

Prosecutor: No charges against officer who shot - Durango Herald, The (CO) - December 4, 2018

December 4, 2018 | Durango Herald, The (CO) | Kathleen Foody

DENVER – A Colorado police officer will not face charges for fatally shooting a homeowner who had just killed an intruder inside his suburban Denver home, prosecutors said in a letter released Monday.

Adams County District Attorney Dave Young described **Richard "Gary" Black's** death as a "harrowing tragedy" but said his role was to determine whether the Aurora Police officer who shot the 73-year-old Vietnam War veteran was justified in using deadly force.

Based on witness interviews and more than 90 videos captured by officers' body cameras, Young said Officer Drew Limbaugh did not know who Black was and fired when the homeowner refused police commands to drop his handgun.

Young said Limbaugh's belief was reasonable and prosecutors cannot prove that the officer was not justified in firing. He said there also is no evidence that Limbaugh was reckless or criminally negligent.

"Officer Limbaugh engaged in conduct that was consciously focused on minimizing the risk to public safety," Young wrote.

At the time of the shooting, Young said police did not know that Black had woken after midnight to investigate banging sounds and soon heard his 11-year-old grandson screaming as an intruder attacked him inside the bathroom. Police also did not know that the intruder, later identified as Dajon Harper, was lying on the bathroom floor after being shot twice by Black, he said.

"The evaluation of Officer Limbaugh's reasonable belief must be based not upon what we now know, but the circumstances as he perceived them at the time: hearing gunshots and then seeing an armed man emerge from a back room who refused commands to drop the weapon," Young wrote.

The witnesses and police officers interviewed by investigators paint a chaotic scene. Young said police arriving at the home in Aurora around 1:30 a.m. on July 30 had little information and no description of a suspect.

Within seconds, he said police heard gunshots inside the house and saw Black come into the hallway holding a handgun in one hand and a flashlight in the other. Young said the body camera footage shows police repeatedly told Black to drop his weapon before he came toward officers, raising the flashlight, and Limbaugh fired three times.

Police have said Black had hearing impairment due to his military service. Young wrote that Black

may not have heard the commands or recognized the officers as police but said that does not change Limbaugh's "reasonable belief that Mr. Black presented a threat."

Witnesses told police that Harper was at a party at a family member's home nearby and may have been using drugs. Early that morning, he ran away and apparently broke down the Black family's front door.

Black's grandson told police he woke up after feeling a cold breeze. He described walking toward his father's bedroom but then seeing a stranger showering as he passed the open bathroom door.

The boy said the man grabbed him, locked the bathroom door and was strangling him before his father and grandfather were able to get inside the room.

Harper, who was 26, died after being shot twice in the chest by Black. An autopsy report found levels of marijuana and methamphetamine in his blood.

(c) 2018, The Durango Herald, All Rights Reserved