



December 29, 2023

RE: November 16, 2023, Officer-Involved Shooting at 120 West Laurel Street, Ft Collins, Colorado --- LCSO (lead agency) #23-11287; LPD #23-9387; CSUPD #23-1762; TPD #23-778; FCPS #23-15796.

Chief Swoboda,

Pursuant to §16-2.5-301 and §20-1-114, C.R.S., and the 8th Judicial District Critical Incident Protocol, the District Attorney's Office reviewed the November 16, 2023, shooting of William Hayes, which occurred near 120 W. Laurel St., outside the Alley Cat Coffee House, in Fort Collins. This legally mandated review is to determine whether Fort Collins Police personnel violated any Colorado criminal statutes with respect to the shooting.

I. EXECUTIVE SUMMARY

Applying the law to the facts of this incident, as described in greater detail below, I conclude Officer Tyler Reichle was legally justified in his use of physical force to defend himself from the threat posed by William Hayes on November 16, 2023. Because I have concluded that Officer Reichle was justified in his use of physical force, no criminal charges will be filed.

II. THE STATUTORY FRAMEWORK FOR OFFICER INVOLVED SHOOTING INVESTIGATIONS AND REVIEW

C.R.S. § 16-2.5-301 governs investigations into peace officer-involved shooting investigations. It provides, in relevant part:

Each police department, sheriff's office, and district attorney within the state shall develop protocols for participating in a multi-agency team, which shall include at least one other police department or sheriff's office, or the Colorado bureau of investigation, in conducting any investigation, evaluation, and review of an incident involving the discharge of a firearm by a peace officer that resulted in injury or death. The law enforcement agencies participating need not be from the same judicial district.

The investigation into this shooting incident was conducted by a multi-agency team consisting of personnel from agencies within the jurisdiction who are members of the district's Critical Incident Response Team (CIRT). Specifically, the Larimer County Sheriff's Office was the lead agency, and it was aided by other agencies, including the Loveland Police Department, the Timnath Police Department, the Colorado State University Police Department, Fort Collins Police Services, and the District Attorney's Office.

C.R.S. § 20-1-114 provides:

The district attorney shall, if no criminal charges are filed following the completion of an investigation pursuant to section 16-2.5-301, C.R.S., release a report and publicly disclose the report explaining the district attorney's findings, including the basis for the decision not to charge the officer with any criminal conduct. The district attorney shall post the written report on its website or, if it does not have a website, make it publicly available upon request.

This document constitutes a report of the District Attorney's findings and includes the basis of the decision not to charge the involved peace officer with any criminal conduct.

III. MATERIALS REVIEWED

I have been provided materials produced during the CIRT investigation into the shooting of William Hayes. The agencies and case numbers were Larimer County Sheriff (lead agency)–SO23-11287; Loveland Police – LP23-9387; CSU Police – CS23-1762; Timnath Police – TI23-778; Fort Collins Police – FC23-15796.

The information I have considered includes:

- Relevant body worn camera footage of the involved peace officers
- Reports/summaries of the CIRT investigators
- Recorded interview of Officer Tyler Reichle
- Recorded and/or otherwise documented interviews of witnesses
- Photographic and video evidence, including but not limited to comprehensive scene documentation, surveillance footage, cell phone camera footage, and cell phone text data
- Physical evidence (*e.g.*, firearms, ballistics, items recovered from scene, etc.)
- Medical evidence, including autopsy findings

IV. APPLICABLE LAW

The District Attorney's review of this event is guided by the Colorado statutes pertaining to the use of force by peace officers, including self-defense. Officer Reichle and all other persons referred to as "officers" in this letter are "peace officers" per statute. *See* §16-2.5-101-103, C.R.S.

By using his service weapon and causing the death of William Hayes, Officer Reichle's conduct implicates Colorado's peace officer use of force and self-defense statutes. As he caused death, the deadly physical force provision of the statute also applies in part.

Colorado's relevant use of force statutes and legal definitions:

§18-1-901(3)(d), C.R.S. "Deadly physical force" means force, the intended, natural, and probable consequence of which is to produce death, and which does, in fact, produce death.

§ 18-1-707, C.R.S. (Use of force by peace officers—definitions), states in relevant part:

- (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 injury 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 of death or serious bodily injury 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.

§ 18-1-704, C.R.S., Colorado’s general self-defense statute, states in relevant part:

- (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.

Under Colorado law, a person acts legally to defend themselves or others when both a “reasonable belief and actual belief” exist on behalf of the actor. *See Sanchez v. People*, 820 P.2d 1103, 1108 (Colo. 1991). The law requires the fact finder to “weigh all relevant circumstances to determine whether a person asserting the defense of self-defense has acted as a reasonable person would act in similar circumstances.” *Id.*

V. SUMMARY OF LEGAL STANDARD AS APPLIED TO THIS EVENT

Distilling the legal authority down to an applicable standard to apply to this event, we must determine:

- 1) Whether Officer Reichle reasonably believed that the use of physical force – and degree of force employed - was necessary to defend himself or others from what he reasonably believed to be the imminent, or continued, use of physical force by William Hayes?
- 2) Whether nonviolent means would have been ineffective in preventing an imminent threat of injury to Officer Reichle or another person in this situation?
- 3) Whether Officer Reichle’s use of deadly physical force was used to apprehend a person who was suspected of more than a minor or nonviolent offense?

Additionally, the law requires us to ask:

- 4) Did Officer Reichle identify himself as a peace officer and give a clear verbal warning of his intent to use his firearm, with sufficient time for the warning to be observed, and if not, is he exempted from having given that warning because it: a) would have unduly placed him or his fellow officers at risk of injury, or b) would have created a risk of death or injury to other persons?
- 5) Did Officer Reichle or his fellow officers ensure that assistance and medical aid were rendered to Mr. Hayes as soon as was practicable after the shooting?
- 6) Did Officer Reichle or other officers ensure that Mr. Hayes’ identified relatives or next of kin were notified as soon as practicable?

*Note, while deadly force was used, the following statutory question (#7 below) will not be addressed as the evidence does not support that Officer Reichle used deadly force to *arrest* Hayes, but instead used deadly force to defend his own life from the threat posed by Hayes.

- 7) Whether all other means of apprehension – less than deadly force - were unreasonable given the circumstances, and (a) The arrest was for a felony involving conduct including the use or threatened use of deadly physical force; (b) The suspect posed an immediate threat of death or serious bodily injury to the peace officer or another person, and (c) The force employed did not create a substantial risk of injury to other persons.

VI. SUMMARY OF RELEVANT FACTS

The following factual summary is derived from multiple sources. As the relevant sources of information are discussed in detail below, source attribution is not provided in this summary section.

On November 16, 2023, at 9:33 p.m., Fort Collins Police Services (FCPS) Communications Center began receiving 911 calls from citizens near or in the Alley Cat Coffee House at 120 West Laurel Street. Various citizens reported a dark-haired white male acting aggressively and causing a disturbance in the alley and parking area outside the business. FCPS officers were dispatched to the area. As officers were responding, the dispatchers were initially told the male was holding an axe (or hatchet) and that he was becoming more aggressive and was shouting racial slurs. Additional information was provided as officers responded, including that the male had apparently sprayed a citizen with mace (pepper or "OC" spray).

Officer Reichle was the first officer to arrive, and within moments made visual and verbal contact with the male, William Hayes. Hayes was in the parking area east of the business and was yelling when Officer Reichle saw him. Officer Reichle saw that Hayes possessed a hatchet and what appeared to be a large canister of pepper spray. Officer Reichle clearly and firmly ordered the male to drop the items and advised him that he was under arrest while he had the male at gunpoint. Reichle specifically stated, "Drop the axe!" (multiple times), "Do it now!" "Get on the ground!" and, "You are under arrest!" Hayes did not comply with Officer Reichle's commands and told the officer that he did not have to drop the items. Officer Reichle gave the male several commands, with the volume and urgency increasing in his tone.

As Mr. Hayes was not responding to the commands, Officer Reichle shifted from his firearm to his taser. After a few more commands, including telling Hayes, "You're gonna get tased," Officer Reichle deployed his taser. The taser prongs made contact and Hayes immediately fell to the ground, but the effects did not persist; Hayes got up almost immediately and began charging Officer Reichle from approximately 15 feet away with his right hand holding the OC canister extended toward Officer Reichle. The total time between the taser deployment and Hayes charging Officer Reichle was under four seconds.

As Mr. Hayes charged Officer Reichle with the OC spray, Reichle drew his firearm and fired at the male four times. After the initial commands to Hayes to drop the axe and get on the ground, Officer Reichle gave no additional commands that deadly force would be used before firing his weapon.

Officer Reichle moved to the side and backward as the male veered off his direct path toward the officer. William Hayes was then standing bent over in the alley near the southeast corner of the Alley Cat Coffee House building, and after approximately one to two seconds he stood upright and turned his body again toward Officer Reichle. Officer Reichle fired two additional shots at Hayes. Again, no additional commands were given to Hayes that deadly force would be used before firing his weapon the final two times.

Even after the last two shots were fired, Mr. Hayes appeared almost unaffected by the gunshots, and he continued to pursue Officer Reichle as the officer retreated backward down the alley toward Laurel Street. Hayes maintained possession of the OC spray canister in his right hand as he continued to approach Officer Reichle. As he retreated backwards down the alley, Officer Reichle relayed on his radio “Shots fired,” while he gave additional commands to Hayes to “Get on the ground! Do it now! Get on the ground!”

After approximately ten seconds moving through the alley toward Officer Reichle, William Hayes kneeled to the ground, evidently feeling the effects of his gunshot wounds, while he continued to hold the OC canister in his right hand. Officer Reichle gave Hayes three more commands to get on the ground, and he moved to a seated position and dropped the canister on the ground. Officer Reichle continued to give commands to Hayes, including, “Get on the ground! Let me see your hands! You are under arrest!”

Fort Collins Police Officer Christopher Young then arrived and began giving the male commands. Mr. Hayes followed some of the officers’ commands, but he continued to move, including getting on his elbows with his hands underneath his upper body, thus causing the officers to give additional commands and to refrain from immediately approaching him. The officers gave a combined 13 commands to Hayes as he continued to move, then eventually returned to a seated position. As Hayes was in a seated position, he appeared to mouth “Help me” to the officers. Officer Young told Hayes they would help him, but that he had to first follow their commands and stay on the ground.

Quickly thereafter, William Hayes substantially complied and laid on the ground and the officers approached and placed restraints on him. Officer Young immediately began to search for any gunshot wounds while other officers began to arrive. Officer Young and Officer Smyth rendered aid to Hayes, including placing a tourniquet on Hayes’ upper right arm and applying “QuikClot” bandages to his right side and cheek, until paramedics arrived approximately three minutes later. Hayes was then loaded onto the stretcher and his care was transferred to the ambulance crew.

Hayes was transported by ambulance to the Medical Center of the Rockies in Loveland, where additional life-saving efforts were attempted but were unsuccessful. William Hayes was pronounced deceased at 10:09 p.m. Throughout the police interaction with Hayes, his identity was unknown. His identity was positively confirmed the following day as William Leonel Hayes, date of birth: 08-08-1995. Upon determining his identity, Mr. Hayes’ family was notified of his death by members of the CIRT.

VII. MEDIA - RECORDINGS

1) 911 calls from witnesses.

- a. Fort Collins Communication Center began receiving calls about Hayes (described only as a white or Hispanic male with long dark hair, in tee shirt and long pants or slacks) acting erratically near the Alley Cat Coffee House at approximately 9:33 p.m. on November 16, 2023. Reports included the male was holding an axe and yelling racially biased statements toward random - and selected - persons in the area. The callers indicated that male’s behavior seemed to be escalating.

- b. Caller 1.
 - i. A citizen caller reported that the male was “having a mental health crisis in the parking lot.” She told the 911 call taker her perceptions in real time as she hurried others into the café for their safety. She initially stated the male was “screaming heavy racial slurs,” then told the 911 operator, “I think he has a weapon,” and “oh my God I think he just attacked somebody.” As she hears from others who were in closer proximity to the male, she reports to the call taker that “he maced someone” and “he has an axe,” and that “he definitely attacked somebody.”
- c. Caller 2.
 - i. A second citizen caller stays on the line with the 911 operator through the shooting. From her statements, it is clear she is observing some of the events firsthand but is also reporting what others are telling her.
 - ii. In describing the unfolding events she appears to be perceiving, she says, “There’s a guy running around with an axe and threatening people and running around and screaming.” She repeats, “He has an axe in his hand,” and says “He’s just screaming in general and threatening . . .”
 - iii. As the situation becomes more urgent, with a male voice (Hayes) screaming in the background, she reports, “He just maced someone.”
 - iv. Caller 2 becomes more concerned with the male’s behavior and tells the operator, “I would hurry, he’s gonna . . . hurt someone,” and “He’s just like pacing around the parking lot – people are all scattered . . . he’s standing there with an axe in his hand.”
 - v. Caller 2 reports to the call taker that the police have arrived, and after a few moments she tells the operator, “Oh, he just got tased,” then excitedly , “Oh my God, he’s running at them, he’s running at them. . .”
 - vi. Finally, as Hayes is shot by the officer, she reports mistakenly, “Holy fuck, he just [shot] them. He just shot at the cops . . . holy fuck, he just fired like six shots.”
 - vii. After realizing it was the police officer who fired the shots, she says, “I think the officer shot him . . . he ran at him with the axe and the officer fired at him like six times.” As she listens to a male witness with a better view, she tells the call taker, “He’s okay, he’s sitting back up – I think they were rubber bullets.”

2) Body worn camera footage – Officer Tyler Reichle.

- a. Officer Reichle activated his body worn camera in accordance with FCPS policy and Colorado law. The footage is visually and audibly clear and records the entire interaction with Mr. Hayes. Pursuant to CIRT protocol, Reichle did not watch his body worn camera footage before interviewing.
- b. As Reichle walks north into the alley Hayes’ yelling is immediately audible. Within approximately 16 seconds Reichle sees Hayes in the parking lot and over the next several seconds he commands Hayes at gunpoint to “drop the axe” in a clearly audible and firm tone. Hayes has a short wooden handled axe in his left hand and a cannister of OC spray in his right hand.

- c. When Hayes refuses to do so and walks a few steps toward the officer, Reichle switches to his taser while increasing the volume of his commands and ordering Hayes to the ground. Hayes continues to refuse to comply with Officer Reichle's commands while the officer has his taser pointed at him.
- d. At approximately 57 seconds into the footage, and roughly 30 seconds into the interaction between them, Reichle tells Hayes he is "going to get tased." In response to this statement, Hayes begins to manipulate the OC spray canister, seemingly to facilitate its use. After 60 seconds into the footage, Reichle deploys his taser and the prongs successfully induce neuromuscular incapacitation (NMI) causing Hayes to fall to the ground. Upon close inspection, it is evident that Hayes drops the axe where he falls.
- e. Within two to three seconds of hitting the ground, Hayes has already jumped up to a standing position, and immediately begins to charge the officer. It is clear from the footage that Hayes was running directly at the officer and was not trying to evade arrest or capture.
- f. At approximately 65 seconds into the footage with Hayes advancing quickly, Reichle draws his service firearm and shoots at Hayes four times as Reichle is backing up south into the alley.
- g. Hayes is disoriented after being hit by at least one gunshot, but he remains standing with the pepper spray canister in his right hand and begins to turn toward the officer from a very close distance. Reichle fires two additional rounds, but Hayes continues to walk quickly toward Reichle.
- h. Reichle backs up more quickly and is able to create distance between himself and Hayes while commanding him to the ground multiple times. Hayes finally goes to the ground approximately 85 seconds into the footage - just under a minute into the interaction. The OC spray canister is seen on the ground just next to Hayes.
- i. Officer Young arrives as Reichle is giving Hayes commands. Hayes appears to attempt to comply with Reichle's and Young's commands by putting his hands up and eventually laying down as the officers have instructed, however, his failure to fully follow instructions to lay down on his stomach delays the officers' ability to approach him and begin to administer medical aid.
- j. At approximately 2 minutes and 45 seconds into the footage, Officer Young is able to place handcuffs on Hayes and then flips him to over to locate any gunshot wounds and administer medical assistance. Young requests "QuikClot" and continues to administer lifesaving efforts as other personnel arrive and assist.
Note: A more detailed accounting of the medical assistance rendered to Hayes can be found on Officer Young's body worn camera video beginning at 1:15.



(Hayes facing Officer Reichle while holding hatchet (circled in red) and bear spray (circled in blue) just before taser deployment.)



(Hayes begins his charge toward Officer Reichle after being tased.)



(Hayes after first round of shots. Bear spray still in right hand.)

3) Cell phone video.

- a. CIRT investigators interviewed a citizen witness after learning he had recorded Mr. Hayes' behavior in the parking lot of the Alley Cat Coffee House and some of the interaction between him and the police. The citizen provided an interview (see below) and copies of his cell phone recordings to the CIRT investigators.
- b. The video captured two recordings of Hayes; one before Officer Reichle arrived and the other captures partial obstructed video - and a majority of the audio - of the tasing and shooting of Hayes.
- c. Cell phone video #1: Hayes is seen confronting two passersby and using the term "nigger" as he yells at them. It appears that one of the two people is a person of color.
- d. Cell phone video #2: Captures Hayes' interaction with Officer Reichle. Although visually obstructed, Officer Reichle is clearly heard giving commands to "drop the axe" and "get on the ground." The recording shows Hayes not complying, being tased, immediately falling to the ground, then getting up almost immediately and charging toward the officer from a close distance. In the video, Hayes is obstructed

by a garbage can enclosure as he runs toward the officer, then at least four shots in quick succession are heard distinctly.

4) Surveillance video – The Music District (westward view).

- a. The Music District video has no sound but effectively captures the distance between Officer Reichle and Hayes during the taser deployment, and more importantly during the moments in which Hayes is charging Reichle. While an exact estimate is not possible given the distance and visual quality of the recording, it is clear that Hayes is closing ground on Reichle quickly and likely comes within five to seven feet of the officer as he runs toward him.

VIII. RELEVANT WITNESS INTERVIEWS

1) Officer Tyler Reichle was interviewed by CIRT investigators about the events that took place on November 16, 2023.

- a. Officer Reichle described the information he had from dispatch as he responded to the scene outside the Alley Cat Café. Initially he was advised a Hispanic male was yelling profanities and making racially charged comments, but he was later told the male was in possession of a hatchet, and that he may have attacked someone. Additional information was provided regarding the male having a can of mace, and that he had sprayed someone on scene with the mace.
- b. Reichle explained that the information caused him to upgrade his response from “non-emergent” to “emergent” (meaning he activated the emergency lights and siren on his patrol vehicle).
- c. When he saw the male (later identified as William Hayes) outside the Alley Cat Coffee House he realized he had a hatchet in his left hand. He described it as a hatchet that was used to chop wood.
- d. Reichle discussed placing Hayes at gunpoint and giving him “many, many” commands to drop the weapon.
- e. When asked, Reichle told investigators that he had a police-issued patrol rifle in his vehicle, but he felt he needed to respond quickly to locate the male and to unsecure and load the rifle would have delayed his response. He explained, “I felt that I needed to be going. To respond.”
- a. Reichle described moving closer to place himself between Hayes and some patrons that he could see near the Alley Cat and Algiers Bar. He continued to increase his volume as he was giving Hayes commands to drop the axe. Reichle also saw Hayes holding a black canister of bear spray in his right hand and he said initially Hayes’ hands were on the canister portion, versus the nozzle, of the device.
- b. Reichle described shifting from his handgun to his taser since Hayes was not actively threatening him or the other citizens at the time, even though he had the weapons in his hands.
- c. Reichle described deploying his taser and successfully achieving NMI on Hayes. He said the NMI lasted only a second and while Hayes was on the ground, he began to adjust the nozzle on the mace canister.
- d. Reichle described his concern with potentially being sprayed by the bear spray and his prior experience being sprayed as part of his police training. He knew that the

OC (oleoresin capsicum) spray could have severe effects on his ability to defend himself or others. Reichle also stated that the OC spray (bear spray) Hayes had was “much, much bigger” than what he carries on duty.

- e. Reichle described seeing Hayes getting off the ground and beginning to sprint at him from approximately 10 feet away. He said he then drew his firearm and shot “a couple of rounds” at Hayes.
- f. After the initial volley of shots and having backed up, Reichle saw Hayes was now further to the west of the parking lot and Reichle was to his south. Reichle said he tried to reassess, but Hayes came at him again and he fired a second round of shots. Reichle believed the second set of shots had an effect, because Hayes eventually stopped coming at him and went to the ground.
- g. When asked why he initially shifted to his taser from his firearm, Reichle stated he wanted to deescalate the situation using the least amount of force necessary, and he believed using the taser would effectively get Hayes into custody and avoid him having to go “hands on” with Hayes.
- h. Reichle was asked about his thoughts after he fired his first rounds at Hayes. Reichle indicated thinking Hayes was “invincible” and “determined” as he continued to come at him. Hayes had already charged him once and after being shot, changed direction, and kept coming at him. He explained that Hayes was “motivated in whatever his ideals were.” Reichle said, “I was alone, and I felt like I wasn’t going to be able to keep backing up and get out of there by myself.”
- i. Based on how hard the man was fighting, Reichle believed that if Hayes reached him, he would have fought him for his gun, or it would have been a fight on the ground. In explaining the size difference between them, and Hayes’ persistence, Reichle said, “I bet he would have overpowered me and won.”
- j. When asked what he remembered about the axe in the male’s possession, Reichle said he did not recall the male ever dropping the hatchet. He explained, “I felt like this guy was motivated, and if he was able to get in close to swing that hatchet he was going, swing and hit me in the neck or something, you know.” Reichle said he did not think his ballistic vest would have been able to withstand a strike from the hatchet.
- k. The investigator asked Reichle about his issuance of verbal warnings before discharging his firearm. Reichle said based on how quickly Hayes got off the ground and charged at him, there was no time to give any warning about deadly force being used. He stated, “It was such a split-second thing.”

2) Witness 1 was interviewed by CIRT investigators about the events that took place on November 16, 2023.

- a. Witness 1 was a patron at the Atrium (bar beneath Alley Cat Coffee House) on the night of the shooting. He was outside the bar in the alley with a few acquaintances, including Witness 2, and two other individuals.
- b. He described the male (later identified as William Hayes) as holding a hatchet with a wooden handle and a silver blade in his right hand, and a black canister, which may have been pepper spray or bear spray, in his other hand.
- c. He reported Hayes said something like, "I am the government. Which ones of you are Mexicans? The Mexicans need to leave."

- d. He described Hayes pointing the cannister and spraying it at his friend Nate from less than six feet away. He described the spray as less than a full spray, but the odor made him believe it was pepper spray.
 - e. While Witness 1 did not see much of the interaction between the officer and Hayes because of his vantage point, he did hear the officer giving Hayes commands at a high volume from over 30 feet away.
- 3) Witness 2 was interviewed by CIRT investigators about the events that took place on November 16, 2023.
- a. Witness 2 described seeing and hearing a male (later identified at William Hayes) screaming and banging on a blue-colored car when he initially arrived in the area. He said it appeared the male was pulling on the vehicle's door handles and attempting to tear the door handles off. Witness 2 said Hayes was acting crazy and screaming about the world. Witness 2 moved his motorcycle further away from Hayes to avoid it being damaged by him given how he was acting.
 - b. Witness 2 said he could hear Hayes talking about how White people were evil and how Mexicans were good and pure, and that Mexicans were his brothers.
 - c. After going inside the café for a while, Witness 2 came back outside and was outside with a few of his friends. He told investigators that Hayes was still yelling from the front seat of his car about "all the problems in the world." It seemed to Witness 2 that Hayes liked Mexicans and did not like White people.
 - d. After going back inside and returning out into the alley, Witness 2 saw Hayes walking toward him and still screaming. He said that Hayes' hands were either in his shirt or behind his back at the time. Hayes yelled "Who here is Mexican?" Witness 2, trying to help or placate the man, raised his arm, stating, "Yeah, what's up man?"
 - e. Witness 2 said Hayes ran up to him and raised his hand revealing an axe as if he were going to hit him with it from about three feet away. Witness 2 said he turned to run and raised his right arm up to protect his head. As he turned, Hayes pointed a black-colored cylindrical tube at him and sprayed him with what he believed was mace. While Witness 2 did not feel any burning from the spray, he had a metallic taste in his mouth after being sprayed.
 - f. Witness 2 said he felt he could be seriously injured by the axe and felt defenseless at the time.
- 4) Witness 3 was interviewed by CIRT investigators about the events that took place on November 16, 2023.
- a. Witness 3 was a patron of the Alley Cat Coffee House and was sitting outside the café playing his guitar for much of the incident.
 - b. Witness 3 discussed initially seeing and hearing the male with the hatchet (later identified as William Hayes) screaming racial slurs and phrases such as, "Fuck everyone," "I fucking hate everything," "fuck life," and, "I'm American, I'm here to protect America, and I'm looking for niggers and Mexicans."
 - c. Witness 3 saw a Black female and her boyfriend walk past and Hayes began screaming "nigger" at the black female. Hayes was directing his anger towards the black female, screaming things such as, "hey nigger" and "there's a nigger," and

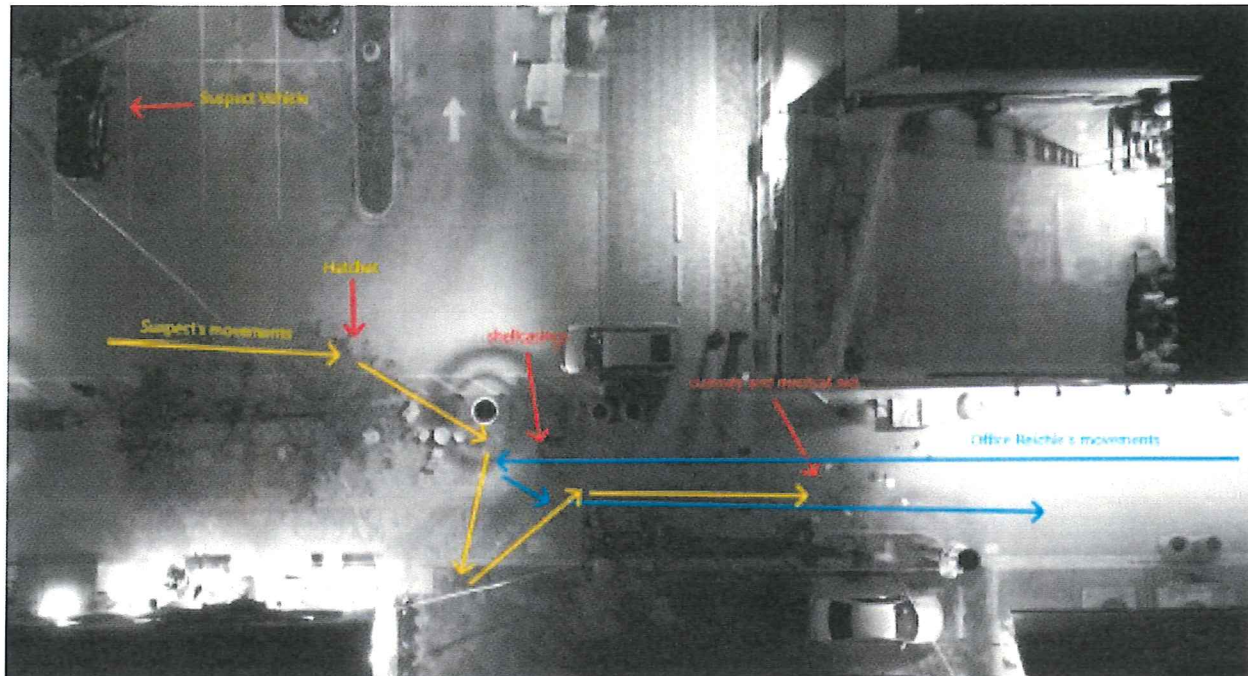
was screaming and directing his language towards this unknown black female. He said the couple walked away from Hayes and he did not pursue them.

- d. Witness 3 believed Hayes was acting like he was under the influence of drugs, stating the man was “tweaking” or something.
 - e. Witness 3 described the officer’s interaction with Hayes. He said it was immediately clear to him that the man approaching Hayes was an officer. He saw and heard the officer approach Hayes and say, “put the hatchet down... please put the hatchet down.” He said Hayes made a growling noise and screamed “no” in response to the command.
 - f. Witness 3 heard the officer warn Hayes that he was going to deploy the taser, and it was clear to Witness 3 that the officer was trying to avoid an altercation.
 - g. Witness 3 saw Hayes go down after being tased but then he suddenly got up and started charging the officer. The officer pulled his gun and was backpedaling down the alley and saying things like, “get back,” “stop,” “stay away,” “get on the ground,” and “put your hands up.”
 - h. Witness 3 believed the officer shot Hayes three times and he was still running at the officer after having been shot. He saw the officer continue to backpedal after having shot Hayes. He said he believed the officer was doing what he had to do to avoid being “mauled” or “attacked” by Hayes. According to Witness 3, Hayes “was going to fucking kill him ... he was going to kill somebody.”
- 5) Witness 4 was interviewed by CIRT investigators about the events that took place on November 16, 2023.
- a. Witness 4 reported seeing the male (later identified as William Hayes) in his vehicle in the parking lot and that he was yelling racial slurs. Hayes’ behavior caused Witness 4 to move his vehicle a bit further away from Hayes.
 - b. Witness 4 said from his vantage point, Hayes was standing still when he was tased by the officer.
 - c. Witness 4 also told the investigator, “The guy charged at him,” and, “I completely understand why the officer shot him.”

IX. ADDITIONAL EVIDENCE

1) Firearms and ballistics and weapons evidence:

- a. Officer’s firearm. Officer Reichle’s firearm was a Springfield Armory XDM – 9mm. The firearm contained a 19-round magazine. When examined, the magazine had 13 unspent rounds in the magazine and one in the chamber. Six shell casings were found on scene. The physical (crime scene) and recorded (media) evidence supports Officer Reichle having fired six rounds total with an initial volley of four rounds as Hayes first charged him, then an additional two rounds after Hayes crossed the sidewalk closer to the Alley Cat Coffee House while continuing his pursuit of Reichle.



(Diagram of shooting scene shows relative locations and directions of travel.)

- b. Axe/hatchet found at scene. The axe (or hatchet) that Hayes was carrying was found where Reichle's successful taser deployment occurred. It is evident that Hayes dropped the hatchet when he went to the ground at that location and did not have it in his possession when he charged the officer. It was similarly evident that this was a dangerous weapon just as witnesses and Reichle had perceived.



(Wooden handled "American Hickory" hatchet found on scene where Hayes was tased.)

- c. Pepper spray ("OC"). The OC spray (or bear attack deterrent spray) was found where Hayes ultimately stopped his pursuit of Officer Reichle and went to the ground after the shooting. It is evident that he maintained possession of the

bear/pepper spray until he went to the ground after the shooting. This spray can quickly disorient a human being (as well as larger animals) and the distance or range of fire can exceed 30 feet. The spray possessed by Hayes contained 2% capsaicin, which is significantly more powerful than most civilian or law enforcement OC sprays.



(Bear attack deterrent spray found on scene where Hayes went to ground after shooting.)



(Frontiersman Bear Attack Deterrent - 2% Capsaicin – “OC Spray”)

- 2) Medical evidence / autopsy findings:
 - a. Two gunshot wounds were located.
 - i. One bullet entered Hayes’ right cheek, traveled through his neck, and lodged in his right lung.
 - ii. Another bullet entered his outer upper right arm, travelled through his bicep muscle, and entered his right torso, ultimately lodging in left side of abdomen.
 - b. The Larimer County Coroner determined the manner of death was homicide and the cause of death was trauma from multiple gunshot wounds.
- 3) Interview with Hayes’ mother.

- a. Hayes had a history of mental illness. She believed him to be schizophrenic / bipolar but he refused treatment.
 - b. It is normal for Hayes to make racially biased statements.
 - c. She had spoken to Hayes earlier on November 16, 2023. Hayes was being rude to her, so she hung up on him. During the vulgar exchange, Hayes sent her a lewd picture of himself and made belligerent sexual statements to her. She reported those specific actions were escalated from his normal behavior and out of the ordinary.
- 4) Review of Hayes' cell phone data.
- a. Among other concerning - and likely criminal - evidence within the phone, many messages in Hayes' cell phone referred derogatorily to Mexican and Black people and expressed a hatred and paranoia toward those groups, including reference to shooting them, and references to the Bible supporting his beliefs and evidence supporting his own God complex.

X. CONCLUSION

The CIRT investigation in this case conformed to the letter and the spirit of §16-2.5-301, C.R.S. The investigation was thorough, objective, adequately resourced, and all necessary materials were provided in a timely manner. Finally, the investigation yielded ample evidence from which factual and legal conclusions could be reached.

Officer Tyler Reichle cooperated with the CIRT investigation and provided a voluntary interview. He appeared genuine in his responses and the independent evidence supported his version of events.

As stated above, in applying the law – both that of Officer Use of Force C.R.S. 18-1-707 and general Self Defense C.R.S. 18-1-704 – to the facts in this incident we must ask the following questions:

1. Did Officer Reichle reasonably believe that the use of physical force – and degree of force employed - was necessary to defend himself or others from what he reasonably believed to be the imminent, or continued, use of physical force by William Hayes that placed him in danger of being killed or seriously injured, and
2. Would nonviolent or lesser means have been ineffective in preventing an imminent threat of injury to Officer Reichle or another person in this situation?
3. Did Officer Reichle use deadly physical force to apprehend a person who was suspected of more than a minor or nonviolent offense?
4. Did Officer Reichle identify himself as a peace officer and give a clear verbal warning of his intent to use his firearm, with sufficient time for the warning to be observed, and if not, is he exempted from having given that warning because it: a) would have unduly placed him or his fellow officers at risk of injury, or b) would have created a risk of death or injury to other persons?

5. Did Officer Reichle or his fellow officers ensure that assistance and medical aid were rendered to Mr. Hayes as soon as was practicable after the shooting?
6. Did Officer Reichle or other officers ensure that Mr. Hayes' identified relatives or next of kin were notified as soon as practicable?

To avoid redundancy, questions 1 and 2 will be addressed together. Subsequently, questions 3, 4, 5, and 6 will be addressed independently.

(Questions 1 and 2) Officer Reichle had both a reasonable belief that using his firearm was necessary, and that nonviolent or lesser means would have been ineffective in stopping Hayes from causing serious injury or death.

As Officer Reichle approached William Hayes outside the Alley Cat Coffee House, he had information that Hayes was in possession of an axe and may have attacked someone, and that he also possessed mace (OC) and had already sprayed someone. Thus, Reichle knew he was entering into an unstable situation. Reichle's response was commensurate with the developing events and his intent to protect the public from whatever threat Hayes posed. In his interview, Reichle made clear that he felt time was of the essence to get to the scene and address the threat. Witness interviews and 911 calls confirm Hayes was an active threat to citizens in the area.

Officer Reichle's body worn camera footage shows how quickly his interaction with Hayes escalated. Reichle approached Hayes and immediately recognized he had both an axe and a bear spray canister in his hands. Reichle's first command to "drop the axe" occurred at 9:37 p.m. and over the next 30 seconds Reichle gave at least eleven separate, loud, and clear commands to Hayes to either "drop the weapon," "get on the ground," or inform him he was under arrest. Instead of complying with the commands, Hayes refused and began to manipulate the mace canister, just before Reichle deploys his taser.

Officer Reichle's taser deployment was reasonable at the time to protect himself and others in the general area and to attempt to take Hayes into custody without using a greater amount of force (Reichle initially switched from his firearm to the Taser in order to use the least amount of force necessary). Reichle explained his immediate concern when he tased Hayes was Hayes' intent to use the OC spray. Reichle discussed his experience with OC, and he reasonably believed that Hayes using the spray on him could lead to a dangerous situation in which he was attacked, incapacitated, and overwhelmed by Hayes.

After Officer Reichle's taser deployment hit Hayes at center mass and achieved NMI, Hayes' uncharacteristic and unpredictable response elevated the urgency exponentially. Within two to three seconds after falling to the ground, Hayes jumped up and immediately ran at the officer. Hayes had the OC canister in his right hand and, while he had dropped the axe, Reichle did not realize this. Within two to three seconds of Hayes jumping up and running at the officer, Reichle fired his first volley of shots. When Reichle discharged his firearm, Hayes was running at him and closing distance quickly, as Reichle was backing up into the alley. While a precise distance estimate is difficult, Hayes appeared to be within 7 to 10 feet of Reichle when he first fired his

firearm. Had Reichle not fired there is little question that Hayes would have been on him within one or two seconds at most. By the time Reichle fired, the situation had evolved from an attempt to effect an arrest to a need to exercise self-defense.

Such an attack by Hayes, rapidly approaching with bear spray, having ignored commands to stop, after having just assaulted and menaced other citizens with bear spray and a hatchet, gave Reichle reasonable grounds to believe he was in imminent danger of being seriously injured. Finally, review of the video evidence and consideration of the speed of events, show Reichle's perception that Hayes still had the hatchet was reasonable, as he never saw him drop the weapon upon being tased. All these factors support Reichle's decision to use his firearm and that using nonviolent means would have been ineffective. Having already properly deployed his Taser without the needed effects and in the midst of backing up to a quickly closing assailant, Reichle had no other reasonable lesser means of force at his disposal.

It is apparent from the footage that Hayes is struck by one of Reichle's first four shots because Hayes changes direction and moves to Reichle's left. However, Hayes did not go to the ground and instead stayed on his feet and began to turn toward the officer. Reichle quickly fired another two rounds at Hayes. Any ambiguity about Hayes' intent was quickly removed as he continued to quickly walk toward Reichle *after* the officer had fired an additional two rounds (with one of those rounds seemingly striking him). Hayes' behavior after the second volley of shots clearly demonstrates that he was determined to pursue Reichle and was still a threat. It is important to note that Reichle continued to back up and create distance between himself and Hayes to reduce the immediacy of the threat, but Hayes' chase negated any hope for de-escalation. Hayes quickly stalked Reichle after being shot two times, and he still maintained possession of the OC spray in his right hand. A close review of the footage shows Hayes took an additional 20 steps toward the backpedaling officer after Reichle had finished shooting.

Overall, Reichle's description of Hayes as "invincible" and "determined" was apt, given his conduct after the initial taser deployment and his continued advance even after being shot. Consistent with Reichle's concerns, given Hayes' resolve it was reasonable to believe that Hayes may have overpowered the officer, likely aided by use of the OC spray, if they became embroiled in a physical altercation.

Considering the totality of the circumstances facing Reichle, it was reasonable for him to shoot two more times after Hayes stayed on his feet and began to turn toward him, and it is evident that nonviolent means would have been ineffective. Reichle's actions in defending himself from this attack comported with what is allowed to any person – citizen or law enforcement officer – pursuant to Colorado's self-defense laws.

(Question 3) Officer Reichle's use of deadly physical force was used to apprehend a person who was suspected of more than a minor or nonviolent offense.

While Officer Reichle's use of deadly force was not primarily to arrest or apprehend, but was instead to defend himself from injury or death (thus making this question arguably inapplicable and Reichle's use of deadly force is primarily addressed in Questions 1 and 2 above, pursuant to

general self-defense), it is nonetheless clear that the crimes he was addressing when he approached Hayes included more than minor or nonviolent offenses.

At minimum, Hayes had already committed some form of assault and felony menacing in his conduct toward the patrons outside the Alley Cat Coffee House. Additionally, before Reichle fired his weapon, Hayes had already begun preparing to physically clash with the officer by manipulating the bear spray canister and not dropping the axe. Finally, Hayes' rushing toward the officer with the bear spray in his hand supported an additional act of menacing and assault of the officer. Charges for Hayes' conduct if he were to have survived would likely have included: Assault in the First Degree on a Peace Officer (class 3 felony), Attempted Assault in the Second Degree (class 5 felony), Attempted Third Degree Assault – Bias Motivated Crime (class 1 misdemeanor), Menacing (class 5 felony), and Resisting Arrest (class 2 misdemeanor).

(Question 4) Officer Reichle was exempted from giving the verbal warning because it may have unduly placed him at risk of injury or may have created a risk of death or injury to other persons.

The evidence supports that Mr. Hayes was determined to attack and harm Officer Reichle on November 16, 2023. After Reichle's initial use of a taser to attempt to control the situation without causing serious injury or death, Hayes made a drastic choice to attack the officer. The quickness with which Hayes closed the distance between himself and Reichle made giving warnings difficult if not impossible. Reichle gave many commands before deploying his taser and those orders were disregarded by Hayes. To attempt to issue deadly force warnings in the two or three seconds before Hayes would have been on top of him could well have impacted the officer's ability to defend himself, especially considering the OC spray is designed to be deployed from a distance. Facing such circumstances, it would be unreasonable to require warnings before Officer Reichle took steps to save his own life, and possibly the lives of others in the area. Thus, under the circumstances here, I find that Officer Reichle was exempted from giving the verbal warning that he was about to use his firearm.

(Question 5) Officer Reichle or his fellow officers ensured that assistance and medical aid were rendered to Hayes as soon as was practicable.

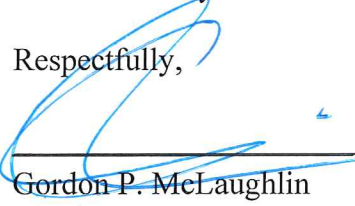
After Hayes was shot, he remained non-compliant for a period, thus preventing the officers from immediately tending to his medical needs. Whether it was because Hayes was unable or unwilling to comply with Officer Reichle's and Officer Young's commands does not affect the legal determination, as the officers were entitled to ensure their safety before attempting lifesaving efforts. Fort Collins Police Services' response and attempts to render medical assistance as soon as Mr. Hayes was compliant and handcuffed was reasonable, and therefore legal, under the circumstances.

(Question 6) Investigating peace officers ensured that any identified relatives or next of kin of Hayes were notified of his death as soon as practicable.

As stated above, the identification of Mr. Hayes did not occur until the following day. Soon after his identity was determined, Hayes' mother was notified of the shooting by the CIRT investigators. Under the circumstances, Hayes' family was properly statutorily notified.

The totality of the evidence presented through the CIRT investigation reveals that both the actual and perceived circumstances Officer Reichle faced outside the Alley Cat Coffee House on November 16, 2023, justified his actions in discharging his firearm and using deadly force. As a result, I find that no charges can or will be brought against Officer Tyler Reichle for the shooting of William Hayes.

Respectfully,



Gordon P. McLaughlin
District Attorney
8th Judicial District

12.29.23