

**Aurora Police Department**  
**Elijah McClain Press Conference**

Aurora Police Department Headquarters  
15001 E. Alameda Pkwy  
Aurora, CO 80012  
November 22, 2019 7:00 P.M.

**Speakers/Attendees**

**Aurora Police Chief Nick Metz**

**Investigations Bureau Commander Marcus Dudley**

**Aurora Fire Rescue Deputy Chief Stephen McInerny**

***Psychological Services Provided to the Aurora Police  
Department by:***

**[www.browerpsychological.com](http://www.browerpsychological.com)**

**<http://traumathreatandpublicsafetypsychology.com/>**

## North Billings Street Critical Incident

- Case Number: 19-32866
- Date of Incident: August 24<sup>th</sup>, 2019
- Time of Incident: 10:32 P.M.
- Location of Incident: N Billings St/E. Colfax Ave

The following information is included in this packet:

Declination Letter from 17<sup>th</sup> Judicial District, Adams and Broomfield Counties District Attorney

Reintegration Program

Joint Press Release from Aurora Fire Department and Aurora Fire Rescue

Aurora Fire Rescue Press Release and Ketamine Protocol

Transcript of 911 call

Office of the Coroner, Adams and Broomfield Counties Autopsy report for Elijah McClain

Aurora Police Department Directive 5.08 Less Lethal Devices, Weapons and Techniques

Aurora Police Department Carotid Control Hold Vs. Chokehold Comparison presentation

Senate Bill 15-219

**Dave Young**  
District Attorney



**17th Judicial District**  
**Adams & Broomfield Counties**  
District Attorney's Office

November 22, 2019

Chief Nicholas Metz  
Aurora Police Department  
15001 E. Alameda Parkway  
Aurora, CO 80012

Re: The investigation into the death of Elijah McClain

Dear Chief Metz:

Aurora Police Department Detective Matthew Ingui presented the factual findings of the investigation into the tragic death of Elijah McClain to my office on October 21, 2019. The investigation included police reports, videos of the interviews of the involved police officers and witnesses, along with officer body-worn camera videos, 911 audio and other relevant material. The forensic autopsy report was made available to my office on November 8, 2019. Even though this incident did not involve a law enforcement officer's use of a firearm that would mandate review by the Office of the District Attorney pursuant to §20-1-114 and §16-2.5-301 (C.R.S 2019), I feel that the legal analysis as to the criminal filing decision should be directly communicated to you.

The District Attorney's review is strictly limited to determining whether any state criminal charges should be filed against any person involved in the death of Elijah McClain. The standard of proof for filing a criminal case is whether there is sufficient evidence to prove any violation of the Colorado criminal code beyond a reasonable doubt to a jury. In this regard, the prosecution also has the burden to prove beyond a reasonable doubt that the use of force applied to Mr. McClain was not justified pursuant to Colorado law. This review does not include any opinions of civil liability or evaluation into the appropriateness of departmental policies, practices, or procedures.

Based on the investigation presented and the applicable Colorado law, there is no reasonable likelihood of success of proving any state crimes beyond a reasonable doubt at trial. Therefore, no state criminal charges will be filed as a result of this incident.

## **Overview of the Incident**

On Saturday, August 24, 2019 at 10:32 p.m., the Aurora Police Department Communications Center (Dispatch) received a 911 call from J.V. describing a suspicious black male wearing a ski mask, "acting weird" by "waving his arms around" in the area of Billings Street and East Evergreen Street in the City of Aurora. Aurora Police Officer Nathan Woodyard was dispatched to the location and was the first officer to arrive. Officers Jason Rosenblatt and Randy Roedema assisted as cover officers. Officer Woodyard located a black male wearing a ski mask, brown coat and black pants walking in the area of East Colfax Avenue and Billings Street. The male was later identified as Elijah Javon McClain. Officer Woodyard advised via radio that he located the male and awaited his cover car prior to making contact. Officer Woodyard was driving his patrol car south on Billings Street and activated his emergency lights, siren, spotlight, and stopped his patrol car parallel to where Mr. McClain walked. Officer Woodyard stepped out of his car and told Mr. McClain to stop at least three times. Mr. McClain appeared to ignore the commands and continued walking northbound on Billings Street.

As Officer Woodyard approached Mr. McClain on foot, again telling him to stop. Mr. McClain said, "I have a right to go where I am going." Officer Woodyard responded, "I have a right to stop you because you're being suspicious." Officer Woodyard grabbed Mr. McClain's left arm. Mr. McClain immediately tightened up his arms and pulled them to his chest. Officer Rosenblatt grabbed Mr. McClain's right arm just as Officer Woodyard grabbed Mr. McClain's left arm. Officer Roedema arrived on scene seconds later. Mr. McClain was clutching to his chest a plastic style shopping bag with items in it. Officers did not know the contents of this bag. Officer Woodyard later told Detective Ingui that he was telling the male to calm down because he thought the male might have weapons on his person and wanted to conduct a "pat down" search for weapons given the circumstances. According to Officer Woodyard, this area of East Colfax Avenue was known for criminal activity, and the male was reported by a citizen to be acting suspicious, while wearing a ski mask on a warm August night. Officer Woodyard described Mr. McClain as not relaxing or allowing himself to be searched.

An officer can be heard on a body worn camera saying "stop tensing up dude, stop tensing up." Mr. McClain then said, "let me go, no let me go, I am an introvert, please respect my boundaries that I am speaking." One of the officers said, "relax" and Mr. McClain responded, "I am going home." An officer said, "relax or I am going to have to change this situation." Mr. McClain said, "leave me alone." Officer Roedema said, "stop sir, can you please cooperate, we are going to talk to you." Mr. McClain responded, "can you leave me alone, you guys started to arrest me and I was stopping my music to listen, now let me go." Officers can be heard saying, "let's get him over to the grass." This appeared to escalate the situation, as Mr. McClain says, "I intend to take my power back, I intend to be censored, I intend to be censored." As Mr. McClain is saying this, Officer Roedema said, "he just grabbed your gun."

In their interviews, the officers described that they attempted to move the male away from the rocks and onto the grass in case a physical altercation caused them to go to the ground. Officer Woodyard and Officer Rosenblatt moved Mr. McClain onto the grass. Officers Woodyard and Rosenblatt heard Officer Roedema proclaim, "he is going for your gun!" but didn't know whose gun was being referenced. Officer Roedema described in his interview how Mr. McClain reached for and grabbed the grip of Officer Rosenblatt's gun that was holstered. All three officers then took Mr. McClain down to the ground as quickly as possible.

The officers described their fears and concerns upon hearing that Mr. McClain reached for the gun. Given the circumstances, Officer Rosenblatt attempted to use a carotid control hold on Mr. McClain, but was unsuccessful due to his position. The carotid control hold is a pressure control tactic that involves an officer placing his arm around the subject's neck, applying pressure around the subject's neck, restricting the flow of blood to the brain via the carotid arteries. The intent of the hold is to gain control of a combative individual. Officer Woodyard was in a better position and effectively placed Mr. McClain into a carotid control hold.

According to the officers, Mr. McClain briefly went unconscious and Officer Woodyard immediately released the hold. Officers Woodyard, Rosenblatt, and Roedema described Mr. McClain as actively resisting, fighting the officer's attempts to place him into handcuffs and resisting their control. Officers called for the assistance of the Aurora Fire Department per departmental policy following the application of a carotid control hold.

Aurora Fire Rescue Station 2 was dispatched to the location. Falck Ambulance also responded. Aurora Fire Rescue Lieutenant Peter Cichuniec, Engineer Firefighter Daniel DeJesus, Fire Medic Jeremy Cooper, and Firefighter Austin Bradley arrived on scene. All members of Aurora Fire Rescue described Mr. McClain on the ground, resisting officers. Fire Medic Cooper advised they were unable to gather any medical history or speak with Mr. McClain as he was combative and appeared to be showing signs of excited delirium by his appearance and his aggression. As a result, Fire Medic Cooper requested ketamine from Falck Paramedic Ryan Walker in an attempt to sedate Mr. McClain. Fire Medic Cooper said in his interview with Detective Ingui that ketamine is the drug to be administered per AFD protocol when someone is showing the signs of exciting delirium which includes hyper aggression, tachycardia, diaphoretic, and increased strength. Fire Medic Cooper requested 500 milligrams of ketamine to administer to Mr. McClain, who he estimated to weigh approximately 100 kilograms.

Fire Medic Cooper administered the ketamine via a syringe into the right deltoid of Mr. McClain. After approximately two to three minutes, Mr. McClain calmed down. He was placed on a gurney, his handcuffs were removed, and he was placed into soft restraints on the gurney and loaded into the ambulance. Fire Medic Cooper noted that after his initial examination, Mr. McClain's chest was not rising on his own, and he did not have a pulse. Cardiopulmonary resuscitation and medication were administered to Mr. McClain and he was taken by ambulance to the University of Colorado Hospital for treatment.

Mr. McClain received advanced medical care while at the hospital. However, Mr. McClain was declared brain dead on August 27, 2019 at 3:51 p.m. On September 3, 2019, Dr. Stephen Cina performed a forensic autopsy on the body of Elijah McClain. On November 7, 2019, the Adams County Coroner's Office released a report detailing the pathological findings from the autopsy. Dr. Cina declared the manner of death to be undetermined, listing several alternative possibilities that may have led to the death of Elijah McClain. In particular, Dr. Cina concluded that a combination of intense physical exertion and a narrow left coronary artery contributed to Mr. McClain's death.

Mr. McClain's blood toxicology was positive for marijuana and ketamine. The pathological findings of the blood ketamine concentration was noted to be within a therapeutic level. Although there is no evidence to support a ketamine overdose, Dr. Cina could not exclude the possibility that Mr.

McClain suffered from an unexpected reaction to the drug. Dr. Cina noted the carotid control hold applied during the decedent's restraint. However, he could not determine whether the carotid control hold contributed to death, as there were no signs of traumatic asphyxiation. In addition, he noted that there were no injuries to the muscles of the neck, larynx, or hyoid bone that would suggest an injury to the neck causing death. The evidence also revealed that the decedent was still struggling with officers after the carotid hold was removed, leading to the conclusion that any restraint placed by police officers did not directly cause Mr. McClain's death. Specifically, Dr. Cina made these findings:

The decedent was violently struggling with officers who were attempting to restrain him. Most likely the decedent's physical exertion contributed to death. It is unclear if the officers' actions contributed as well. It is also unclear whether the decedent aspirated vomit while restrained. While on scene, the decedent displayed unusual behavior and enhanced strength. These features are commonly seen in Excited Delirium. The decedent was not hyperthermic (febrile) upon admission to the hospital and there was no history of a pre-existent severe mental illness (e.g. schizophrenia). There was also no history of stimulant drug use (e.g. cocaine, methamphetamine) and no such drugs were detected in his blood at the time of hospital admission. Nonetheless, the patient's sudden collapse after an intense struggle is commonly seen in Excited Delirium. It is thought that when adrenaline levels drop, potassium levels surge resulting in an arrhythmia. This mechanism may well explain his cardiac arrest which led to anoxic encephalopathy.

In summary, the manner of death may be accident if it was an idiosyncratic drug reaction. It may be natural if the decedent had an undiagnosed mental illness that led to Excited Delirium, if his intense physical exertion combined with a narrow coronary artery led to an arrhythmia, if he had an asthma attack, or if he aspirated vomit while restrained. It may be a homicide if the actions of officers led to his death (e.g. the carotid control hold led to stimulation of the carotid sinus resulting in an arrhythmia). Based on my review of the EMS reports, hospital records, bodycam footage from the restraining officers, and the autopsy findings, I cannot determine which manner of death is most likely.

### **Legal Analysis**

As was previously noted, this review is limited to a determination of whether state criminal charges should be filed against the involved officers. It is therefore not my role to second guess the actions of the involved officers to determine if they could have reacted to this situation in a different manner. That is left to you and your agency with regards to training and/or changes in policies within your agency as a result of this incident.



The decision to file criminal charges involves an assessment of all known facts and circumstances as well as an evaluation of whether there is a reasonable likelihood of conviction at trial under the applicable law. Generally speaking, criminal liability is established when the evidence is sufficient to prove all of the elements of a crime beyond a reasonable doubt. In addition to proving all the elements of a crime beyond a reasonable doubt, the prosecution must also disprove any statutorily recognized justification or defense beyond a reasonable doubt. In this instance, in order to file a criminal charge, the District Attorney's Office must also prove beyond a reasonable doubt that the involved law enforcement officer's actions were not justified under the circumstances surrounding this incident and the applicable Colorado law.

Therefore, the legal question presented to the Office of the District Attorney is whether, the prosecution can prove beyond a reasonable doubt that the officers' actions were criminal and not justified under Colorado law.

Under Colorado law, a law enforcement officer's reasonable suspicion of criminal activity warrants a minimal detention of a person for the purposes of investigating into a person's actions. Under §16-3-103, C.R.S. (2019):

- (1) A peace officer may stop any person who he reasonably suspects is committing, has committed, or is about to commit a crime and may require him to give his name and address, identification if available, and an explanation of his actions.
- (2) When a peace officer has stopped a person for questioning pursuant to this section and reasonably suspects that his personal safety requires it, he may conduct a pat-down search of that person for weapons.

Whether reasonable suspicion for criminal activity exists is based upon the totality of the facts known to the officer. In addition, the officer's training and experience must be considered. Based on the circumstances present here, the officers had a reasonable basis to not only stop and question Mr. McClain, but also to pat him down for weapons to ensure a safe contact with him.

The use of force by a law enforcement officer necessarily invokes an analysis under §18-1-707(1), C.R.S. (2019), the law applicable to the use of force by a peace officer. In pertinent part, the language of the statute reads as follows:

- (1) 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 effectuating or attempting to effect such an arrest or while preventing or attempting to prevent such an escape.

The "reasonable belief" standard is the touchstone of the justified use of force. As such, the critical question is whether there is sufficient evidence to prove, beyond a reasonable doubt, that the involved officers did not have a reasonable belief that it was necessary to use physical force to defend themselves or other officers from what they reasonably believed to be the use or imminent use of physical force.

The standard of reasonableness requires consideration of whether, under all of the circumstances, an objective person situated as the officer would have maintained the same belief. Although we now know the tragic reality that Mr. McClain did not possess a weapon when he was stopped, the investigation proved that the police officers who responded to this incident did not know that critical detail. Consequently, the evaluation of the involved officer's reasonable belief must be based not upon what we now know, but the circumstances as they perceived them at the time.

Here, the officers were responding to a 911 call made by a citizen who reported a male wearing a mask and acting suspicious. When the officers contacted Mr. McClain, he was walking down the street in an area known for criminal activity, wearing a ski mask and a coat on a warm summer night when it was reported to be approximately 80 degrees. To suggest that the officers had no basis to contact Mr. McClain discounts the experience and direct observations of the law enforcement officers, as well as a citizen's observations of suspicious activities that caused a report to law enforcement in the first place.

The purpose and scope of the intrusion by a law enforcement officer is also based upon the standard of reasonableness. That is, while law enforcement officers should use the least intrusive means reasonably possible during the detention, they may use a reasonable degree of force necessary to accomplish the purpose of the stop. A law enforcement officer may use various forms of physical restraint under circumstances where such force constitutes a reasonable precaution for the protection and safety of the officers investigating the situation.

Here, as with many calls for service, a degree of uncertainty surrounded the dispatch. When the officers located Mr. McClain who matched the description from the 911 call, he was carrying a plastic bag with unknown items in it. From the perspective of the law enforcement officers, Mr. McClain appeared to refuse to comply with the officers' lawful commands to stop. Mr. McClain's response caused the law enforcement officer's belief in the need to increase the degree of physical force in order to detain him and ensure that there was no criminal activity happening.

All three officers attempted to have a conversation with Mr. McClain to determine his activities that led a citizen to call 911. They also sought to ensure that he did not possess a weapon. Mr. McClain actively resisted the officer's attempted contact. According to one of the officers, during this initial contact, Mr. McClain reached for Officer Rosenblatt's gun. While the body camera video does not depict this action, the audio does and there is no evidence to dispute the perception of the officers in the need to escalate the use of force. This escalated the situation dramatically. From the officer's perception it went from an investigatory stop to a potential life threatening incident and it certainly raised the officer's use of force.

Criminal liability is established when the prosecution can prove beyond a reasonable doubt that a person committed all of the elements of a crime defined by Colorado statutes. While the elements of the crimes of homicide vary widely, each requires proof of a voluntary act prohibited by law, together with a culpable state of mind as well as that the act caused the death of Mr. McClain.

Here, although extensive, the scope and character of the intrusion by law enforcement officers in effecting Mr. McClain's detention was not itself a criminal act. There is no evidence that any one of the officers sought to cause injury or death to Mr. McClain. Rather, the evidence suggests that they exercised a degree of force they believed necessary to detain him and investigate into his possible criminal activity. Perhaps more importantly, in any homicide prosecution, the prosecution must prove beyond a reasonable doubt that the involved individual's actions caused the death of a person.

The results of the forensic autopsy demonstrate that the cause of Mr. McClain's death was undetermined. Therefore, the evidence does not support a conclusion that Mr. McClain's death was the direct result of any particular action of any particular individual. Under the circumstances of this investigation, it is improbable for the prosecution to prove cause of death beyond a reasonable doubt to a jury of twelve. Consequently, the evidence does not support the prosecution of a homicide.

#### **Conclusion**

Applying the facts of this incident to the applicable Colorado law, the evidence does not support the filing of any state criminal charges against the involved officers for the unfortunate and tragic death of Mr. McClain. Since this matter does not fall under §20-1-114 and §16-2.5-301 (C.R.S 2019) this letter will not be posted on our office website. Since no state criminal charges are being filed based on your investigation, your agency is the sole custodian of records with regards to this incident. Any request that my office gets for release of records with regards to this investigation will be referred back to your agency. Please feel free to contact me if you have any questions or if you believe that further investigation is warranted.

Respectfully,

A handwritten signature in black ink, appearing to read 'D. Young', is written above the printed name.

Dave Young  
District Attorney

# **REINTEGRATION PROGRAM**

*(DM 2.8.11 - Duty Status of Members)*

**Purpose:** To establish a Reintegration Program that promotes a healthy return to duty or transfer process within the police department for all members who have been absent from duty for:

1. An absence as a result of a critical incident
2. An extended military service lasting longer than 90 days and those returning from service in an active foreign theater of operations
3. An extended absence of over 90 days from enforcement duties
4. Any extended absence as identified by the Chief of Police or designee

The Aurora Police Department recognizes the importance of the physical, mental, and emotional health of its members. It also recognizes that many stressors are placed on members and their families in the events of seriously injuries, extended absences, or upon the return to law enforcement duties after having been away from those duties for an extended period of time. To help decrease the impact of stress in these instances, the Department has established the Reintegration Program.

## **Reintegration Program Procedures:**

The Reintegration Program is under the immediate supervision of the Employee Support & Wellness Unit, and will act in conjunction with the APD Training Academy, FTO Coordinator, Psychological Services, and the Military Liaison Officer. The Employee Support & Wellness Unit will be responsible for scheduling, coordinating, and assisting members through the reintegration process using customized training plans depending on each member's needs.

- The Reintegration Program Coordinator, in conjunction with the psychological services clinician serving as the peer support team overseer, and the APD Training Academy staff will create an individualized plan for each member based upon their needs and reason for entry into the program. The training will be customized for each employee and will consider such variables as length of time away from the job, the nature, extent, and seriousness of any traumatic and/or bodily injury sustained, and duty assignment. That plan may include any or all of the following training:
  - Stress Management Techniques
  - Peer Counseling/Psychological Counseling
  - Simulator Training
  - Live Fire Exercises, including confidence courses, basic marksmanship, shooting with other live fire, stress inoculation practical shooting exercises.
  - Driving/EVOC Training
  - Baton
  - Ground Tactics/Self-Defense/Arrest Control Tactics
  - PT/Physical Exercise
  - Legal Updates/Department policy & procedure updates

- Other certifications, testing, training identified through the academy
- Placement into the Field Training (FTO) program or equivalent training based on the employee's home assignment
- Any other training identified by the involved member that would assist with reintegration
- Documentation of completed training will be kept for each member involved in the program in their individual training records, depending on their duty assignment
- Upon completion of the training, the Reintegration Program Coordinator will meet with any applicable representatives from the APD Training Academy, FTO program (or equivalent), and the member's assigned Division Chief to review the process and recommend their return to duty.

The member will then either:

- Return to their duty assignment
- Continue with additional training within the Reintegration Program
- If involved in a critical incident and not cleared for full-duty, they shall be given their choice of available assignments from those approved by the Chief's Office

#### **Post Critical Incident Protocol:**

For the purposes of this directive a "Critical Incident" is an incident that can cause great distress or disruption in a member's life. A "Critical Incident" may include, but is not limited to the following situations:

1. A member involved in an incident requiring the use of deadly force, with or without death or physical harm.
2. A member involved in an incident resulting in the death or serious physical harm of another person
3. A member suffering from a significant personal injury caused by another person
4. Any other incident deemed by the Chief of Police or designee as being a "traumatic event"

The Employee Support & Wellness Unit shall be informed of a department member being involved in a "Critical Incident" via the on-call notification matrix. ESWU will monitor the situation and determine an appropriate response, including any notifications to family members, on-call psychological services, or other needs.

- The member(s) involved will be placed on administrative leave for a period of 5 business days, subject to extension at the direction of the Chief of Police or designee and upon completion of an administrative review in accordance with Directive 05.06.
- Secondary officers or witnesses may also be placed on administrative leave at the direction of the Chief of Police or designee only if extenuating circumstances deem it necessary.
- Within 72 hours of the incident, ESWU will assist member(s) involved with scheduling a mandatory appointment with a psychological services clinician. The attendance of this appointment will be completed within the 5 business days of administrative leave, and will be documented on the APD Confidential Psychological Services Contact Form.
- Upon completion of this appointment and the approval of the clinician, member(s) will be placed in the applicable other than full duty (OTFD) status in a non-enforcement role, assigned to the ESWU, and placed into the Reintegration Program.
  - At the request of the psychological services clinician, the Chief of Police or designee may extend the duration of administrative leave.

- A voluntary Critical Incident Stress Management (CISM) Debrief should be conducted within two (2) weeks, or as soon as practical, after the incident with those members directly involved with the incident.

Should a member be physically harmed and hospitalized as a result of the incident AND the hospital stay will be prolonged for a period of time, the Trauma Response Team will be activated, and the member will be temporarily reassigned to the ESWU, who will be responsible for providing care, support services, and coordinating needs of the member and his/her family until such time they are released and able to enter the Reintegration Program.

## Joint Press Release from APD and AFR Regarding a Critical Incident in the 1900 Block of Billings St

UPDATE: We fully understand the need for transparency throughout this entire investigation and we can appreciate the seriousness of this matter. Last week, at the invitation of the Chief of Police, members of Mr. McClain's family heard the 911 call and viewed body worn camera videos from this incident. We continue to offer our deepest condolences to Mr. McClain's family and friends during this very difficult time.

From the beginning, Chief Metz ordered an investigation at the level consistent with officer-involved shootings pursuant to Senate Bill 15-219 by having a multi-agency team comprised of members from the Denver Police Department, Aurora Police Department and the 17th Judicial District Attorney's Office. That investigation continues.

On August 24, 2019 at 10:32 p.m. the Aurora Police Department received a 911 call where the caller described a "suspicious person". The caller reported an adult male was walking on Billings Street near East Colfax Avenue, wearing a ski mask and flailing his arms at the caller.

Officers arrived in the area and contacted a male still wearing a ski mask, later identified as Elijah McClain. The male began to resist the officer contact, a struggle then ensued, and he was taken into custody. Aurora Fire Rescue administered a standard medication to reduce Mr. McClain's agitation. He was then transported to a local hospital where tragically he died days later.

The Adams County Coroner's Office report is not yet completed and is a key component to providing much needed information to this investigation. Once their report is finished, the Coroner's Office will be the ones who release those results. It will be included in the case that is then presented to the 17th Judicial District Attorney's Office for review.

No further comment will be provided by the Aurora Police Department to protect the integrity of the investigation and review by the District Attorney's office.

Officer Matthew Longshore  
Public Information Officer  
Aurora Police Department  
720-432-5095

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*Information previously released on 08/26/2019:*

On August 24, 2019 at 10:32 p.m. the Aurora Police Department received a "suspicious person" call. The caller reported an adult male was walking on Billings Street near East Colfax Avenue, wearing a ski mask and waving his arms at the caller.

Officers arrived in the area and contacted a male wearing a ski mask. The male would not stop walking down the street from the officer. The male resisted contact, a struggle ensued, and he was taken into custody. Due to the level of physical force applied while restraining the subject and his agitated mental state, officers requested Aurora Fire Rescue (AFR) and Falck Ambulance respond to render professional medical attention.

According to AFR, consistent with their accepted protocol, a standard medication routinely utilized to reduce agitation was administered and reduced the exhibited anxiety. Several minutes later during the transport to the hospital the patient suffered a cardiac arrest and lifesaving measures were initiated. He regained a pulse and is currently being treated at a local hospital.

The Aurora PD Victim Services Unit assisted in locating the family and taking them to the hospital. They are providing support as the investigation continues.

During this event, officers were using their issued body worn cameras. Because of the critical nature of this incident, it is being investigated by the APD Major Crimes/Homicide Unit and members of the Denver Police Department to ensure a fair and transparent investigation into the events of that night.

The 17th Judicial District Attorney's Office responded to the scene that evening and will review the investigation when it is completed.

We are asking anyone with information about this case to please contact Agent M. Ingui at 303-739-6067.

Posted by [ACamacho@auroragov.org](mailto:ACamacho@auroragov.org) On 30 September, 2019 at 7:16 PM





**FOR IMMEDIATE RELEASE**



City of Aurora

**Date:** August 28, 2019  
**Media Contact:** Aurora Fire Rescue  
Public Information Office  
720.477.0315 • [afdpio@auroragov.org](mailto:afdpio@auroragov.org)

*Worth Discovering • [auroragov.org](http://auroragov.org)*

## **Preliminary review of Billings St. incident.**

**AURORA, Colo.** – On Aug. 24, 2019, Aurora Fire Rescue was called to assist Aurora Police with a subject who needed medical attention. Aurora Fire Rescue personnel responded and initiated treatment to the patient.

Aurora Fire Rescue, in conjunction with our EMS Medical Director, has conducted a preliminary review of the treatment provided and finds that the actions of the responders were consistent and aligned with our established protocols. In fact, the initial findings indicate that our personnel demonstrated a high level of technical skill and professionalism while providing care to the patient.

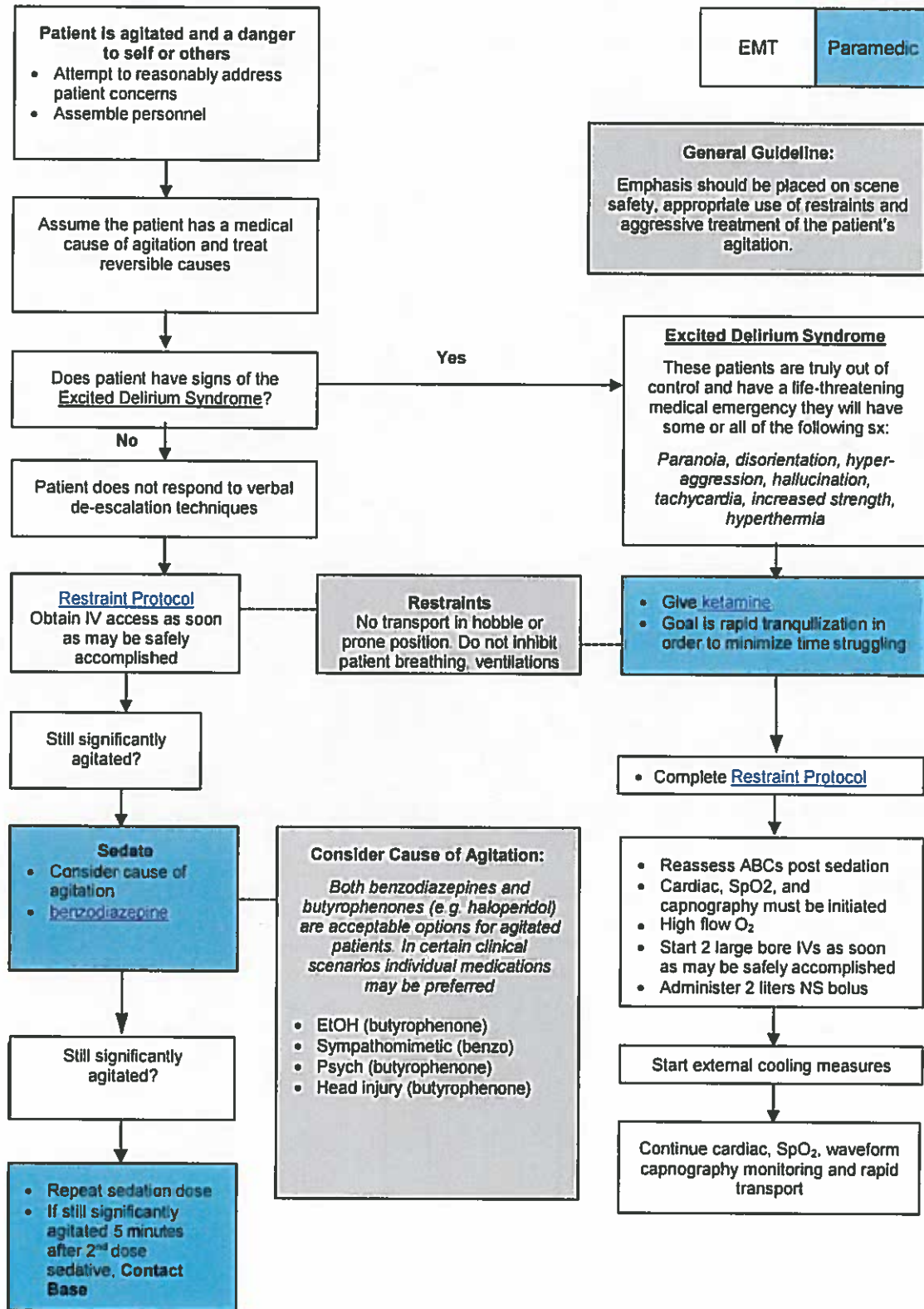
Aurora Fire Rescue provides outstanding and impeccable fire and medical services to our community. All of our emergency response units (Engines, Ladder Trucks and Rescue Units) are staffed with a minimum of one highly-trained advanced life support provider. The engine that responded to this incident was staffed with two paramedics.

The Aurora Fire Rescue Medical Direction Team, which consists of physicians from University Hospital, The Medical Center of Aurora and Children's Hospital Colorado, will conduct a thorough post-incident analysis of the treatment provided, which is consistent with our current policy.

"As with any of our patients, the Aurora Fire Rescue family is hopeful and prayerful for a complete recovery of our patient," said Fire Chief Fernando M. Gray Sr. Due to patient privacy concerns, Aurora Fire Rescue will not disclose additional or specific details related to the care provided.

###

## 6010 AGITATED/COMBATIVE PATIENT PROTOCOL



Excerpted from the Aurora authorized version of the Denver Metro Prehospital Protocols

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## 9175 MEDICATIONS

### **KETAMINE**

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#### **Description**

Ketamine is a non-competitive NMDA receptor antagonist which produces complex neuroinhibition resulting in dissociative amnestic and analgesic effects.

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#### **Onset & Duration**

- Onset: 1-5 minutes with IM administration
  - Duration: 15-30 minutes
- 

#### **Indications**

- Adult patient with signs of excited delirium where the safety of the patient and/or providers is of substantial concern
- 

#### **Contraindications**

- Relatively contraindicated in penetrating eye trauma
- 

#### **Side Effects**

- Laryngospasm: very rare adverse reaction causes stridor and respiratory distress. After giving ketamine:
    - Prepare to provide ventilatory support including bag-valve-mask ventilation and suction
    - Apply cardiac monitoring, capnography, and pulse oximetry once sedated
    - Establish IV/IO access
  - Emergence Reaction: presents as anxiety, agitation, dysphoria, hallucinations or nightmares. Can present as the ketamine is wearing off. For severe reactions, consider midazolam.
  - Nausea and vomiting: always have suction available after ketamine administration. Administer Zofran as needed.
  - Hypersalivation: suction is usually sufficient.
- 

#### **Dosage and Administration**

##### **Adult:**

- 5mg/kg IM (concentration is 500mg/5cc)
  - **CONTACT BASE** if additional dose needed. Additional dose will be ½ of the initial dose.
- 

#### **Special Considerations**

- Excited delirium is a medical emergency. Expedite a rapid and safe transport once it is safe to do so.
  - Once sedated, patient must be placed on cardiac monitor, capnography, and pulse oximetry during transport.
  - Apply physical restraints once patient sedated and maintain during transport
  - All cases of ketamine use will be reviewed by the Medical Director.
- 

#### **Protocol**

- [Agitated/Combative Patient](#)
- 



Excerpted from the Aurora authorized version  
of the Denver Metro Prehospital Protocols

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## Transcript of 911 Call

911 Call-Taker: 911 what is the address of the emergency?

Caller: Ummm we need you at uh I think its uh Blackhawk and something like that. Let me check real quick.

Okay

Its uh Billings Street and Blackhawk

Okay is that Blackhawk Way? Blackhawk?

Caller: Street

Okay give me one second just repeat that intersection for verification

C: Billings Street and Blackhaw

Okay are you sure you're not on, give me one second, is it possibly Evergreen?

C: No this is Aurora

Okay, no I understand that, I just don't show you anywhere near a Blackhawk

C: It's Blackhawk

Okay just stay on the line, give me one moment. I don't show you, what I'm saying is I don't show you anywhere near Billings and Blackhawk.

C: What about Billings Street and Evergreen?

Okay that's where I show you near. Okay what's the phone number you're calling from

C: xxx-xxx-xxxx

And your name?

C: Juan

And your last name Juan?

C: XXXXXX

Okay tell me exactly what happened

C: So theres a uh...so there's a guy. He has uh he's walking...let's see...what direction is opposite of North?

South

C: South yeah, he's walking south on Billings Street, he a mask on.

Okay

C: And then, and then when I passed him he put his hands up. He does all these kinds of (unintelligible) I don't know he looks sketchy. He might be a good person or a bad person.

911 Call-Taker: Okay, Yeah

C: He has a full-on mask on.

Okay..his arms. Okay I'm going to put a call in so officers can go see what's going on, okay. Are you still at that location now?

C: Yeah

Okay, alright when did this happen when did you see him?

C: Right now he's like..I just turned around and he's like...putting his hands up.

Okay don't approach him okay...if you need to just drive away I don't want you to go near him. Were any weapons involved or mentioned?

C: No

Okay, I already have a call in okay I need to get his full description. What race is he?

C: I think he's uh...a black male.

Okay, um how hold does he look? I know he's wearing a mask.

C: I have no clue.

Okay what color is the mask or what does it look like?

C: Black

Black mask?

He's like uh, (unintelligible) facing on Billings Street and Colfax now.

Okay is it like a ski mask or what type of mask is it?

C: Yeah, like a ski mask.

Okay, and then what else is he wearing?

C: Um...A long sleeve (unintelligible)...a brown long sleeve shirt.

Okay

C: and then black sweats

Okay, sweat pants, okay um give me one moment I'm just adding notes. Are you or anyone else in danger right now?

C: No

Okay we have this call in sir, don't approach that person and do not disturb anything at the scene we are going to have officers dispatch to check the area and try to locate him okay?

C: Okay he's uh walking towards uh the (unintelligible) at Billings Street and Colfax.

Yep, I let them know that okay. So don't follow him or anything we're going to have officers come check the area okay?

C: Oh okay.

Just call us back immediately if anything changes or if you have any further information.

C: Sounds good.

Alright and do you need officers to contact you sir?

C: Um...no it's fine.

Okay thank you call us back immediately if anything changes.

C: Okay bye

Thank you



## OFFICE OF THE CORONER

Adams & Broomfield Counties

*Monica Broncucia-Jordan*

CHIEF CORONER

Name: MCCLAIN, Elijah

Case Number: A19-02434

Date of birth: February 25, 1996

Age: 23 years

Date and time pronounced deceased: August 27, 2019; 1551 Hours

Death Investigators: Leracia Blalock

Prosecutor: Stephen Cina

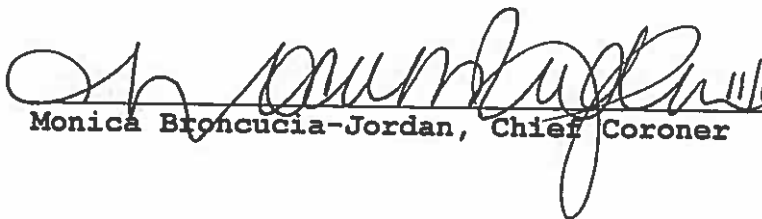
### OPINION

The cause and manner of death opinion is based on the scene investigation, examination findings, and history available at this time.

**Cause of Death:** Undetermined

**Contributing Factors:** Intense Physical Exertion and a Narrow Left Coronary Artery

**Manner of Death:** Undetermined

 11/07/2019  
Monica Broncucia-Jordan, Chief Coroner

## **AUTOPSY REPORT**

**NAME:** ELIJAH MCCLAIN

**ME#:** A19-02434

**DATE AND TIME PRONOUNCED  
(BRAIN DEAD):**

August 27, 2019 / 1551 Hours

**DATE AND TIME OF AUTOPSY:** September 3, 2019 / 1000 Hours

**AGE:** 23

**RACE:** African American

**GENDER:** Male

### **CIRCUMSTANCES OF DEATH**

This 23-year-old male went unresponsive during a police involved interaction. CPR was initiated and he was transported to a local hospital. Imaging studies of the brain showed decreased ventricular size and anoxic brain injury. Imaging studies of the neck were negative and studies of the heart showed a small left ventricle with an ejection fraction of 25.3%. Laboratory tests showed a peak troponin of 2.12 ng/mL. He developed acute kidney injury in the hospital which was addressed but he had a second cardiac arrest on August 25, 2019 at 0300 Hours. Following brain death the decedent became an organ donor. Toxicology at the time of his admission was positive for cannabinoids. A review of his record shows that he was hospitalized in 2016 for LSD intoxication with hyperactive and erratic behavior. His medical history included asthma.

### **IDENTIFICATION**

The decedent was identified by his mother who was present in the hospital and by Morpho scan.

### **CIRCUMSTANCES OF POSTMORTEM EXAMINATION**

The autopsy was authorized by the Coroner of Adams County, Colorado. Prosecuting was Dr. Stephen J. Cina and assisting was Chief Coroner Monica Broncucia-Jordan. The autopsy was performed at the Adams County Coroner's Office. Also in attendance were two representatives each from Aurora PD and from the District Attorney's Office.

### **CLOTHING AND PERSONAL EFFECTS**

The decedent was received unclad.



EXTERNAL EXAMINATION

The body was that of a well-developed, well-nourished, African American male. The body bag was sealed with a piece of yellow plastic bearing the numbers 7116098. Hospital and donor identification bands were on the right wrist and left ankle. The body weighed 140 pounds, was 67-inches in height and appeared compatible with the reported age of 23 years.

The body was cool. Full rigor mortis was present to an equal degree in all extremities. Mild, fixed purple lividity was distributed over the posterior surfaces of the body, except in areas exposed to pressure.

The scalp hair was black, kinky and 1/2-inch in length. Facial hair consisted of a scant mustache and a few hairs on the chin. The irides were brown, the corneae were clear, the sclerae were slightly icteric with two 1 mm petechiae on the left, and the conjunctivae were tan and free of petechiae. The external auditory canals, external nares, and oral cavity were free of foreign material and abnormal secretions. The earlobes were bilaterally pierced. There were no transverse creases of the lower pinnae. The nasal skeleton was palpably intact. The teeth were in good repair.

Examination of the neck revealed no evidence of injury. A sutured incision extended from the manubrium to the pubis. The abdomen was flat. No healed surgical scars were noted.

The extremities showed no gross bony deformities or pitting edema. The fingernails were intact. Tattoos were across the upper chest, on the bilateral forearms, on the right upper arm and on the left side of the neck. Needle tracks were not observed.

The external genitalia were those of a circumcised adult male. Only one testis was palpable in the scrotum (confirmed by internal examination). The anus was atraumatic.

EVIDENCE OF THERAPY

Evidence of medical intervention consisted of a venipuncture site with an associated purple/red ecchymosis covered by gauze in the left antecubital fossa; a tied Foley catheter; a blood

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pressure cuff on the left upper arm; endotracheal and nasogastric tubes; a pillow wrapped around the head with tape; intravenous catheters in the left internal jugular region and right antecubital fossa; a right radial arterial line; a pulse oximeter on the right second finger; and EKG leads on the right flank, bilateral posterior shoulders (2 each), and left lateral chest (2).

#### EVIDENCE OF INJURY

##### **HEAD AND NECK INJURIES:**

A 1 1/4-inch linear scabbed abrasion was between the eyebrows. A 1/8-inch scabbed abrasion was above the medial right eyebrow and a 3/16-inch scabbed abrasion was on the left side of the forehead. A 3/16-inch scabbed abrasion was lateral to the right eyebrow. A 5/8-inch linear scabbed abrasion was in the right preauricular region. A 1/2-inch scabbed abrasion was lateral to the left eyebrow. A faint 1/4-inch scabbed abrasion was over the left zygoma. A 3/16-inch scabbed abrasion was anterior to the right ear. A 1/2-inch faint scabbed abrasion was on the right side of the chin. A 3/16-inch scabbed abrasion was on the right side of the upper lip.

There were no injuries to the skull or brain and there was no intracranial bleeding.

There was a 6 1/2 x 1.8 cm zone of hemorrhage involving the fascia of the left sided deep strap muscles over the larynx. There was hemorrhage beneath the left sternocleidomastoid muscle in the region of an intravenous catheter.

A layered anterior neck dissection showed no other hemorrhage in the strap muscles proper. The hyoid bone and larynx were intact.

##### **THORACOABDOMINAL INJURIES:**

There was a 5 1/2 x 3 1/2-inch zone of scabbed abrasions on the left side of the upper and mid back. A 6 x 5 1/2-inch zone of nonspecific scabbed abrasions was on the right side of the upper back and mid back. A 7 x 1 1/2-inch zone of patterned scabbed abrasions was on the left side of the mid back/lower back. Three red 1/2 - 1/4-inch abrasions were on the right lateral chest. A 3/8-inch scabbed abrasion was on the anterior right shoulder.

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The skin of the posterior torso was reflected revealing no hemorrhage into the musculature. The skin of the anterior torso was reflected revealing a 3 x 1 cm zone of hemorrhage on the right anterior chest wall.

There were no rib fractures or visceral injuries.

**INJURIES TO EXTREMITIES:**

Punctate scabbed abrasions were on the right pretibial region.

A 1-inch scabbed abrasion was on the posterior upper left thigh adjacent to a linear vesicle. A 1/2-inch scabbed abrasion was on the posterior right thigh.

A patterned 7 x up to 2-inch scabbed abrasion was on the posterior left lower leg. A 4 x 1 1/2-inch nonspecific, faint scabbed abrasion was on the posterior right thigh.

1/8-inch scabbed abrasions were on the palmar surface of the right 3rd and 4th fingers.

A 3/8-inch tram track scabbed abrasion was on the radial aspect of the left wrist.

There were no long bone fractures.

**INTERNAL EXAMINATION**

**Body Cavities:**

The body was opened by a modified thoracoabdominal incision and the previously incised chest plate was removed. Approximately 200 mL of serosanguinous fluid resided in each of the pleural cavities and the peritoneum. The organs shared one large cavity space status post procurement. The kidneys, adrenal glands, pancreas, liver and gallbladder had been surgically removed. The subcutaneous fat layer of the abdominal wall was 1 cm in thickness. There was marked soft tissue edema.

**Head:** (Central Nervous System)

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The scalp was reflected. The calvarium of the skull was removed. The dura mater and falx cerebri were intact. There was no subdural or epidural hemorrhage. The leptomeninges were thin and delicate. The cerebral hemispheres were symmetrical, soft and pink/gray with diffuse edema characterized by flattening of the gyri and narrowing of the sulci. The structures at the base of the brain, including the cranial nerves and blood vessels, were intact. Coronal sections through the cerebral hemispheres revealed blurring at the gray/white junctions. The cerebellum had undergone liquefactive necrosis. There was mild Duret hemorrhage within the pons. The brain weighed 1,240 grams. The spinal cord was not removed.

**Neck:**

Hemorrhage into the soft tissues of the left side of the neck have been described above. The hyoid bone and larynx were intact.

**Cardiovascular System:**

The pericardial sac had been incised. The coronary arteries arose normally, followed the usual distribution, and were widely patent, however, the left anterior descending coronary artery had a maximum diameter of 1-2 mm. There was no superimposed thrombosis. The cardiac valves were unremarkable. The chambers and valves exhibited the usual size-position relationships.

The myocardium was red/brown and firm with no focal lesions; the atrial and ventricular septa were intact. The remaining portions of the aorta and vena cavae were unremarkable. The heart weighed 265 grams prior to fixation for subsequent dissection. Upon re-examination, the left anterior coronary artery was atretic. No discrete lesions were in the myocardium and the conduction system appeared to be intact.

**Respiratory System:**

The upper airway was clear of debris and foreign material; the mucosal surfaces were smooth, yellow/tan and unremarkable. The pleural surfaces were smooth and glistening with no focal lesions. The pulmonary parenchyma was tan/purple with focal "leopard spotting". The parenchyma of the upper lobe of the right lung was firm and diffusely purple. There was minimal anthracosis. No mass lesions were noted. The pulmonary

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arteries were normally developed, patent, and without thrombus or embolus. The right lung weighed 510 grams; the left lung weighed 400 grams.

**Liver and Biliary System:**

The liver had been procured.

**Alimentary System:**

The tongue exhibited no evidence of recent injury. The esophagus was lined by gray/white, smooth mucosa. The gastric mucosa was autolyzed and the lumen contained approximately 200 mL of thick, green liquid with identifiable beans. The small and large bowels were unremarkable. The pancreas had been procured. The appendix was present.

**Genitourinary System:**

The kidneys had been procured. The urinary bladder was empty; the mucosa was gray/tan and wrinkled with punctate erythema. The prostate gland was unremarkable. Only one testis could be identified within the scrotal sac.

**Reticuloendothelial System:**

The spleen had been biopsied. The remainder of the capsule was smooth and intact covering red/purple, moderately firm parenchyma; the lymphoid follicles were unremarkable. The regional lymph nodes appeared normal. The spleen weighed 70 grams.

**Endocrine System:**

The thyroid was unremarkable. The adrenal glands had been procured.

**Musculoskeletal System:**

Muscle development was normal. There was diffuse soft tissue edema. No bone or joint abnormalities were noted.

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SPECIMENS/EVIDENCE OBTAINED

Samples of admission blood, donor blood, peripheral blood, and vitreous fluid were obtained for toxicology.

A DNA card was retained for the file.

Samples of the major organs were submitted for stock in formalin.

Six cassettes were submitted initially for histologic analysis; 5 others followed.

The heart was fixed for subsequent dissection and examined by Dr. Cina on 9/11/19

MICROSCOPIC DESCRIPTION

A - Left anterior descending coronary artery: tangential section; unremarkable myocardium

B - Left lung: patchy hemorrhage; interstitial pneumonitis; atelectasis; intra-alveolar histiocytes; mild anthracosis patchy hemorrhage; interstitial pneumonitis; atelectasis; intra-alveolar histiocytes; mild anthracosis; mildly sickled erythrocytes

C - Right lung: patchy hemorrhage; interstitial pneumonitis; atelectasis; intra-alveolar histiocytes; mild anthracosis; giant cells with ingested foreign material; patchy edema; intrabronchial mucus with neutrophils; mildly sickled erythrocytes; thickened basement membranes with smooth muscle hyperplasia and increased eosinophils

D - Cerebellum: liquefactive necrosis; pyknotic, red neurons

E - Left temporal cortex: liquefactive necrosis; edema; pyknotic, red neurons

F - Left deep strap muscles: acute hemorrhage in fibrofatty tissue, muscle spared; benign thyroid tissue; iron stain negative

G - Anterior left ventricle: unremarkable

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- H - Interventricular septum:
- I - Right ventricle: unremarkable
- J - SA nodal region: unremarkable
- K - AV nodal region: unremarkable

PATHOLOGIC DIAGNOSES

- I. Superficial blunt force injuries
  - A. Nonspecific and patterned scabbed abrasions of torso, extremities and face
  - B. Tram track abrasion, left wrist
  - C. Rare scleral petechiae, left eye
  - D. Negative anterior neck dissection
  - E. No fractures or visceral injuries
- II. Pulmonary:
  - A. Acute and granulomatous interstitial pneumonitis
  - B. Giant cells with ingested foreign material including gastric contents
  - C. Acute bronchitis
  - D. Atelectasis
  - E. Mildly sickled erythrocytes (hemoglobin electrophoresis negative for Hgb S)
  - F. Chronic asthma
- III. Anoxic encephalopathy
- IV. Narrow left anterior descending coronary artery
- V. Acute hemorrhage in interstitial tissues of neck (strap muscles spared)
- VI. Status post organ donation
- VII. Toxicology (NMS Labs 19266069, hospital blood):
  - A. Ketamine = 1400 ng/mL
  - B. 11-Hydroxy Delta-9 THC = 4.9 ng/mL
  - C. Delta-9 Carboxy THC = 31 ng/mL
  - D. Delta-9 THC = 14 ng/mL
  - E. Urine positive for cannabinoids

OPINION

This 23-year-old, African American male, Elijah McClain, died of UNDETERMINED CAUSES. Intense physical exertion and a narrow left coronary artery contributed to death.

Blood toxicology was negative for all substances except marijuana and ketamine. Ketamine had been administered by EMS on scene; the decedent had been using marijuana prior to the incident. I cannot rule out the presence of a psychoactive drug at very low levels below the limit of detection of laboratory analysis since limited admission blood was available for exhaustive testing.

The blood ketamine concentration was at a therapeutic level but an idiosyncratic drug reaction (unexpected reaction to a drug even at a therapeutic level) cannot be excluded. According to Baselt's *Disposition of Toxic Drugs and Chemicals in Man*, 8th edition, therapeutic ketamine levels in the serum and plasma range from 1.0-6.3 mg/L following a single intravenous administration. In a fatality following a 1000 mg IM injection, the blood ketamine level was 27 mg/L; the ketamine level in this case was 1.4 mg/L. Of note, in terms of a fatality, the dosage administered or ingested is not as important as the resultant concentration of the drug in the blood.

A carotid control hold was applied during the decedent's restraint. The records indicate that the decedent was still struggling with officers after this hold was removed. He then coded after receiving a dose of ketamine. I cannot determine whether a carotid control hold contributed to death via stimulation of the carotid sinus; there were no signs of traumatic asphyxiation. Interstitial hemorrhage in the neck was likely related to an intravenous catheter in the neck rather than trauma since the strap muscles, larynx, and hyoid bone were uninjured.

The decedent was violently struggling with officers who were attempting to restrain him. Most likely the decedent's physical exertion contributed to death. It is unclear if the officers' actions contributed as well. It is also unclear whether the decedent aspirated vomit while restrained.

While on scene, the decedent displayed agitated behavior and enhanced strength. These features are commonly seen in Excited

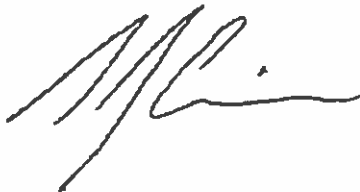


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Delirium. The decedent was not hyperthermic (febrile) upon admission to the hospital and there was no history of a pre-existent severe mental illness (e.g. schizophrenia). There was also no history of stimulant drug use (e.g. cocaine, methamphetamine) and no such drugs were detected in his blood at the time of hospital admission. Nonetheless, the patient's sudden collapse after an intense struggle is commonly seen in Excited Delirium. It is thought that when adrenaline levels drop, potassium levels surge resulting in an arrhythmia. This mechanism may well explain his cardiac arrest which led to anoxic encephalopathy.

In summary, the manner of death may be accident if it was an idiosyncratic drug reaction. It may be natural if the decedent had an undiagnosed mental illness that led to Excited Delirium, if his intense physical exertion combined with a narrow coronary artery led to an arrhythmia, if he had an asthma attack, or if he aspirated vomit while restrained. It may be a homicide if the actions of officers led to his death (e.g. the carotid control hold led to stimulation of the carotid sinus resulting in an arrhythmia). Based on my review of the EMS reports, hospital records, bodycam footage from the restraining officers, and the autopsy findings, I cannot determine which manner of death is most likely.



STEPHEN J. CINA, MD, FCAP, D-ABMDI  
Forensic Pathology Consultant

November 7, 2019

\_\_\_\_\_  
Date


Dictated: 9/7/2019

Received for transcription: 9/7/2019

Transcribed: 9/8/2019

RES

## AURORA POLICE DEPARTMENT DIRECTIVES MANUAL

05.08	Title: LESS LETHAL DEVICES, WEAPONS AND TECHNIQUES	
	Approved By: Nick Metz, Chief of Police	
	Effective: 09/01/1998	Revised: 06/10/2019
	Associated Policy: DM 05.04	
Review: Training Section Commanding Officer		Duty Honor Integrity Page 1 of 99

### 5.8 LESS LETHAL DEVICES, WEAPONS AND TECHNIQUES

This directive addresses the use of less lethal weapons and associated munitions. The Aurora Police Department recognizes that combative, non-compliant, armed and/or violent subjects cause control problems that may require special training and equipment. For this reason, the Department has adopted a less lethal force philosophy to assist in the de-escalation of potentially violent confrontations.

Only Department members who have completed departmentally required and approved training and demonstrated proficiency are authorized to carry, deploy, display or use less lethal weapons. Less lethal weapons must be used in accordance with department training.

Prior to receiving authorization to carry less lethal weapons, members will be trained in the academy in the proper application of the use of physical force, potentially deadly force and deadly force under Department directives and applicable state and federal law. All members have access to all Department Directives related to the use of physical force, potentially deadly force and deadly force in electronic format through the document management system. The policy receipt and curriculum delivery will be documented.

Use of less lethal weapons is justified in those proper and lawful situations requiring a degree of force greater than that provided with weaponless control techniques.

Specifications for all less lethal weapons will be maintained by the Training Section.

#### 5.8.1 Levels of training and proficiency required

The following less lethal weapon systems require users to successfully complete initial training and demonstrate proficiency as well as demonstrate ongoing proficiency at least annually:

- Baton

- Chemical Irritants
- Kinetic Energy Impact Projectiles
- 26" and 29" Rapid Containment Baton (RCB)
- SD-1
- Taser

The Training Section Lieutenant will maintain a record of members who are authorized to carry and have satisfactorily demonstrated proficiency.

#### 5.8.2 Deployment and Use of Less Lethal Weapons

The concept in the use of less lethal weapons is to meet operational objectives with less potential for causing death or serious injury than with the use of a firearm. Members are permitted to draw or display their less lethal weapons when there are grounds to believe that it may be necessary to employ the weapon(s).

Justification for the use of less lethal force must be in compliance with Colorado Revised Statutes as well as appropriate components within directives.

Prior to deploying a less lethal weapon other than the baton or SD-1, the member should, when feasible, notify assisting members that the weapon is being deployed. This may prevent assisting members from mistakenly believing that lethal weapons are being used or fired.

#### 5.8.3 Carotid Control Hold

Members may utilize the carotid control hold when they are met with violent resistance. This method should be used when other means have been tried unsuccessfully or other means are not feasible.

#### 5.8.4 Chemical Irritants/Munitions

The deployment of these irritants/munitions can be both defensive as well as offensive.

Use of chemical irritants/munitions on an offensive basis will be approved by a SWAT/ERT sergeant, or any command officer.

Special chemical irritants/munitions (beyond standard issued O.C.) will be deployed by SWAT/ERT gas technicians when practical.

Chemical irritants may be used without prior authorization when a defensive need arises. Whenever a chemical irritant/munition is used, the Duty Captain should be advised as soon as practical.

Members, and especially supervisors, should evaluate the use of chemical irritants/munitions for potential consequences prior to use on an offensive basis. Some chemical irritants/munitions can have severe effects on persons with respiratory conditions, children, and elderly. Some chemical munitions also have extreme fire potential.

#### 5.8.5 Impact weapons

When using less lethal impact weapons, members should avoid targeting the head, neck, throat, heart, kidneys, spine, groin and knee joint.

Adding additional weight, foreign objects or other modifications is prohibited.

The glass breaking tip on the RCB is prohibited.

The SD-1 is not intended to replace the standard straight baton.

#### 5.8.6 Kinetic Energy Impact Projectiles

Sworn members are cautioned that less lethal shotguns are physically capable of firing lethal rounds. Lethal ammunition will not be loaded in or stored with a visually modified less lethal shotgun.

At the beginning of each shift, trained users transporting visually modified less lethal shotguns or other projectile launchers will visually and physically inspect the weapon. Each round will be visually and physically inspected also and will not be used unless it is clearly identified as a less lethal round.

For less lethal shotguns, each gun should have a minimum of 5 rounds available. The shotgun will be kept in the "cruiser safe" mode while on duty. The user is responsible for all ammunition in the less lethal shotgun at all times.

For other projectile launchers, the weapon will be transported and carried in accordance with training and any Standard Operating Procedures for the member's assignment. The user is responsible for all ammunition in the projectile launchers at all times.

When the weapon is returned to the District Station storage area, it will be in an unloaded condition and the unused less lethal ammunition will be stored separately.

Lethal ammunition and lethal shotguns will be kept separate from less lethal ammunition and shotguns at each District Station.

#### 5.8.7 O.C. Spray

Uniformed members that have been trained in the use of O.C. spray are mandated to carry spray on duty, or may carry a TASER if so trained, in lieu of the O.C. Spray.

O.C. Spray should not be used against a subject who:

- Submits peacefully to arrest and complies with lawful commands during the arrest;
- Complies with lawful commands during an investigative stop or non-custodial arrest situation;
- Is securely handcuffed (except in extreme situations);
- Is expressing mere verbal disagreement that does not threaten or incite others to threaten a member and is not interfering with, delaying or obstructing a member's duties. Citizens have the right to express verbal disagreement with a member's actions.;
- Directs offensive language at a member, but is not presenting an imminent threat.

If circumstances allow verbalizing and warning without risk to the safety of the member or others, then a verbal warning should be given to the subject.

Once a year during in-service or a quarterly qualification, Training Staff will inspect each member's canister for date of manufacture. Four years after date of manufacture, members will be instructed to empty the contents of their current canister or turn the canister over to the Quartermaster. The Quartermaster will designate a location for the disposal of the contents of the canister and the canister.

#### 5.8.8 Police Canine

Police canines must be under the control of a certified member. Each team (handler and canine) will be certified through the Colorado Police Canine Association (CPCA), Utah POST, or a certification designated by the K9 unit supervisor.

Police canines may be used to track missing persons or suspects believed to be in a reasonably sized area.

The police canine may be used to apprehend suspects posing a serious threat to a member. Justification for deployment of the police canine may include, but is not limited to the following:

- To gain control of a combative subject;

- To disarm a subject;
- To protect a member or others from being injured by a subject;
- To apprehend a suspect unlawfully fleeing from police.

The police canine should not be used to apprehend a person:

- Wanted for a status offense(s) only;
- On severely intoxicated persons unless there are charges or exigent circumstances;
- If no crime is involved.

K-9 teams will not be used for crowd control at peaceful demonstrations unless approved by the Operations Support Section Commander, Duty Captain or Command Officer in charge of the incident.

K-9 teams may be used for crowd control upon approval of a supervisor to protect life or property during a riot or other civil disturbance that cannot be safely controlled by other means.

#### 5.8.9 Other Restraints

Leg restraints may be used to secure subject's ankles in violent/combatative and/or dangerous situations, or in those instances in which the member reasonably believes the subject to be an escape risk. Members are strictly prohibited from securing restrained feet to the handcuffs or hands of the subject. Members will attempt to secure restrained feet to a waist chain, heavy belt, second soft restraint (or like device) to control violent/combatative and/or dangerous subjects. Soft restraints may also be used in place of handcuffs when handcuffs are not practical or available or as a waist chain when necessary.

Other examples of restraints commonly used include capture poles, used to pin a violent/combatative subject in order to reduce or eliminate the subject's ability to inflict injury and restraint chairs, used in a detention center environment wherein the violent/combatative actions of a subject are constrained.

#### 5.8.10 TASER

Users may only deploy Department owned TASER systems colored yellow to distinguish the weapon from a lethal handgun.

The TASER will be worn by authorized members in a holster designed for the model of TASER carried.

Members should not carry TASER cartridges loosely in pockets or in a similar fashion as static electricity may cause accidental discharge and potential injury to the member. TASER cartridges will be properly secured on the TASER or holsters.

When activating the TASER against a person, the sworn member should activate the device for one standard cycle or less and evaluate the situation. The member must articulate independent justification for each activation of a TASER. Except in extraordinary circumstances, members should not activate a TASER against a person more than three times or longer than 15 seconds either in one cycle or accumulative over several applications.

#### 5.8.11 Medical Treatment and Decontamination

When less lethal weapons are used on a subject, appropriate and reasonable first aid, medical attention or decontamination will be provided to the subject. Members should remain cognizant of cross contamination and ventilation issues when using chemical irritants or O.C. spray.

If on-scene, Aurora Fire Rescue (AFR) EMS personnel will evaluate and determine the appropriate treatment for any individual subjected to the effects of less lethal weapons.

Upon arrival at the Aurora Detention Center, the detention nursing staff is responsible for evaluating, treating and determining the appropriate medical treatment related to the effects of any less lethal weapon, as well as any secondary injuries.

In the event the subject is transported to any detention facility, the transporting member has the responsibility to notify the facility nursing staff that the individual was subjected to less lethal weapons as well as any secondary injuries or conditions that may exist.

When a subject is struck in the head, neck or throat area with any less lethal weapon, the AFR EMS should be called to the scene to evaluate the individual's condition. In addition, any time a pregnant woman whose pregnancy is known or obvious to the member is subjected to a less lethal weapon, AFR EMS should be called to the scene to evaluate the individual's condition. In those situations, Police personnel will follow the direction of AFR EMS personnel who will determine the appropriate follow-up care for the individual.

#### Carotid Control Hold

In every case where the carotid control hold has been applied, AFR EMS will be summoned to examine the individual, whether or not he/she has been rendered unconscious. Members will inform AFR EMS personnel of the hold applied and whether or not the individual lost consciousness.

Chemical Irritant

Chemical Irritant may not require any follow-up medical treatment. Members should ensure decontamination and verbal reassurance to the subject(s) that they are not in danger. If a person still suffers from side effects after 30 minutes, a medical evaluation should be called for, and if at the jail, the jail nurse notified as an allergic reaction may be occurring.

Kinetic Energy Impact Projectiles

When a 12 gauge, 37MM or 40 MM launcher based kinetic energy impact projectile is used upon a subject, a member will call for rescue to respond and provide first aid or treatment as necessary. On the advice from medical rescue personnel, follow-up care will be obtained through either a Detention Center nurse or hospital.

O.C. Spray

O.C. usages may not require any follow-up medical treatment. Members should ensure decontamination and verbal reassurance to the suspect(s) that they are not in danger. If a person still suffers from side effects after 30 minutes, a medical evaluation should be called for and the Aurora Detention Center nurse notified as an allergic reaction may be occurring.

Police Canine

Anytime a police canine bites and breaks the skin on a subject, AFR EMS will be called and determine the extent of medical treatment needed.

TASER

Any TASER deployment resulting in Neuro Muscular Incapacitation (NMI) requires that AFR EMS be summoned to examine the individual.

If the subject is released by AFR, the arresting member will transport the subject to the Aurora Detention Center where the on-duty nurse will remove the barbs. When exigent circumstances exist, a member may remove the barbs. The barbs shall be treated as a biohazard needle and disposed of in an appropriate "Sharps" container per standard medical protocol.

Subjects exposed to a single application that exceeded 15 seconds or multiple applications with an accumulative time exceeding 15 seconds will be transported to the emergency room for evaluation by hospital staff.

5.8.12 Procedure for Approving Less Lethal Weapons for Use

Sworn members may suggest specific weapons for consideration by the Department for authorization. The recommendation will be in writing, directed to the Training Section Lieutenant. When available, a sample of the suggested weapon will be provided to the Training Section Lieutenant for inspection. The Training Section Lieutenant will ensure the weapon is inspected and tested by appropriate Training



Section personnel. The Training Section Lieutenant will prepare a response for the appropriate Division Chief, with a copy of the response sent to the suggesting member.

The appropriate Division Chief may disapprove the request or present the request to Command Staff for consideration. The appropriate Division Chief will notify the suggesting member of the action taken regarding the request.

Based on the conclusions of Command Staff, the recommendation with the approval or disapproval of the Chief of Police or designee will be returned to the Training Section Lieutenant. The Training Section Lieutenant will notify the member of the final disposition of the request. If the weapon was approved, the Training Section Lieutenant will ensure the weapon is included on the authorized weapons master list.

5.8.13 Personally Owned Less Lethal Weapons

Baton and SD-1 – At his/her own expense, a trained and proficient member may elect to purchase an impact weapon other than one issued by the Department as long as the weapon meets the specifications defined by the Training Section. Prior to carrying the weapon on duty, the member will present the weapon to the Training Section for inspection to ensure the weapon meets specifications. Prior to carrying any impact weapon for use on duty, the member must be trained and demonstrate proficiency in the use of the specific weapon.

5.8.14 Other Less Lethal Weapons

Members are not authorized to wear, carry, or use Saps, Sap Gloves, Blackjacks or other less lethal weapons not authorized by the Department.

5.8.15 Unintentional/Negligent Discharge of a Less Lethal Weapon

Members must maintain control of their less lethal weapons at all times. Members who unintentionally, or negligently discharge a less lethal weapon, except when in training, must report that discharge to their supervisor, other members of their chain of command, or the Watch Commander as soon as practical. Supervisors will conduct an initial inquiry into all reportable negligent discharges and forward the results in the administrative investigations system to the Internal Affairs Bureau.

Unintentional/Negligent discharges of a less lethal weapon that constitutes a use of force against another person will be reported in accordance with Directive 05.04 Reporting and Investigating the Use of Tools, Weapons, and Physical Force, and be investigated as outlined in Directive 05.04.

5.8.16     Inspection and Inventory

Every District, Bureau or Section will be responsible for inventory control and annual inspection by the Department Armorer of all Departmental weapons issued to that District, Bureau or Section.

# City of Aurora, Colorado

## Presentation



The background of the slide features a large, faint, circular seal of the Aurora Police Department. The seal contains a five-pointed star in the center, with the words "AURORA POLICE" curved along the top and "COMMUNITY COMMITMENT" curved along the bottom. Inside the star, there is a smaller emblem with the words "Honor, Integrity, Service" and "AURORA POLICE" visible.

# Carotid Control Hold Vs. Chokehold Comparison



## Chokeholds

- “Chokes” apply pressure to the front of the throat, possibly damaging small bones and cartilage, potentially closing the airway.
- The use of chokeholds are not approved by the Aurora Police Dept.



The use of  
chokeholds are not  
approved by the  
Aurora Police Dept.



The background of the slide features a large, faint, circular seal of the Aurora Police Department. The seal contains the text "AURORA POLICE" at the top and "COMMUNITY COMMITMENT" at the bottom. In the center, there is a five-pointed star with the words "Duty, Honor, Integrity" and "AURORA" around it.

# The Aurora Police Dept. allows for the use of the Carotid Control Hold (Bi-Lateral Vascular Neck Restraint)

The goal of the Carotid Control Hold is to obtain **voluntary compliance** or render the subject unconscious temporarily to gain control.



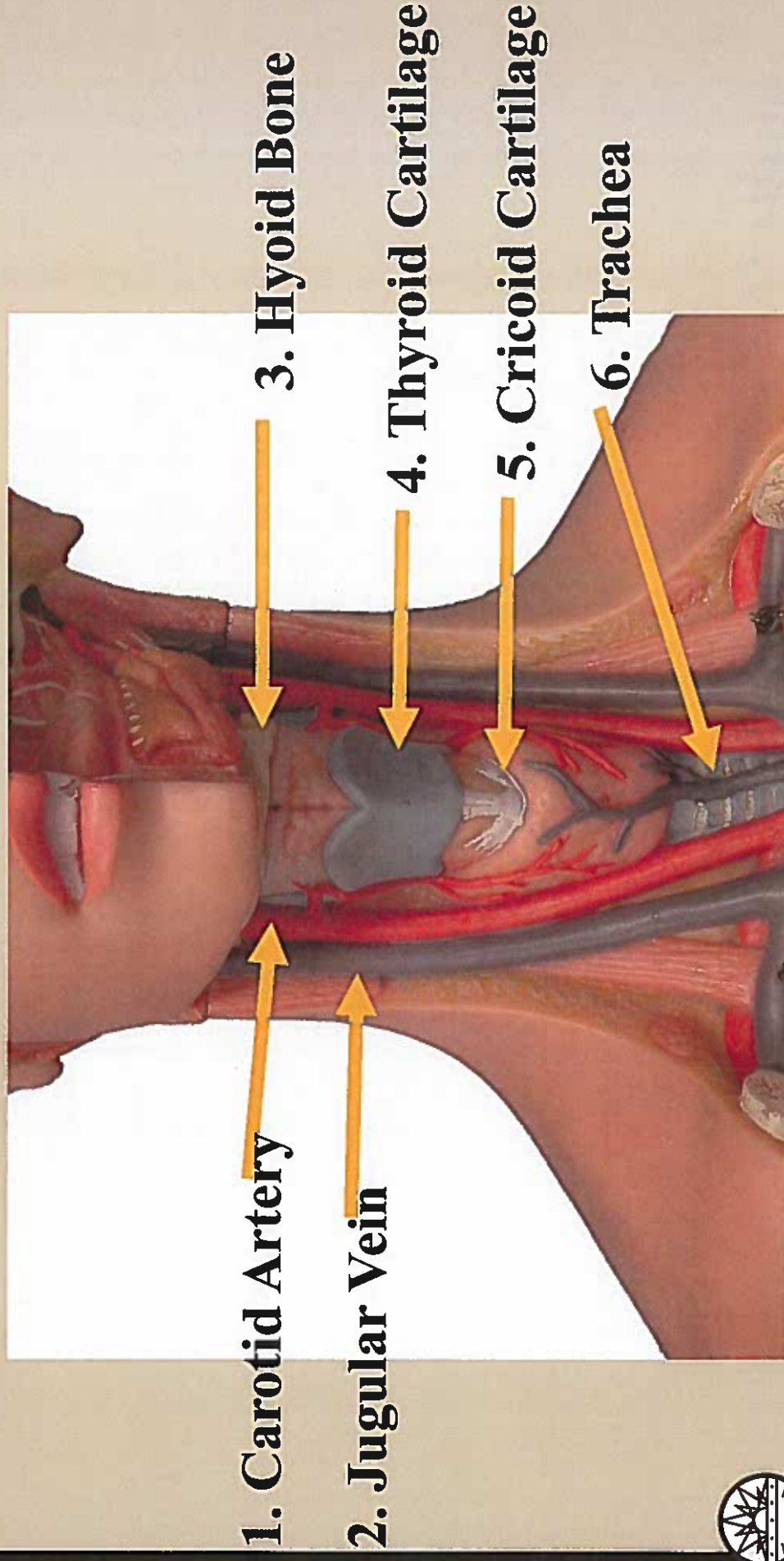


## Carotid Control Hold

- Pressure is applied to the carotid arteries on the **sides** of a suspect's neck.
- No significant frontal pressure or compression is applied to front of the neck.
- Subject retains the ability to breathe.



## Carotid Control Hold



**NOTE: The governor signed this measure on 5/20/2015.**



SENATE BILL 15-219

BY SENATOR(S) Cooke and Roberts, Aguilar, Balmer, Baumgardner, Carroll, Crowder, Donovan, Garcia, Grantham, Guzman, Heath, Hill, Hodge, Holbert, Jahn, Johnston, Jones, Kefalas, Kerr, Lambert, Lundberg, Marble, Martinez Humenik, Merrifield, Neville T., Newell, Scheffel, Scott, Sonnenberg, Steadman, Todd, Ulibarri, Woods, Cadman;  
also REPRESENTATIVE(S) Salazar, Duran, Esgar, Fields, Kagan, Lawrence, McCann, Melton, Moreno, Pettersen, Priola, Singer, Vigil, Williams, Young, Hullinghorst, Becker K., Conti, Lebsock, Mitsch Bush, Rosenthal, Tate.

CONCERNING MEASURES TO PROVIDE ADDITIONAL TRANSPARENCY TO  
PEACE OFFICER-INVOLVED SHOOTINGS.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) Officer-involved shootings in this state are exceedingly rare, but when an incident occurs, it is in the public interest to guarantee that thorough and objective reviews are conducted;

(b) Many law enforcement agencies in Colorado either participate

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.



in locally formed multi-agency critical incident teams or seek out assistance from the Colorado bureau of investigation or a neighboring law enforcement agency in these situations. This approach is both pragmatic and laudable. Utilizing outside assistance in both manpower and resources promotes a better and more complete investigation before turning the matter over to the district attorney for a decision on whether or not the shooting was justified. Further, including outside agencies in an investigation promotes and encourages a level of transparency and objectivity that provides increased credibility to the final outcome. Finally, including outside agencies eliminates any biases, whether real or perceived, which in turn strengthens public confidence in the outcomes of such investigations.

(c) Public confidence in the process is critical to the overall efficacy of the criminal justice system;

(d) Confidence in the process is as equally important to the officer involved as well as it is to any suspect or other citizen involved; and

(e) Everyone involved in an officer-involved shooting is entitled to know that the investigation and final determination related to any such incident will be made in a fair and just manner.

(2) Therefore, the general assembly determines that it is in the public interest that all law enforcement agencies develop protocols for either participating in multi-agency critical incident teams or partnering with the Colorado bureau of investigation or a neighboring law enforcement agency when there is an investigation of an officer-involved shooting.

**SECTION 2.** In Colorado Revised Statutes, **add** part 3 to article 2.5 of title 16 as follows:

PART 3  
PEACE OFFICER-INVOLVED SHOOTINGS

**16-2.5-301. Peace officer-involved shooting investigations - protocol.** (1) EACH POLICE DEPARTMENT, SHERIFF'S OFFICE, AND DISTRICT ATTORNEY WITHIN THE STATE SHALL DEVELOP PROTOCOLS FOR PARTICIPATING IN A MULTI-AGENCY TEAM, WHICH SHALL INCLUDE AT LEAST

ONE OTHER POLICE DEPARTMENT OR SHERIFF'S OFFICE, OR THE COLORADO BUREAU OF INVESTIGATION, IN CONDUCTING ANY INVESTIGATION, EVALUATION, AND REVIEW OF AN INCIDENT INVOLVING THE DISCHARGE OF A FIREARM BY A PEACE OFFICER THAT RESULTED IN INJURY OR DEATH. THE LAW ENFORCEMENT AGENCIES PARTICIPATING NEED NOT BE FROM THE SAME JUDICIAL DISTRICT.

(2) EACH LAW ENFORCEMENT AGENCY SHALL POST THE PROTOCOL ON ITS WEB SITE OR, IF IT DOES NOT HAVE A WEB SITE, MAKE IT PUBLICLY AVAILABLE UPON REQUEST. THE PROTOCOLS REQUIRED BY THIS SECTION SHALL BE COMPLETED AND IMPLEMENTED BY DECEMBER 31, 2015.

**SECTION 3.** In Colorado Revised Statutes, **add 20-1-114** as follows:

**20-1-114. Peace officer-involved shooting investigations - disclosure.** (1) THE DISTRICT ATTORNEY SHALL, IF NO CRIMINAL CHARGES ARE FILED FOLLOWING THE COMPLETION OF AN INVESTIGATION PURSUANT TO SECTION 16-2.5-301, C.R.S., RELEASE A REPORT AND PUBLICLY DISCLOSE THE REPORT EXPLAINING THE DISTRICT ATTORNEY'S FINDINGS, INCLUDING THE BASIS FOR THE DECISION NOT TO CHARGE THE OFFICER WITH ANY CRIMINAL CONDUCT. THE DISTRICT ATTORNEY SHALL POST THE WRITTEN REPORT ON ITS WEB SITE OR, IF IT DOES NOT HAVE A WEB SITE, MAKE IT PUBLICLY AVAILABLE UPON REQUEST.

(2) IF THE DISTRICT ATTORNEY REFERS THE MATTER UNDER INVESTIGATION TO THE GRAND JURY, THE DISTRICT ATTORNEY SHALL RELEASE A STATEMENT AT THE TIME THE MATTER IS REFERRED TO THE GRAND JURY DISCLOSING THE GENERAL PURPOSE OF THE GRAND JURY'S INVESTIGATION. IF NO TRUE BILL IS RETURNED, THE GRAND JURY MAY ISSUE A REPORT PURSUANT TO 16-5-205.5, C.R.S.

(3) ALL DISCLOSURES REQUIRED BY THIS SECTION REMAIN SUBJECT TO THE CRIMINAL JUSTICE RECORDS ACT.

**SECTION 4. Safety clause.** The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

\_\_\_\_\_  
Bill L. Cadman  
PRESIDENT OF  
THE SENATE

\_\_\_\_\_  
Dickey Lee Hunninghorst  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

\_\_\_\_\_  
Cindi L. Markwell  
SECRETARY OF  
THE SENATE

\_\_\_\_\_  
Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_

\_\_\_\_\_  
John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO