



CITY AND COUNTY OF DENVER

DEPARTMENT OF SAFETY FIRE • POLICE • SHERIFF

Office of Manager
1331 Cherokee Street
Room 302
Denver, CO 80204-2720
Phone: (720) 913-6020
Fax: (720) 913-7028

PUBLIC STATEMENT OF THE MANAGER OF SAFETY REGARDING THE IN-CUSTODY DEATH OF ALONZO ASHLEY AFTER EVENTS AT THE DENVER ZOO ON JULY 18, 2011

I. EXECUTIVE SUMMARY

The Incident

On the afternoon of July 18, 2011, Alonzo Ashley went to the Denver Zoo (“the zoo”) with his girlfriend, ES,¹ ES’s sister, cousin, and her cousin’s son. ES stated that it was very hot at the zoo that day and Ashley² was sweating profusely. Ashley seemed very tired and appeared not to be feeling very well. ES and her family members were concerned. One of her family members asked if he did drugs. ES asked Ashley if he wanted her to call for medical assistance. Ashley stopped to sit down on a bench to rest. He closed his eyes and stopped verbally responding to ES questioning him if he was okay. Ashley then stated to ES, “I live here. This is my home.”

Ashley and ES went over to a water fountain and Ashley drank from the fountain and held his head under the water. Zoo guests were concerned about Ashley. When they asked him if he was okay, he reacted angrily, yelling at them, “Fuck the zoo. This is my house.” Zoo security guard AD approached Ashley and asked him if he needed help. Ashley became angry and responded, “I am a lion,” repeating the phrase several times. Ashley then became angry at AD and chased and attacked him. Ashley knocked AD to the ground and began punching him repeatedly in the face. Witnesses said they thought Ashley was going to kill AD. Witnesses stated that as he was attacking AD, Ashley said such things as, “I am going to kill you” and “I am going to do it for the Lord.” People were screaming, “Call 9-1-1!”

Guests at the zoo pulled Ashley off of AD and Ashley went back to ES. Other zoo personnel approached Ashley and asked if he was okay and if he needed help. Ashley responded by challenging them to fight him, doubling his fists and saying, “Come on motherfucker, test me. Come on!”

¹ For the purposes of this public statement, civilian witnesses are identified by initials only. The full identities of these witnesses are contained in the Denver Police Department (“DPD”) files related to this case and are available for review by the members of the public during regular office hours by contacting the Records Custodian in the Manager of Safety’s Office at 720-913-6020.

² Mr. Alonzo Ashley will be referred to as “Ashley” and individual DPD officers will be referred to with the title “Officer” prefacing their name to signify that they are individuals over whom the Manager of Safety has responsibility.

Based on the information that was reported from 9-1-1 callers, the Denver Police Department (“DPD”) Dispatch called out over the radio that there was a domestic violence incident in progress at the zoo. Officer Justin Jones went to the zoo and was advised that Ashley had assaulted a zoo security guard and was acting strangely. Officer Jones, who was in full uniform, attempted to calm Ashley down by talking to him. Officer Jones introduced himself and told Ashley that no one wanted to hurt him. Officer Jones repeatedly asked Ashley to calm down.

Ashley threatened Officer Jones and Officer Jones pointed a Taser at Ashley and instructed Ashley to get on the ground. Ashley refused to obey Officer Jones’ orders and walked away, attempting to leave the zoo. At this time, Officer Jones had the following information about Ashley: that Ashley was possibly involved in a domestic violence situation; that he had violently attacked a zoo security guard; that he was disobeying Officer Jones’ direct orders; and that he was apparently willing to fight zoo personnel and Officer Jones. Officer Jones determined that he needed to detain Ashley since he posed a threat to public safety.

Officer Jones called for additional assistance over the radio and followed after Ashley, instructing him to stop. Officer Jones then attempted to grab Ashley’s arm and Ashley pulled away. Ashley was tackled by zoo security supervisor JT and Ashley, JT and Officer Jones fell to the ground. Ashley punched Officer Jones in the face and Officer Jones and JT tried to gain control of Ashley to handcuff him.

Other DPD officers began to arrive at the zoo within minutes of each other and frightened guests directed them to the scene. These officers included Officers Phillip Coleman, Cheryl Smith, Charles Wheeling, Jennifer Curtis and Joey Gasca. Lieutenant Ruben Conner arrived at about the same time as the officers. The officers and lieutenant attempted to assist in subduing and handcuffing Ashley. Ashley continued to react violently and bit JT and an officer. Ashley also grabbed the Taser, attempted to grab an officer’s gun, and grabbed an officer’s testicles and twisted them. Officers were telling Ashley such things as, “Calm down,” “Stop resisting,” “Give us your hands,” and “Relax.” Lieutenant Conner and Officers Smith and Curtis utilized nunchucks (or “nanchakus”) by wrapping them around Ashley’s ankle to attempt to gain pain compliance³ from Ashley. Ashley was tased in the less painful stun drive mode⁴ by Officers Jones and Coleman but with no success in gaining control of Ashley.

³ Pain compliance is used as a non-lethal law enforcement technique to provide incentive to a suspect to carry out the actions requested by officers.

⁴ A “drive stun” consists of the Taser being held against the subject without firing the projectiles. It is intended to cause pain and gain pain compliance without incapacitating the target. In this case, the officers used the drive stun mode in an attempt to get Ashley to put his hands behind his back so they could handcuff him. The drive stun mode of the Taser causes localized pain in the area touched by the Taser but does not have a significant effect on the central nervous system, as opposed to the Taser projectiles. When the projectiles are fired, the subject experiences neuromuscular incapacitation resulting in strong involuntary muscle contractions. The drive stun mode does not cause such muscle contractions and thus just produces pain without incapacitating the target.

After several minutes of grappling, Ashley was eventually handcuffed. Within seconds of being handcuffed, he began to vomit. The officers moved Ashley on his side and away from the vomit to prevent him from aspirating. Ashley vomited again and then stopped breathing. Officers began chest compressions and notified DPD Dispatch. An ambulance responded and Ashley was transported to Presbyterian/St. Luke's Hospital where he was pronounced deceased at 6:08 p.m.

The Criminal Investigation and Post-Mortem Examination

This case was jointly investigated by the DPD Homicide Unit and the Denver District Attorney's Office. The Office of the Independent Monitor (OIM) was on hand to observe the investigation and provide input, as were members of the Internal Affairs Bureau. Interviews were observed by the OIM as required by Ordinance and permitted by the protocol of the District Attorney's Office. Members of the Manager of Safety's Office were also present and observed interviews of witnesses.

Assistant Medical Examiner, John D. Carver, M.D., performed the autopsy of Ashley. The medical determination by Dr. Carver is unclear. The autopsy report listed four diagnoses, including cardiorespiratory arrest following a struggle and physical restraint; recent marijuana use; possible heat stress; and possible hypertension. An amended autopsy report revealed that in addition to marijuana, Ashley had also used cocaine about 24 hours prior (and up to several days prior) to his death.

In the autopsy report, Dr. Carver noted the "[r]estraint followed reported agitated and violent behavior by the decedent, which included pursuit and assault of a zoo employee." According to Dr. Carver, "The decedent's agitation, combativeness and unexpected strength are consistent with descriptions of 'excited delirium.' Individuals exhibiting such behavior are (in the great majority of cases) under the influence of drugs (such as cocaine or methamphetamine) or suffer from a mental illness (such as schizophrenia or bipolar disorder), or both."

Dr. Carver found that the "physiologic stresses involved in subduing and restraining the decedent (together with his own ongoing resistance) were contributory to his death." According to Dr. Carver, he does not mean to suggest by his autopsy report that zoo personnel and officers who were involved in restraining intended to harm Ashley or that they used excessive force. He further states that he does not suggest that they should have foreseen the possibility that Ashley could die or that they bear any legal responsibility for Ashley's death.⁵

Once the criminal investigation was completed, and after consideration and review of autopsy report, the District Attorney ("DA") issued his decision regarding whether or not criminal charges would be filed. The DA determined that the facts of the case do not support a finding of any criminal use of force by any of the involved citizens or law

⁵ Despite the foregoing and despite the fact that the medical cause is unclear, Dr. Carver concluded that the manner of death is "homicide." Dr. Carver does not explain his reasoning for his finding but he does state that the determination is a "medical" judgment and does not connote legal culpability. For a more detailed discussion of this finding, please see Section III of the full Public Statement.

enforcement officers. In addition, the DA states that since Dr. Carver did not determine a cause of death, Ashley's death cannot be proven to have been caused by any person. Thus, the DA declined to file charges against the zoo employees or officers, concluding:

Even if one or more of the involved citizens or officers could be proven to have caused the death of Alonzo Ashley, which as indicated above is not possible, we would not be able to prove their use of force was criminal, rather than a justified use of force under the applicable 'affirmative defenses.' This would therefore be a 'justifiable' homicide, if, in fact, it could actually be proven to be a homicide. Based on Dr. Carver's Autopsy Report, there is no legal basis to label this or consider this to be a homicide. From a criminal law assessment of the facts of this case, the involved citizens and law enforcement officers were justified in using the degree of force used.

Accordingly, based on the criminal investigation and the autopsy report, the DA directed that no criminal charges be filed and the criminal review of this case was concluded.

The Administrative Review

Following the decision by the DA, this case was turned over to the DPD Internal Affairs Bureau ("IAB") for further investigation into the tactics and force procedures used by the officers. After IAB completed its broadened investigation, it presented the case to the Use of Force Review Board. The Board found that the officers acted in accordance with policy. Both the Chief of Police and the OIM agreed with this determination and so advised the Manager of Safety ("the Manager"). This case was then brought to the Manager for a final determination as to whether the officers violated DPD's Use of Force policy or any other DPD policy or law.

As a general matter, an administrative review by the Manager analyzing whether a death occurring in connection with a use of force was in violation of Department policies focuses on three areas:

- (1) The reasonableness of the tactics utilized by the officers immediately prior to and during the use of force;
- (2) The reasonableness of the officers' assessment of the threat posed by the person; and
- (3) The reasonableness of the use of force options selected by the involved officers.

The Manager finds that Officer Jones used appropriate tactics in confronting Ashley and attempting to de-escalate the situation without resorting to force. Officer Jones acted reasonably in determining that Ashley posed a threat and should be forcibly detained after he refused to obey the officer's orders and attempted to leave the zoo. Once Ashley began struggling and fighting with Officer Jones and other officers, they responded with reasonable and appropriate force. The officers attempted to de-escalate the force periodically, but had to maintain or escalate it in reaction to Ashley's

conduct. The Manager finds that the officers used reasonable force options and acted pursuant to their training. When Ashley began vomiting, officers assisted him, and when he stopped breathing, they began resuscitation efforts.

Based on a careful review of the facts, a comprehensive analysis of the policies and the law, and a consideration of the recommendations of the OIM and the Chief of Police, the Manager concludes that the officers did not violate DPD's Use of Force policy, any other Department rules, or any laws with regard to the use of force. Therefore, disciplinary sanctions will not be ordered.

Ashley's death is tragic. However, it was both unintended and not the probable consequence of the force used by the officers. The purpose of this public statement is to provide a more detailed explanation of the basis of this decision.

II. FINDINGS OF FACT

The information considered in reaching these findings is contained in the DPD files related to this case. The files are available for review by members of the public during regular office hours by contacting the Records Custodian in the Manager of Safety's Office at 720-913-6020. The files and information that were relied upon by the Manger include recordings or and/or transcripts of interviews of civilian witnesses (including guests at the zoo, zoo employees, zoo security guards, and Ashley's girlfriend and her family); interviews of the subject officers; and interviews of non-subject officers who witnessed the event. The Manager also reviewed and relied upon the following additional documents and materials: written statements of officers who responded after the event; written statements of Denver Health Medical Center ("DHMC") paramedics; written statements of Denver Fire Department ("DFD") firefighters; a study of the crime scene, physical evidence recovered and all scientific testing conducted; and, other records and reports including the autopsy of Alonzo Ashley. Relevant portions of these interviews, statements and reports are referenced or quoted throughout this public statement. Summaries of witnesses' statements are attached hereto in Appendix A.

Background

ES had been friends with Ashley for approximately three years prior to the incident. For the last year and a half of that time, they had been dating. On the evening before the incident, the couple had gotten into an argument and decided to get together to talk. They spoke that evening and ES stayed with Ashley at his apartment that night. She went to work the next day. Ashley called ES and informed her that he was feeling "frustrated." He asked ES to pick him up after work so that they could "go do something" that day. ES was already planning to go to the zoo with her family and she invited Ashley to join them.

ES, her cousin (MD), her cousin's son (AD2), and ES's sister (NS) picked up Ashley. They stated that he was "fine" at that time. The group went to a Subway restaurant to eat and Ashley and ES sat at a table separate from the rest of the family.

The group arrived at the zoo around 2:00 p.m. According to all witnesses, it was very hot that day at the zoo. (Wunderground.com listed the temperature at the West City Park weather station at 95 degrees.) ES stated that around 3:30 to 3:45 p.m., Ashley started "sweating like crazy" and he took off his shirt. Cousin MD stated that Ashley seemed very tired and appeared not to be feeling very well. She thought maybe he was dehydrated. ES stated that Ashley said he was feeling "a little sick" and that he needed water. MD said that near the end of the day, Ashley would walk a little bit but then would "have to slow down and rest and then he would close his eyes, like he was trying to catch his breath, and just trying to breathe or something." NS asked her sister ES what was wrong with Ashley. MD asked NS if Ashley does drugs. ES said she was scared and asked Ashley if he needed paramedics. He said, "I'm fine."

As the party was preparing to leave the zoo, Ashley sat down on a bench to rest and ES sat next to him. MD, AD2 and NS went to the gift shop to wait. Ashley closed his eyes and was not verbally responding to ES asking him if he was okay. He motioned to ES to give him a minute by raising his hand with his index finger pointing up. Ashley then stated to ES, "I live here. This is my home." ES stated that she had never seen him act like that in the past.

Zoo employees walked by and asked Ashley, who had his head back and his eyes closed, if he was okay. Ashley nodded his head giving an affirmative response. The couple got up to leave and Ashley saw a water fountain. He went over to the water fountain, rested his head on the fountain and closed his eyes as he was drinking. Ashley was at the fountain for approximately 15-20 minutes. Zoo guests CD, FD and TD saw Ashley with his head under water in the fountain and became concerned. CD asked if he needed help and Ashley looked up from the fountain and shouted, "Fuck the zoo. This is my house." They alerted zoo personnel.

Interaction with AD

AD is a security guard at the zoo. On this day he received a call on his radio stating that there was a guest who had passed out from heat exhaustion. He responded to the scene and saw Ashley at the water fountain with the water running over his head. Zoo security guard AD approached Ashley to see if he was okay. At first Ashley didn't respond. AD had to tap him on the shoulder to get him to respond. According to AD:

He gives me kind of a weird, weird look, like he's not, ya know, like he wasn't okay, ya know like he's kinda giving me a look like 'Oh I'm good, I'm okay,' but he didn't look okay.

AD continued to try to talk to Ashley. He asked Ashley if he needed paramedics. Ashley didn't respond and then he turned his face and looked at AD and said, "I am a lion." According to AD, Ashley made the statement that he was a lion several times. AD looked over at a female (later identified as ES) standing nearby. According to AD, she looked scared; like she was scared for her life. AD asked ES if she was with Ashley. This question upset Ashley. According to AD:

He [Ashley] got up immediately, got up, like stood up and said, 'You better not say anything, you better shut up, don't say anything'

This is confirmed by ES, who stated:

He [Ashley] got up, really angry and he's like 'Baby don't talk to him, don't say nothing to him' because he [AD] was like 'Is he okay' and I was like 'Yeah he's fine.' The security asked me and I was like 'Yeah he's fine' and that's when he yelled, yelled at the security and me and said, 'Babe don't say nothing to the security' because I told the security he's fine and then he kicked the trash can . . . like really angry.

Ashley told AD to "disappear," and AD said okay and moved away. AD kept Ashley in sight and called his supervisor first, and then called the Denver Police Department in accordance with zoo protocol. He stated that the "vibe" he was getting was that Ashley was going to get "really violent" and was going to hurt ES or hurt someone else. AD said AD appeared "hyped up" on drugs or not "all there" mentally. Around this time AD saw Ashley kick over the trash can. Another zoo employee, AD3, witnessed this interaction. She said Ashley was angry and aggressive and yelled at ES over and over again, "You better not tell them a fucking thing!" AD3 said Ashley then kicked a recycle bin.

According to ES, she and Ashley began to leave when Ashley asked where "that guy" was. Ashley then started running after AD, "chasing" him. ES did not follow, stating that she was scared. Zoo guests witnessed Ashley run up behind security guard AD and knock him to the ground. (See statements of CD, FD and TD.) Ashley started punching AD in the face repeatedly. Witnesses said they thought Ashley was going to kill AD. (See statements of LM and FD.) Zoo guest CC, a registered nurse, said that she saw Ashley beating AD and she was afraid for her life. She said that Ashley appeared to be under the influence of a narcotic or mentally unstable.

AD stated that Ashley came running after him yelling, "I'm gonna kill you!" According to AD, Ashley caught up with AD and knocked him down while he was still on the phone with DPD Dispatch. AD can clearly be heard on the dispatch recording saying, "He's coming up to me right now." Then, what sounds like punches or strikes can be heard on the recording, as well as screaming and a female voice yelling "Stop!"

According to AD, while Ashley was punching him he was saying, "You're gonna disappear, I'm going to kill you!" Zoo guests physically intervened in the attack and reported that Ashley was yelling that he was going to kill AD "for the Lord" and "I'm going to do it for God!" (See statements of HB, WB, HJ, and LM.) Guests were yelling, "Call 9-1-1!" Several zoo guests pulled Ashley off of AD and Ashley went back towards ES.

AD got back on the phone with Dispatch and confirmed that he had been attacked. He can clearly be heard panting and out of breath on the recording. AD told Dispatch that DPD needed to respond "as soon as possible," "immediately." AD then informed Dispatch that Ashley is beginning to approach other people so "we need DPD to get here."

Further Interaction with Other Zoo Personnel

Ashley walked away from AD and returned to ES. According to ES, he was sweating a lot and his eyes “were like just, big” and he was “freaked out.” Ashley showed ES his left hand which had a number of cuts on it and was bleeding and asked her to help him. They went back to the fountain to wash off his hands.

A female zoo employee, KG, witnessed Ashley’s attack on AD. She was concerned that Ashley was going to hurt someone else and followed after him. She saw Ashley and ES at the water fountain and she tried to calm Ashley down. ES told KG that Ashley was overheated but KG did not believe that the anger came from heat exhaustion or dehydration. KG continued to try to calm Ashley down and had ES give him more water. Then, zoo security supervisor JT and two other uniformed zoo security guards approached the water fountain. Ashley became anxious and upset and started yelling again. KG stepped away from the situation and said Ashley was scary and very angry.

Zoo security supervisor JT approached Ashley and asked him if he was okay and if he needed help or wanted an ambulance. Ashley put his hands up in the air and doubled his fists saying, “Get the fuck away from me, man!” Ashley bounced up and down saying, “Come on motherfucker, test me. Come on!” (See statements of JT, EF and others.) According to ES, Ashley told the security guards to hit him, saying, “Hit me, hit me.” ES said she told Ashley to stop.

Officer Jones Arrives

Officer Justin Jones was working in District 2 that afternoon when he heard a call over the radio regarding a “possible domestic violence in progress inside of the zoo grounds.” He was driving a marked vehicle and was wearing a regulation DPD uniform. He headed over to the zoo and was the first DPD officer on scene. Upon his arrival, zoo guests began directing him to the scene of the altercation. A zoo security guard, AL, escorted Officer Jones to the scene. Officer Jones gathered as much information as he could from AL as they rushed over to the scene. According to Officer Jones:

I’m actually met by someone from zoo security who begins walking with me and of course, I start speaking with him and basically I’m asking him, ‘Who is this guy? Where is this guy? Do we still have eyes on this guy? What’s he doing?’

Officer Jones learned from AL that Ashley and a female had been engaged in some type of disturbance, that Ashley had assaulted a member of zoo security, and that security still had Ashley in sight.

Officer Jones said:

So we walked over towards where the elephants are and kind of, as you come around that corner, it opens up a little bit, and as I open up around the corner, I could see a very angry male party and it looked like he had a few members of the zoo staff, security, something like that sort of standing in like a semi-circle or something, you know, a fair distance off of him, but

they were sort of standing there with him and he was – he was shouting at them, he was yelling, and there was a few citizens or, you know, two patrons kind of watching from a distance.

According to zoo guests and employees, Officer Jones approached and told Ashley to calm down. Zoo security supervisor JT said Officer Jones talked to Ashley and explained to him that no one wanted to hurt him. Officer Jones told Ashley he was with the Denver Police Department and he told Ashley his name. Ashley was beating his chest, yelling that he was a lion and said, “Fuck the police.” According to zoo guest CR, Officer Jones could not have been more patient. Ashley’s girlfriend, ES, confirms this and said that the officer said, “You need to calm down.” (See statements of AD, JT, KG, CR, DL, ES and NV.) According to JT, Ashley then put his hands up in an offensive position and moved towards Officer Jones.

Officer Jones drew his Taser and told Ashley to get on the ground. Ashley complied and abruptly sat on the ground. Officer Jones instructed Ashley to turn over and lay on his stomach. Ashley then sprung up off the ground. According to witnesses, Ashley took a “boxer stance” with the officer and balled up his fists. Then, Ashley told ES, “Let’s go,” and the two started to walk away while Ashley was using profanity toward the officer and zoo staff. (See statements of JT, AD, EF, AL and Officer Jones.)

Officer Jones got on his radio and requested additional coverage, Code 10. Ashley started walking toward the exit of the zoo and yelling at Officer Jones, “If you touch me, you’re gonna end. If you touch me, you’re gonna end.” Officer Jones heard “a group of females” instructing Ashley to cooperate and do what the officer was instructing him to do. Officer Jones noted that Ashley was extremely “sweaty” so much “that I could see it dripping off of him and hitting the ground.” Upon seeing how much Ashley was sweating, Officer Jones stated that he thought “something else isn’t right.”

Around this time, the rest of Ashley’s party returned to the area. Cousin MD noted that Ashley was yelling and cursing at “security,” and trying to get away from them. MD said Ashley was yelling that he was not going to go with them. AD2 confirmed this and said Ashley tried to walk away, saying, “I’m not going nowhere with you” and Officer Jones told Ashley to stay where he was.

Security supervisor JT said that they could not let Ashley get closer to other people so they followed behind him. As they neared a planter area, they continued to instruct him, “You need to get on the ground. You need – you need to stop.”

According to Officer Jones:

And so basically, I’m running through the situation we had. We have this guy he’s already possibly involved in a domestic with his girlfriend, he’s already assaulted a member of the zoo staff, he’s already been non-compliant with what I’ve said, and at this point I’ve already holstered my Taser because my feeling is if we’re moving, the Taser is more of a hindrance to me if we’re in motion. I said, you know ‘This has to end, he can’t make it out of this zoo or around other innocent persons, you know, because of what he’s already done and now he’s going mobile.’

According to a number of witnesses as Officer Jones approached Ashley from behind and went to grab his arm, Ashley turned around and swung at Officer Jones. According to zoo security guard AL, JT then tackled Ashley and Officer Jones, JT and Ashley fell to the ground. (See statements of JT, AD, AL and EF.)

Officer Jones described this moment as follows:

. . . so I took a step in closer to him and he kind of, I don't know if he reached to try and grab me or something, but he reached. And so at that point I knew I just had to move in so I reached in and I tried to grab his arms and he tried to take off towards the zoo entrance/exit area and he got about a step and then a member of the zoo security staff came in with me and all three of us tumbled forward on the side of that planter to the ground.

ES said, "My boyfriend started going crazy." She said, "He didn't calm down." According to ES, "A police officer walked behind him and the other securities for the zoo walked too." She said, "They grabbed him because he wouldn't stop and he was saying, 'Don't touch me' and he wouldn't stop."

The Struggle

Ashley punched Officer Jones in the face either as they were going to the ground or once on the ground. Officer Jones and JT were both instructing Ashley to put his hands behind his back. Officer Jones was surprised at Ashley's strength and described him as "strong," "incredibly strong." He also noted that Ashley "displayed a level of strength that I would have never anticipated from a person of his size and build."

Officer Jones and JT could not get Ashley under control. Ashley was kicking and punching at Officer Jones and JT. They were telling him to stop resisting. AL and EF, the other zoo security guards, assisted Officer Jones and JT.

Other DPD officers began to arrive at the zoo within minutes of each other and frightened guests directed them to the scene. These officers included Officers Phillip Coleman, Cheryl Smith, Charles Wheeling, Jennifer Curtis and Joey Gasca. Lieutenant Ruben Conner arrived at about the same time as the officers. Since there is no videotape of the struggle, there is no precise timeline of all actions during the struggle and the incident cannot be definitively reconstructed.

But based on a number of witnesses' statements, the struggle generally proceeded as follows. The officers and lieutenant took over from the security guards and began to assist in attempting to subdue and handcuff Ashley. Ashley was still fighting and flailing on the ground. ES's sister NS said the officers were telling Ashley to relax so they could handcuff him. A number of other witnesses said the officers were saying such things as, "Stop resisting," "Relax," and "Calm down."

A Taser was applied to Ashley in the less painful stun drive mode⁶ four times with no apparent effect on him. Officer Jones deployed the Taser once on Ashley's back. Officer Jones stated, "It didn't seem to stop him or slow him down in any way." Ashley then grabbed the Taser. Officer Jones struggled with Ashley to get the Taser back and Officer Jones discharged the Taser into the ground. Officer Jones tased Ashley again, approximately 50 seconds after the first tase.⁷ Officer Jones thought that the Taser would give the officers the chance they needed to get Ashley under control, but Ashley kept fighting. The Taser fell to the ground and Officer Coleman kicked the Taser out of the way.

Cousin MD said:

He was struggling . . . they try to Taser him and I think Alonzo actually got the Taser in his hand, I think, and then they had to get that away from him.

As the struggle continued, Ashley bit JT and bit Lieutenant Conner. According to JT, Ashley also attempted to grab one of the officer's guns. At one point, Ashley reached up, grabbed one of the officer's testicles, and squeezed them and twisted them, injuring the officer. Two officers attempted to control Ashley's legs by applying OPNs⁸ to each of them. However, the OPNs had no effect on Ashley which surprised everyone. Lieutenant Conner kept applying pressure with the OPNs and they broke. He said he had never seen anything like that.

All individuals involved in the restraint were surprised at Ashley's resistance to pain and his unexpected strength. Zoo security guard AL said that Ashley was throwing two hundred pound men off of him like he was not a normal human being.

According to ES, Ashley continued to fight the officers, trying to be:

Overpowering, like trying to be really crazy. And then they tell him to stop and he won't stop and he's like 'Babe help me, they're killing me, I'm dying, or something like that.

ES then told him, "Babe you need to stop." Cousin MD said she heard ES state that she couldn't help him and he needed to stop, and to "chill out."

⁶ A "drive stun" consists of the Taser being held against the subject without firing the projectiles. It is intended to cause pain without incapacitating the target, thereby encouraging pain compliance from the suspect. Please refer to footnote 4 for a more complete description of the drive stun mode.

⁷ As part of the criminal investigation, DPD conducted a forensic examination of the Taser used in the incident (serial number X00-348286). DPD Corporal Steve Palka, an expert in Taser usage, downloaded the Taser firing data. He determined that the first three deployments of the Taser were of 5 second durations as follows: deployment 1 at 17:18:00 to 17:18:05; deployment 2 at 17:18:07 to 17:18:12; and deployment 3 at 17:18:55 to 17:19:00. Based on witness statements and the evidence, these three deployments were by Officer Jones, with one being deployed into the ground.

⁸ "OPN" is an abbreviation for Orcutt Police Nanchaku." An OPN is a non-lethal controlling device used by law enforcement and correction officials. It is not used for impact, but is used for control by wrapping the OPN around the wrists or ankles of a subject and applying pressure. This causes significant pain and compliance of the subject is generally gained very quickly.

Officer Coleman picked up the Taser and used it two more times on Ashley in the drive stun mode but it still did not appear to have an effect on Ashley or assist the officers in getting him under control.⁹

After several minutes of grappling, Ashley was finally controlled in a prone position with his head and shoulders held to the ground, his hands cuffed behind his back, and his legs crossed and flexed upward and pressed against his buttocks. When Ashley was under control, Lieutenant Conner jumped up and called for emergency services.

Within seconds after control was established, Ashley vomited. Officers turned him on his side so he would not aspirate and moved him a short distance out of the vomit. Ashley vomited again and then was observed not to be breathing. Officers began cardiopulmonary resuscitation ("CPR") and an automated external defibrillator ("AED") device was brought by zoo personnel. Denver Health Medical Center paramedics and Denver Fire Department personnel arrived and began resuscitation attempts. Ashley was taken by ambulance to Presbyterian/St. Luke's Hospital.

Medical Response

Heather Guarnero is a paramedic with Denver Health Medical Center. On the day of the incident, she was dispatched to the zoo for a male party fighting with police at the zoo. A zoo security officer and DPD officer met them at the gate to escort them to the scene. The DPD officer got a call stating that Ashley was no longer breathing. An officer was giving him chest compressions. She checked and saw that Ashley was not breathing and did not have a pulse. She took over chest compressions until DFD arrived. They intubated Ashley in the trachea (windpipe) to establish and maintain an open airway and transported him to Presbyterian St. Luke's Hospital by ambulance.

Nicholas Mc Kibbin is an EMT Basic with Denver Health Medical Center who was partnered with Paramedic Guarnero on the date of the incident. As an EMT Basic, McKibbin handles basic life support under the supervision of a paramedic while the paramedic handles advanced life support. Initially, McKibbin received a call regarding an assault. He and Guarnero arrived at the zoo and headed towards Ashley. When they were approximately 100 yards away, the officer escorting them to the scene received a call that Ashley had stopped breathing. They ran to the scene and on arrival, noticed that Denver firefighters were responding right behind him. McKibbin administered an IV, noting that Ashley was not handcuffed at the time, and checked the AED. He was loaded into the ambulance and taken to Presbyterian/St. Luke's Hospital.

In addition to responding paramedics, members of the Denver Fire Department also responded to the scene. Responding firefighters included David Borelli, Silas Cordova, Alberto Paez, and Matthew Rogers. Firefighters administered CPR and assisted in the ambulance en-route to the hospital.

⁹ Corporal Palka's forensic testing revealed that the Taser was deployed two more times for 5 second durations as follows: deployment 4 at 17:19:02 to 17:19:07 and deployment 5 at 17:19:45 to 17:19:50. Based on witness statements and the evidence, these two additional deployments were by Officer Coleman.

Medical personnel at Presbyterian/St. Luke's were not able to save Ashley and he was pronounced deceased at 6:08 p.m. by Dr. Krista Culp.

III. CRIME SCENE INVESTIGATION and POST-MORTEM EXAMINATION

Personnel from the Denver Police Department Crime Laboratory and Homicide Unit responded to the scene and collected evidence. The scene was taped off, videotaped and photographed. Measurements were taken and a survey was conducted by detectives and officers assigned to those tasks. Information and documentation from the crime scene investigation and the crime laboratory are contained in the DPD files related to this case and are available for review by contacting the Records Custodian in the Manager of Safety's Office at 720-913-6020.

Post-Mortem Examination

The autopsy was performed on July 20, 2011, by Dr. John Carver. As discussed above, the medical determination by Dr. Carver is unclear. The initial autopsy report listed four diagnoses, including cardiorespiratory arrest following a struggle and physical restraint; recent marijuana use; possible heat stress; and possible hypertension. An amended autopsy report revealed that in addition to marijuana, Ashley had also used cocaine about 24 hours prior (and up to several days prior) to his death.¹⁰

Dr. Carver stated in the autopsy report that Ashley's violent and agitated behavior was consistent with "excited delirium." Excited delirium is a condition that has been recognized as a unique syndrome by the American College of Emergency Physicians which manifests as a combination of delirium, psychomotor agitation, anxiety, hallucinations, speech disturbances, disorientation, violent and bizarre behavior, insensitivity to pain, elevated body temperature, and superhuman strength. The condition sometimes results in sudden death, usually by cardiac or respiratory arrest. Dr. Carver stated, "The decedent's agitation, combativeness and unexpected strength are consistent with descriptions of 'excited delirium.' Individuals exhibiting such behavior are (in the great majority of cases) under the influence of drugs (such as cocaine or methamphetamine) or suffer from a mental illness (such as schizophrenia or bipolar disorder), or both." Despite the subsequent finding of the presence of cocaine, Dr. Carver did not update his comments in his amended report regarding the possible connection between cocaine use and excited delirium.

Dr. Carver described other factors, including mental illness, heat stress, exhaustion and stroke that may have contributed to Ashley's death. He stated:

¹⁰ The initial autopsy report was signed by Dr. Carver on October 21, 2011, and was issued in conjunction with a press release from his office of the same day. The autopsy report was amended on December 15, 2011, to add that a urine test had revealed the presence of a cocaine metabolite, despite the initial representation that testing was negative for all drugs except marijuana. Dr. Carver corrected the error in the amended autopsy report and noted the presence of cocaine, but he did not otherwise substantively revise the report.

The decedent had no known past psychiatric history. While unlikely, it is possible that his behavior was the initial manifestation of undiagnosed mental illness. Extreme environmental heat may also cause confusion, poor judgment and irrational behavior. Heat possibly contributed to the decedent's initial behavior, and to physiologic stresses of the subsequent altercation with zoo personnel and police. While analysis of vitreous fluid electrolytes was normal, heat stress, exhaustion and stroke can occur quickly, before dehydration is reflected in the vitreous electrolyte levels.

In reference to the struggle with zoo personnel and officers, Dr. Carver concluded that the "physiologic stresses involved in subduing and restraining the decedent (together with his own ongoing resistance) were contributory to his death." According to Dr. Carver, he does not mean to suggest by his autopsy report that zoo personnel and officers who were involved in restraining intended to harm Ashley or that they used excessive force. He further states that he does not suggest that they should have foreseen the possibility that Ashley could die or that they bear any legal responsibility for Ashley's death.

Despite such comments, and despite the fact that the cause of death is uncertain, Dr. Carver concluded that the manner of death is "homicide." It is essential for an understanding of Dr. Carver's findings to understand that the term "homicide" as used by medical examiners, does not mean that the person or persons who committed the act are "responsible," "at fault," or not "justified" in committing the act. It should not be confused with such terms as murder, manslaughter or criminally negligent homicide. Dr. Carver emphasized this in his report, stating that his determination is a "medical" judgment and does not connote legal culpability.

According to the Medical Examiner's website, the "manner" of death is "the fashion in which the cause of death came into being." The manner of death can be one of only five designations – natural, suicide, homicide, accident, or undetermined. It appears that due to the presence of human intervention or contact with Ashley, Dr. Carver labeled the death as a homicide. Dr. Carver does not explain his reasoning for this determination, and it appears from the DA's decision that the DA does not understand Dr. Carver's decision. The DA states, "Dr. Carver can respond to questions concerning his medical use of the word 'homicide.'"

Nevertheless, the ultimate determination of criminal culpability is within the expertise of the DA and, after the autopsy was completed, this case proceeded to the DA pursuant to appropriate protocol.

IV. THE CRIMINAL INVESTIGATION

As discussed above, the criminal case was jointly investigated by the DPD Homicide Unit and the Denver District Attorney's Office. The Office of the Independent Monitor (OIM) and members of the Internal Affairs Bureau observed the investigation and provided input. Members of the Manager of Safety's Office were also present and observed interviews of witnesses.

Once the initial autopsy report was released and the criminal investigation was completed, the District Attorney ("DA") issued his decision as to whether or not criminal charges would be filed. Pursuant to the DA's Decision Statement, dated October 21, 2011, the DA found that the facts of the case do not support a finding of any criminal conduct by the involved citizens and law enforcement officers. The DA points out that since Dr. Carver did not determine a cause of death, Ashley's death cannot be proven to have been caused by any person. In the language of the statutory requirements, the DA declined to file charges against the zoo employees or officers, concluding:

Even if one or more of the involved citizens or officers could be proven to have caused the death of Alonzo Ashley, which as indicated above is not possible, we would not be able to prove their use of force was criminal, rather than a justified use of force under the applicable 'affirmative defenses.' This would therefore be a 'justifiable' homicide, if, in fact, it could actually be proven to be a homicide. Based on Dr. Carver's Autopsy Report, there is no legal basis to label this or consider this to be a homicide. From a criminal law assessment of the facts of this case, the involved citizens and law enforcement officers were justified in using the degree of force used.

Thus, based on the criminal investigation and the autopsy report, the DA directed that no criminal charges be filed and the case proceeded to administrative review.

V. THE ADMINISTRATIVE REVIEW

Following the decision by the DA, this case was turned over to the DPD Internal Affairs Bureau ("IAB") for further investigation into the tactics and force procedures used by the officers. After IAB completed its broadened investigation, it presented the case to the Use of Force Review Board. The Board found that the officers acted in accordance with policy. Both the Chief of Police and the OIM agreed with this determination and so advised the Manager of Safety ("the Manager"). This case was then brought to the Manager for a final determination as to whether the officers violated DPD's Use of Force policy or any other DPD policy or law.

VI. ANALYSIS

As a general matter, an administrative review by the Manager analyzing whether a death occurring in connection with a use of force was in violation of Departmental policy focuses on three areas:

- (1) The reasonableness of the tactics utilized by the officers immediately prior to and during the use of force;
- (2) The reasonableness of the officers' assessment of the threat posed by the person; and
- (3) The reasonableness of the use of force options selected by the involved officers.

It should be noted that there is a significant difference between the evidentiary standards that were utilized by the District Attorney in his criminal review of this incident and the evidentiary standards utilized in an administrative review. The criminal review process required a determination of whether, at the moment force was used, there existed proof “beyond a reasonable doubt” that the officers had no legal justification under the applicable criminal statutes. The administrative review process is much broader in scope and requires a determination of whether there exists a “preponderance of evidence” to show that the involved officers violated the Department’s Use of Force policy or any other rules and regulations that were in effect at the time of the incident.

The administrative review is an examination of all of the evidence to determine whether it is more likely than not that these officers reasonably believed that Ashley presented a threat that justified the level of force he or she used during the incident. In making these determinations, consideration must be given to all the circumstances, including, without limitation, the information which was available to the involved officers as well as any reasonable inferences arising from that information; the observations of the officers and other witnesses; the logistics at the scene; the timing of the incident; the immediacy of the threat; the nature of Ashley’s conduct; and the practicality and feasibility of employing other tactical options under the circumstances. It is necessary to gauge the behavior of these officers against what would be expected of an objectively reasonable police officer under similar circumstances. The Manager also considers, but is not bound by, the recommendations made to him by the OIM and the Chief of Police.

A. Reasonableness of the Officers’ Tactics

To determine whether the officers’ tactics were reasonable, the Manager considers of all of the actions taken by the officers to get Ashley to comply with their orders without having to resort to force. The Manager also reviews and considers the actions the officers took once they were engaged in force in attempting to de-escalate and/or cease the force once the threat had diminished or no longer existed. Officers are trained to attempt to use non-physical force, including verbal and non-verbal communication, to help establish and maintain a controlled environment at any stage of a situation. However, the safety of the officers and the public must be the overriding concern. If non-physical force options do not work, the officers are taught that they may resort to force.

Significantly, all but one of the eight officers involved in the struggle have been through Crisis Intervention Training (“C.I.T.”). C.I.T. training is an intensive 40-hour course designed to give officers the skill and knowledge to intervene effectively with people who are having symptoms of mental illness or substance abuse. The training teaches officers to gather as much information as possible to understand the situation with which they are confronted and to try to defuse the situation in a safe manner.

The officers in this case used appropriate tactics in trying to avoid the use of force as they addressed this escalating situation with Ashley. Officer Jones, the first officer on the scene, utilized his C.I.T. training as he gathered information about the situation from security officer AL while rushing towards Ashley. In approaching Ashley, Officer Jones

tried to defuse the situation by being patient and speaking calmly to Ashley. Officer Jones used non-physical communication tools to try to get Ashley to calm down. Officer Jones introduced himself and told Ashley that no one wanted to hurt him.

In addition, simply by being in uniform and by the manner in which he carried himself, Officer Jones asserted what is known as a "command presence." Though there is no single precise definition of "command presence," it is generally understood to mean projecting the appearance of being in control both of oneself and of a situation in a manner that actually helps create such control. Command presence involves many aspects of one's demeanor and conduct - how one speaks, how one holds himself, as well as the way one walks and stands. The police uniform has traditionally been a major source of establishing command presence because it is immediately recognizable and projects authority.

As Ashley threatened Officer Jones and conveyed that he wanted to fight Officer Jones, Officer Jones remained calm. When Ashley put his hands up in an offensive position and moved towards Officer Jones, Officer Jones did not use physical force, but pulled out his Taser in hopes that the visibility of the Taser alone would gain Ashley's compliance. Officer Jones then gave Ashley clear, concise and simple verbal directions and told Ashley to get on the ground. Ashley complied and got on the ground. Officer Jones continued with clear verbal commands, telling Ashley, "You need to turn over." Officer Jones said, "I want you to lay on your stomach, put your arms out next to you."

Ashley then "sprung up" and took a "boxer's stance" with the officer. Again, Officer Jones did not respond with physical force or use the Taser to enforce his order that Ashley get on the ground, but he continued to use verbal commands. As Ashley started to walk away, saying he was leaving the zoo, Officer Jones determined that given everything he knew about Ashley's conduct, he could not let Ashley leave the area and be in a position to injure other people. Zoo security supervisor JT reached this same conclusion. Officer Jones followed behind Ashley continuing to give him orders to stop.

These measures taken by Officer Jones were reasonable attempts, consistent with training, to avoid the necessity of using physical force. When it was clear that Ashley was not going to comply with Officer Jones' verbal orders, Officer Jones reached out and attempted to grab Ashley's hand or arm. Officer Jones did not at this time hit Ashley, push Ashley or use the Taser on him. Rather, Officer Jones used the most minimal force method he could to attempt to control Ashley.

Once JT tackled Ashley and all three men fell to the ground, Ashley punched Officer Jones in the face. At that point, physical force was not only an acceptable tactic, it was necessary to control the situation in order to get Ashley handcuffed and subdued.

As the struggle ensued, officers continually told Ashley to stop resisting so they could de-escalate the force. As they attempted to handcuff him, the officers were giving him verbal commands such as, "Give me your hands," "Stop resisting" and "Stop fighting." Officer Curtis told Ashley to please calm down and stop kicking. Officer Gasca said he heard officers say, "Stop resisting. Relax." These verbal commands were reasonable attempts, consistent with training, to de-escalate the level of force.

In addition, while they were engaged in the use of force, the officers periodically de-escalated the application of force to see if Ashley would stop resisting. Zoo guest CR said that at one point during the struggle, she heard Ashley say that he was finished fighting. She said that the officers let up, but as soon as they did, Ashley started fighting again. Another guest, NV, said that one time Ashley said he was giving up so the officers backed off. NV said that as soon as the officers backed off, Ashley attempted to get away. Similarly, each time after the officers deployed the Taser, they would relax the force on Ashley to see if Ashley would stop resisting. However, as soon as the Taser cycle was complete, Ashley would again fight and resist them.

Based on the foregoing, the Manager concludes that the officers used appropriate tactics to avoid and/or de-escalate the use of force. The Manager has considered the totality of the circumstances, including the information available to the officers at the time and the specific actions of the officers throughout the encounter, and finds that the officers acted reasonably and in accordance with their training, including their C.I.T. training.

B. The Reasonableness of the Assessment of the Threat and the Need to Use Physical Force

In order for the Manager to evaluate whether Officer Jones' assessment that he needed to use force was reasonable, the Manager must examine what Officer Jones knew at the time he was assessing the threat before him. When Officer Jones initially came into contact with Ashley, he knew that Ashley was possibly involved in a domestic violence situation; that he had violently attacked a zoo security guard; that he was disobeying Officer Jones' direct orders; and that he was apparently willing to fight Officer Jones and others. Officer Jones was reasonable in reaching a conclusion that given Ashley's conduct, he posed a threat to members of the public (which included a number of children at the zoo that day); ES and her family; zoo personnel; and/or officers.

Officer Jones' assessment was consistent with the assessment of others that day. Almost every witness at the zoo that day commented that Ashley was acting bizarrely, was not complying with orders to stop resisting, and was fighting the police. Witnesses made the following statements:

- CC stated, "This was absolutely a circumstance where this man needed to be restrained and was endangering the public." CC described Ashley as "unstable," "unpredictable" and said that he appeared "to be under the influence of something" or "mentally unstable."
- AD3 noted that Ashley was "scary," "aggressive," and that he didn't seem "with it" or in a "right frame of mind." She stated he was "irate" and "not cooperating at all."
- WB said he heard Ashley say, "I'm going to do it for God" when he was attacking AD. WB said that Ashley "didn't look right," "like he wasn't all there."

- FD stated, “He [Ashley] was acting like somebody who was on something.” She added that she feared Ashley, and thought she could be in danger, stating she felt “extremely unsafe.”
- CR stated, “He was so belligerently out of control” and “He was going absolutely crazy, he was threatening people, he had already hit somebody once . . . [the news outlets] have it all wrong.” CR said she thought he was on drugs because it was “really obvious to everyone there that he was not in the right state of mind” or that “he had some severe mental issues . . . something was wrong with him though since he kept saying, ‘I am a lion!’” CR added, “I was surprised at how many chances they [the officers] gave the man to ‘please calm down,’ ‘please, like, get on the ground,’ and he just wouldn’t listen.”

When Ashley tried to leave the zoo, Officer Jones and zoo security had no reason to believe Ashley was anything other than a threat to the public. Given this, Officer Jones’ assessment of the threat and decision to forcibly detain Ashley was reasonable.

Once the officers were struggling with Ashley on the ground, it was reasonable for them to believe that Ashley posed a serious threat to them and others. Ashley violently fought against the officers, kicking and flailing. He bit officers, grabbed one officer’s genitals, grabbed the Taser and tried to grab an officer’s gun. As further evidence of the risk of harm such defiance and resistance poses, it should be pointed out that JT was treated at Parker Adventist Hospital for elbow, knee and wrist injuries. Officer Smith was treated at DHMC for injuries to her left elbow and left knee. Officer Jones suffered several cuts and bruises and resulting tingling in his left thumb for which he has received medical treatment. Officer Coleman and JT were bitten.

During the struggle, the officers were reasonable in believing that Ashley posed a significant threat. They realized they were dealing with someone who was much stronger than he appeared and they were surprised by the number of people needed to restrain him. Many surmised that his unusual strength could be due to drug use. In addition, Ashley’s unusual resistance to pain caused concern to the officers. They commented on the Taser’s failure to gain even minimal compliance and the fact that the OPNs appear to have no effect.

Given all of the facts and circumstances in this case, the Manager concludes that Officer Jones reasonably assessed the threat that Ashley posed and reasonably determined to use force to detain him. The other officers who arrived on scene likewise reasonably assessed the threat and acted appropriately in determining to control Ashley with the use of force. All they knew in the tense, unpredictable and evolving situation they were faced with was that Ashley was violently resisting, was physically assaultive, and was not giving up. Their assessment that the risk Ashley posed was high and that they needed to resort to force to control him was reasonable and appropriate under the circumstances.

C. The Reasonableness of the Use of Force Option

To assess the reasonableness of the use of force option, the Manager must consider the justification for the amount of force utilized by the officers once they decided that force was necessary. It also requires that the Manager consider whether the escalation of the level of force throughout the interaction, up to and including the use of the Taser, was reasonable. The assessment of the reasonableness of the officers' use of force requires an analysis of the laws and DPD's Use of Force policy.

C.R.S. § 18-1-707 authorizes a peace officer to use physical force in situations such as this. It allows an officer to use reasonable and appropriate force to the extent he believes necessary to make an arrest or prevent an escape. The statute provides as follows:

18-1-707 Use of physical force in making an arrest or in preventing an escape

- 1) Except as provided in subsection (2) of this section,¹¹ a peace officer is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary:
 - a. To effect an arrest or to prevent the escape from custody of an arrested person unless he knows that the arrest is unauthorized; or
 - b. To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to affect such an arrest or while preventing or attempting to prevent such an escape.

The statute further provides that the officer does not necessarily have to be correct in his determination that the subject has committed a crime and needs to be detained as long as the officer has a reasonable belief that the actions in which the subject engaged constitute a criminal offense. The statute states:

- 4) For purposes of this section, a reasonable belief that a person has committed an offense means a reasonable belief in facts or circumstances which if true would in law constitute an offense. If the

¹¹ Subsection (2) of that policy applies to the use of "deadly physical force" and, therefore, does not apply to this case since the officers did not use deadly physical force, such as the discharge of a firearm. It is important to note that just because a death occurs in connection with a use of force incident does not necessarily mean that deadly physical force was used. Deadly physical force is defined by Colorado law as, "Force, the intended, natural and probable consequences of which is to produce death and which does, in fact, produce death." CRS §18-1-901(3)(d). The force options utilized by the officers in this case are not classified as deadly physical force because death was not the intended, natural and probable consequence of such force.

believed facts or circumstances would not in law constitute an offense, an erroneous though not unreasonable belief that the law is otherwise does not render justifiable the use of force to make an arrest or to prevent an escape from custody.

The Department's Use of Force policy embraces the same concepts as the statute, but emphasizes that the force must be necessary. The policy provides that "an officer shall use only that degree of force necessary and reasonable under the circumstances." However, the policy provides that this consideration must be viewed from the perspective of a reasonable officer. It states:

The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments, in circumstance that are tense, uncertain, and rapidly evolving, about the amount of force that is necessary in a particular situation. The reasonableness inquiry in an excessive force case is an objective one; the question is whether the officers' actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.

Both the law and the Department's Use of Force Policy focus on the "objective reasonableness" of a police officer's decision to use deadly physical force under the "totality of circumstances" present at that time. The officer is required to rely on his training, experience and assessment of the situation in deciding the level of force to be employed, and to exercise reasonable and sound judgment. The policy recognizes the tense circumstances in which officers are required to make immediate life or death decisions. In such circumstances, a higher level of force may be deemed reasonable than would be the case if the officer had minutes or hours to make that choice. The policy also provides that the greater the level of threat facing the officer, the greater the level of force that may be used by the officer.

Throughout the incident, the officers used the least amount of force necessary to control Ashley while escalating the level of force as necessary and in response to Ashley's actions. As discussed above, Officer Jones began with non-physical force through asserting a command presence and he and all officers used verbal commands continually throughout the entire incident. Officer Jones first attempted to simply gain control of Ashley by grabbing his arm.

Then, once on the ground, all of the officers utilized their training in attempting to handcuff Ashley. Officers are taught that if an individual is violently resisting them, it is likely easiest to get them handcuffed if they are on the ground and in the prone position. If more than one officer is available, it is best to have one officer control the individual's right hand, one control his left hand, one control his legs and one control his head and neck area. Restraining an individual in this way can help to protect the individual from harm and, if successful, get him handcuffed and avoid a greater level of force. While grappling with Ashley, officers attempted to move into these positions and execute these techniques.

Officer Wheeling said that they also used wrist control techniques but they did not work. Pursuant to training, officers used their own body weight to try to control Ashley. Officer Wheeling said that there was no pressure on Ashley's back or neck and Ashley never cried out that he could not breathe.

As Ashley continued to resist, the officers used other force options such as pain compliance in order to attempt to get Ashley under control. As discussed above, Lieutenant Conner and Officer Curtis used OPNs in hopes that the pain from the OPNs would cause Ashley to stop resisting. Officers also attempted to use the non-lethal Taser in the less painful stun drive mode to gain control of Ashley, to no avail.

As the officers moved through their use of force and control options, they tried to de-escalate the force a number of times but Ashley would just fight harder. Ultimately, through struggling and grappling, the officers finally gained enough control over Ashley to get him handcuffed. It was not until Ashley was vomiting and almost unconscious that he finally stopped resisting the officers.

The Manager of Safety finds that the facts and the circumstances surrounding this event lead to the conclusion that the force options decision to use force utilized by the officers was reasonable and appropriate. DPD's Use of Force policy specifically recognizes that force may be necessary and unavoidable in situations like this. It states, "Policing requires that at times an officer must exercise control of a violent, assaultive, or resisting individual to make an arrest, or to protect the officer, other officers, or members of the general public from risk of imminent harm." In fulfilling their duties, the officers utilized appropriate force options. As zoo guest AA stated, "I can't imagine that there would have been an overreaction by the police because there was no way he was going to give up ever, he was beyond any reason."

VII. CONCLUSION

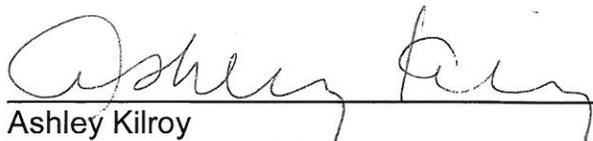
After a careful review and analysis of this case, the Manager of Safety concludes that the officers acted in accordance with the law, the Department's policies and their training. These conclusions were reached independently by the Manager and are consistent with those of the District Attorney's Office, the Chief of Police, the use of Force Board and the Independent Monitor. These consistent conclusions result entirely from the reason that they are based on the facts determined from the similar observations of a large number of witnesses. The statements of each person - from ES, to her family, to the guests at the zoo, to zoo personnel, to the officers - are generally consistent. Ashley was acting strangely, he attacked a security guard, he was non-compliant and fought with officers. The officers tried to calm him down and tried to get him under control, but Ashley reacted violently. The Manager has concern when a police officer has to use force in the line of duty. However, in many instances, such as this case, the actions of the person against whom force was used precipitated that use of force.

The death of Alonzo Ashley is tragic; but it was not intended by anyone. It was not the natural and probable consequence of the type of force used by the officers. The officers were carrying out their duties consistent with their training and did what they reasonably believed was necessary. Based on all available information, the Manager concludes that on July 18, 2011, Officer Justin Jones and other responding officers acted reasonably and appropriately under the circumstances with which they were confronted.



Alex J. Martinez
Manager of Safety

1-27-12
Date



Ashley Kilroy
Deputy Manager of Safety

1-27-12
Date

APPENDIX

Civilian Witness Statements - Summaries

Responding police officers contacted numerous witnesses who were in the area at the time of this incident. Set forth below are summaries of the statements of some of those witnesses. Although not detailed below, there were other witnesses who were questioned. The reports regarding the specific statements of all the witnesses contacted are contained in the files relating to this case.

AD2 – AD2 is the 7 year old son of MD. He was at the zoo that day with MD, ES, NS, and Ashley. He stated he didn't know what happened to Ashley, he thought maybe he was dehydrated and he was pouring water on himself. "They" started following Ashley who then started fighting with the police. He stated that other police came and they "got on him," at which point Ashley "tried to take the Taser away from the police." Ashley then started vomiting. The Taser somehow got out of his hand and was "behind him." Ashley stopped breathing and an ambulance came.

AD3 – AD3 works at the zoo and was driving the zoo shuttle on zoo grounds when another zoo employee informed her that there was a zoo guest, determined to be Ashley, who had his head in the water fountain and had been that way for over 20 minutes. She drove by and checked on him. She then saw AD arrive in a medic cart and try to talk with him. Ashley did not respond. AD then asked if he was with anyone. AD3 asked around and then returned to AD to tell him that Ashley was with ES who was sitting on a bench nearby. AD was making a phone call to JT at the time. Ashley then started yelling at ES telling her, "You better not tell them fucking anything" over and over. He then kicked the recycle bin and became extremely aggressive. She felt unsafe and walked away and began to set up a perimeter to keep other zoo guests away from the area. She then saw AD running so she called on her radio to report the same. She heard Ashley using "the n-word" and saying something like, "I'm gonna get you!" She did not see the assault on AD but afterwards she saw AD looking disheveled and out of breath. She also saw him on his radio. Ashley then returned to the water fountain. AD3 noted that Ashley was "scary," "aggressive," and didn't seem "with it" or in a "right frame of mind." Another female zoo employee approached Ashley, who then calmed down a bit. He then got aggressive again. She noted he was "irate" and "not cooperating at all." She saw more zoo security and officers show up. She heard someone yell, "Stop resisting." She did not see anything else.

HB – HB was visiting the zoo from out of state with her husband and daughters ages 5 and 10. They were walking towards the elephants when they looked up and saw two males fighting. She saw Ashley on top of AD and he was "just hitting him and hitting him." She heard an unidentified woman yell, "Help." Her husband ran up to help the security guard, determined to be AD, and as he arrived, Ashley jumped off AD. Her husband stood between the two of them. HB was standing back but she could hear Ashley saying either, "The Lord made me do it" or "God made me do it." Ashley continued walking away from them. AD got on his radio and requested medical help. Ashley then began to "jog away." After a few moments, her husband checked on AD.

They started heading towards the exit and ran into the police on the way out. They pointed police in the direction of the elephants and left the zoo. She added that Ashley was "erratic," "he had to have been on something," and was "like something was wrong."

WB – WB was visiting the zoo with his wife, HB, and two daughters. He saw two men on the ground fighting. He ran up and noticed one was a security guard, determined to be AD. He saw Ashley hit AD "3 or 4 times." As he approached, Ashley jumped off of AD. Ashley was backing up saying, "I did it for God, I did it for God." WB told Ashley to "back up." Ashley responded, by saying to WB, "I'm going to do it for God." Another zoo guest came up and explained what had happened. Ashley kept backing up. WB added that Ashley "didn't look right," "like he wasn't all there." Another security guard approached and tried to "cool down" Ashley. Ashley ran off around the elephant enclosure. WB checked on AD who was calling for assistance. He did not see Ashley again.

LB – LB was at the zoo that day with KG. They got to the zoo later in the day. They heard people shouting and thought an animal might be loose. She saw about six officers standing up and a man who appeared to be on the ground shouting. There were also approximately two zoo employees as well as two other women and one young boy. She heard someone who she believed to be Ashley say something along the lines of, "Hey baby." She then saw "several officers struggling with a man on the ground." She heard a Taser go off but did not see it being used. She heard an officer say, "Don't fucking bite me." She then heard Ashley say, "Baby come here, I'm going to die." The girl, presumed to be ES, said something in an effort to calm Ashley down. LB then heard the Taser for a third time. LB and KG began to leave when she turned around and saw an officer doing chest compressions on Ashley. She heard what she thought was a zoo employee talking to the paramedics telling them to step it up because Ashley was not breathing.

KG – KG was at the zoo that day with LB. They were walking up to the elephant exhibit when they saw officers across the way. They heard a Taser and decided to walk up and see what was going on. She heard officers saying, "Stop" and a man on the ground, determined to be Ashley, yelling and moaning with no words. They could not see what was going on. She then heard someone say, "Baby come here, baby come here, I need you over here." The girl responded, "You need to stop, you don't need to do this" and then she backed away. She heard another Taser, and more yelling. She heard Ashley say, "I'm dying, I'm gonna die, baby, come here, come here." Another officer stood up and said, "Stop doing that" and "Don't fucking bite me." She heard Ashley again say, "I'm gonna die" then she heard another Taser. They decided to leave when she heard someone yell, "He's not breathing!" They came around and could see Ashley on the ground with an officer doing CPR. Around that time, the ambulance arrived. She noted that she never saw anyone strike Ashley.

CC – CC is a nurse who was visiting from out of state with her boyfriend, AA. She was on her way out of the zoo when she heard Ashley screaming in the distance. She stated that it was "frantic" screaming. Zoo security began walking calmly, on his radio. Ashley then, unprovoked, ran past her and tackled and beat the zoo security guard,

determined to be AD. She heard the security guard, AD, calling for help. She looked around the corner to where Ashley and AD were located and then saw Ashley get off of AD, although he was still screaming “pretty crazy.” She asked another zoo employee if they had called for help. That person said that they had. She decided at that point she should leave. As she was leaving, she saw an officer walking into the zoo. She added, “This was absolutely a circumstance where this man needed to be restrained and was endangering the public.” He was “unstable,” “unpredictable,” appeared “to be under the influence of something,” or “mentally unstable.”

AA – AA was with CC at the zoo that day. He confirmed CC’s version of events and added that he could see AD trying to keep other people away from that area. AD was running away from Ashley who was chasing him and yelling at AD. He kept saying, “This is my house. I’m king of this jungle” adding, “He was pretty incoherent” and he “didn’t seem very grounded in reality.” He concluded that despite news reports, “I can’t imagine that there would have been an overreaction by the police because there was no way he was going to give up ever, he was beyond any reason.”

CD – CD was at the zoo that day with her husband, TD; daughter in-law, FD; and grandson. Her party saw a “young male” bent over with his face in the running water fountain. They determined that they needed to let someone know. FD went one way while CD went another way to find a zoo employee to help. She found two female zoo employees and let them know what was going on. One of the female zoo employees drove up in a shuttle towards Ashley and said something to him. Ashley appeared to respond then she drove on. CD could not hear what was said or how Ashley responded. Ashley had his face in the water. CD, concerned he could be drowning himself, approached Ashley and asked if he was okay or if he needed help. Ashley responded, “No, I’m fine.” Around this time Ashley yelled, “Fuck the zoo. This is my house!” and then put his face back in the water. The group began to walk away from Ashley. A zoo security guard then approached Ashley and a scuffle and argument ensued. The security guard, determined to be AD, walked away from the scene. Ashley then stood up and began running after AD. CD noted that Ashley was running “so fast,” “like an athlete” towards AD. He literally ran out of his shoes and hit AD from the back.

There were two zoo employees standing near CD. CD said to them, “For God’s sakes, dial 9-1-1 now.” People approached to pull Ashley off of AD. Ashley got up and started mumbling again, “This is my house. Fuck the zoo.” Ashley ran past CD again, picked up his shoes, and went back to the water fountain, putting his head back in the fountain. They heard sirens and walked away from the scene. When they were getting ready to leave, they saw Ashley on a stretcher and someone doing CPR on him. She stated the whole incident was “odd” and “just plain weird.” She noted that she didn’t smell any alcohol on Ashley when she spoke to him.

FD – FD was at the zoo that day with her mother-in-law, CD; her father-in law, TD; and her 2 year old son. She saw Ashley at the water fountain, straight legged and bent at the waist with his face in the fountain, not moving. CD ran one direction to find security while FD ran to the education center to get someone to assist. She arrived at the education center and told a woman there that there is a man passed out in a drinking

fountain. When the woman in the education center radioed security, someone on the other end of the radio stated that he had been there approximately 20 minutes and was not hurting anyone. She then saw AD in a cart. Ashley started to move and then began running after AD yelling, "Fuck this zoo" and "I just want some water!" She isn't sure what the conversation was between AD and Ashley but did notice that AD backed away and was keeping distance from Ashley. Ashley then ran after AD at "superhuman speed" and "took him down." She then saw a large group of people trying to get Ashley off of AD and told CD, "He [Ashley] is gonna fucking kill that guy!" His shoes came off somewhere during this time. Ashley then returned to the water fountain stating, "I just need water." She stated, "He was acting like somebody who was on something." She also stated that she was in fear of Ashley as well and thought she could be in danger. She felt "extremely unsafe" and left the area until police arrived.

TD – TD was at the zoo with CD, FC, and his grandson. He saw Ashley "slumped over a drinking fountain with his face in the hole," his face turned sideways and his eyes closed. They initially decided to leave him be but then came back and decided that they should find someone from zoo security to go to Ashley since they suspected he was on drugs. It took about 5-10 minutes to get security over to Ashley. A zoo security guard, later determined to be AD, approached Ashley, spoke to him, and then "decided to stand down" and walk away. As he walked away, Ashley took off "sprinting" and "fast-fast" past TD, who again stated, "He was fast." TD followed and after about 75 yards, Ashley ran into AD and "flattened him." TD noted that Ashley literally ran out of his shoes. Ashley was taken off of AD and then stated, "You just gotta remember man that this is my fucking house." He heard someone telling Ashley to "calm down" trying to de-escalate the situation. Ashley returned to where he had been at the drinking fountain and kept saying, "This is my fucking house" and picked up his shoes on the way.

EF – EF is a security guard at the zoo. On the date of the incident he was wearing a zoo security uniform; he was up at the main gate in "B" station. He received a call from AD on the radio that he had been attacked by a guest. He, JT and AL ran towards where AD was located. He met up with AD who was fine but shaken up and had some scratches. Ashley was over with ES. He was sitting on the ground. EF approached him with JT. JT asked if he was ok and what was going on. This upset Ashley who "jumped up and just wanted to start a fight." He had his fists clenched and said things like, "Come on, let's fucking fight. Let's throw!" They tried to calm Ashley down. They got a call on the radio that DPD had been called. One officer showed up, determined to be Officer Jones, who was trying to keep Ashley from leaving. Seeing that an officer had arrived seemed to cause Ashley to escalate the situation. Ashley then decided that he wanted to fight the officer, becoming "combative." Ashley told the officer, "Fuck you, I'm out of here" and told ES that they were leaving. He attempted to push past Officer Jones who then made physical contact with Ashley's arm in an attempt to detain him. Ashley then started to physically fight the officer. At that point, the officer, EF, JT and AL all jumped in to try and get Ashley detained and calmed down. He heard commands like, "Calm down," "Stop fighting," and "Relax."

More officers arrived. They tased Ashley which made him even angrier but did not have any effect on trying to control him. Even more officers began to arrive. They got Ashley in a prone position, ordered him to put his hands behind his back and tried to get

handcuffs on him. Ashley wouldn't listen. He began kicking, scratching, punching and biting. He noted one officer's OPNs were broken because Ashley was "kicking like a mad man" and he heard one officer say, "He bit me!" They got handcuffs on him and got him under control. At that point Ashley began vomiting. EF had gone to check on AD when he got a call that they needed an AED because Ashley had stopped breathing. He took a cart to get the AED. By the time he got back paramedics had arrived and were doing CPR. He stated that all they were trying to do was calm Ashley down; no one was trying to hurt him. Ashley never complied with officer orders. He stated that Ashley appeared to be on drugs, his eyes were wide, everyone was calm approaching Ashley, no one was excessive, but he was angry and wanted to fight.

KG – KG is an education outreach specialist at the Denver Zoo. On the day of the incident she was meeting a friend of hers at 3:45 at the zoo. She was showing her friend and her two daughters around near the elephants when they heard yelling. She looked and saw Ashley and AD. She stated that AD was running away from Ashley who appeared "fairly violent, very wound up, so he chased the security guard." AD ended up on the ground and "the guest had attacked him." She also noted that Ashley "punched him" and swung a few times. She stated that Ashley was yelling "something about the Lord at one point." KG instructed her friend to take her two girls away from the situation and KG went over to AD to see if she could help.

Ashley went back over to the water fountain. She approached ES and indicated that she should move away, thinking that ES was simply visiting the zoo and not with Ashley. ES was holding the button on the water fountain while Ashley washed his hand that was bloody from attacking AD. KG noted that this seemed to calm Ashley. KG asked their names and later found out that ES was with Ashley. Ashley was "wobbly" on his feet. Ashley indicated his hand and knees hurt. KG told him to sit down to try and get him to relax. KG asked ES what was going on with Ashley, trying to see if he was on drugs. ES responded that it was just the heat. She noted that Ashley didn't seem "all there." She tried to keep him calm until police could get there. Soon after she saw three security guards approach. This caused Ashley to get anxious and upset again. She then saw a DPD officer coming.

Everyone got a little bit closer and tried to talk to Ashley, who got upset and got "puffed up" and "something was wrong." She noted, "It was kinda scary the way he would get upset. It was like, very violent, 'I can take you' type thing." Officers were trying to calm Ashley and instructed Ashley to get on the ground so they could handcuff him. Officers said something like, "We just want to take you in." At one point Ashley got on the ground but then he got back up again and appeared agitated. She began trying to do more "crowd control" at that point, turning her attention away from Ashley. She noted that officers did get a hold of Ashley at some point and he continued to fight the officers. She stated, "I thought they had him really well. They seemed like pretty big guys so I was surprised that they seemed to be having a hard time to calm him down, assuming he was freaking out a little bit... they had like three, three or four guys and him on the ground trying to stop him..." She checked on AD and was trying to keep guests away from the main entrance area when she heard someone say, "He's not breathing" so they backed the golf cart with AED towards the area of the incident.

AL – AL is a security guard at the zoo. On that day he got a call from AD who sounded distressed, stating that he had been pulled off his cart. AL and EF decide to head to the scene. Upon arrival, he saw AD “all kind of torn up and everything because he just got beat up by the guy.” AD informed him that Ashley had pulled him off the cart and started beating on him and talking about the Lord. He did not see the assault on AD. He was going to go speak to Ashley but AD told him to hold off until more people arrived. JT and DPD were called to the scene. AL went to get the police. When he arrived back on the scene, JT was talking to Ashley, trying to calm him down. Ashley was “going crazy. He was on some kind of drugs or something. He was out of his mind, like crazy-crazy.” Ashley was yelling at JT, “You can’t fucking hurt me, I’ll fuck you up” and was “really hostile for no reason.”

When Officer Jones arrived, he took out his Taser. At that point Ashley appeared to comply, causing AL to think it was over. However, Ashley then started up again yelling at the officer and attempting to walk towards the exit. They all followed him to get him on the ground. Ashley then “swung at the officer.” JT and the officer tried to talk to Ashley. AL noted, “He was really, really strong, that’s why I think he was on drugs or something.” AL also noted that Ashley was tased but that it had no effect on him. Ashley tried to grab the Taser from the officer. AL assisted in trying to get Ashley under control so they could get handcuffs on him. Other officers arrived. A female officer was using OPNs on Ashley’s ankle since he was kicking. Ashley continued struggling and then bit JT in the knee and bit another officer. JT and an officer got the handcuffs on Ashley. He stated that it took “maybe eight people to get this one guy, to get handcuffs on him, that’s a lot of people for just one person.” He stated that Ashley did not stop until he started vomiting. Officers moved him away from the vomit. Paramedics arrived.

LM – LM was at the zoo that day. She saw Ashley chasing a zoo security guard, determined to be AD, “as fast as he can.” She then saw Ashley catch up with AD, throw him to the ground and then keep “punching him in the face at full force.” She also heard Ashley yelling that he wanted to “kill him for the Lord.” She stated, “I honestly thought [Ashley] was going to kill him” so she yelled for her sister to call 9-1-1. She stated AD “absolutely” did not engage in the fight with Ashley. Another man stepped in to assist, AD when Ashley got off AD and started running back, looking at AD and was stating, “It’s all for the Lord, it’s all for the Lord.” She stated that what Ashley was saying wasn’t making sense. She followed Ashley until she was stopped by yellow crime scene tape.

CR – CR was at the zoo that day with her boyfriend, NV. They got to the zoo around 3:15. They were walking by the elephant exhibit when they saw Ashley with his head in the fountain. No one was saying anything to him. A security guard then asked him to take his head out of the fountain and Ashley “freaked out” and started screaming at the security guard. They did not see what happened after that but afterwards they saw people running from the area where Ashley was arguing with security. She heard someone say that they needed to call DPD. She stated that Ashley was “really upset” and could be heard “screaming really weird things like that he was a lion and that this was his house.” She noted that “he was acting so, so strange” and the police were trying to calm him down. She also stated that she was surprised that after the confrontation with zoo security and “after he was so enraged,” the security guard was still attempting to get Ashley to calm down.

Ashley was ordered to the ground by police. He responded stating, "I'm not going with you!" She also stated that he was yelling at his girlfriend telling her, "Bitch get your ass over here, we're going home!" Ashley was taking a fighting stance with the officer and then tried to run towards or lunge at the police officer who she believes tased him and he fell. She did not see him get tased but she heard the noise of what she believed was a Taser. She heard the officer, later identified as Officer Jones, call for backup. More police arrived. She stated that police were trying to hold him down and calm him down. They kept telling him to stop resisting and calm down. The officers called for more backup. At one point Ashley got his hand on the Taser and continued yelling, "This is my house!" There were five or six police officers on him trying to hold him down. Officers tased Ashley a second time.

CR stated that she thought he was on drugs because it was "really obvious to everyone there that he was not in the right state of mind," that or "he had some severe mental issues ... something was wrong with him though" since he kept saying, "I am a lion!" CR stated, "I was surprised at how many chances they gave the man to 'please calm down,' 'please, like, get on the ground' and he just wouldn't listen." She noted, "He was so belligerently out of control" and "He was going absolutely crazy, he was threatening people, he had already hit somebody once ... [the news outlets] have it all wrong. It was not a hate crime at all. [Ashley] was so out of line."

CR2 – CR2 met her friend, KG, at the zoo that day. She had her two daughters (ages 3 and 5) with her. They met up with KG around 3:45. They walked over to the elephant exhibit when they heard a man in a golf cart yelling at what appeared to be zoo security or zoo staff. The man, determined to be Ashley, seemed to then calm down. She saw the zoo person, later determined to be AD, walking away from the situation. Then Ashley again started arguing, "disturbed to the point that I was like, 'What do I do now?'" Ashley then started running towards them, chasing AD. They "landed" near CR2 and her girls with Ashley on top of AD, having a "physical fight." She told KG, "That man [AD] is really getting hurt." KG instructed her to take her girls and head towards the entrance. She took her girls and left the scene.

NS – NS is the sister of ES. At the time they decided to leave the zoo that day, NS, MD and AD2 started towards the exit. ES told her that Ashley wasn't feeling well and was hot. After about 30 minutes she spoke to ES over the phone who again stated that Ashley was sick and stated that zoo security was with him. NS heard through the phone someone (who she believed to be a security guard) instruct Ashley, "Take a couple of deep breaths." Concerned, they decided to return to where ES and Ashley were inside of the zoo. As they approached, NS saw Ashley standing without shoes. She could hear Ashley telling security "not to touch him" and telling security, "Hit me, hit me." ES was telling Ashley to "stop." Ashley announced they were leaving and instructed ES, "Let's go." At that point, "he was resisting when they told him just to relax ... that's when the fight happened and then that's when the Denver cops came ... They brought out the Taser and everything to try and stop him but he was acting all weird and kept telling my sister, he's like, 'I'm gonna die' ... He started throwing up and then he passed out."

NS stated that Ashley was resisting and fighting back with the police and security. She stated that there were two or three security guards trying to stop Ashley in addition to a Denver officer. She believes that they attempted to use the Taser on Ashley but Ashley was trying to pull the Taser away from them. She heard the Taser deploy but was not sure if it hit anyone. She heard an officer say, "We have to tase him" and another officer say, "We already did." The officers were telling Ashley, "You need to relax so we can cuff you." Ashley told ES, "Come to me" and "I'm gonna die." NS had never seen Ashley behave in such a manner.

NS stated that prior to this Ashley wasn't acting normal. She asked her sister what was wrong with him and she stated that he was just hot. NS noticed that Ashley was "sweating excessively" and looked like he was about to pass out. She stated that it appeared "the heat was really affecting him." After Ashley passed out, the paramedics arrived and began doing CPR.

JT – JT is a security supervisor for the Denver Zoo and had been a police officer in the Kansas City area for approximately 11 years prior to moving to Denver. His senior security officer, AD, called him regarding a suspicious person near the elephant exhibit, telling him that the person had been at the fountain running water over his head for several minutes. While AD was on the phone with JT, JT could hear Ashley in the background sounding aggressive. He noted that AD was "getting a little worried." The call from AD got disconnected from JT, who then called their "base" which is the zoo equivalent to dispatch. He spoke to R, and asked if AD was okay. R responded, "He's being chased by the guy." JT instructed her to call the police. JT had already left the zoo prior to this and because of this call, he returned to the zoo within a couple of minutes.

When JT arrived on scene he saw AD, AL, and EF (security guards for the zoo). They showed JT where Ashley could be found. He saw Ashley on the ground, a pair of shoes on the ground, an educational outreach employee and ES standing near Ashley. He instructed the educational outreach employee and ES to back away from Ashley since AD had informed him that Ashley had been violent. JT then asked Ashley if he was okay. Ashley was "lethargic" and not wanting to talk. JT asked if he needed anything or needed any medical attention. This upset Ashley who jumped up off the ground. Ashley kept "getting mad" and "throwing his hands in the air" and was in a fighting stance. At one point Ashley said something to the effect of, "Come on mother fucker, you wanna test me!" JT responded by telling Ashley to relax, letting him know that they were there for him and that no one wanted to hurt him. Ashley repeated that same statement 12 – 15 times. JT thought Ashley was on drugs or mentally ill. Ashley then picked up his shoes and started banging them together.

Officer Jones arrived and took over verbal commands. The officer pulled out his Taser and aimed at center-mass. This stopped Ashley who then sat on the ground. Ashley then "blew up again" and jumped up cursing at the officer. Ashley was trying to walk away while JT and the officer tried to keep him contained to protect other zoo guests. Ashley was calling ES, telling her, "Come here baby, they're trying to hurt me." JT instructed his employees to keep her away. Ashley then went after the officer, getting physical. JT stepped in since there were no other officers. Ashley was trying to kick

and punch the officer and JT. He noted that Officer Jones was bigger than Ashley and stated that for Ashley to fight them as he did, with the strength he had, he was either mentally ill or on drugs. They couldn't get control of Ashley who was fighting and trying to grab the officer's equipment. The officer tried to drive stun Ashley with the Taser. It had no effect. Ashley didn't even flinch. Ashley then grabbed the Taser. At that point JT let go of Ashley's legs so he could grab his hand to keep him from getting the Taser. Ashley continued kicking so JT went back to trying to control his legs.

Other officers began to arrive on scene, they were commanding Ashley to "stop resisting" and "put your hands behind your back." Ashley responded, "I am not resisting!" Ashley got his hand free again and reached for an officer's gun. He could not tell which officer's gun Ashley was attempting to grab. JT then went back to Ashley's arm. An officer was trying to put him in handcuffs but Ashley grabbed the handcuffs. They got his arm free and got him cuffed. Ashley continued to fight and then bit JT's kneecap. JT stepped back and then Ashley started to vomit and went from "fighting wildly" to subdued very quickly. They flipped him onto his side so he could breathe easier. JT checked his pulse in his neck which was weak. He could not see Ashley breathing. He called for an AED and around that same time paramedics arrived and took over. JT noted that Ashley was given clear, calm commands but he failed to comply. He also noted that Ashley hit him in the abdomen and hit him in the ribs.

NV - NV was at the zoo that day with CR. When they walked around the elephant exhibit they saw Ashley "causing quite a stir," "yelling," and "using profane language" with the zoo employee who had asked him to get his head out of the drinking fountain. He saw Ashley run "really fast" away from the zoo employees who had approached him. He heard that Ashley punched the zoo employee but he did not see it happen. He then heard someone on their radio call for DPD. He heard zoo security talking among themselves and heard one employee was going to approach Ashley. The others instructed him not to approach since Ashley was aggravated and to call the police. At that point one officer arrived, determined to be Officer Jones, who identified himself as a Denver officer. Initially, Officer Jones had his hand on his holstered Taser and was telling Ashley to "refrain." Ashley replied that he was going home and told the officer to "back off." Officer Jones continued to try and calm Ashley and then took his Taser out of the holster and told Ashley to "calm down" and to get on the ground and put his hands behind his back. Ashley cursed at the officer and told him, "This is my house," "Try me pops," and stated repeatedly that he was going to go home. He also told ES, "Get over here now bitch."

More officers arrived on scene. They took him down and tried to restrain him on the ground. Officer's ordered him to "stop resisting arrest." He stated that while they were on the ground, Ashley did get his hand on the officer's Taser. He heard the Taser but did not see it used. He also never saw anyone strike Ashley. He added that Ashley would calm down, say "I'm done," and then start fighting if the officers let up on him. Zoo security told them to back away and they left the scene.

Responding Officers

The information provided by Officer Jones is set forth in detail throughout this Public Statement. In addition Officer Jones, numerous other members of the Denver Police Department, including command staff, officers, detectives and lab personnel responded to this incident. Officer statements by those actively engaged in the incident are summarized below. Officer statements of responding officers who were not actively engaged in the incident are not summarized below, however, can be found in the case file.

Lt. Pete Conner – Lt. Conner is a Lieutenant in District 2. On the night of this incident he was working detail 3, wearing a regulation DPD uniform and driving an unmarked patrol car. He received a call for officers to respond Code 10 to an officer needing cover at the zoo.

As he approached the area of the incident, he could hear “yelling” as well as a Taser going off one time for the “normal length of a Taser.” He approached to see Ashley on the ground struggling with officers as well as zoo staff; he saw at least two officers and two zoo employees. There was no hitting, kneeling or kicking, only officers trying to get Ashley’s hands under control. He put his OPN on Ashley’s right ankle and saw Officer Smith put her OPN on his left ankle. Lt. Conner stated that this was an attempt to use pain compliance on Ashley’s ankles so that he would focus on his feet and not his hands so that officers could get him to stop resisting with his hands and put handcuffs on him. This does not happen. Ashley “doesn’t flinch at all,” and continues resisting. Ashley then kicked Lt. Conner off of him, causing him to fall on Officer Smith, injuring her. Lt. Conner then re-established his grip on the OPN but his OPN then broke. Lt. Conner stated that he has never heard of OPNs breaking like that before. He also noted that he believed that Ashley was either on drugs or suffering from “excited delirium” because of his strength. He stated that someone under the effects of alcohol “doesn’t have the strength of this guy. I’m lying on this person, I’m 215 lbs. and he threw me off like it was nothing.”

Lt. Conner then moved up towards Ashley’s arms. They got one cuff on him and tried to stretch him out to his stomach. Ashley was struggling. He heard an officer yell, “He bit me!” A zoo security guard, determined to be JT, assisted in getting the other handcuff on Ashley. Lt. Conner called for an ambulance. Even handcuffed, Ashley continued to struggle. Ashley then vomited. Lt. Conner instructed the officers to move Ashley six inches to get him out of the vomit. They put Ashley on his side, making sure to keep his airway open. Ashley vomited again, at which time his eyes were half shut. At this point Lt. Conner realized there is something seriously wrong; he stated that at that point he knew, “This guy is dead or dying.” The officers began checking for breathing and a pulse. Another officer began CPR while Lt. Conner radioed to request the ambulance that had been called to “hurry up.”

Officer Phillip Coleman – Officer Coleman is a patrol officer assigned to District 2. On the day of the incident he was wearing a regulation DPD uniform and was driving a fully marked police car. He received a call to the zoo regarding a “domestic violence in progress.” After he arrived in the parking lot, he heard a call for additional cars to help.

He got out of his car and ran towards the elephant area. Upon arrival he noticed Officer Jones and another person wrestling with Ashley. At the time, he did not know the man helping Officer Jones was an employee of the Denver Zoo, later determined to be JT. He could see they were still struggling. The zoo employee was at his lower extremities while Officer Jones was towards the top of his torso. Officer Colman positioned himself in between Officer Jones and JT. Officer Coleman stated that Ashley was

Extremely tense, extremely rigid. He wouldn't move. We couldn't grab him. He kept flailing – flailing his arms, trying to get out all the holds we could try to administer. Eventually, we were able to roll him over onto his back side – To try and get his hands behind his back. One of his hands was still underneath him so we repeatedly kept saying, 'Give us your hands. Give us your hands. Please give us your hands. Give us your hands.' He wouldn't do it."

At that point Officer Jones got a hold of his Taser and un-holstered it. Officer Jones tased Ashley but "it just – it didn't appear to work." Officer Coleman went on to note, "He was just extremely, extremely strong and – and it just wasn't making any sense why he wouldn't give us his arms, and I'm grabbing his – whatever arm I could to get it under control – to grab – to grab his – to grab his arm." The Taser got knocked out of Officer Jones' hand or he possibly threw it, but it ended up on the ground. Ashley then grabbed the Taser. Officer Coleman moved over to where the Taser was to get it out of his hand and out of his reach. At that point, "I was kneeling towards his head and that's when he bit me in my left calf. I stated – I – I said, 'Ow, he bit me.'" Officer Coleman went around the other side of Ashley try to get a hold of his other arm. Ashley kept saying something to the effect of, "Help me," or, "Grandma, help me." Officer Coleman saw the Taser off to his right, grabbed it, rolled him back over, and while rolling him back over, was able to tase him once in the back. It had no effect on him. He tased Ashley once again in the back and at that point, the contact tase seemed to tense him up to where he would stop moving.

Eventually they were able to get handcuffs on Ashley. He noticed that Ashley had vomited so they laid him up on his side. They all stood up and stepped away to catch their breath. Officer Coleman kept looking at him to make sure he was doing okay. At that point, Ashley was still breathing kind of labored but he was breathing and his eyes were moving and his lips were moving. He wasn't saying much but he was still breathing. His breathing began to slow until the officer noticed he was not breathing at all. The lieutenant ordered someone to start compressions. He heard someone got on the radio to make sure the ambulance was coming Code 10 because he was becoming unresponsive. The paramedics and Fire Department arrived and took over the compressions for the officer.

Officer Jennifer Curtis – Officer Curtis has been assigned to the Gang Bureau for approximately 11 years. On the day of the incident she was wearing a regulation DPD uniform and was driving a fully marked police car. She was working with Officer Gasca when they heard a call come in over the radio of a possible fight at the zoo requesting District 2 cars to respond. She then heard a District 2 officer request a cover car and then a request from dispatch or the officer for additional cover, including the Gang Bureau.

She responded to the scene and saw another officer ahead. She and Officer Gasca ran through the front gate and headed toward the elephant exhibit. Upon arriving at the scene she saw Ashley handcuffed face down and struggling with officers. She stated that it appeared that Ashley had vomited yet was still fighting with officers. She went to Ashley's feet and put her OPNs on his right ankle. She heard officers telling him to "calm down" and "stop fighting." She told Ashley the same thing but he continued to kick. Ashley did not respond to the OPNs which was "not normal." Officer Gasca then took Ashley's legs and held them up with his body weight so that he could not kick the officers any more. She saw a large pool of vomit which concerned her. Officers then moved Ashley onto his left side. Officer Gasca released his legs as they turned him on his left side. She saw his eyes only about half open and noticed that he was not blinking so she asked officers to make sure that he was breathing. The officers informed her that he was breathing and checked his pulse. At that point someone got on the radio and told the ambulance that was already en route that they need to hurry. She asked again if Ashley was breathing. Another officer, later determined to be Officer Stevenson, started doing chest compressions.

The paramedics arrived and requested that they remove the handcuffs. The officers complied. She then spoke to Officer Coleman who informed her that Ashley had bitten him on the leg. She heard someone from zoo security also say that they had been bitten on the leg. She also noted that Officer Smith had injured her knee and noted visible cuts on the both hands of Officer Jones as well as on his elbow. She heard Officer Jones tell paramedics that he could not feel his left thumb and state that his left hand was "tingly." Lt. Conner then requested that all involved officers separate and instructed them not to discuss the incident.

Officer Joseph Gasca – Officer Gasca was assigned to the Gang Bureau with Officer Curtis on the day of the incident. He was wearing a regulation DPD uniform and driving a fully marked police car. He heard on the radio a normal call of a "domestic dispute inside the zoo with an Asian female and a black male that was being hostile and the description was black tank top, blue shorts. He was either like – I remember he was short, like 5'5", 5'6" maybe and 140 pounds." At some point he heard a call from one of the cars on scene that was there by himself, determined to be Officer Jones, with commotion in the background. His voice sounded "excited" and he asked for a cover car. They turned up the radio and then heard dispatch ask if he needed the response code 9 or 10. Officer Jones did not respond so dispatch said, "All cars are responding Code 10."

Officer Gasca followed a District 2 officer into the zoo. Officer Gasca stated, "Immediately prior to getting there and before seeing anything ... [there was] a lot of yelling. It was officers giving commands for, I assumed, an individual to, 'Stop resisting.' Vividly I remember someone telling him, 'Stop biting me.' So he gave that command, oh, about twice, and then, 'Stop resisting,' to, 'Relax' ... everybody was giving commands for him to 'Relax'." He stated that there was an officer on one shoulder, zoo security at Ashley's other shoulder, two more officers in the middle of his back, officer's with OPNs on his ankles, and "it looked like they had it under control but I could see that he was still resisting." He also stated, "This officer, the officer using OPNs ... he stood up, and I remember looking back at him and he was just looking at

his OPNs and his OPNs were actually broke in half and he said – he was just talking to himself. He goes, ‘I’ve never even seen anything like that.’” Another officer placed OPNs where the broken ones had been but the officers still did not have control. Officer Gasca noted, “... He was kicking and he was – they were ineffective, completely ineffective.”

At that point Officer Gasca stepped in, told the officers at Ashley’s ankles to release them, and grabbed his ankles. He crossed Ashley’s ankles and then guided his ankles, with his knees bent, so his heels were resting on his behind so he had no momentum to continue moving. Officer Gasca stated that neither this technique nor the positions the officers were in prior to him grabbing Ashley’s ankles would have inhibited his breathing in any way. Ashley began to relax at that point. Someone had called for an ambulance. Lt. Pete Conner asked, “Does he have a pulse?” and about the same time told them to pick Ashley up and move him six inches to the right so he could get his head out of the vomit. The officers disengaged because he wasn’t fighting anymore, and again someone asked, “Is he breathing?” They again checked for a pulse. He then heard Lt. Conner get on the air and say something like, “How far is that ambulance off because we don’t think he’s breathing.” They had rolled him over and one officer started chest compressions. Within a minute, the ambulance arrived.

Denver firefighters got there about the same time and they intubated Ashley. One of the zoo security guards drove up in a golf cart with a portable AED. Officer Gasca noted, “The Fire Department had actually placed the – took the stickers off so the adhesive sticks to his chest and then you just listen for instructions from the AED, and the AED is actually talking to you, and it just says, ‘Don’t render any’ – if it’s evaluating the patient – and I remember on two different occasions the AED said, ‘No shock needs to be administered,’ on two separate occasions.” Officer Gasca also concluded stating:

I’ve dealt with people like this before, and a lot of times when people are under the influence of some type of narcotic, they display their superhuman strength and, you know, that’s when people really start to get hurt and officers, so I was concerned about that, you know, but none of the officers got hurt, so. You know, I did – I had thought he was under the influence or that he had some type of mental disability that just gave him that type of strength where he had needed that many officers and that many people ... – I don’t know what – what type of narcotic he may have been under but I thought he was just the way he was sweating; he was like really wet and, you know, just sweating very profusely. Just the strength to break OPNs like that, it’s unnatural.

Officer Cheryl Smith – Officer Smith is a C.I.T. trained patrol officer in District 2 with over 11 years of experience on the Department. On this day she was wearing a full DPD uniform and utility belt. She was just finishing up a call when she heard Officer Jones call for help at the Denver Zoo. The call came in as a domestic between a black male and an Asian female. The male was being aggressive towards the female, other zoo patrons and security staff. Dispatch told her to respond Code 10.

She saw Lt. Conner in front of her and Officer Wheeler behind her. They ran towards the pachyderm display and saw Ashley on the ground, Officer Jones, and at least two security guards, all restraining Ashley. She took her OPNs and put them on Ashley's left ankle, Lt. Conner put his on Ashley's right ankle. Lt. Conner determined that they should straighten Ashley out; Lt. Conner stood up and attempted to straighten Ashley's leg. At that point the lieutenant's OPN broke. Officer Smith was able to control one leg. She then heard Officer Coleman say, "He bit me." He then handcuffed Ashley. She heard a lieutenant tell them to move Ashley six inches so that they could get his face clear of his vomit. Officer Curtis then came up and put her OPNs on Ashley's right leg. She heard someone say, "Tase him" but she did not know if that happened. She did not see or hear a Taser being deployed, although she did see a Taser cartridge on the ground. Officer Gasca took over Ashley's legs.

Officer Smith then got up to speak to ES who stated that Ashley had not been drinking or taking drugs. Officer Smith went to speak to the paramedics when she got a call stating to step the ambulance up to Code 10 since Ashley was not breathing. The paramedics started CPR and told security to get an AED. Officer Smith stated that Ashley was not acting rationally, and was "very strong for somebody of his size." She was concerned by "the fact that he was so aggressive and, while we were trying to restrain him, he was still so aggressive, he'd been aggressive towards security, he'd been aggressive towards the girlfriend, and then was repeating it with us as we tried to restrain him. Yeah, there was definitely something wrong ..."

Officer Sean Stevenson – Officer Stevenson is a patrol officer in District 2 on Patrol 3. On the date of the incident he was driving a marked vehicle and was wearing a regulation DPD uniform. He was on a call when he heard radio traffic which sounded like a struggle coming on over the radio. From past experience, he anticipated that there would soon be a call for an officer in need of assistance. He ended the call he was on and responded to the call for a "domestic" at the zoo where the involved officers needed Code 10 cover. He responded, arriving at the zoo. He saw Ashley on his stomach, already handcuffed, with multiple officers around him trying to keep him under control. Ashley was still actively resisting. Multiple officers were needed to control Ashley's legs. Officer Stevenson noted that Ashley was much stronger than one would expect based on his size.

Ashley eventually started to calm down and then he began vomiting. Officer Stevens grabbed Ashley by the belt and along with other officers, they moved Ashley out of his vomit. He then continued vomiting, causing concern. He stated that at that point he knew something wasn't right. One officer asked Ashley, "Are you with us?" Ashley did not respond. The officers moved him again, putting him on his left side to take pressure off his chest. Another officer checked his pulse and noted that it was very weak. After a little time, while still waiting for the ambulance, the officers again checked Ashley's breathing and his pulse. Officer Stevenson could not tell if Ashley was breathing. Someone said that they needed to get him on his back and start chest compressions. Officer Stevenson began doing chest compressions on Ashley until paramedics arrived. The paramedics asked for them to remove the handcuffs, Officer Stevenson and another officer removed the handcuffs. Officer Stevenson moved back to allow EMS and Fire to take over.

Officer Charles Wheeling – Officer Wheeling is a C.I.T. trained patrol officer in District 2. On the day of the incident he was wearing a regulation DPD uniform and was driving a marked police car. He received a call from dispatch for additional cars at the zoo. Seconds later, dispatch radioed again for units to respond Code 10.

Officer Wheeling entered the zoo and approached the area near the elephants where he observed two officers and a zoo employee on top of Ashley. He stated, “It was apparent that he was resisting ... his feet were flailing, he wasn’t complying with the officers.” Seeing that they were in need of assistance, Officer Wheeling attempted to get control of Ashley’s left arm. He heard another officer, who he believed was Officer Coleman, state that he had been bitten by Ashley. Ashley continued to struggle so Officer Wheeling said, “Someone Tase him.” He believes it was Officer Coleman who informed him, “We already tased him, it’s not working.” He thinks Ashley may have been tased again at this time.

He did hear officers telling Ashley to stop resisting, give us your arms. Ashley then rolled onto his back. He continued struggling. He heard an officer say that they needed to get him stretched out. He then heard another person who he believes was zoo security say that he had just been bitten by Ashley. Officer Wheeling tried to get control of Ashley’s head to keep him from biting anyone else. They were finally able to get him handcuffed. Ashley then began vomiting. He heard Lt. Conner instruct them to move Ashley away from the vomit. That happened twice. Someone said to roll Ashley to his side. They did and at that point someone checked his vitals and at that time he was rolled back onto his back and Officer Stevenson began doing chest compressions. Lt. Conner had called for an ambulance. Paramedics arrived on scene and took over. Officer Wheeling noted that Ashley appeared smaller than him and noted that Ashley was “much stronger” than he expected.