

Combined Courts, Clear Creek County, Colorado
Court Address: 405 Argentine Street, Georgetown, Colorado
80444.

PEOPLE OF THE STATE OF COLORADO vs.

Defendant: NICHOLAS ANDREW HANNING (Date of
Birth: 08-11-1985)

Case Number:
COURT USE ONLY
21CR82

Div.: J

WARRANT FOR ARREST OF DEFENDANT

FROM: THE PEOPLE OF THE STATE OF COLORADO

TO: ANY PERSON AUTHORIZED BY LAW TO EXECUTE WARRANTS WITHIN
THE STATE OF COLORADO, GREETINGS:

Pursuant to Rule 4.2, Colorado Rules of Criminal Procedure, you are hereby
commanded to arrest NICHOLAS ANDREW HANNING (Date of Birth: 08-11-1985) for the
offense(s) of: Assault in the Third Degree against an At-Risk Person; in violation of §§ C.R.S.
18-3-204 (1)(a) and 18-6.5-103 (3)(c), a Class 6 Felony Offense, and bring him without
unnecessary delay before the nearest judge of a court of record.

DATED: 7/7/21

Lynetha Jones
JUDGE

BAIL: 2000 Cash/Surety



STATE OF COLORADO)
COUNTY OF _____)

RETURN OF SERVICE

I duly served the within warrant by arresting:
NICHOLAS ANDREW HANNING (Date of Birth: 08-11-1985).

as required therein, on the _____ day of _____, _____.

FEES: Service \$ _____
Mileage \$ _____
Return \$ _____
Total \$ _____

SHERIFF

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PEOPLE OF THE STATE OF COLORADO vs.	
Defendant: NICHOLAS ANDREW HANNING (Date of Birth: 08-11-1985)	
	Case Number: Div.:
ARREST WARRANT APPLICATION FOR ARREST OF DEFENDANT	

COMES NOW the District Attorney for the 5th Judicial District of Colorado and requests that this Court issue an Arrest Warrant for Defendant pursuant to Colorado Rule of Criminal Procedure 4.2 and shows the Court as follows:

1. Rule 4.2 provides that upon request of the District Attorney's Office the Court may issue an Arrest Warrant provided probable cause, in writing, is shown.
2. Attached hereto is an Affidavit for Arrest Warrant setting forth written probable cause as concerns this Defendant and the commission of the offense in question. This affidavit is marked as Attachment "A".

WHEREFORE, the undersigned requests that the appropriate Arrest Warrant as concerns this matter be issued.

Respectfully submitted this 07th day of July 2021.



Affiant

*Reviewed: D. McElroy, #31704
7/6/21*

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Defendant: NICHOLAS ANDREW HANNING (Date of Birth: 08-11-1985)	
Attorney or Party Without Attorney:	Case Number:
	Div.:
AFFIDAVIT FOR ARREST WARRANT	

ATTACHMENT "A"

The following Affidavit is submitted to the Court to document the probable cause in support of a request for the issuance of an Arrest Warrant for **NICHOLAS ANDREW HANNING** (Date of Birth: 08-11-1985).

This offense is fully documented in Colorado Bureau of Investigation (CBI) Report No. 2021-173 detailing the offense(s) of:

Assault in the Third Degree against an At-Risk Person; in violation of §§ C.R.S. 18-3-204 (1)(a) and 18-6.5-103 (3)(c), a Class 6 Felony Offense.

1. Your Affiant is Joseph Cahill, a duly sworn Agent and State of Colorado certified peace officer with the CBI and who has been employed as such since 2015. Additionally, your Affiant has over 24 years of law enforcement experience as a peace officer in the State of Colorado and as a badged and credentialed Supervisory Special Agent/ Chief Warrant Officer with U.S. Army Counterintelligence. Your Affiant has participated in and supervised assault and officer-involved use of force investigations during this experience.

2. Your Affiant submits the following facts demonstrate probable cause to believe that, on or about May 30, 2021, in the County of Clear Creek, in the State of Colorado, Idaho Springs Police Department (ISPD) Police Officer (Ofc.) **NICHOLAS ANDREW HANNING** (Date of Birth: 08-11-1985) did, through the use of excessive force, commit Assault in the Third Degree against an At-Risk Person; in violation of §§ C.R.S. 18-3-204 (1)(a) and 18-6.5-103 (3)(c), a Class 6 Felony Offense, against the victim, **MICHAEL CLARK** (Date of Birth: 05-07-1946), 75 years of age, an "At-Risk Elder" as defined under § C.R.S. 18-6.5-102 (3), "means any person who is seventy

years of age or older". This affidavit is being submitted to support the issuance of an arrest warrant for these offenses.

3. The facts in this affidavit come from the review of the ISPD police reports, review of all known ISPD video footage, statements, ISPD policies, medical treatment documents, my personal observations, and my training and experience. This affidavit is intended to show merely that there is sufficient probable cause for the requested arrest warrant and does not set forth all of my knowledge about this matter.
4. All information contained in this affidavit is located in CBI Case Report No. 2021-173 and ISPD Case Report No. 21-0444.
5. On June 04, 2021, based on the use of force depicted in the ISPD video(s) and the alleged injuries sustained by MICHAEL CLARK during the incident, the 5th Judicial District Attorney's Office requested a use of force investigation by the CBI.

Facts in support of probable cause

Background of those suspects mentioned in this affidavit

6. **NICHOLAS ANDREW HANNING**, Date of Birth: 08-11-1985, and is a Colorado resident. HANNING has no history of a felony criminal record. HANNING graduated from the Red Rocks Community College Basic Law Enforcement Training Academy on December 17, 2010. HANNING was certified as Peace Officer through the Board On Colorado Police Officer Standards and Training (POST) on September 14, 2012; Number B-16444. HANNING has been employed as a police officer at the ISPD since October 02, 2017. Prior to his service at the ISPD, HANNING was employed as a Deputy Sheriff with the Park County Sheriff's Office. HANNING completed an Axon Taser certification course in 2015 and 2017, a re-certification course on 11-07-2018, and a "Taser manipulation and firing drills" course on 03-10-2021¹. HANNING has also attended other training courses², including the following: "Verbal De-escalation" (2016); "Basic SWAT Tactics" (2015); "Conflict Management/De-Escalation Skills" (2017); "CIRSA Use of Force" (2018); "Verbal De-Escalation Scenarios" (2018); "Responding to People with Mental Illness" (2020); "Mental Health Recognition" (2020).

Initial 911 Call for Service

7. On May 30, 2021, at 2242 hours, the ISPD received a 911 call from TIMOTHY BRAYDEN (Date of Birth: 05-29-1991). BRAYDEN advised the dispatcher, "My neighbor just punched my roommate in the face... What she said happened... I was outside and my understanding is... that he banged on the wall and told her that she was getting too loud, that she needed to be quiet and she banged on the wall back, and she

¹ Training documents received by the ISPD on 06-08-2021 from the Clear Creek Sheriff's Office (CO)

² Colorado POST Training Record printed on 04-27-2017, provided by the ISPD.

has been drinking...we were in the house, like, (when asked by the dispatcher to identify her) it's BRITTANY ODOM...she got punched."

8. At 2 minutes and 12 seconds of the recording, BRITTANY ODOM (Date of Birth: 10-26-1990) took over the phone call with 911. ODOM stated, "So, he was banging on the wall, 'Shut the fuck up!', and, I was literally in here sleeping...so I went out there and knocked on his door. He fucking knocked me in my face." ODOM further stated she was bleeding from her nose and mouth. ODOM said it was not currently bleeding and that she had to wash her face off.

Initial ISPD Dispatch Information

9. The ISPD dispatched aired, "All cars, assault-in-progress, at 3201 Riverside Drive, room number 211, RP³ stated neighbor punched his roommate in the face." Ofc. ELLIE SUMMERS aired, "207, both...units en route from downtown (acknowledged by dispatch at "2243" hours).
10. The dispatch center then aired for EMS to "stage for an assault", "211", "for an assault that just occurred". As the medical units acknowledged, the dispatch center aired again it was for "an assault that just occurred". They also aired, "Female...with face injuries" (transmission ended "2246" hours). Ofc. SUMMERS aired that "both units on scene" (acknowledged by dispatch at "2246" hours).

Initial contact by ISPD with ODOM and BRAYDEN

11. On May 30, 2021, at 2246 hours, Ofc. SUMMERS and Ofc. NICHOLAS HANNING arrived and walked directly to Apartment 211. They contacted BRAYDEN and ODOM at Apartment 211.
12. BRAYDEN pointed towards Apartment 210 and stated, "This neighbor right here is what she said."
13. ODOM stated, "He banged on the door or on the through wall, shut the fuck up! I came out and was like, what's going on? Right to the fucking mouth."
14. When asked which apartment the assailant was in, ODOM responded, "I don't know, right there, possibly?"
15. When asked what the victim looked like, ODOM responded, "He is older man. I honestly don't know. I got knocked the fuck out...He busted all of my shit (pulling down her lower lip), my nose, my mouth...He's white...grey hair, he's an older guy, about this tall (ODOM motioned slightly above BRAYDEN'S head)".
16. BRAYDEN added, "And that guy lives right there in that room (pointed in the direction of MICHAEL CLARK'S apartment, No. 210)".

³ "RP" is police acronym for Reporting Party.

17. At 22:50:18⁴ hours, Ofc. HANNING turned away, without comment, and walked towards Apartment 210.

Use of Force Incident with MICHAEL CLARK

18. At 22:50:23 hours, Ofc. HANNING knocks loudly on the door to Apt. 210. An announcement of "Police" or any other comment is not given.

19. At 22:50:25 hours, Ofc. HANNING again knocks loudly on the door to Apt. 210. An announcement of "Police" or any other comment is not given. Ofc. HANNING is joined by Ofc. SUMMERS at the door of Apt. 210⁵.

20. At 22:50:41 hours, CLARK opens the door and is overheard yelling, "What do you want?"

21. At 22:50:42 hours, Ofc. HANNING yells, "What the fuck?"

22. At 22:50:43 hours, CLARK stated something unintelligible and Ofc. HANNING begins to enter CLARK'S apartment.



(Image excerpted from Ofc. HANNING'S BWC; Axon X60346124)

23. At 22:50:44 hours, CLARK turns his right shoulder away from Ofc. HANNING.

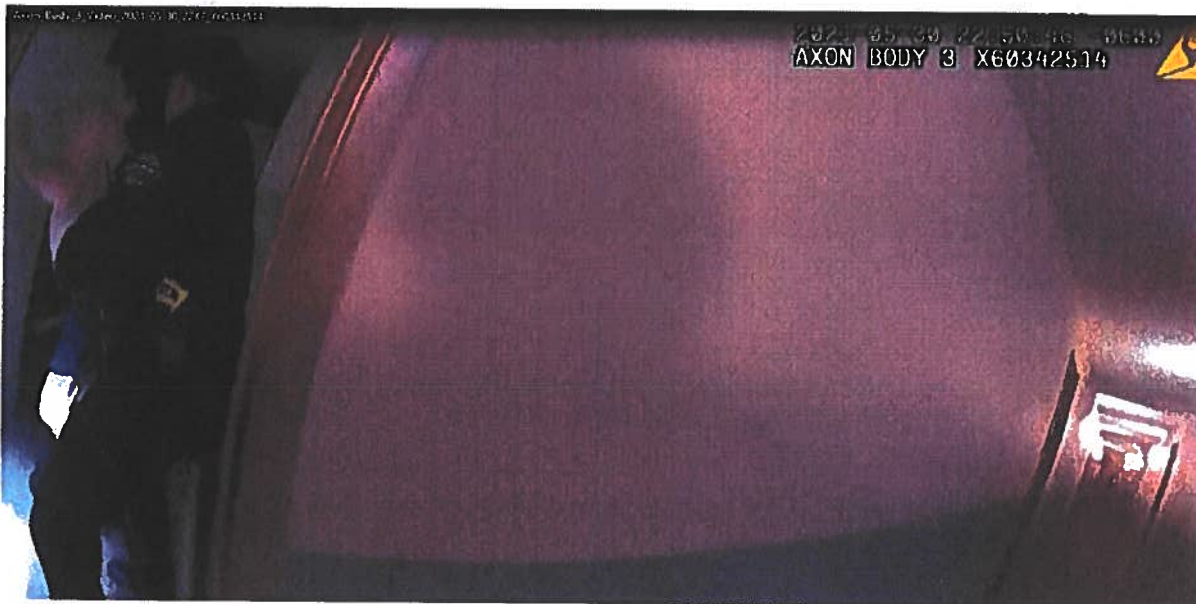
⁴ Times are used from Ofc. HANNING and Ofc. SUMMERS' body worn camera (BWC) videos.

⁵ The officers are positioned to opposite sides of the door threshold.



(Image excerpted from Ofc. HANNING'S BWC; Axon X60346124)

24. At 22:50:46 hours, there are unintelligible remarks made by CLARK and Ofc. HANNING as Ofc. HANNING enters the apartment, and forces CLARK into the wall⁶.



(Image excerpted from Ofc. SUMMERS, BWC; Axon X60342514)

25. At 22:50:46 hours, Ofc. HANNING begins to back up and yells, "Put it down motherfucker!"

⁶ This is the first image that captures a "Hawaiian sword" held in CLARK'S right hand.



(Image excerpted from Ofc. HANNING'S BWC; Axon X60346124)

26. At 22:50:47 hours, Ofc. SUMMERS yells to put it down, as CLARK continues to turn and move (inward) to his right.



(Image excerpted from Ofc. HANNING'S BWC; Axon X60346124)

27. At 22:50:48 hours, CLARK reaches up with his right arm, sword in hand, and places it on top of a shelving unit.



(Image excerpted from Ofc. HANNING'S BWC; Axon X60346124)

28. At 22:50:50 hours, after placing the sword on top of the shelving unit, CLARK turned to his left and faced Ofc. HANNING and Ofc. SUMMERS.



(Image excerpted from Ofc. HANNING'S BWC; Axon X60346124)

29. At 22:50:51 hours, both Ofc. HANNING and Ofc. SUMMERS yell to CLARK to "Get down!" Then, Ofc. HANNING yells, "Get out here!"



(Image excerpted from Ofc. HANNING'S BWC; Axon X60346124)

30. At 22:50:52 hours, Ofc. SUMMERS, still pointing her duty firearm at CLARK, continues to yell at CLARK to, "Get down on the ground now!"



(Image excerpted from Ofc. HANNING'S BWC; Axon X60346124)

31. At 22:50:53-54 hours, Ofc. HANNING advises Ofc. SUMMERS to back up (further into the hallway). Ofc. HANNING states, "Get down!"



(Image excerpted from Ofc. HANNING'S BWC; Axon X60346124)

32. At 22:50:55 hours, Ofc. HANNING yells at CLARK to, "Get out here, right now!"



(Image excerpted from Ofc. HANNING'S BWC; Axon X60346124)

33. At 22:50:57 hours, Ofc. HANNING again yells, "Get out here! Get out here right now!" CLARK is beginning to reiterate his complaint of the neighbor banging on his wall.



(Image excerpted from Ofc. HANNING'S BWC; Axon X60346124)

34. At 22:50:58 hours, CLARK states, "I thought (unintelligible)." In addition, HANNING again orders CLARK to, "Get out here!"



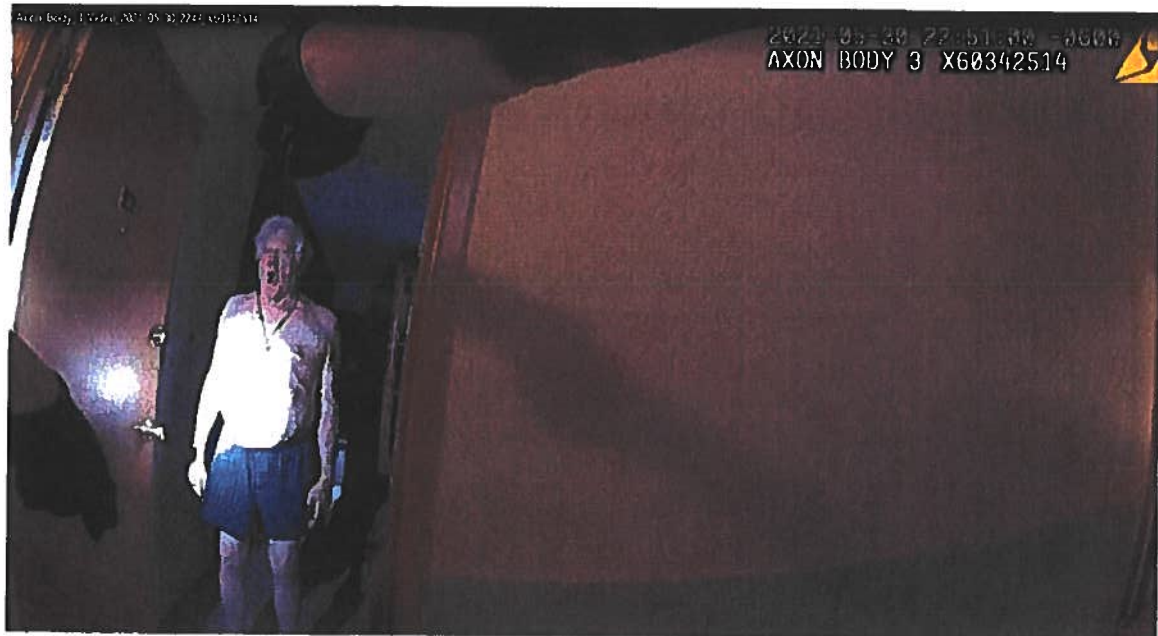
(Image excerpted from Ofc. SUMMERS' BWC; Axon X60342514)

35. At 22:50:59 hours, Ofc. SUMMERS yells and points, "Get on the ground!"



(Image excerpted from Ofc. HANNING'S BWC; Axon X60346124)

36. At 22:51:00 hours, CLARK responds, "No!"



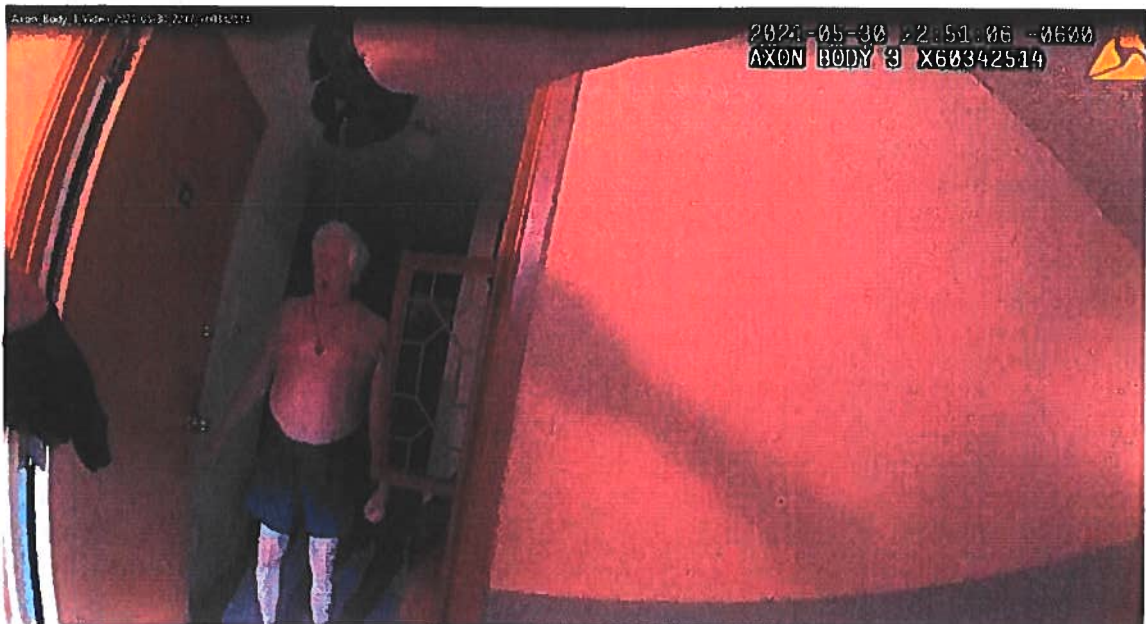
(Image excerpted from Ofc. SUMMERS' BWC; Axon X60342514)

37. At 22:51:03-06 hours, CLARK stated, "They hit that wall so hard (CLARK raises his right hand and points to his left – the neighbor's apartment)..."



(Image excerpted from Ofc. SUMMERS' BWC; Axon X60342514)

38. At 22:51:06 hours, CLARK continued, "I thought they were going to come through the wall (CLARK lowers his right hand)."



(Image excerpted from Ofc. SUMMERS' BWC; Axon X60342514)

39. At 22:51:07 hours, without commands or warning, Ofc. HANNING fires his Taser, which strikes CLARK in the abdomen and pelvic area.



(Image excerpted from Ofc. SUMMERS' BWC; Axon X60342514)

40. At 22:51:08 hours, CLARK, who is rendered unconscious from the Taser, falls straight back, strikes a dining room chair, and lands on the floor.



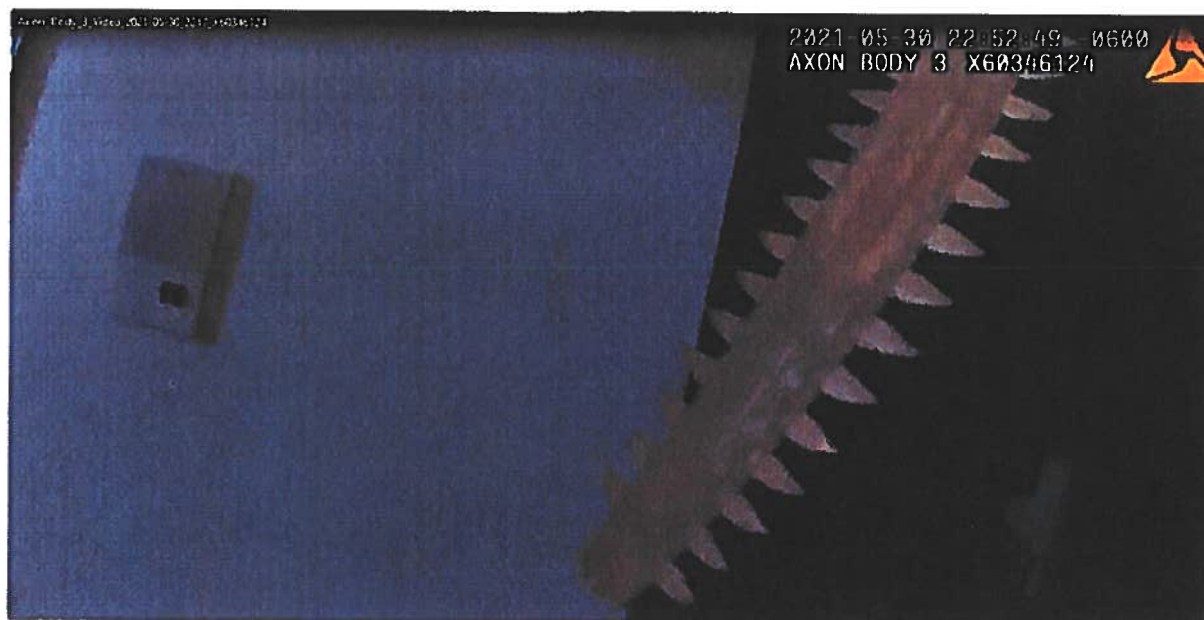
(Image excerpted from Ofc. HANNING'S BWC; Axon X60346124)

41. At 22:51:24 hours, as Ofc. HANNING pulls CLARK'S right arm (Taser is in his left hand) he appears to pull the right side of CLARK'S face into the shelving unit.

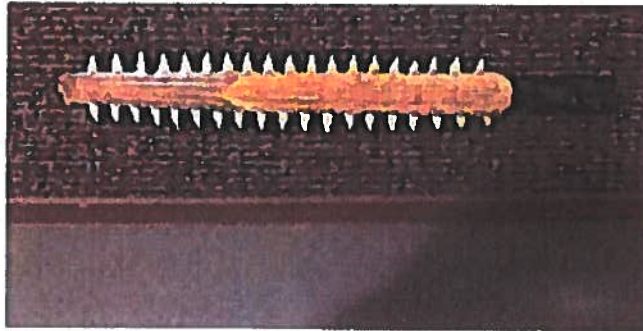


(Image excerpted from Ofc. HANNING'S BWC; Axon X60346124)

42. At 22:52:49 hours, Ofc. HANNING pulls the sword and it is in view on his BWC.



(Image excerpted from Ofc. HANNING'S BWC; Axon X60346124)



(ISPD Evidence Photograph of the sword with “shark teeth”; ISPD Report No. 21-0444)

43. At 22:55:13 hours, Ofc. HANNING stated, “You’re under arrest right now.” The laceration above CLARK’S right eye is visibly bleeding.



(Image excerpted from Ofc. HANNING’S BWC; Axon X60346124)

44. At 22:56:53 hours, Ofc. HANNING advised the paramedic that, in addition to the Taser deployment, CLARK got a “kick to the knee and a cut on his head.”
45. At 22:58:45-23:00:33 hours, CLARK uttered, “What is going on? I’ve done nothing wrong.” CLARK continued, “What did I do?” Ofc. HANNING replied, “You punched that girl...then you answered the door with a freaking machete man.” CLARK responded, “No, that is absolutely false...I did not come after nobody...I was just in bed...I attacked nobody...I was just laying in bed...I did nothing. I did not come at anybody.”
46. CLARK is subsequently taken to the ambulance by medical personnel. At 23:10:05 hours, after stepping into the ambulance, the paramedic asked Ofc. HANNING if he struck CLARK. Ofc. HANNING stated, “I kicked him in the knee and punched him

somewhere in the back of the head." The paramedic asked, "You did?" Ofc. HANNING replied, "Yeah, I did."⁷

Interview of MICHAEL CLARK by ISPD Officer SUMMERS

47. CLARK is transported by Clear Creek Ambulance to St. Anthony's Hospital, 11600 West 2nd Place, Lakewood, Colorado. Ofc. SUMMERS followed the ambulance to the hospital.
48. Ofc. SUMMERS advised CLARK of his Miranda rights, which he waived, and participated in a verbal interview recorded on Ofc. SUMMERS' BWC.
49. CLARK stated, "At 1030 (2230 hours), I was lying in bed, neighbor next door has a dog that barks...(unintelligible) quiet down...and that dog starts barking about 10 at night...about 9 or 10 o'clock...I don't know why he was barking and carrying on, why they started at 9-10 o'clock, I don't know...I'm probably half asleep finally...there was a hit on the wall, I thought they were coming through the wall." CLARK continued, "Then you guys came...I opened the door and I thought, 'Oh, they're coming through the door,' because it was more than the normal two people there, they had a party going on...and some of the characters were standing on the deck."
50. Ofc. SUMMERS asked CLARK why he did not get down on the ground when told to do so. Michael responded, "Because I had no reason to...there's no reason to assault me."
51. Ofc. SUMMERS explained to CLARK that he came out with "that," which he put on the bookshelf. Then he was told a "couple of times to get down because you came out with a deadly weapon...gave you a couple of opportunities and you said no." CLARK responded, "(unintelligible) at the door said you were the police, no one, there was no way, I had no idea...I had no idea who was there, it might've been those people there...they would've come at me in mass."
52. Ofc. SUMMERS stated, "So when I told you to get down, after you put the machete back, after I told you to get down, you knowingly disobeyed a lawful order from a police officer." CLARK responded, "Well, there was, what did I do wrong?" Ofc. SUMMERS said, "Well, we were trying to investigate it, right? We were trying to investigate it". CLARK stated, "I was upset because I had done nothing wrong. I went and put the weapon back because I realized it was police officers, I said, okay."
53. CLARK continued, "There was no need to hit me...there was no reason for him to strike me, I had my arms down...I was not going to (unintelligible) realize that you're

⁷ The action of striking CLARK in the back of the head is not documented in Ofc. HANNING'S original report or his Response to Resistance report; ISPD Report 21-0444.

police officers...what's going on? That's all I want to know. You could've told me...I was assaulted. You knocked on the door. You didn't tell me you were the police. You could've told me, 'We're the police, and we're having a problem'. I would've said, you want to sit down, we'll talk about it. You would've found out that I did not go in the hall, my door was locked, I did not punch that woman...she's a liar...I never even come out in the hall."



(ISPD Evidence Photograph of CLARK'S laceration; ISPD Report No. 21-0444)

Review of ISPD Case Report No. 21-0444

54. A review of the report authored by Ofc. SUMMERS disclosed she noted that CLARK "answered the door brandishing a machete/sword in his hand. The sword had a blade made of what appeared to be teeth". Ofc. SUMMERS stated, "I feared for the safety of myself and Ofc. HANNING. I drew my service pistol and pointed it at CLARK. Ofc. HANNING delivered a kick to the party's left leg. CLARK was given a loud verbal command to put the weapon down. CLARK turned around and put the sword on top of a bookshelf near the front door. I gave a loud verbal command for the party to get down on the ground, he refused. Ofc. HANNING pointed his Taser at Clark and discharged it."
55. Ofc SUMMERS noted, "CLARK had a cut on his right eyebrow, some bruising around his left knee and then two puncture wounds from where the Taser barbs struck his abdomen and right thigh."
56. A review of the report authored by Ofc. HANNING noted, "When Clark answered the door, he yelled, 'What do you want!', as he opened the door, he was holding a Hawaiian shark tooth war sword in his right hand. He had it held up in a manner as if he were going to attack someone with it."
57. Ofc. HANNING continued, "I told CLARK to put it down. He backed away from me and began to turn his body. I kicked him above his left knee⁸ and yelled at him to put it down. I backed away from CLARK. He put the sword on top of a bookshelf and faced back towards us. Ofc. SUMMERS and I gave him several commands to come out

⁸ During a review of all available BWC video, your Affiant was unable to witness or capture the kick to CLARK'S left knee by Ofc. HANNING.

towards us and to get on the ground. CLARK was arguing and told us his neighbor was banging on the walls. Ofc. SUMMERS told CLARK to get on the ground and he defiantly told us no. I unholstered my Taser and deployed it on him.”

58. Ofc. HANNING noted that CLARK was unconscious. Ofc HANNING stated, “I moved the fallen chair off of him and tried to roll him over on his stomach. His head struck the bookshelf when I tried rolling him over.”

59. A review of Ofc. HANNING’S “ISPD Response to Resistance Report” noted the following (excerpted from the report):

16) REASON RESPONSE WAS NECESSARY:

- | | | |
|---|---|---|
| <input checked="" type="checkbox"/> TO EFFECT AN ARREST | <input checked="" type="checkbox"/> TO DEFEND SELF | <input type="checkbox"/> TO RESTRAIN FOR SUBJECT'S SAFETY |
| <input checked="" type="checkbox"/> TO DEFEND ANOTHER OFFICER | <input checked="" type="checkbox"/> TO PREVENT A VIOLENT FELONY | <input type="checkbox"/> CIVIL DISTURBANCE |
| <input checked="" type="checkbox"/> TO DEFEND ANOTHER PERSON | <input type="checkbox"/> TO PREVENT A VIOLENT MISDEMEANOR | <input type="checkbox"/> OTHER: |

27) AT THE TIME OF ARREST, THE SUBJECT WAS:

- | | |
|---|--|
| <input checked="" type="checkbox"/> UNDER THE INFLUENCE OF ALCOHOL OR DRUGS | <input type="checkbox"/> MENTALLY IMPAIRED |
| <input type="checkbox"/> SUSPECTED UNDER THE INFLUENCE OF ALCOHOL OR DRUGS | <input type="checkbox"/> OTHER: |

28) LEVELS OF RESISTANCE:

- PSYCHOLOGICAL INTIMIDATION (EXPLAIN): SWORD
(Non-verbal cues indicating the subject's attitude or physical readiness)
- VERBAL NON-COMPLIANCE (EXPLAIN): "NO"
(Verbal responses or threats of non-compliance to officer's directions)
- PASSIVE RESISTANCE (EXPLAIN):
(Dead weight or clinging to objects in an attempt to prevent the officer from gaining control)
- ESCAPE RESISTANCE (EXPLAIN):
(Pushing or pulling away from the officer to avoid control, however, not attempting to harm the officer)
- ACTIVE AGGRESSION (EXPLAIN):
(Physical actions of assault)
- AGGRAVATED ACTIVE AGGRESSION (EXPLAIN): MENACING w/ SWORD
(Assaults with the intent and apparent ability to cause death or great bodily harm)

20) LEVELS OF CONTROL:

VERBAL DIRECTION (EXPLAIN): TOLD TO GET ON GROUND
 (Commands of direction or of arrest)

ACTIVE POINTING (EXPLAIN): _____

EMPTY HAND CONTROL (EXPLAIN): NECKED SUSPECTS L LEG

SOFT Location: _____

Muscling

Joint Locks

Pressure Points

HARD Location: ABOVE L KNEE

Hand Strikes

Leg Strikes

Shoulder Pin

Circle Level: 1 2 3

INTERMEDIATE WEAPONS (EXPLAIN):
 (Check all appropriate)

OC Spray CS Primary Impact Weapon Conducted Energy Weapon Less Lethal Munitions

Alternative Impact Weapon Other _____

LETHAL FORCE (EXPLAIN):
 (Firearms or other lethal force applied)

FIREARM(S) POINTED AT SUSPECT (EXPLAIN, INCLUDING MODEL OF WEAPON): _____

60. As previously noted, the action of striking CLARK in the back of the head is not documented in Ofc. HANNING'S original report (ISPD 21-0444) or his supplemental Response to Resistance report.

Interview of MICHAEL CLARK by the CBI

61. On June 04, 2021, CLARK was interviewed by your Affiant at St. Anthony's Hospital. CLARK stated around 2100 hours (May 30, 2021) he laid down to sleep. Then, around 2230 hours, CLARK stated, "There was a blow to the wall...I thought they were comin' through the wall."
62. CLARK stated around 2300 hours (May 30, 2021), "And the next - next thing a loud knocking door...Well the time - time of night, um, empty hall or crazy people out there making noise or I'm not gonna - I'm not goin' out there and confronting anybody. A man would be a fool to go out there and confront people, uh, crazy people that are acting in an irrational manner and go out and - and confront 'em... I didn't get any recognition who it was. There was no - no impression who it was. Just a loud knocking."
63. Your Affiant asked CLARK what he meant that he did not "get any recognition." CLARK stated, "They didn't - they didn't identify who they were. I opened the door where standing police officers are both at the door. I said, "What's goin' on?" And we hear, "What's goin' on?" They couldn't tell me what - what happened- what was going on. All they did was wham."
64. CLARK continued, "I walked with - I took - disarmed myself... And put it up beyond my reach. There was no need to. Then I walked back to the door, not going out my threshold...And the female officer was standing there in front. And the, uh - I did not even see the officer on the side. He was yelling, "Get back. Lay down. Do this. Mm, why? Why? Tell me. And then all the sudden here comes - I get - I get zapped with the - I get zapped with two - two wounds... I opened the door, they said nothing.

Absolutely nothing. They – they gave me no indication what - what they were there for.”

Interview of Ofc. SUMMERS by the CBI

65. On June 09, 2021, Ofc. SUMMERS was interviewed by CBI Agent KELLON HASSENSTAB and CBI Agent DEREK GRAHAM.
66. Ofc. SUMMERS described Ofc. HANNING initially seeing the weapon and said it took some time for her to see it. The weapon possessed by CLARK was described by Ofc. SUMMERS as a two-foot machete with fake bone and shark teeth on it⁹. Ofc. SUMMERS said she initially perceived this as a deadly weapon (as a machete) and responded accordingly by pulling out her handgun and pointing it at CLARK.
67. Ofc. SUMMERS said she discussed the incident with Ofc. HANNING. Ofc. SUMMERS said she asked Ofc. HANNING about why he didn't make announcements at the door and whether it should have been done. Ofc. SUMMERS said they discussed “there are two schools of thought about whether to announce when knocking on the door”.
68. Agent HASSENSTAB asked Ofc. SUMMERS about when the door opened at first contact and asked what she perceived at the time. She said she had thought a lot about this and didn't immediately perceive CLARK or the sword because Ofc. HANNING stepped into the doorway quickly. Ofc. SUMMERS said she then saw (a glimpse) the machete as Ofc. HANNING was going into the threshold to kick CLARK. Ofc. SUMMERS said she felt threatened and concerned (about CLARK possessing the weapon).
69. After Ofc. HANNING kicked Clark and contact was broken, Ofc. SUMMERS said she saw CLARK put the machete away. After the machete was put away (on the shelf), Ofc. SUMMERS said the situation had changed in her mind to an arrest situation; for “third-degree assault and menacing”.
70. Ofc. SUMMERS said she stayed at gunpoint with CLARK, prior to Ofc. HANNING'S Taser deployment. Ofc. SUMMERS said CLARK said, “No”, after the commands were given and said CLARK started talking to them. Ofc. SUMMERS said she was listening and waiting to talk to CLARK. Ofc. SUMMERS said there was a real possibility the situation would devolve because CLARK was between the officers and the machete. Ofc. SUMMERS said she felt like she could talk to CLARK but also wanted to keep her gun out because of CLARK being able to access the machete. Ofc. SUMMERS said she felt comfortable engaging in dialogue with CLARK, and said she did not expect CLARK to be tased. When asked, Ofc. SUMMERS stated she would have listened to CLARK and tried to talk to him. She said she would not have made the decision Ofc. HANNING did.

⁹ Ofc. SUMMERS later stated after physically handling the “machete” that it felt like a deadly weapon.

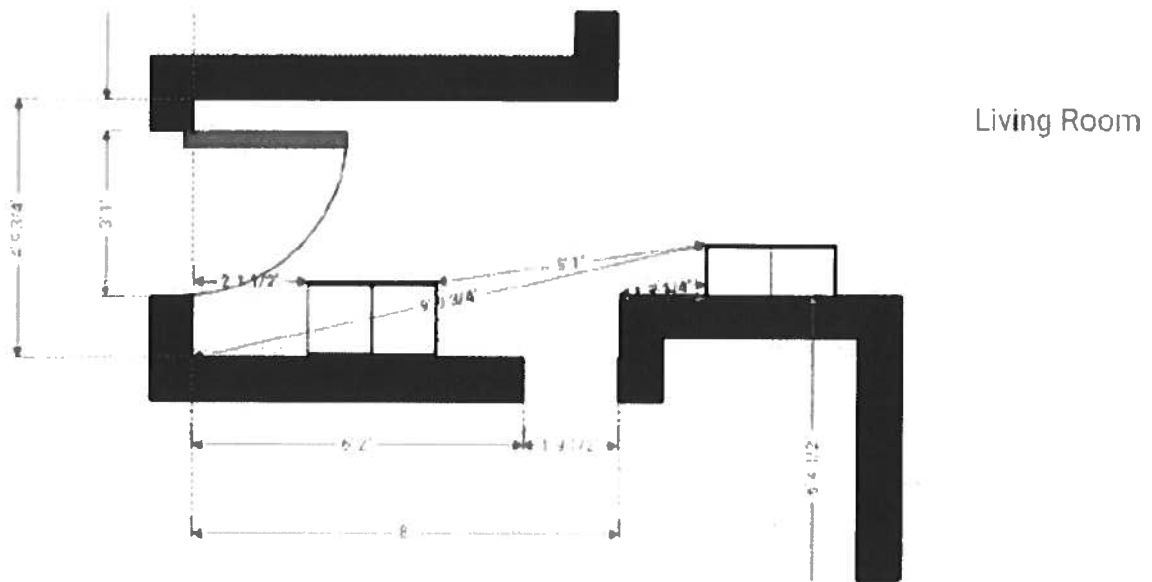
71. Ofc. SUMMERS confirmed that during the incident, she and Officer HANNING would have been immediately recognized as ISPD officers due to their uniforms.
72. Agent HASSENSTAB then referred to Ofc. SUMMERS' report in which she characterized CLARK as "defiantly" saying no when she and Ofc. HANNING gave verbal commands to him. She did not provide any specifics about CLARK'S alleged defiance, other than it being firm and loud. Agent HASSENSTAB asked Ofc. SUMMERS if there were any other non-verbal cues or pre-assault indicators from CLARK, and she said she was not certain but thought CLARK might have been "bladed" towards the officers.

Attempted interview of Ofc. HANNING by the CBI

73. The CBI contacted Ms. LARA JIMENEZ, private defense counsel for Ofc. HANNING, and scheduled an interview with Ofc. HANNING at the CBI in Lakewood on June 16, 2021.
74. On June 16, 2021, Ms. JIMENEZ contacted the CBI and advised Ofc. HANNING would not appear for the scheduled interview due to an incident with the ISPD. Ms. JIMENEZ explained that on June 15, 2021, she scheduled Ofc. HANNING'S Internal Affairs interview with the ISPD. The ISPD made no mention or attempted to coordinate with her the retrieval of Ofc. HANNING'S duty-issued Taser and other equipment.
75. The CBI later learned from Ms. JIMENEZ that earlier in the morning on June 16, 2021, the ISPD traveled to Ofc. Hanning's personal residence, without coordination with Ms. JIMENEZ or the CBI, and contacted Ofc. HANNING. Ms. JIMENEZ stated, "Based on the agency's (ISPD) actions, to include not contacting us before taking any of these actions, we aren't going to be coming in for an interview today."
76. Due to these circumstances, Ms. JIMENEZ did not permit the interview to be rescheduled with Ofc. HANNING.

CBI processing of MICHAEL CLARK'S Apartment No. 210

77. On June 08, 2021, Agent HASSENSTAB and CBI Crime Scene Agent-in-Charge (AIC) CLINT THOMASON traveled to 3201 Riverside Drive, Apt. 210, and took the below measurements (excerpted from AIC THOMASON'S report):



Review of MICHAEL CLARK'S MEDICAL RECORDS for May 30-31, 2021

78. On June 29, 2021, the Medical Records Office at St. Anthony's Hospital provided the CBI a 106 page PDF packet of Michael Clark's medical records for May 30-31, 2021.
79. A review of these records disclosed (excerpted) that CLARK suffered a "laceration of right eyebrow" and "elevated troponin¹⁰." The laceration to CLARK'S eyebrow was sutured. CLARK was admitted to monitor his "troponin" levels. Dr. MARY NGUYEN noted, "likely demand ischemia in setting of being tasered."
80. A toxicology screen was completed on CLARK, which disclosed he had no alcohol or illegal drugs in his system.

Review of ISPD Policy No. 304 Electro-Muscular Disruption Technology Guidelines

81. ISPD Policy No. 304 states, "The TASER device is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury."
80. Policy 304, Section 304.4, continues, "A verbal warning of the intended use of the TASER device should precede its application unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to: (a) Provide the individual with a reasonable opportunity to voluntarily comply; (b) Provide other officers and individuals with a warning that the TASER device may be deployed. If, after a verbal warning, an individual is unwilling to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances.

¹⁰ Troponins are a group of proteins found in skeletal and heart (cardiac) muscle fibers that regulate muscular contraction. Troponin tests measure the level of cardiac-specific troponin in the blood to help detect heart injury.

81. Policy 304, Section 304.5.1. continues, "The TASER device may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person: (a) The subject is violent or is physically resisting; (b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others".

82. Policy 304, Section 304.5.2, continues, "The use of the TASER device on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the device. This includes: (b) Elderly individuals or obvious juveniles".

83. Pursuant to § C.R.S. 18-8-803, Use of Excessive Force, "Subject to the provisions of Section 18-1-707, a peace officer who uses excessive force in pursuance of such officer's law enforcement duties shall be subject to the criminal laws of this state to the same degree as any other citizen".

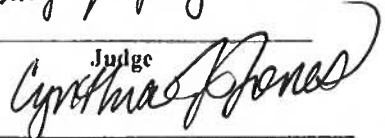
84. Based on the facts set forth above, your Affiant submits probable cause exists to believe that, on May 30, 2021, within the County of Clear Creek, State of Colorado, ISPD Ofc. NICHOLAS ANDREW HANNING (Date of Birth: 08-11-1985) did, through the use of excessive force, commit Assault in the Third Degree against an At-Risk Person; in violation of §§ C.R.S. 18-3-204 (1)(a) and 18-6.5-103 (3)(c), a Class 6 Felony Offense, against the victim, MICHAEL CLARK (Date of Birth: 05-07-1946). Your Affiant respectfully requests the Court issue a warrant for the arrest of NICHOLAS ANDREW HANNING. NICHOLAS ANDREW HANNING is described as a White male, Date of Birth: 08-11-1985, 5'11", 170lbs, Black Hair and Green Eyes,


Affiant: Joseph Cahill, CBI Agent

July 07, 2021 at 0855 hrs
Date & Time



Reviewed and probable cause found
this 7th day of July 2021

Judge


Date & Time 7/7/21 0855 hrs

This affidavit was reviewed by *H. McDaniel, #31704* with the 5th Judicial District Attorney's Office on July *6th*, 2021.

subscribed to and sworn before me on the 7th day of July 2021, County of Jefferson State of Colorado.
Joseph P. Delgado
Notary Public

