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May 19, 2021

Paul Pazen
Chief of Police
Denver Police Department
1331 Cherokee Street
Denver, CO 80204

RE: Investigation of the shooting death of Larry Hamm (12-22-1973) which occurred on December 28, 2020, in the 1000 Block of N. Monaco Parkway in Denver, Colorado. Denver Police Department General Offense #2021-5000015 & #2020-749889.

Dear Chief Pazen,

The investigation and legal analysis of whether the officer-involved shooting death of Mr. Larry Hamm was legally justified is complete. I conclude that under applicable Colorado law no charges are warranted against Denver Police Officer John Repjar (Badge #00099), Denver Police Officer Crystal Thomas (Badge #14087) or Denver Police Corporal Jeffery Jenkins (Badge #00040). This letter will be posted on our website and our file will be available for interested members of the public to review.¹ My decision, based on criminal law standards, does not limit administrative action by the Denver Police Department, in which non-criminal issues can be reviewed, or civil action where less stringent laws, rules and legal levels of proof apply.

STATEMENT OF FACTS²

On December 28, 2020, shortly before 11:20 a.m. Officers John Repjar and Crystal Thomas were in the area of Colfax Avenue and Krameria Street. The two officers were partners in a marked Denver police SUV with police insignia on both doors and police lights on the top. Officer Repjar was driving and Officer Thomas was in the passenger seat. Both officers were wearing Denver Police Department uniforms and carried sidearm pistols. Officer Repjar was a 20-year

¹ Parties interested in reviewing the file should visit our website at www.denverda.org/records-request/. Our officer-involved protocol is available on our website at <https://www.denverda.org/wp-content/uploads/2017/10/DENVER-DA-OFFICER-INVOLVED-SHOOTING-PROTOCOL-2017-.pdf>

² There are two pending criminal cases related to this incident. To avoid unnecessary extrajudicial statements, I include only the facts necessary to make my determination.

veteran of the Denver Police Department. Officer Thomas has been a Denver Police Department officer for six years. Prior to joining the police department, Officer Thomas was a parole officer in Colorado.

At about the same time, Corporal Jeffery Jenkins was inside the nearby King Soopers at 14th Street and Krameria Avenue. He too was wearing a Denver Police Department uniform and carried a sidearm pistol. His vehicle was parked in the King Soopers parking lot. That vehicle was a marked Denver police SUV with a police insignia on both doors and police lights on the top of the vehicle. Corporal Jenkins was also a 20-year veteran of the Denver Police Department.

At 11:21 a.m., a person called Denver 911. This caller reported someone was attacking his neighbor inside 950 North Monaco Pkwy, on the southeast corner of East 10th Avenue and North Monaco Parkway. This caller stated three suspects were involved – two were wearing hard hats and yellow traffic/construction vests. One of the individuals in the vests was armed with a gun. The caller said a small black car was parked outside the north door of his neighbor’s house. This car was later determined to be a Honda Fit. The caller said a person in the driver’s seat was wearing a yellow vest and an orange hard hat.

When the 911 dispatcher announced the call over the police radio, Officers Repjar and Thomas were less than a mile from the scene. The police radio dispatcher sent the two officers, along with several other officers, to the incident scene. Officer Repjar drove the police car to East 10th Avenue and toward the scene.

Once in the area, Office Repjar drove east across southbound North Monaco Parkway. There the officers saw the black Honda Fit. At the same time, two more Denver police SUVs pulled up to the scene from the east. One was driven by Officer Lisa Garcia and the other was driven by Officer Celia Munoz. Officer Garcia passed the black car, then turned around to get behind the car. Inside the car was one suspect, later determined to Ms. Tameka Dudley.



Figure 1. A map of the area showing the routes of arriving officers.

As the officers arrived the black Honda Fit pulled away from the curb and headed east on East 10th Avenue. At the same time another suspect, later identified as Joshua Hamm, exited the house from a door on the north side of 950 North Monaco Parkway. Joshua Hamm³ ran east on East 10th Ave. following the car driven by Ms. Dudley. Officers Garcia and Munoz pursued the suspects in their cars. Ms. Dudley turned south on Magnolia Street followed by Joshua Hamm. Mr. Hamm attempted to get in the car but, with officers closing the distance, Ms. Dudley sped off and fled the scene. Joshua Hamm was taken into custody in the 900 block of North Magnolia St. While not initially discovered by the officers, a Ruger 9mm semi-automatic handgun was found in Hamm's pocket. The weapon was unloaded and did not have a magazine in it.

As the Honda Fit fled the scene, Officer Repjar drove his police SUV forward. As he pulled up to the house at 950 N. Monaco Pkwy, he and Officer Thomas heard a gunshot. Immediately thereafter a third suspect, Larry Hamm, ran out of the door on the north side of 950 North Monaco Parkway. He was wearing a construction vest and holding a gun in his hand. He first ran east but quickly reversed direction and headed west.

Officers later found the owner of 950 North Monaco Pkwy in the foyer just inside the north entry door of the home dead from a gunshot wound. Another occupant was found in the nearby kitchen suffering from a gunshot wound with serious bodily injury which she was able to survive.

Officer Repjar stopped his SUV as Larry Hamm ran west on the south side of E. 10th Avenue. Officer Thomas exited the SUV and yelled "Police! Stop, Stop!" She then warned Officer Repjar that "He's got a gun! He's got a gun!"



Figure 2. Images from Officer Thomas' body-worn camera footage which shows Larry Hamm running west on E. 10th Avenue with a gun in his hand.

Officer Repjar stopped the car, exited and pursued Larry Hamm. Officer Thomas followed closely behind, also on foot. Larry Hamm ran across the yard of the house on the northeast corner of E. 10th Avenue and North Monaco Parkway. Larry Hamm then ran into northbound traffic on North Monaco Parkway still carrying his gun in his right hand. Both officers continued to follow Mr. Hamm.

³ I use both Joshua Hamm and Larry Hamm's first names to avoid confusion.



Figure 3. A scene photo capturing the north side of 950 N. Monaco Pkwy. Larry Hamm ran across this yard as Officers Repjar and Thomas pursued him.

Once on North Monaco Parkway, Larry Hamm attempted to carjack⁴ drivers travelling north who slowed to avoid hitting Mr. Hamm. Officer Repjar yelled, “Denver Police! Put the gun down!” Mr. Hamm approached the front of a grey Jeep Grand Cherokee causing the driver to slam on her brakes. Larry Hamm slammed at least one hand on the hood of the vehicle. He continued to hold his gun in his hand. He manipulated the slide – or “racked” it – several times in a menacing manner. This ejected two cartridges onto the hood of the grey Jeep Grand Cherokee and three onto the street. Larry Hamm walked over to the driver’s side door and said, “Get out, I’ll shoot you!” He then tried to break the car window using the butt of his gun and pulled on the door handle but was unable to open the car door. The driver sped away but later called the police and was interviewed.



Figure 4. A still image from Officer Thomas' body-worn camera that captures the grey Jeep Grand Cherokee stopped in North Monaco Parkway as well Officer Repjar's silhouette.

⁴ I use the term “carjack” as it is one commonly used and understood. However, the term as I use it specifically includes the crimes of aggravated robbery and/or kidnapping.

At this point Officer Repjar was moving to seek cover near a tree in the front yard of a neighbor's house. Officer Thomas took cover from the corner of the house. After the grey Jeep Grand Cherokee sped away exposing Larry Hamm to his view, Officer Repjar fired three times. Officer Thomas fired once. None of the officers' rounds hit Larry Hamm. However, three rounds struck a vehicle travelling south on North Monaco Parkway. The officers announced "shots fired" on their police radios.



Figure 5. A still image from Officer Repjar's body-worn camera that captures the approximate moment he fired at Larry Hamm.



Figure 6. A still image from Officer Thomas' body-worn camera that captures the approximate moment she fired her gun. Larry Hamm can be seen between the trees wearing a yellow traffic vest. Officer Repjar's silhouette is seen next to the tree.

Corporal Jenkins was in the King Soopers when he heard Officer Repjar announce his arrival at the scene. At first, Corporal Jenkins was not assigned to the call. However, when he heard Officer Repjar's voice "ramp up" on the radio, he decided he should respond and headed to his

car. Corporal Jenkins was in his car when he heard the officers announce "shots fired" over the police radio, and he headed to the scene.

Back in the area near East 10th Avenue and North Monaco Parkway, Larry Hamm threw his gun to the ground and ran across the grassy median between northbound North Monaco Parkway and southbound North Monaco Parkway. He ran to East 10th Avenue and headed east ½ block. He then turned into the alley between North Monaco Parkway and North Locust Street. Unaware that Larry Hamm had discarded his weapon and fearful that the man he was chasing might still be armed, Officer Repjar positioned himself at the corner of the alley to avoid an ambush. From his position, he watched Larry Hamm climb a fence on the east side of the alley into a backyard.

As Officer Repjar was calling out Mr. Hamm's location on the radio, the nearby construction workers alerted Officers Repjar and Thomas that the man they were chasing had emerged back on North Monaco Parkway.

It was at this point that Corporal Jenkins arrived at the area travelling south on North Monaco Parkway. The lights and sirens of his police vehicle were on. As he approached the intersection of East 10th Avenue and North Monaco Parkway, Larry Hamm was in the southbound lanes of North Monaco Parkway slowing cars and pulling on car door handles of occupied vehicles. His attempts to get inside a car were unsuccessful. As Corporal Jenkins slowed his car to stop in the southbound lanes of North Monaco Parkway, Larry Hamm traveled east back across the grassy median into the northbound lanes of North Monaco Parkway.

Corporal Jenkins stopped his car, exited, drew his gun and followed Larry Hamm to the northbound lanes of traffic. Corporal Jenkins ordered Larry Hamm to "get on the ground" and to "get flat on the ground" several times. Hamm continued to walk in the lanes of traffic north and away from Corporal Jenkins. Corporal Jenkins kept his gun out as he walked in the lanes of traffic between oncoming cars and Larry Hamm. However, two cars continued past the corporal. These cars slowed down and stopped in the left lane. The second car was a maroon Scion driven by Victim P.L. Larry Hamm quickened his pace and approached the Scion. He went around the front of the car to the driver's door. Corporal Jenkins also quickened his pace to the Scion and moved to the driver's side. As he approached the car Corporal Jenkins yelled, "If you get in that car, I'm shooting you! ... I will shoot you if you get in that car!" Unable to get the driver's door open, Larry Hamm moved back around the front of the car to the passenger's side. As Corporal Jenkins moved around the back of the Scion to the passenger's side, Larry Hamm opened the front passenger's door and got inside the Scion.



Figure 7. Still images from Corporal Jenkins' body-worn camera that capture Larry Hamm as he first moves to the front of the Scion and a short time later when he entered the car on the passenger's side.

Corporal Jenkins approached the Scion on the passenger's side. Once positioned outside the front passenger's window Corporal Jenkins shot three times down and into the front passenger's side seat of the Scion. Larry Hamm was hit by all three bullets in his front right side: one to his lower hip and two to the abdomen.



Figure 8. A photo showing the approximate location of the attempted carjacking of the grey Jeep Grand Cherokee, the attempted carjacking of the maroon Scion, and where the Scion ultimately stopped.

Corporal Jenkins attempted to open the front passenger's door, but it was locked. He ordered Larry Hamm to "Get out of the car!" Corporal Jenkins moved to the driver's side, but that door was locked. The driver unlocked the door and was able to get out of the car. The car was still in drive and moving forward. Corporal Jenkins quickly shifted the car's transmission into park. Responding Denver Police Department Officers Celia Munoz and Lisa Garcia arrived. One officer entered the front driver's side. Another officer broke the front passenger's window to unlock the car. Officers Munoz and Garcia pulled Larry Hamm out of the Scion and laid him on the street. Larry Hamm was still moving and making sounds. Not knowing whether he was still armed, the officers handcuffed him.

Corporal Jenkins approached the driver of the Scion to see if she was physically harmed. He then returned to where Larry Hamm was and requested a nearby ambulance respond to the scene. A paramedic arrived within three and one half minutes of the shooting and began life-saving efforts.



Figure 9. A diagram showing the approximate path Larry Hamm travelled and the location of certain incident events.

As soon as the scene was secure Officers Thomas, Repjar and Jenkins were separated, and their body-worn cameras were secured by supervisors. Denver Police Department supervisors individually transported all three officers to DPD headquarters and did not permit them to speak with one another.

Larry Hamm was transported to the Denver Health Medical Center via ambulance. He was pronounced deceased at 12:01 p.m. by a Denver Health Medical Center doctor. The Denver Police Homicide Unit made a preliminary notification to Larry Hamm's family at about 9:00 p.m. on the same day. The Denver Office of the Medical Examiner made official notification to Larry Hamm's father on December 29, 2020, after positively identifying him.

INVOLVED OFFICERS

Officer John Repjar

A Denver Police Department lieutenant and a Denver District Attorney's Office prosecutor interviewed Officer John Repjar at 5:48 p.m. the day of the shooting. Officer Repjar's legal counsel also was present. Prior to his interview, Officer Repjar did not view his body-worn camera video nor any other video of the shooting. He did not discuss these events with any other witnesses.

Officer Repjar related that the day of the shooting he carried a Sig Sauer .45 caliber handgun. The magazine holds seven bullets. Officer Repjar fills the magazine to capacity and loads a round in the chamber.

Officer Repjar stated that at approximately 11:25 a.m., he and Officer Thomas were dispatched to an assault in progress at a residence on the northeast corner of the intersection of East 10th Avenue and North Monaco Parkway. As the officers were dispatched to that call, they learned that one of the suspects in the assault was wearing a construction vest and possibly had a gun. They also learned that a small car was parked in front of the house and that it may be associated with the assault in progress.

Officer Repjar described approaching northbound North Monaco Parkway and observing the black car and other officers arrive at the scene. He heard a gunshot then saw a man run out of 950 N. Monaco Pkwy followed by another man wearing a construction vest and carrying a gun. The man with the gun first ran eastbound but quickly changed direction and headed west across the yard of 1000 N. Monaco Pkwy.

Officer Repjar stopped his car and gave chase, though with some caution because he was concerned that the suspect could turn and shoot at him. He followed the suspect and saw him get in front of a car traveling northbound on North Monaco Parkway. He saw the armed suspect try to stop the grey Jeep Grand Cherokee. Officer Repjar described it as a maroon car. As Officer Repjar described in his interview:

The suspect runs in front of that car and is standing mostly on the driver side of that car pointing the gun, and his stance, you, you can see him stopping this car. My immediate thought is that this man is attempting to carjack or kidnap this woman. He moves to the passenger side of the car to where the doorstop would be for the front driver side. I heard a gunshot come from him. That car started to roll forward very slowly. I was yelling, "Denver police! Drop the gun! Denver police! Stop!" The man stood there as the car rolled out. He didn't drop the gun. He didn't do as I, as I said. And in fear for my safety, my partner's safety, and for the woman that was driving in the car and the other folks that were there, I shot my service revolver I believe three or four times at him.

Officer Repjar later added:

When that car, when that car rolled forward and he presented himself there, he still had the gun in his hand. I shot center of mass. I shot with the intent to stop him from what he was doing. Again —and I was fearful for my life. I was fearful for the life of my partner. I was fearful for the life of the woman that was still in that vehicle. This man had just run from what appears to be a home invasion robbery, based on the information that was some type of serious felony involving a home invasion, that's what was in my mind committing an armed carjacking. He was a danger.

The suspect then turned and ran. As he did so, he threw an object in the air. Officer Repjar believed it may have been a gun but was not sure. At this point, Officer Repjar noticed that the suspect was not running and was moving with “more of a lumber.” The man ran west on east on East 10th Avenue and then into the alley between North Monaco Parkway and North Locust Street. Officer Repjar positioned himself at the corner of the alley, concerned that the suspect might be armed and might ambush him if he followed him down the alley. He saw the suspect trying to climb a fence into the backyard of a house. As Officer Repjar was calling out the suspect’s location on the radio, nearby witnesses were pointing at North Monaco Parkway. Officer Repjar then heard more gunshots.

Officer Crystal Thomas

Officer Crystal Thomas was interviewed at 4:32 p.m. on the day of the shooting. The interview was conducted by a Denver Police Department lieutenant and a Denver District Attorney’s Office prosecutor. Officer Thomas’s legal counsel also was present. She did not view her body-worn camera video nor any other video footage of the incident prior to giving her statement. She did not speak with any other witnesses to the shooting prior to giving her statement.

Officer Thomas related that she carries a 9mm Glock 19 pistol with a magazine that holds 15 rounds. She fills the magazine to capacity and loads a round in the chamber.

Officer Thomas stated that shortly before 11:25 a.m. on the day in question, she and Officer Repjar were dispatched to a call in the 1000 block of North Monaco Parkway. They were told that the caller reported that the residents of 950 N. Monaco Pkwy were being beaten up by three people. The caller also related that a suspect, a man with a traffic vest, had a firearm.

When they arrived at the intersection, Officer Thomas noticed a black car parked next to the house on East 10th Avenue. As she and Officer Repjar were crossing northbound North Monaco Parkway, she heard a gunshot.

Officer Thomas then saw a male exit the house holding a gun and wearing a brightly colored traffic vest. Officer Thomas explained that the man with the gun ran westbound toward North Monaco Parkway. Officer Repjar was in front of her as they both chased the man as he ran into northbound North Monaco Parkway. Officer Thomas described this suspect acting “frantic”. The suspect approached a car, got it to slow down, then went to the driver’s side door of the car. He was trying to make the driver get out. As the suspect was standing near the driver’s side door, she heard Officer Repjar fire his gun. Officer Thomas then shot once at the suspect with her gun. As Officer Thomas explained:

I'm thinking that he is trying to get the driver out. I don't know if he's trying to shoot, threatening to shoot him, or point the gun, but I know he has a gun and trying to get this man out so he can get in the car and –and take off.⁵

⁵ Officer Thomas thought the driver was a male. However, it was later determined that the driver was a female. She was driving a grey Jeep Grand Cherokee.

She stopped firing because after her first shot she realized she would not be able to take another accurate shot.

The suspect wearing the traffic vest then fled across the grassy median on North Monaco Parkway, east on 10th Avenue and then into the alley between North Monaco Parkway and Locust Street. Officer Repjar positioned himself near the corner of the alley. Officer Thomas positioned herself near the alley. As she stood there, witnesses told her that the man had just run across North Monaco Parkway. Officer Thomas then heard gunshots.

Corporal Jeffery Jenkins

Corporal Jeffery Jenkins was interviewed at 7:02 p.m. the evening of the shooting by a Denver Police Department lieutenant and a Denver District Attorney's Office prosecutor. Corporal Jenkins' legal counsel also was present. Corporal Jenkins did not view his body-worn camera video nor any other footage of the shooting prior to making his statement. He did not discuss the events with any witnesses prior to making his statement.

Corporal Jenkins reported that on the day of the shooting, he carried a 9mm Smith and Wesson M&P handgun. He had 17 rounds in the magazine, and he keeps one round in the chamber.

Corporal Jenkins related that he was in the King Soopers at 14th and Krameria Avenue when he heard the call of a fight or altercation on North Monaco Parkway. He was not dispatched to the call so he remained at the supermarket. However, when he heard Officer Repjar's voice "ramp up" on his handheld radio, he left the store and headed for his car. When he reached the car, he heard over the radio that shots had been fired. At the time it was not clear to Corporal Jenkins who announced "shots fired." He drove east on East 14th Avenue and then south on North Monaco Parkway. As he approached the intersection of East 10th Avenue and North Monaco Parkway, he saw a man wearing a construction vest in the southbound lane of North Monaco Parkway. The man was pulling on car door handles. As Corporal Jenkins pulled up, the man headed east across the grassy median to the northbound lane of traffic on North Monaco Parkway. Corporal Jenkins stopped and exited his car. The man with the construction vest again began trying to get into cars as they slowed down. Corporal Jenkins described what happened next:

I told him several times if he if he forced his way into a car, I'd be, I'd have to shoot him. I told him to get on the ground numerous times again. I thought about transitioning to my Taser, but at that point, I was alone at the scene and I figured if I went to my Taser, I wouldn't be able to transition back to my weapon again if he was armed. So my intention was to just keep traffic stopped, keep him at a distance, keep moving with him until cover got there and then I could, you know, tell cover how we could engage with him, but I – I wasn't comfortable with running up and engaging with him because I didn't know if he was armed at the time.

Looked back and I saw a little red one of the mini SUV kind of things move up and try to wind around me to get out of the area. As she come past me, he went to the

car door, opened the car door. From what I recall, I gave him another order, "You do not get in that car. I will be forced to shoot you." At that time, I made the decision that, like I said, I was going to keep him at a distance to keep eyes on him but if he put someone else at risk, I was going to have to make a decision then.

He slid into the into the passenger seat of the car. I came up on the car. I again gave him an order to get out of the car. It appeared he was forcing her to leave. She was trying to figure out what to do. I told her to get out of the car. And at that point, she couldn't comprehend what she needed to do. I made the decision that I couldn't allow the car to leave with an innocent person that could be harmed, so I made the decision to shoot.

I made, when I decided to shoot, I decided to shoot towards his right side so I didn't hit the victim in the car. So I discharged three rounds striking him – would have been on the right side of the rib cage here, through the closed window. I couldn't use my Taser at the time because the window was closed. I couldn't use pepper spray at the time. I felt I didn't know if he was still armed or had a gun on her. I felt the only reasonable response was my weapon.

LAY WITNESSES

Lay Witness T.J.⁶

Lay witnesses T.J. called 911. His house has a direct view of 950 N. Monaco Pkwy. T.J. told investigators that he was inside his house when he first noticed the people dressed like construction workers. T.J. had some concern about these people due to a recent social media posting concerning burglars dressed like construction workers. In total, he saw three suspects, two of whom were wearing hard hats and yellow traffic vests. T.J. said that one of the two in the traffic vests was armed with a gun. T.J. also saw a black Honda Fit, with a temporary tag, parked outside of his neighbor's house.

T.J. saw the people move to the side door closest to the window where T.J. was standing. He then saw at least one person go inside. He could tell there was a struggle inside the house, so he ran to get his phone to call 911.

T.J. explained that he saw another struggle at the door and a large man came out and ran. The police were showing up and the car started to drive off eastbound on East 10th Avenue and right on North Magnolia Street. The large man was running towards the moving car. Then T.J. saw another man come out of the house. Police were chasing the second man on foot as he ran west. T.J. then saw this man come back between houses heading back east toward his house. T.J. saw him trying to carjack two separate cars. One of the cars he tried to carjack was heading southbound on North Monaco Parkway. He then saw the suspect attempt to carjack another car

⁶ I use initials to protect witness' privacy.

northbound, and T.J. heard shots fired at that time. He then saw the police pull the man from the car.

Victim M.C.

Victim M.C. stated to investigators that she was driving the grey Jeep Grand Cherokee which Larry Hamm attempted to carjack. M.C. was driving northbound on North Monaco Parkway. As she was driving, she saw a male in an orange vest running on her right side across someone's front yard. M.C. was in the lane closest to where this man was. The man ran right in front of her and M.C. had to slam on her brakes to avoid hitting him. The man threw the helmet and she believed she had hit him. The man slammed his hands on her hood and told her to get out. The man reached down, and when he pulled his hands up, he had a gun and said he would shoot her. The man was screaming at her. M.C. took her foot off of the brake and started to inch forward as he was "fidgeting" with the gun. M.C. saw the bullets ejected from his gun go up towards her windshield and land on her car. The man turned his body collapsing her side mirror and tried to smash out her driver's side window with the butt of the gun. The man was shouting for her to get out. M.C. sped off. M.C. described being terrified and knowing that she only had a few seconds to react before she would become a victim of a carjacking.

M.C. remembered hearing loud pops, as she was driving away and did not know what it was and got scared. When she got to a safe area, M.C. called her father. M.C. drove home and then called the police. She said the whole incident was a short encounter lasting about eight seconds.

Victim P.L.

Victim P.L. was driving the maroon Scion hatchback which Larry Hamm attempted to carjack. P.L. told investigators that she was driving north on North Monaco Parkway when she saw a police officer and a man wearing a construction jacket in the street. The car in front of her had stopped and then started to go. The guy in the construction jacket appeared in front of her car and then came to the side of her vehicle. P.L. tried to lock her doors, but the man was able to get in on the front passenger's side and sat down in the car. The guy in the construction jacket pushed her a little bit on her arms. P.L. tried to get out of her door. She turned her head and was screaming. The officer then shot the guy in the construction jacket. P.L. had cuts on her arms from the window being shattered during the shooting, but was otherwise uninjured.

P.L. told investigators she felt that the officer prevented the guy in the construction jacket from "doing what he was there to do." She said she was grateful for the officer and that he saved her.

CRIME SCENE

Denver Police Department Crime Scene Unit personnel responded to the area to process the scene.⁷

Inside the house at 950 N. Monaco Pkwy, Crime Scene Unit personnel found one spent cartridge case with an unknown head stamp located in the foyer just inside the north entry door; one spent

⁷ The area of this crime scene was large. I only include information necessary to make my decision in this matter.

cartridge case located just inside the garage door leading to the house; one live round located on the kitchen floor; and one spent cartridge case head located on the kitchen counter.

In the street in front of a house in the 1000 block of North Monaco Street Parkway, Crime Scene Unit personnel found three live rounds of ammunition matching those inside 950 N. Monaco Pkwy and one round of ammunition that was not identified by type. These rounds were located in the area where Larry Hamm attempted to carjack M.C., the driver of the grey Jeep Grand Cherokee. This evidence is consistent with Larry Hamm racking the slide or otherwise manipulating his gun as he was threatening M.C.



Figure 10. Four live cartridges in the street near the location where Larry Hamm attempted to carjack M.C. in her grey Jeep Grand Cherokee. The blue crime placards identify the location of the live cartridges.

Crime Scene Unit personnel also processed M.C.'s grey Jeep Grand Cherokee. Smudge marks and suspected blood were observed on the driver's side of the hood of the vehicle. Two live cartridges were found in the driver's side wiper well. This is consistent with Larry Hamm slamming his hands on the hood of the SUV and then racking the slide on his handgun, ejecting live cartridges from his handgun. The live cartridges were the same type as that recovered from inside 950 N. Monaco Pkwy and from the street in front of the house in the 1000 block of North Monaco Parkway.



Figure 11. The hood of the grey Jeep Grand Cherokee which Larry Hamm tried to carjack with two of the live cartridges he ejected on to the hood of the vehicle.

A spent cartridge case was located in the front yard of 1000 N. Monaco St. Pkwy. This is consistent with the ammunition Officer Repjar was carrying.



Figure 12. A spent cartridge from Officer Repjar's handgun.

A spent cartridge case matching the ammunition carried by Officer Thomas was located in the front yard of 1000 N. Monaco St. Pkwy.

In the grassy median across the street from two homes in the 1000 block of North Monaco Parkway, Crime Scene Unit personnel located a Brown Springfield Arms 9mm Hellcat semi-automatic handgun. The weapon was locked to the rear and the magazine was empty. This is consistent with Larry Hamm racking the slide on the gun and ejecting all of his ammunition, and throwing the gun as he fled.



Figure 13. The handgun Larry Hamm discarded in the grass median.



Figure 14. A close range photo of the gun Larry Hamm discarded in the grass median.

Further north in the northbound lanes of North Monaco Parkway, Crime Scene Unit personnel found three spent cartridge cases. They were located in the street in front of 1034 N. Monaco St. Pkwy. These spent cartridges are consistent with ammunition Corporal Jenkins carried in his handgun.



Figure 15. The spent cartridge cases from Corporal Jenkins' gun.

In the street in front of 1034 N. Monaco Pkwy, near the front passenger's door of the maroon Scion, Crime Scene Unit personnel located one black wallet with suspected blood. The black wallet contained the identification of Larry Hamm. Next to it was one brown wallet with suspected blood. The brown wallet contained \$44.00 U.S. currency and the identification of the surviving victim inside 950 N. Monaco Pkwy. Next to the wallets, Crime Scene Unit personnel found one silver and black magazine loaded with 10 rounds of 9mm ammunition which is consistent with the unloaded gun recovered from Joshua Hamm's pocket, one black cellphone, and a white envelope containing \$200 in U.S. currency with suspected blood. These objects were recovered from Larry Hamm's pockets after he was pulled from the maroon Scion.



Figure 16. A black and brown wallet, gun magazine, cell phone, and white envelope found in the street near the front passenger's door of the maroon Scion.

Weapon Unloads

Officer Repjar

Officer Repjar's duty weapon was a Sig Sauer P220 .45 caliber handgun. One live round of "Speer 45 Auto" ammunition was located in the chamber. Four live rounds of "Speer 45 Auto" ammunition were located in the magazine. According to the manufacturer, the magazine holds seven rounds. This round count is consistent with Officer Repjar firing his weapon three times.

Officer Thomas

Officer Thomas's duty weapon was a Glock 19 GEN4 9mm handgun. One live round of "Speer 9mm Luger +P" ammunition was located in the chamber. Fourteen live rounds of "Speer 9mm Luger +P" ammunition were located in the magazine. The magazine capacity is 15 rounds. This round count is consistent with Officer Thomas firing her weapon once.

Corporal Jenkins

Corporal Jenkins' duty weapon consisted of a Smith and Wesson M&P 9mm handgun. One live round of "Speer 9mm Luger +P" ammunition was located in the chamber. Fourteen live rounds of "Speer 9mm Luger +P" ammunition were located in the magazine. The magazine holds 17 rounds. This is consistent with Corporal Jenkins firing his weapon three times.

POST-MORTEM EXAMINATION

On December 29, 2020, the Chief Medical Examiner at the Denver Office of the Medical Examiner performed a postmortem examination of Larry Hamm. A Denver Police Department Crime Lab criminalist and a Denver Police Department detective were present.

The postmortem examination revealed that Larry Hamm died as a result of three gunshot wounds: two to the abdomen and one to the pelvic area. These gunshot wounds were all on the right side of Mr. Hamm's body. Each wound path showed that the rounds travelled front-to-back and slightly left-to-right. The uppermost gunshot wound on Mr. Hamm's body was a penetrating wound that entered the abdomen and damaged Mr. Hamm's liver and spine. This bullet caused a fatal injury to the liver then it lodged in Mr. Hamm's spine. The middle gunshot wound was a perforating wound that entered the abdomen and exited the lower back but did not impact any organs. The lowest gunshot wound was a penetrating wound that entered the pelvic area then lodged in the sacroiliac joint.

Toxicology results revealed the presence of methamphetamine, amphetamine, benzoylecgonine (a metabolite of cocaine) and cannabinoids.

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.

Use of Force by a Peace Officer

The justification for a peace officer's use of physical force is described in **Colorado Revised Statute § 18-1-707 - Use of physical force in making an arrest or in preventing an escape:**

- (1) Peace officers, in carrying out their duties, shall apply nonviolent means, when possible, before resorting to the use of physical force. A peace officer may use physical force only if nonviolent means would be ineffective in effecting an arrest, preventing an escape, or preventing an imminent threat of serious bodily injury or death to the peace officer or another person.
- (2) When physical force is used, a peace officer shall:
 - (a) Not use deadly physical force to apprehend a person who is suspected of only a minor or nonviolent offense;
 - (b) Use only a degree of force consistent with the minimization of injury to others;
 - (c) Ensure that assistance and medical aid are rendered to any injured or affected persons as soon as practicable; and
 - (d) Ensure that any identified relatives or next of kin of persons who have sustained serious bodily injury or death are notified as soon as practicable.
- (3) A peace officer is justified in using deadly physical force to make an arrest only when all other means of apprehension are unreasonable given the circumstances and:
 - (a) The arrest is for a felony involving conduct including the use or threatened use of deadly physical force;
 - (b) The suspect poses an immediate threat to the peace officer or another person;
 - (c) The force employed does not create a substantial risk of injury to other persons.
- (4) A peace officer shall identify himself or herself as a peace officer and give a clear verbal warning of his or her intent to use firearms or other deadly physical force, with sufficient time for the warning to be observed, unless to

do so would unduly place peace officers at risk of injury or would create a risk of death or injury to other persons.

- (4.5) Notwithstanding any other provision in this section, a peace officer is justified in using deadly force if the peace officer has an objectively reasonable belief that a lesser degree of force is inadequate and the peace officer has objectively reasonable grounds to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving serious bodily injury.

Colorado Revised Statute § 18-1-707

Use of Deadly Physical Force

In addition to the justification for a peace officer's use of force, if I were to charge these officers they also would be able to avail themselves of the use of force statute applicable to all defendants described in **Colorado Revised Statute § 18-1-704 - Use of physical force in defense of a person:**

- (1) ...[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.
- (2) Deadly physical force may be used only if a person reasonably believes a lesser degree of force is inadequate and:
 - (a) 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; or
 - ...
 - (c) The other person is committing or reasonably appears about to commit kidnapping as defined in section 18-3-301 or 18-3-302, robbery as defined in section 18-4-301 or 18-4-302...

Colorado Revised Statute § 18-1-704.

These justifications are "affirmative defenses." This means that a person accused of a crime for using force need not 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 John Repjar, Officer Crystal Thomas and Corporal Jenkins each acted without lawful justification?**

I will first consider the actions of Officer Repjar and Officer Thomas and then I will consider Corporal Jenkins.

Officers Repjar and Thomas

Officers Repjar and Thomas were near each other and discharged their weapons simultaneously. As such, my analysis of their conduct is the same. As neither officer was responsible for Larry Hamm's death, neither used deadly force.⁸ I also note that these officers did not use physical force. However, as I am required to explain my findings pursuant to C.R.S. § 20-1-114 and both officers discharged their firearms, I make the following observations.

In this situation both officers attempted nonviolent means, as required by C.R.S. § 18-1-707(1) prior to discharging their weapons. The officers demanded that Larry Hamm stop and put down his gun. They fired their firearms in an attempt to prevent an imminent threat of serious bodily injury or death to victim M.C., the driver of the Jeep Grand Cherokee.

Officers Repjar and Thomas were clearly identifiable as police officers. Furthermore, Officer Repjar announced themselves as such prior to the shooting. However, these officers did not have enough time to announce their intention to fire their firearms without unduly creating a risk of injury to M.C. and other drivers on North Monaco Parkway. As Officer Repjar explained in his statement: "In the short amount of time that I had, I didn't see any people there. The risk [to the driver of the grey Jeep Grand Cherokee] was very great."

Officers Repjar's and Thomas's belief that Larry Hamm was about to use unlawful physical force upon M.C. was reasonable. There are several facts that are important to note here: these officers were responding to the scene of an armed person assaulting a homeowner; as they arrived they heard a gunshot; they saw a man matching the description of the suspect holding a gun run from the home; this man then stopped a car in the roadway, threatened a driver and then attempted to rob and/or kidnap the driver; and, both officers stated they heard a gunshot before firing.⁹ For these reasons, in my opinion, the degree of force these officers used was reasonable.

I have some concerns about the discharge of weapons by Officer Repjar and Thomas. At the moment these two officers discharged their weapons, cars were travelling both northbound and southbound on North Monaco Parkway. In fact, one car travelling southbound was struck at least twice by bullets fired by one or both of these officers. Behind the lanes of traffic were homes. Officer Thomas's shot was particularly concerning, as not only were cars and homes behind Larry Hamm when she fired, but Officer Repjar was in between her and Larry Hamm and close to the line of fire. That said, this was a fast developing and fast moving situation, and they both acted to prevent an innocent person from becoming the victim of a violent crime.

Given all of the circumstances at issue I do not believe a jury would find beyond a reasonable doubt that Officers Repjar and Thomas acted without lawful justification. For these reasons Officers Repjar and Thomas were justified in discharging their weapons in this incident.

⁸ See *People v. Ferguson*, 43 P.3d 705, 707 (Colo. App. 2001) (In light of the way that "deadly physical force" is defined by statute, it is error to instruct the jury concerning the concept of use of deadly physical force in a case in which the victim did not die.)

⁹ Ofc. Repjar believed Larry Hamm fired his weapon first and Ofc. Thomas believed Ofc. Repjar fired first. It appears that Larry Hamm did not fire his weapon while standing next to the driver's door of the grey Jeep Grand Cherokee. In fact, he most likely unloaded his gun as he manipulated the slide as he menaced the driver while standing in front of the vehicle.

Corporal Jenkins

The analysis of Corporal Jenkins' conduct is separate and apart from that of Officers Repjar and Thomas. In considering the criminal culpability of Corporal Jenkins, I consider two sections of the Colorado Revised Statutes: C.R.S. §18-1-704 and C.R.S. §18-1-707.

C.R.S. §18-1-704 (2)(a) allows all persons to use deadly physical force if the person believes a lesser degree of force would be inadequate, and the person has reasonable grounds to believe and does believe that he/she or another person is in imminent danger of being killed or receiving great bodily injury.

C.R.S. §18-1-707 (3)(a) - (c) allows peace officers to use deadly physical force when nonviolent means would be ineffective and other means of apprehension are unreasonable if the arrest is for a felony involving conduct including the use or threatened use of deadly physical force, the suspect poses an immediate threat to the peace officer or another person, and the force employed does not create a substantial risk of injury to other persons.

In this situation, Corporal Jenkins had objectively reasonable grounds to believe that Mr. Hamm should be arrested for a felony involving the use or threatened use of deadly physical force, he presented an imminent threat of serious bodily injury or death to P.L., the driver of the maroon Scion, and the force used would not create a substantial risk of injury to another person. He also had objectively reasonable grounds to believe that a lesser degree of force would be inadequate and nonviolent means would be ineffective.

The objectiveness of these beliefs is supported by the following facts: Corporal Jenkins knew Larry Hamm was suspected of committing a serious violent felony involving the use or threatened use of deadly physical force inside 950 N. Monaco Pkwy.¹⁰ Corporal Jenkins responded to the scene of an armed home invasion reported to involve an assault that escalated into a "shots fired" incident involving the police. As he arrived he initially saw Larry Hamm trying to rob and kidnap the drivers of cars on southbound North Monaco Parkway; Larry Hamm evaded him and refused to comply with his commands; Larry Hamm ran across the North Monaco Parkway median and tried to rob and kidnap the driver of the maroon Scion; and Larry Hamm ignored a direct warning that if he got in the car he would be shot. In this situation, it was reasonable to believe that P.L. was in imminent danger and a lesser degree of force would have been inadequate and nonviolent means would have been ineffective.

As noted, Corporal Jenkins reasonably believed Larry Hamm was about to use unlawful physical force upon P.L. the driver of the maroon Scion. Furthermore, Corporal Jenkins had reasonable grounds to believe, and in fact, did believe, that P.L. was in imminent danger of being killed or of receiving great bodily injury. Given that Larry Hamm was fleeing from the scene of an aggravated assault and shooting and he was actively attempting to carjack P.L., the degree of force Corporal Jenkins used was reasonable; other means were inadequate.

¹⁰ Police officers, including Corporal Jenkins, were not aware that one person was murdered and another seriously injured in this incident until after they were able to make entry into 950 North Monaco Parkway.

The manner in which Corporal Jenkins used deadly physical force did not create a substantial risk of injury to others as he aimed his firearm down and to the right side of Mr. Hamm so as not to endanger P.L. Given the urgency and dangerousness of the situation, other means of apprehension were unreasonable. Corporal Jenkins was faced with a choice of letting Mr. Hamm get away by injuring or forcing P.L. to drive to an unknown location and possibly harming her once he arrived or by forcibly removing her from the car. Corporal Jenkins was acting to prevent Mr. Hamm from escaping and causing further harm.

In addition, C.R.S. §18-1-704 (2)(a) allows all persons to use deadly physical force if the person believes a lesser degree of force would be inadequate, and the person has reasonable grounds to believe and does believe that he/she or another person is in imminent danger of being killed or receiving great bodily injury. Corporal Jenkins' actions were justified pursuant to this statutory section as well.

C.R.S. §18-1-704 (2)(c) allows the use of deadly physical force when the other person is committing or reasonably appears about to commit kidnapping or robbery. Given the behavior of Mr. Hamm in trying to carjack cars traveling south on North Monaco Parkway and then getting into the passenger's side of the northbound Scion while the driver was in it, it was reasonable for Corporal Jenkins to believe that Mr. Hamm was attempting to kidnap and/or rob P.L.

While I believe Corporal Jenkins' primary purpose in shooting Larry Hamm was to prevent him from harming others in an armed carjacking/kidnapping, his actions were justified pursuant to the need to make an arrest and to prevent a kidnapping or robbery as provided in C.R.S. § 18-1-707(3).

C.R.S. §18-1-707 outlines several other requirements for officers regarding the use of physical force and deadly physical force. Officers are required to use nonviolent means before using physical force. Here, nonviolent means would have been ineffective in preventing an imminent threat of serious bodily injury or death to P.L. Officers are also required to use only a degree of force consistent with minimization of injury to others and ensure that assistance and medical aid are rendered as soon as practicable. Next of kin are to be notified as soon as practicable.

The degree of force used here, though deadly, was consistent with the minimization of injury to others as Corporal Jenkins intentionally aimed his weapon low and to the left side of Larry Hamm's body. An ambulance was requested immediately and medical aid was rendered to Larry Hamm within three-and-one-half minutes of the shooting. His next of kin was notified at 9:00 p.m. the same day.

C.R.S. §18-1-707(4) requires that officers identify themselves and warn of their intent to use firearms unless to do so would place officers or others at risk of injury or death. While Corporal Jenkins did not identify himself as a peace officer, it was abundantly clear he was a peace officer as he was dressed as a police officer, and he exited a police car with lights and sirens on. Corporal Jenkins gave clear warning of his intent to use deadly force when he told Larry Hamm, "I will shoot you if you get in that car!"

Given all of the circumstances in this extremely dangerous and volatile situation, Corporal Jenkins was justified in his use of deadly force pursuant to Colorado law.

I conclude that under applicable Colorado law no criminal charges are warranted against Officer John Repjar, Officer Crystal Thomas or Corporal Jeffery Jenkins.

Sincerely,



Beth McCann
Denver District Attorney

cc: Deputy Chief Barb Archer; Division Chief Joe Montoya; Commander Matt Clark; Commander Kathleen Bancroft; Lieutenant Joe Bell, Sergeant Scott Murphy; Sergeant Brock Ellerman; Sergeant Scott Hagan; Detective Daniel Andrews Trujillo; Detective Mary McIver; Officer John Repjar, Officer Crystal Thomas; Corporal Jeffery Jenkins; John Davis, Esq., Attorney for Officer Repjar; Officer Thomas and Corporal Jenkins; Denver City Attorney Kristin Bronson; and, Interim Director of the Office of Independent Monitor Gregg Crittenden.