 18-1-707 of the Colorado Revised Statutes provides that while effecting or attempting to effect an arrest, "A peace officer is justified in using deadly physical force upon another person . . . when he reasonably believes that it is necessary to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force." Therefore, the question presented in this case is whether, at the instant Officer Cowgill fired the shot that wounded DeShawn Hollis, he reasonably believed, and in fact believed, that he or another person, was in imminent danger of great bodily injury or death from the actions of DeShawn Hollis. In order to establish criminal responsibility for knowingly or intentionally shooting another, the state must prove beyond a reasonable doubt that the person doing the shooting either did not really believe he or another was in imminent danger, or, if he did hold such belief, that belief was, in light of the circumstances, unreasonable. The statute also provides that, "A peace officer is justified in using deadly physical force upon another person . . . when he reasonably believes that it is necessary to effect an arrest . . . of a person whom he reasonably believes is attempting to escape by the use of a deadly weapon.

Under Colorado law, a firearm is considered a "deadly weapon" regardless of whether it is loaded or unloaded. C.R.S. § 18-1-901(3)(e)(I). Therefore, it is of no consequence that the firearm wielded by Hollis was not loaded at the time of this confrontation. Additionally, the facts developed in the investigation support the conclusion that Officer Cowgill had no reason to believe the pistol was incapable of being fired. A police officer has a right to act on reasonable appearances. Hollis' pistol was real and under the specific facts of this case, Officer Cowgill had every reason to believe that Hollis was capable of killing him with it.

As detailed in the "Statement of Investigation" section of this letter, the statements of the officers and witnesses in this case are in pertinent part internally consistent, are consistent with one another, and are consistent with the physical evidence developed in the investigation. There is no direct evidence or physical evidence that materially contradicts or differs from the basic account given by Officer Cowgill, with the exception of Ball's contention that it was Officer Wampler

who fired the shot. The evidence overwhelmingly refutes that claim. In addition to the statements of the officers to the contrary, the inspection of both officers' firearms confirms that Officer Cowgill, in fact, fired the single shot that wounded Hollis. The single shell casing recovered at the scene, which was identified as being fired from Officer Cowgill's pistol, adds further confirmation of this fact. And witnesses confirm that only a single shot was fired.

It is not uncommon for a shooting to occur under circumstances where only the involved officer and the party shot are witness to all of the events during the critical time frame immediately preceding the shot being fired. In this case, while Officer Wampler and Donielle Ball were in close proximity and were witness to most of the incident, they only heard the gunshot, but did not see the shooting itself. Therefore, while there is no eye-witness corroboration of what occurred during those final few seconds, the consistencies and corroboration described in this letter support the account given by Officer Cowgill. In addition, his description of the action during the final frames of his split-second decision to shoot is consistent with causing the type of wound sustained by Hollis. The investigation reveals no credible evidence to the contrary.

While it is tragic and disturbing to have a 12-year-old shot and paralyzed, it is an unfortunate reality that a juvenile with a gun is every bit as capable of killing a police officer as a hardened adult criminal. Tragically, we know this reality in Denver because of the recent shooting death of Officer Shawn Leinen at the hands of a 16-year-old juvenile, Raymond Gone. The presence of firearms in the hands of juveniles is a threat to all of our citizens and police officers, and as evidenced by this case, can have tragic consequences to the juvenile as well. Hollis' conduct in confronting Officer Cowgill with the pistol forced a very quick and difficult decision by Officer Cowgill. In that split-second time frame, Officer Cowgill chose to shoot to live. There are no winners in these truly life-threatening encounters, only victims and survivors.

On February 2, 1998, charges of First Degree Burglary, a class three felony, Menacing, a class five felony, and Illegal Possession of a Handgun by a Juvenile, a class two misdemeanor, were filed in Denver Juvenile Court against Hollis. On the same date, Ball was charged with one count of First Degree Burglary, a class three felony. Ball has since been filed on as an adult. Because these parties are juveniles, we are prohibited from commenting on any background or criminal history information.

Based on all of the facts developed in this investigation, **I conclude that under applicable Colorado law no criminal charges are fileable against Officer Keith Cowgill.**

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:

Officer Keith Cowgill

David Bruno, Attorney at Law

Louis Bruno, Attorney at Law

Mayor Wellington Webb

Fidel "Butch" Montoya, Manager of Safety

Deputy Chief Tim Leary

Deputy Chief Tom Sanchez

Division Chief Dan O'Hayre, Criminal Investigation Division

Division Chief Tim Cuthriell, Patrol Division

Captain Don Saltzman, Crimes Against Persons Bureau

Captain Dan Rubin, District 5

Lieutenant Dave Abrams, Crimes Against Persons

Sergeant Jon Priest, Homicide Unit

Detective Steve Shott, Homicide Unit

Chuck Lepley, Assistant District Attorney

Lamar Sims, Chief Deputy District Attorney

Ben Coats, Chief Deputy District Attorney

Dick Reeve, Deputy District Attorney

All City Council Members

James Mejia, Executive Director, Agency for Human Rights & Community Relations

Justice William Erickson, Erickson Commission

ADDENDUM

The following statement concerns issues that are pertinent to all officer-involved shootings.

The great majority of officer-involved shootings in Denver, and throughout the country, ultimately result from what is commonly called the "split-second decision to shoot." It is often the culmination of a string of decisions by the officer and the citizen that ultimately creates the need for a "split-second decision to shoot." The "split-second" decision is generally made to stop a real or perceived threat or aggressive behavior by the citizen. It is this "split-second" time frame which typically defines the focus of the criminal filing decision, not the string of decisions along the way that placed them in the "life or death" final frame. When a police-citizen encounter reaches this "split-second" window, and the citizen is armed with a firearm, the circumstances generally make the shooting justified, or at the least, difficult to prove criminal responsibility under the criminal laws and required legal levels of proof. The fact that no criminal charges are fileable in a given case is not necessarily synonymous with an affirmative finding of justification, or a belief that the matter was handled appropriately from an administrative viewpoint. It is simply a determination that there is not a reasonable likelihood of proving criminal charges beyond a reasonable doubt, unanimously, to a jury. This is the limit of the District Attorney's statutory authority in these matters.

The Denver Police Department's Firearms Discharge Review Board's after-incident, objective analysis of the tactical and strategic string of decisions made by the officer that lead to the necessity to make the "split-second decision to shoot" is perhaps the single most important ingredient in saving lives on both sides of these confrontations. It is clearly not always possible to do so, but to the extent through appropriate tactical and strategic decisions officers can de-escalate, rather than intensify these encounters, the need for "split-second" decisions will be reduced. Once the "split-second decision" time frame is reached, the risk of a shooting is high. The administrative review of officer-involved shootings is a difficult responsibility and task, but one that, if done professionally and fairly, improves police performance, protects officers and citizens, and builds public confidence in the department. Where mistakes or better approaches are identified, administrative action may be the only way to effect remedial change. The administrative review process provides the greatest opportunity to bring officer conduct in compliance with the expectations of the department and the community it serves. Clearly, the department and the community expect more of their officers than that they simply conduct themselves in a manner that avoids criminal prosecution.

Because of the difference between the criminal, administrative, and civil standards, the same facts can fairly and appropriately lead to a different analysis and different results in these three arenas. While criminal charges may not be fileable in a case, administrative action may be very appropriate. The legal levels of proof and rules of evidence which apply in the criminal-law arena are imprecise tools for examining and responding to the broader range of issues presented by officer-involved shootings. Issues related to the tactical and strategic decisions made by the officer leading up to the "split-second decision to shoot" are most effectively addressed by the Denver Police Department through the Firearms Discharge Review Board process and

administrative review of the shooting.

The administrative review process, which is controlled by less stringent legal levels

of proof and rules than the criminal review process, provides both positive remedial options and punitive sanctions. This process also provides significantly broader latitude in accessing and using information concerning the background, history, and job performance of the involved officer. This type of information may have limited or no applicability to the criminal review, but may be very important in making administrative decisions. This could include information concerning prior officer-involved shootings, firearms discharges, use of non-lethal force, and other conduct, both positive and negative.

There are a variety of actions that can be taken administratively in response to the department's review of the shooting. The review may reveal that no action is required. Frankly, this is the case in most officer-involved shootings. However, the department may determine that additional training is appropriate for all officers on the force, or only for the involved officer. The review may reveal the need for changes in departmental policies, procedures, and rules. In some instances, the review may indicate the need for changing the assignment of the involved officer, temporarily or permanently. Depending on the circumstances, this could be done for the benefit of the officer, the community, or both. And, where departmental rules are violated, formal discipline may be appropriate. The department's expertise makes it best suited to make these decisions.

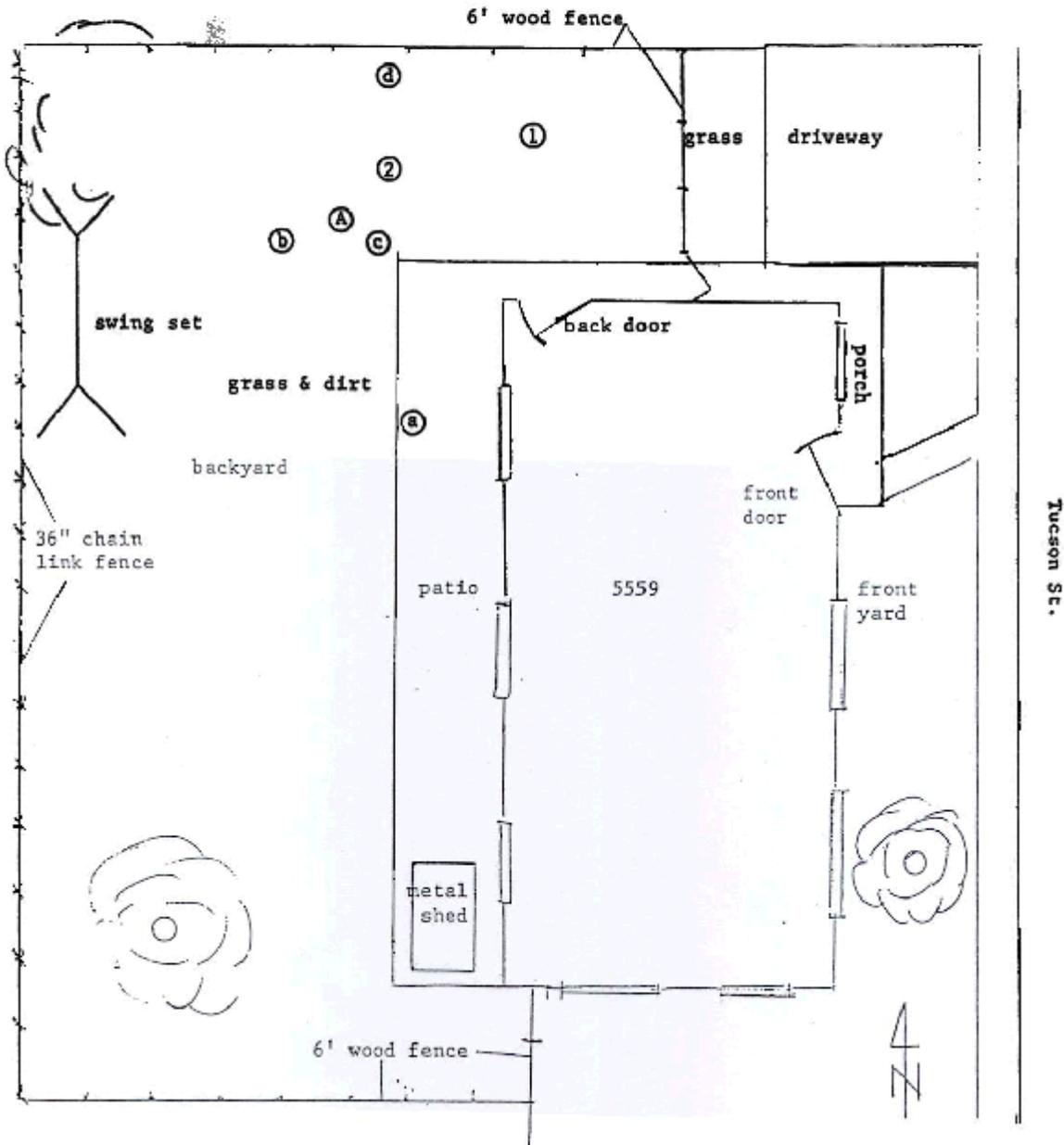
It is clear not every officer will handle similar situations in similar ways. This is to be expected. Some officers will be better than others at defusing potentially violent encounters. This is to be expected. To the degree officers possess skills that enhance their ability to protect themselves and our citizens, while averting unnecessary shootings, Denver will continue to have a minimal number of officer-involved shootings. Denver officers face life-threatening confrontations hundreds of times every year, yet there are an average of less than ten officer-involved shootings annually in Denver. This reflects favorably on the men and women of the Denver Police Department as a whole. Skill in the use of tactics short of deadly force is an important ingredient in reducing officer-involved shootings. Training to guide officers in making judgments about the best tactics to use in various situations, beyond just possessing good firearms proficiency, is a key to minimizing unnecessary and preventable shootings. Clearly, not all potentially violent confrontations with citizens can be de-escalated, but officers do have the ability to impact the direction and outcome of many of the situations they handle, based on the critical decisions they make leading up to the deadly-force decision. This should be a part of the review of every officer-involved shooting, not just to look for what may have been wrong, but also to see what occurred that was appropriate, with the ultimate goal of getting better at what they do.

NOT DRAWN TO SCALE

Denver Police Department Crime Scene Map

Location: 5559 Tucson St.
Date: 01/27/98
Drawn by: Detective S.C. Shoet #72049

(not drawn to scale)



G-1

Denver Police Department Crime Scene Map

Location: 5559 Tucson St.
Date: 01/27/98
Drawn by: Detective S.C. Shott #72049

(not drawn to scale)

MEASUREMENTS

Backyard dimensions 55'6" east to west (length)
66'9" north to south (width)

Placard #1— Spent shell casing 12'1" north of northwest corner of house
11" north of northwest corner of house

Placard #2— Area where gun 15'5" west of northwest corner of house
was found 7'9" north of northwest corner of house

Placard #A— 17'9" Blood 17'9" west of northwest corner of house
8'8" north of northwest corner of house

a black baseball cap
b black baseball cap
c red undershirt
d red & black nylon jacket (Chicago Bulls)

G-2

Footnotes:

1. Under Colorado law, a firearm is considered a deadly weapon regardless of whether it is loaded or unloaded. C.R.S. § 18-1-901(3)(e)(I).
2. A diagram of the scene is attached as Appendix A.
3. Christy had been burglarized on November 4, 1997, and several items were taken from the home. The point of entry was the same casement window as was involved in the January 27, 1998 incident. Investigators recovered latent fingerprints from items in the kitchen that were moved during that burglary. Following the incident here under investigation, fingerprint examiners compared the latent fingerprints recovered in November to the known fingerprints of Donielle Ball. Ball was identified as one of the perpetrators in the November 4, 1997 burglary by this method and has been charged with that offense by the Juvenile Bureau of the Denver District Attorney's office.
4. Ball's description of the positions of Officers Cowgill and Wampler were consistent with the statements of both officers.