



OFFICE OF THE DISTRICT ATTORNEY

Michael J. Allen, District Attorney

Colorado's 4th Judicial District - Serving El Paso & Teller Counties

November 13, 2025

Officer Involved Shooting

April 10, 2026

Release: #2026-05

Kate Singh
Chief Communications Officer

719-520-6084
katesingh@da4colorado.gov

Colorado's 4th Judicial District Attorney's Office has completed its review of the officer-involved shooting that occurred on November 13, 2025, in Colorado Springs, Colorado. Pursuant to Colorado Revised Statute 16-2.5-301 peace officer-involved shooting investigations protocol, all officer-involved shootings that result in injury or death shall be reviewed by a multi-agency team: A Deadly Force Investigation Team.

On November 13, 2025, at approximately 11:27 p.m., officers with the Colorado Springs Police Department were dispatched to the Nevada Flats Hotel located at 512 S. Nevada Avenue on a call for service from an occupant in room 211. The reporting party, Cody Flahive, stated to the 911 dispatcher that someone was trying to break into his room. Mr. Flahive reported that there had been an earlier incident during which a black male hit a female security guard and that he, Mr. Flahive, had defended her. Mr. Flahive reported that the man involved in that incident had threatened to return with a gun and was now trying to break into the room where he was staying with his one-year-old and the mother of his child. During that call, Mr. Flahive stated he did not see a gun and did not know where the suspect was located.

At the time of the call, CSPD Officer Austin Hornberger was working as a single unit and heard a Patrol Sergeant being dispatched to a burglary in progress at the Nevada Flats Hotel. Officer Hornberger knew patrol was busy that night, and he was available to cover the patrol sergeant.

At 11:37 p.m., Officer Hornberger arrived at the hotel, and through text, learned Patrol Sergeant Eric Ingalsbe was nearby, at Cimarron and I-25. Officer Hornberger parked his fully marked police cruiser on South Nevada Avenue and activated the vehicle's yellow flashing lights. He did



da4colorado.gov



@4thJudicialDA

not pull directly into the parking lot because he knew the space was an open, L-shaped format that would not provide adequate cover. Officer Hornberger was wearing his full CSPD uniform. He had “police” insignias on his hat and over the right side of his chest. He also wore his CSPD badge on the left side of his chest.

Officer Hornberger then proceeded to an outdoor staircase and spoke to a female, later identified as Heather Montgomery, at the top of the staircase. Ms. Montgomery said she was not the person who called 911 and thought the officer should head to room 000 where security was located. Officer Hornberger double-checked the call screen and proceeded towards room 211.

At 11:43 p.m., Officer Hornberger reached the second floor of the hotel and started down the walkway. In the same minute, Mr. Flahive came out of the security door at the west end of the walkway, facing Officer Hornberger. Almost instantly, Joshua “Erick” Duncan walked out of room 210, immediately to Mr. Flahive’s right, holding what appeared to be an AK-47 rifle, pointed down, on his right side. In that moment, his gaze was directed at Mr. Flahive.

Two additional adults, later identified as Justin Bugawisan and Ashley Pryor, walked out of room 210 right behind Mr. Duncan. At this time, Mr. Duncan turned to face Officer Hornberger, raising his rifle up to a firing position as he did so. Mr. Flahive put both of his hands in the air.

At the same time, Officer Hornberger was already backing up from his position on the walkway and had taken his duty weapon out of its holster.

As Mr. Duncan turned towards Officer Hornberger with a raised weapon, Officer Hornberger quickly raised his duty weapon and fired four shots. Ms. Pryor and Mr. Bugawisan were standing directly behind Mr. Duncan at the time Officer Hornberger fired, and were both struck by rounds.

Officer Hornberger was aware that the walkway had no options for cover; after the shooting, he turned and retreated to the east end of the second-floor walkway.

Officer Hornberger aired over radio that shots had been fired and descended the staircase.

Additional officers arrived and Mr. Duncan moved to the east end of the second-floor walkway, complied with police commands, and let officers know someone was injured. He was taken into custody. Officers were then able to safely respond to the west-end of the second-floor walkway where they discovered Ms. Pryor and Mr. Bugawisan with serious bodily injuries.

Ms. Pryor suffered two gunshot wounds. One round entered her right arm and the bullet lodged in her right hip. A second round shattered her right knee. Mr. Bugawisan also suffered two gunshot wounds. One round entered this right thigh and exited his right buttock. The second round fractured his left foot.

Neither Mr. Duncan nor Officer Hornberger were injured.

Officers located a fourth person inside room 210, Shavonne Swan. Ms. Swan was not injured.

At the time of this incident, Officer Hornberger was carrying his duty weapon, a Smith & Wesson M&P 9mm handgun. That handgun, a duty weapon magazine, and two spare magazines were collected at the scene.

Officers also recovered the object that Mr. Duncan pointed at Officer Hornberger, which was identified as a full auto AK1 BB gun. A later review of Officer Hornberger's BWC revealed "popping" sounds from Mr. Duncan firing the air rifle at the officer.



Duncan's Crosman Full Auto BB Rifle, recovered from room 210



Riley Defense AK-47 Semi-Automatic Rifle

All CSPD officers involved had their body worn cameras activated, and their recordings of this incident were successfully downloaded in their entirety. All BWC recordings are incorporated into this report by reference as video evidence of the facts.

Post-Shoot Interviews

Aside from the facts outlined above, there were multiple relevant statements made by law enforcement officers during their post-shoot interviews.

Officer Hornberger has been employed by the Colorado Springs Police Department (CSPD) since 2016. He was previously assigned to patrol and, on the date of this incident, currently assigned to the Downtown Area Response Team (DART). He has been with DART since 2021.

In an interview conducted by the El Paso County Sheriff's Office following the incident, Officer Hornberger said that when he saw Mr. Duncan walk out of his room, "I saw him holding a black, full, full-sized AK-47 in his right hand and I made – I remember I hesitated, like, 'Oh wow, that was not what I was expecting.' And he looks at me to his right, turns, and brings up the AK into

a firing position and then, my first thought when he pointed the AK at me was, Oh shit. I'm dead.' I thought, 'I am dead.'”

Officer Hornberger also spoke about the woman he first spoke to after he arrived at the hotel, stating, “I immediately remembered that there was the lady that I initially talked to behind me. There was nothing on my left to move to cause there was closed doors on my left and then the open walkways into the open parking lot on the second story to my right, and I thought, ‘Well, there’s nowhere to go.’ And I was so scared that, that I was going to be dead and that this lady was going to get shot behind me, that I drew my weapon.”

Further, Officer Hornberger said, “I remember I fired 3 to 4 times and then my next thought was, ‘Oh, no, I’m really close to this dude with an AK. I’m not going to win this.’”

Noting the lack of cover available on the walkway, he said, “I got really scared that he was going to shoot me in the back as I was running, and what was going through my head was, ‘Oh, well I’m going to get shot in the back. Get to cover before he shoots me in the back.’”

Also during his post-shoot interview, Officer Hornberger reported, “So, when I was running when initially I thought like, ‘If I jump off this balcony.’ I had initially thought about jumping off the balcony, but I thought, ‘I’m going to break my legs and then he’s going to shoot me in this open parking lot and I’m not going to be able to run away. Then the Sergeant showed up on my right.’”

Once the patrol sergeant arrived, Officer Hornberger said, “I had my weapon drawn towards the area where the guy with the AK was. I told him that I had fired and aired that it was an AK-style rifle.”

When asked if he considered less lethal options, Officer Hornberger said, “No. He had the drop on me and had already taken a drop as in he had already had his AK rifle pointed at me in a firing position at that point. And based on how far they were, I didn’t see any sort of other option because he had already taken a firing position and knowing that the initial lady that I talked to was behind me I didn’t see any other option, other than to defend myself and her.”

The El Paso County Sheriff’s Office also interviewed a witness, Heather Montgomery, the individual Officer Hornberger first encountered when he arrived on scene.

During her interview Ms. Montgomery stated, “The cop came up and I was like oh, they must have had problems from earlier, I don’t know, you never know at the motel. And so, I watched the cop’s lights, and I knew there was nobody downstairs, and I knew he saw me and I’m like, ‘he’s gonna ask me something.’”

Ms. Montgomery said she told Officer Hornberger the call may have come from security and that she watched him check his phone. She said, “And then he went and he stayed in the stairwell, and he looked on his phone, and he just said it really softly, ‘that’s not the room that called.’ And I just stepped back, whatever. And he took, he was in front of, let’s see, 204, 205 and then something, I don’t know, something caught his eye or he heard something, and he scrunched down and reached for his gun and that’s what made me look. And when I looked, he was scooting back real fast, the cop, and Erick came out with a gun, and he shot him three times or shot his way three times.”

When asked who fired and in what direction, Ms. Montgomery said, “Erick shot east at the cop real fast three times. It all just happened so fast. I just knew to get the dog, get in the house, close the door.”

Analysis

CRS 18-1-704, Use of physical force in defense of a person, defines each person’s right to defend themselves against the use, or the imminent use, of unlawful physical force by another person.

This statute states, in relevant part:

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 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. Deadly physical force may be used only if a person reasonably believes a lesser degree of force is inadequate and the actor has a 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.

The facts relevant to analysis under this standard of review include that the initial information Officer Hornberger received was someone at the Nevada Flats Hotel had a prior physical disturbance, the suspect threatened to return with a firearm, and that the suspect had returned. The Real Time Crime Center aired that with aerial surveillance, they did not note anything “active” happening at the hotel. Officer Hornberger confirmed that a patrol sergeant was nearby.

Officer Hornberger reached the top of the staircase at 11:43pm and 31 seconds. Mr. Flahive exited the security door that faced Officer Hornberger at 11:43pm and 47 seconds. Mr. Duncan exited room 210 at 11:43pm and 48 seconds, followed immediately by Mr. Bugawisan and Ms. Pryor.

Mr. Duncan turned towards Officer Hornberger while raising the air rifle at 11:43pm and 51 seconds. Officer Hornberger fired at 11:43pm and 52 seconds.

While Mr. Duncan was ultimately holding a Crosman Full Auto M1 AK1 BB gun, there was nothing apparent that identified it as such. Officer Hornberger had a reasonable belief that Mr. Duncan was holding a deadly weapon.

When Mr. Duncan raised the rifle, Officer Hornberger relayed that he immediately thought of the woman behind him, believed she was still on the walkway, and identified there was no cover available.

CRS 18-1-707, Use of force by peace officers, dictates a peace officer’s duty to use only a degree of force consistent with the minimization of injury to others.

This statute 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 serious bodily injury or death to the peace

officer or another person. 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; [and] The suspect poses an immediate threat to the peace officer or another person; [and]

(b) The force employed does not create a substantial risk of injury to other persons.

The facts relevant to analysis under this standard of review include that Officer Austin Hornberger was a sworn peace officer employed by and carrying out his official duties on behalf of the Colorado Springs Police Department, a law enforcement agency. He was in his official police uniform and driving a fully marked police patrol vehicle.

Mr. Duncan exited his room, with a rifle at his right side, at 11:43:48 p.m. He turned toward Officer Hornberger, while raising his rifle into firing position at 11:43:51 p.m. Officer Hornberger discharged his weapon at 11:43:52.

Officer Hornberger said he could not consider less lethal options at that time because Mr. Duncan already had his rifle pointed at him in a firing position. Officer Hornberger also thought Ms. Montgomery was on the walkway behind him, where he had last seen her.

CRS 18-1-707 (4.5) dictates that, when using deadly force, a peace officer must believe a threat to his/her personal safety, or the safety of a third party would be otherwise unavoidable.

This subsection states:

(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.

A “deadly force” analysis is not applicable in this situation.

Given the totality of the circumstances, Officer Hornberger used physical force upon Mr. Duncan to defend himself and Ms. Montgomery from what Officer Hornberger reasonably believed to be the imminent use of unlawful physical force by Mr. Duncan. Officer Hornberger used a degree of force which he reasonably believed to be necessary for that purpose.

Conclusion

After completing a thorough review of the facts and evidence, Colorado’s 4th Judicial District Attorney’s Office has determined the use of deadly force by Colorado Springs Police Officer Austin Hornberger on November 13, 2025, was justified, based on all the facts and circumstances of this case under the laws of the State of Colorado. No charges will be filed based on the statutes outlined previously, as well as the necessary application of ethical rules.

Note to the Media: All updates will only come from Communications when available.

###