

Tragic mistakes were not criminal - Denver Post, The (CO) - December 16, 2018 - page 3D

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The Aurora police shooting of 73-year-old **Richard Gary Black** after he saved his grandson from a violent home intruder ranks as one of the most poignant local tragedies of the year. But it's not a tragedy with a villain. Adams County District Attorney Dave Young was right to reject criminal charges this month against the officer who pulled the trigger.

Even so, the fact that police aren't criminally liable for killing an innocent man doesn't always mean they did everything possible to avoid that outcome. And we would hope Aurora police's internal investigation acknowledges that fact in this case.

A glaring lapse in the police response -- or so it seems to us -- was their failure to identify themselves in the chaos of those early morning hours of July 30.

Part of that chaos is on display in police body camera footage released to the public; it is also recounted in multiple interviews in the district attorney's 26-page report. A seemingly crazed, naked man -- later identified as Dajon Harper -- broke through the door of the home where Black, his wife and his stepson lived and attacked Black's 11-year-old grandson, who was staying with them that weekend. Other people from a raucous party across the street followed Harper into the house.

Black shot and killed Harper after a melee in the bathroom during which the grandson was being strangled and Black was apparently struck on the head with a vase.

By this time, several officers were at the front door. They heard the shots and observed Black emerging into view seconds later carrying a gun (for which he had a permit) and a flashlight. Police ordered Black several times to drop his gun before Officer Drew Limbaugh shot him several times. Neither the video nor the DA's report indicate they ever shouted "police."

As the district attorney explains, police had no way of knowing that Black was not the intruder himself bent on further violence. And it was reasonable to believe that Black "presented a threat to the officers because he did not drop the weapon and could shoot at any moment."

But the DA also concedes that "perhaps Mr. Black did not know that it was police standing at his front door." It was dark outside and he undoubtedly was in a high pitch of adrenaline and confusion. Significantly, he never raised his gun at police. He raised his flashlight.

Black, a decorated Vietnam veteran, had substantial hearing loss, according to family attorneys, so it's possible he didn't hear the officers' commands and wouldn't have heard them shout "police" in any case. But nobody can say for sure, and the alternative is also possible: Shouting "police" might have helped him understand what was going on.

In response to the shooting of Black, State Sen. Rhonda Fields, D-Aurora, said she wants to create statewide rules for evaluating when officers can return to work after a fatal shooting, since Limbaugh had killed another man on June 27 who pointed a gun at police. She may be right that such rules are needed, but Aurora already seems to have solid procedures in place. Police Chief Nick Metz said Limbaugh met with psychologists and participated in a peer support program before returning to duty two weeks after the first shooting.

With or without him on duty, police should have identified themselves that night. In fact, they should always do so when their identify might not be obvious.

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