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Robert White
Chief of Police
Denver Police Department
1331 Cherokee Street
Denver, CO 80204

RE: Investigation of the shooting of
Mauricio Venzor-Gonzalez (DOB
10/6/94), in which Denver Police Officer
Mark Hillers (badge number 15025), fired
shots on November 25, 2017, in the area of
101 S. Raleigh St., Denver, Colorado.

Dear Chief White,

The investigation and legal analysis of the shooting of Mauricio Venzor-Gonzalez, in which shots were fired by Denver Police Officer Mark Hillers, has been completed. I conclude that under applicable Colorado law no criminal charges are warranted against this officer. My decision, based on standards of criminal law, does not limit administrative action by the Denver Police Department, where tactical issues may be reviewed, or civil actions where less-stringent laws, rules and legal levels of proof apply.

STATEMENT OF FACTS

On November 25, 2017, at approximately 6:23 p.m., Denver Police Officers Mark Hillers and Eric Leon were on duty in the area of W. Alameda Ave. and S. Stuart St. when they attempted to pull a car over for a traffic stop. The car eluded the officers, ultimately crashing into a parked car at W. Cedar Ave. and S. Stuart St.



The suspect vehicle (blue) after it struck the parked vehicle.

The driver, J.G.S.¹, remained at the scene and was arrested for Vehicular Eluding and Possession of a Weapon by a Previous Offender. The passenger, later identified as Mauricio Venzor-Gonzalez, immediately fled the scene, running northbound on S. Stuart St. Officer Hillers pursued him on foot. Mr. Venzor-Gonzalez was on a cell phone while running; he threw the phone down to the ground, fumbled in the waistband area of his pants, stopped, turned, and fired his handgun at Officer Hillers. Officer Hillers, in the middle of the street, and with no cover, dropped to the ground, retrieved his duty weapon, and returned fire.

¹ I use initials to maintain the privacy of civilian witnesses.



These markers are located in the roadway on Bayaud. The casings at markers 3-12 and 16-18 (light blue arrows) have been identified as having been fired by Officer Hillers. The green arrow depicts marker 13, the cell phone thrown by the suspect and recovered on the north side of Bayaud. A subsequent search warrant identified it as belonging to Mr. Venzor-Gonzalez.



The cell phone thrown by the suspect and recovered on the north side of Bayaud. In the background, reaching the intersection of Bayaud and S. Raleigh St., are markers 14-21. Markers 14 and 15, indicated by the red arrows, are shell casings which have been identified as fired by Mr. Venzor-Gonzalez. Markers 16-18, indicated by the light blue arrow, in the roadway, are shell casings fired by Officer Hillers. Markers 19-21, at the intersection, are shell casings identified as having been fired by Mr. Venzor-Gonzalez.

Mr. Venzor-Gonzalez then turned and continued to run away, with Officer Hillers pursuing him. As Mr. Venzor-Gonzalez arrived at the intersection of Bayaud and Raleigh, he turned again and fired his handgun several more times at Officer Hillers, who returned fire. Mr. Venzor-Gonzalez then turned and fled, successfully escaping the area.



The red arrow depicts Markers 19-21, identified as having been the second volley of bullets fired by Mr. Venzor-Gonzalez.

Numerous Denver police officers quickly arrived in the area. The Denver Police Homicide Unit, as well as Denver crime scene investigators and detectives from the Aurora Police Department, also responded to the scene of the shooting. Officers searched the path traveled by Mr. Venzor-Gonzalez. They located a cellular phone in the area where the suspect threw it; they also located the magazine for a Glock model 26 handgun. A total of twenty-two rounds were shot; Officer Hillers fired 14 shots. The physical placement of those shell casings as well as the location of the cell phone are consistent with the accounts of the eyewitnesses to this shooting.



Marker 22 depicts a shell casing fired by Mr. Venzor-Gonzalez. In the background is marker 23, the magazine from the Glock model 26 left behind by Mr. Venzor-Gonzalez.



A closer view of the location of Marker 23, the magazine.

Denver Police Homicide Detectives interviewed a civilian witness to the incident, A.K. A.K. stated that he was outside on S. Stuart St. when he heard a car crash. Soon after, he saw a man running northbound on S. Stuart St. and being chased by a uniformed police officer. As the officer closed the distance between himself and the fleeing male, A.K. saw a cellular phone in the male's hand. The male stated "I have to go! I have to go now!" Soon after, A.K. heard a number of shots. He estimated that, at the time of the shots fired, the distance between the officer and the suspect was approximately five to ten feet.

Officer Hillers was interviewed in the early morning hours following this incident. Officer Hillers described the events as:

the passenger door flies open and a guy jumps out. Like I said, I was in the passenger side of the patrol car, so I just followed suit, immediately throw open my door, get out. He's running already. I start running. Reach down, turn on my camera², and then the foot chase was on.....

The suspect ran northbound on S. Stuart, cutting diagonally toward S. Raleigh as the suspect reached Bayaud St. Officer Hillers stated:

I would say like a third of the way into that block from Stuart, kind of in the center-ish of the road, I see a light come off his left hand and towards the north. My first thought was that was his cell phone because it looked like a rectangular object and I was like, oh, his screen was lit up so he's throwing his phone.

I started getting pretty concerned about that because I felt like he was doing that so he could use his hands because he had that in his hand. And then we went from the running-like motion of his hands, to his hands starting to like disappear, which got me really concerned because I didn't know what he was reaching for, and at that point, he's still running away. And then – and then in just a flash of a blink of an eye, he just turned around and I think fired like four or five shots directly at me.

And then I just like fell like – I didn't have any cover or anything, and so just fell back on my back, kind of like on my butt and then like rocked back and drew out my gun, and then I think I fired seven or eight times back at him, and then got up – I think kind of was like shot on the ground and I was getting up, I was still shooting at him, and then he ran again. I would say at that first interaction, it was probably fifteen to twenty feet between us, not more than that.

Mr. Venzor-Gonzalez kept running, turning toward the fence line of a house on the corner of Bayaud and Raleigh. Officer Hillers continued:

He ran in between [the tree and the fence line on the property at Bayaud and Raleigh], and I don't know if it was before or when he got into there is when he

² Officer Hillers's body-worn camera footage is consistent with his account of the incident. Officer Hillers did not view the body-worn camera footage prior to his interview.

shot at me again, I think like two or three more times, so I shot back. I think I might have shot like four or five times, and then I didn't want to follow – then he runs again...

When asked what was the first indication that he was being fired upon, Officer Hillers stated “the sound of the shot and the muzzle flash; those two things, like, pew pew.” When asked why he stopped firing after the first exchange of gunfire, Officer Hillers said “he wasn't shooting at me...He started to run again.”

When asked how he knew that Mr. Venzor-Gonzalez was shooting *at him* rather than in the air, or in a different direction, Officer Hillers stated: “I felt that way because of the way that he turned around and kind of took that like aggressive like – I'm going to shoot at you – like you're not going to catch me. I guess that like turning around stopping, like when I'm in full chase after him...” The muzzle flash was pointed in his direction and “looked like about that big around [gesturing] and an orange burst of light...Because it just looked like – a sun.” When asked to compare this event to his experience qualifying at the gun range, with officers to either side of him, Officer Hillers stated “I've never seen the like sun look – I've only seen like a like side view like skinny flash or the like more of an oval around your own gun because of your – your perspective.”

Two days later, officers learned that Mr. Venzor-Gonzalez was hiding at an address in Aurora, Colorado. He was suffering from three gunshot wounds³, yet had not sought medical attention. Officers further learned that inside the residence where the suspect was staying, there were a number of firearms, including an AR-15 rifle. After a standoff that lasted several hours, Mr. Venzor-Gonzalez was taken into custody and charged in case number 17CR8520 with various counts relating to the attempted murder of a police officer.

A search warrant executed at the Aurora address revealed the presence of numerous handguns, including a Glock model 26, a firearm consistent with the magazine that was left at the scene of the shooting. That firearm was examined by the Denver Crime Lab, and was forensically determined to be the firearm used by the suspect to shoot at Officer Hillers.

LEGAL ANALYSIS

Criminal liability is established only if it is proved beyond a reasonable doubt that all of the elements of an offense defined by a statute have been committed and it is proved that the offense was committed without legal justification as set forth in Colorado statutes. The justification of using physical force in self-defense is described in C.R.S. § 18-1-704. As pertinent to this case, C.R.S. § 18-1-704 (1) states:

... a person is justified in using physical force upon another person in order to defend himself or a third person from what he reasonably believes to be the use or imminent use of unlawful physical force by that other person, and he may use a degree of force which he reasonably believes to be necessary for that purpose.

³ Mr. Venzor-Gonzalez was shot in the left arm, and in the right thigh and foot. None of these injuries was life-threatening.

The use of deadly physical force “may be used only if a person reasonably believes a lesser degree of force is inadequate and the actor has reasonable ground to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving great bodily injury.” C.R.S. § 18-1-704(2)(a).

The justification for a peace officer’s use of physical force while attempting to make an arrest is described in C.R.S. § 18-1-707. As pertinent to this case, C.R.S. § 18-1-707 (1) states:

... a peace officer is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary:

- (a) To effect an arrest ... unless he knows that the arrest is unauthorized; or
- (b) To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect such an arrest

These justifications are “affirmative defenses.” This means that a person accused of a crime for using force does not need to prove that he or she was justified in using the force. Instead, the prosecution must prove, to a unanimous jury, that the force was *not* justified. Accordingly, the question I must consider is: **Is there enough evidence of criminal conduct that a jury would find, beyond a reasonable doubt, that Officer Hillers acted without lawful justification?**

After a thorough review of the evidence, I conclude that a jury would find that Officer Hillers did indeed have lawful justification to fire at Mr. Venzor-Gonzalez in self-defense. When Mr. Venzor-Gonzalez stopped, turned, aimed his handgun at Officer Hillers, and fired numerous rounds at the officer in a residential neighborhood in the early evening, Officer Hillers reasonably believed that he was facing imminent serious bodily injury or death. Officer Hillers described the shots as being fired directly at him, at a moment when he found himself in the middle of a street with no cover. When faced with this potentially lethal threat, Officer Hillers reasonably believed that no lesser amount of force could be used to defend himself. Furthermore, at the moment that Mr. Venzor-Gonzalez began firing directly at him, Officer Hillers had ample probable cause to arrest Mr. Venzor-Gonzalez, and he was justified in using physical force to attempt to effect that arrest.

As the United States Supreme Court has instructed regarding assessing the reasonableness of an officer’s beliefs when using physical force:

The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments -- in circumstances that are tense, uncertain, and rapidly evolving -- about the amount of force that is necessary in a particular situation.

Graham v. Connor, 490 U.S. 386 (1989) at pp. 396-397.

Under these dangerous circumstances, Officer Hillers was forced to make a split-second decision, and his decision to shoot Mr. Venzor-Gonzalez in self-defense was justified under Colorado law.

Yours truly,



Beth McCann
Denver District Attorney

CC: Officer Mark Hillers; Troy Riggs, Executive Director, Department of Safety; Robert White, Chief of Police; David Quinones, Deputy Chief of Police; Matthew Murray, Deputy Chief of Police; Barb Archer, Commander of Major Crimes Division; Ron Saunier, Commander of District 6; Lt. Matthew Clark, Major Crimes Division and Nicholas E. Mitchell, Office of the Independent Monitor.