



FOR IMMEDIATE RELEASE
April 30, 2020

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March 2, 2020 Officer-Involved Shooting Ruled Justified

The 4th Judicial District Attorney's Office has completed its review of the Fountain Police Department's Officer-involved shooting that occurred on March 2, 2020, in Colorado Springs, Colorado. Pursuant to Colorado Revised Statute 16-2.5-301, captioned Peace-Officer-Involved Shooting Investigations-Protocol, all officer-involved shootings that result in injury or death shall be reviewed by a multi-agency team, a Deadly Force Investigation Team.

Colorado Revised Statute 20-1-114 states that 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(s) with any criminal conduct. As this is an open and pending case, this will be an abbreviated report.

On Monday, March 2, 2020 shortly before 8:00 AM, a citizen called to report his vehicle stolen from the 1800 block of East Bijou Street. The citizen indicated his friend had seen his vehicle, a truck and trailer, driving in the area of Wasatch Avenue. As officers were responding for the motor vehicle theft report the stolen vehicle information was aired over police radio. A Colorado Springs police officer observed the truck and trailer that had been reported stolen driving on Uintah Street. As the officer followed the truck and trailer the driver turned from Uintah St. onto northbound Mesa Rd. and stopped just past Terrace Street. where a traffic stop was initiated. Officers assigned to the B.A.T.T.L.E. Unit (Beat Auto Theft Through Law Enforcement) - a multi-agency task force designed to reduce auto theft – responded to the scene of the traffic stop to assist in the investigation. Fountain Police Sergeant Stephen Williams was riding with Colorado Springs Police Sergeant Brian Cummings in an unmarked SUV as part of the B.A.T.T.L.E Unit and arrived at the scene shortly after the truck was stopped. Colorado Springs Police Officer Troy Stinson and trainee Officer Ryan Lamonte also responded in a fully marked CSPD cruiser.

The driver of the stolen truck, later identified as 22 year old Tyler Frisch of Colorado Springs, was ordered out of the vehicle and as soon as he exited he began running into an adjacent residential neighborhood. As Mr. Frisch ran up a nearby hill, Sergeant Cummings saw something in his waistband and, from a closer vantage point, Sergeant Williams could see that he was holding a handgun. As other officers searched for the suspect, Sergeant Williams immediately went to a nearby child care facility and ordered it be placed on lockdown.

Officers Stinson and Lamonte drove up Terrace Street and turned onto W. High Point Lane where they spotted Mr. Frisch standing in the road at the end of the cul-de-sac, holding a gun to his head. Using their patrol car as cover, both officers drew their weapons and repeatedly yelled commands, ordering Mr. Frisch to drop his weapon. Sergeant Williams and Sergeant Cummings arrived within minutes and Sergeant Cummings took control of the scene, ordering Frisch to comply and drop his weapon. From his position, Sergeant Williams could see Frisch holding a gun in his left hand at his temple. Sergeant Cummings, Officers Stinson and Lamonte continued to yell commands at Frisch to put the gun down. Mr. Frisch did not respond nor did he comply with any of the officers' commands, instead he passed the gun back and forth from one hand to the other and then fired a shot into the air. Officer Stinson could see Mr. Frisch pass the gun back and forth and then watched as he ejected and then loaded another round, after firing the shot into the air. Because of the close proximity to several homes, Officer Stinson was concerned about a potential hostage situation if Mr. Frisch were to escape into a nearby residence. As officers watched, Mr. Frisch put the gun back to his head, then moved it again and raised it toward the officers. As he saw the gun being pointed in the officers' direction, Sergeant Williams fired one shot from his rifle, striking Mr. Frisch in the abdomen. Mr. Frisch was transported to a local hospital, where he continues to be treated today. When he is discharged, he'll be charged with 1st Degree Assault of a Peace Officer with a Weapon, a Class 3 Felony, among other counts. Please keep in mind, these charges are merely allegations. As with all defendants, Mr. Frisch is presumed innocent unless and until he is found guilty beyond a reasonable doubt.

Colorado Revised Statutes 18-1-707 provides that an officer is justified in using deadly force if he or she reasonably believes that it is necessary to defend himself or a third person from what he reasonably believes to be the imminent use of deadly physical force. The facts and evidence from this investigation show that Fountain Police Sergeant Stephen Williams acted reasonably when he fired his weapon, striking Tyler Frisch. No charges will be filed.



FOR IMMEDIATE RELEASE
July 9, 2020

Lee Richards
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April 19, 2020 Police Officer-Involved Shooting Ruled Justified

The 4th Judicial District Attorney's Office has completed its review of the Colorado Springs Police Department's officer-involved shooting that occurred on April 19, 2020, in Colorado Springs, Colorado. Pursuant to Colorado Revised Statute 16-2.5-301, captioned Peace-Officer-Involved Shooting Investigations- Protocol, all officer-involved shootings that result in injury or death shall be reviewed by a multi-agency team, a Deadly Force Investigation Team.

Colorado Revised Statute 201-114 states that 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 officers with any criminal conduct.

On April 19, 2020 at approximately 9:30 p.m., officers were dispatched to a domestic violence incident at a residence in the 3200 block of Oak Creek Drive East. The reporting party, Mr. Thorpe's wife, indicated she had been physically assaulted by Virgill Thorpe. She further reported that Mr. Thorpe was armed with an assault rifle, had "cocked" the rifle, and had threatened to shoot police officers if they came to the house. There were four of Mr. Thorpe's family members and friends in the home in addition to Mr. Thorpe and his wife.

When officers arrived on scene, they made contact with Mr. Thorpe and one of his friends at the front door. Mr. Thorpe was extremely agitated, at points saying, "let's go to war." Officers attempted to calm him down and get him to talk to them, to no avail. He retreated into the home, but officers were able to pull his friend to safety. Officers located his wife, his stepdaughters, and a family friend in the basement of the home near an egress window. Officers were able to pull his wife and one of his stepdaughters out of the window and to safety. While officers were attempting to pull his second stepdaughter out of the basement window, Mr. Thorpe approached the window with an AR-15. He raised the rifle and pointed it at officers. (See attached photo) His stepdaughter jumped out of the way. Four officers, fearful for the safety of the family members and their fellow officers opened fire.

After being shot, Mr. Thorpe retreated further into the basement and collapsed. Officers forced entry into the home and located Mr. Thorpe and the rifle. They immediately called for an ambulance. They provided medical aid to Mr. Thorpe until paramedics arrived, including CPR when he stopped breathing. Mr. Thorpe was transported to the hospital where he succumbed to his injuries.

One of the officers and one of Mr. Thorpe's stepdaughters received minor injuries from flying glass and debris or shrapnel. The stepdaughter was treated at the hospital and released.

All of the officers on the scene had activated their body worn cameras. That footage, along with the call to dispatch were reviewed as part of the review of the case. The statements of Mr. Thorpe's family members and of officers were confirmed with the physical evidence, including the body worn camera footage and dispatch tapes. Released with this report is an image from the body worn camera of Officer Warren. It shows the assault rifle being pointed out of the window at officers.

Subsequent examination of the evidence revealed that Mr. Thorpe fired a round from his AR-15 during this incident. This report has been delayed while we awaited ballistics test results. One of the stepdaughters reported Mr. Thorpe fired his rifle first. Since two of the officers also fired rifles, we wanted to be certain whether Mr. Thorpe had also fired his rifle before making a final decision.

Colorado Revised Statute 18-1-707 provides that an officer is justified in using deadly force if he or she reasonably believes that it is necessary to defend himself or a third person from what he reasonably believes to be the imminent use of deadly physical force. The facts and evidence from this investigation show that Colorado Springs Police Corporal Joseph Somosky, and officers Eddie Nassar, Kristopher Czajkowski, and Charles Warren acted reasonably when they fired their weapons, striking Virgill Thorpe.

Additionally, Colorado Revised Statute 18-1-704 provides that a person is justified in using deadly force when the person reasonably believes that he or another person is in imminent danger of being killed or suffering serious bodily injury. The facts and evidence from this investigation indicate Corporal Joseph Somosky and Officers Eddie Nassar, Kristopher Czajkowski, and Charles Warren held a reasonable belief that Virgill Thorpe put the officers and his own family members in imminent danger of being killed or receiving serious bodily injury. Therefore, Corporal Joseph Somosky and Officers Eddie Nassar, Kristopher Czajkowski, and Charles Warren were justified in using deadly force. No charges will be filed.



NEWS FROM THE OFFICE OF THE DISTRICT ATTORNEY

FOR IMMEDIATE RELEASE
August 12, 2020

Lee Richards
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No Charges In May 22, 2020 Teller County Deputy-involved Shooting

The 4th Judicial District Attorney's Office has completed its review of the Teller County Sheriff's Office deputy-involved shooting that occurred on Friday, May 22, 2020, in Teller County, Colorado. Pursuant to Colorado Revised Statute 16-2.5-301, captioned Peace Officer-Involved Shooting investigations, all officer-involved shootings that result in injury or death shall be reviewed by a multi-agency team, a Deadly Force Investigation Team.

Colorado Revised Statute 20-1-114 states that a 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 and publicly disclose a report explaining the district attorney's findings, including the basis for the decision not to charge the officer with any criminal conduct. This will be an abbreviated report as there is an open and pending criminal case against Robert John Rowland.

On May 22, 2020, at approximately 9:00 PM, a Teller County Sheriff's deputy, who was searching for a suspect wanted for questioning in an alleged felony menacing that had occurred the day before, spotted a man matching that description walking on Park County Road #94 near the Park County Line. It was quickly determined that the suspect was the individual being sought. Sergeant William Markus, who was driving a truck, began to speak with the suspect, who pulled a handgun from his waistband. Sergeant Markus continued giving commands to him, ordering him to put the gun down and extending offers of help. The suspect, identified as Robert John Rowland, refused to comply with the deputy's commands and continued walking while waving his gun around. Sgt. Markus observed the suspect chamber a round and put the gun to his head. Corporal Sean Boe, who was armed with a Smith & Wesson, M&P AR-15, soon arrived and got in to the passenger side of Sgt. Markus's vehicle with his gun pointed toward the suspect. Both deputies continued to attempt to verbally engage Rowland in an effort to convince him to drop his weapon, but they were unsuccessful. At one point, as Rowland raised his gun, pointed it toward the officers and charged the vehicle, Corporal Boe shot one round, striking the suspect in the midsection. Other deputies who had arrived on scene tended to the suspect, who was then airlifted to a local hospital. He has since recovered from his injury.

Robert John Rowland has been charged with two counts of 1st Degree Assault-Threatening a Peace Officer with a Weapon, among other charges. His arraignment is set for August 31, 2020, in Teller County. Please keep in mind these charges are merely allegations. All defendants are presumed innocent unless and until they are proven guilty beyond a reasonable doubt.

Colorado Revised Statutes 18-1-707 provides that a peace officer is justified in using deadly force if he or she reasonably believes it necessary to defend himself or a third person from what he reasonably believes to be imminent use of deadly physical force, or to effect an arrest of a person he reasonably believes has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon, or otherwise indicated that he is likely to endanger human life or to inflict serious bodily to another unless apprehended without delay. In addition, Colorado Revised Statutes 18-1-704 provides all citizens with the right to defend themselves with deadly force if they reasonably believe they are in imminent danger of being killed or receiving great bodily injury and reasonably believe a lesser degree of force is inadequate.

Following a careful review of the facts and evidence, the 4th Judicial District Attorney's Office has concluded that Teller County Sheriff Corporal Boe acted reasonably when he fired his weapon on May 22, 2020. No charges will be filed.

Teller County Sheriff's Office deputies are not equipped with body worn cameras, nor are the vehicles outfitted with dash cams, so there is no video footage of this incident.



NEWS FROM THE OFFICE OF THE DISTRICT ATTORNEY

FOR IMMEDIATE RELEASE
August 26, 2020

Lee Richards
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No Charges in May 24, 2020 Officer-Involved In-Custody Death

The 4th Judicial District Attorney's Office has completed its review of the in-custody death of Chad Burnett that occurred in Colorado Springs, CO on May 24, 2020. Because that death occurred during a Colorado Springs Police Department (CSPD) investigation and arrest, it was investigated by a multi-agency team, a Deadly Force Investigation team. The following review is a courtesy report as this was not an officer-involved shooting and does not fall under the reporting requirements of Colorado Revised Statute 16-2.5-301.

On Sunday, May 24, 2020, CSPD officers were dispatched to the Ashgrove Street neighborhood of Colorado Springs following two 911 calls from residents. The callers reported their neighbor, Chad Burnett, had just threatened to kill one of his neighbors with a knife and had broken another neighbor's window before going back into his own house. One caller also reported that the day before, Mr. Burnett had claimed to have a gun.

On May 24, 2020, CSPD Officers Joseph Daigle and Matthew Fleming responded to investigate. When they arrived at the neighborhood, Broadmoor security informed them that they had received a report that Mr. Burnett had threatened a neighbor with a knife. They also said he had a history of causing problems with neighbors, had previously been threatening towards authority figures, and had a family member who had sought a protection order against him in the past. The officers were soon joined by CSPD Sergeant Michael Inazu, who was aware of an increasing number of calls to this area regarding Mr. Burnett and concerns about his mental state. Sergeant Inazu has special training in crisis negotiation. Officer Caroline Barth also later arrived on scene to assist with evidence gathering.

Neighbors informed officers that Mr. Burnett's dog was found wandering around the neighborhood that morning. Two neighbors retrieved the dog and tried to return it to Mr. Burnett at his home, but he didn't answer the door. Later that morning, Mr. Burnett came over to the house of one of those neighbors. Mr. Burnett appeared to have been drinking and was carrying a stack of books that he claimed were valuable and tried to gift them to a male neighbor who was the husband of one of the assisting neighbors, who politely refused to accept the books. At that, Mr. Burnett became angry and threw the books onto the ground of the male neighbor's property. Mr. Burnett then obtained a weighted, metal object and threw it at another neighbor's house, breaking her window. He then retrieved his dog and went back inside his own home.

A short time later, Mr. Burnett returned to the male neighbor's house where he saw the male neighbor attempting to pick up the books that had been thrown down on his property. Mr. Burnett became angry, advanced on the man to within two to three feet, pulled out a knife, and

held it with the blade pointed towards him. Mr. Burnett threatened to kill the male neighbor if he didn't leave his property alone. The male neighbor spoke to Mr. Burnett and was able to somewhat calm him by reminding him that he believed they were friends, and Mr. Burnett made additional strange statements that confused the male neighbor. Mr. Burnett then returned to his own home. Officers also learned that this male neighbor had made efforts to befriend Mr. Burnett in the past and had helped Mr. Burnett to retrieve his Corvette the day before this incident.

During their initial investigation, officers attempted to contact Mr. Burnett at his home. Mr. Burnett came to his front door and, through the glass near the front door, officers saw Mr. Burnett holding a knife and a bottle of alcohol that he set down on a table by the door. Sergeant Inazu also saw another knife inside of the house in the same area. Sergeant Inazu spoke calmly to Mr. Burnett and attempted to create a rapport with him. Mr. Burnett spoke to the Sergeant Inazu about various topics. Mr. Burnett denied having had a knife outside that morning. Despite repeated polite requests, Mr. Burnett refused to open his door and come outside. Officers then left the immediate area of Mr. Burnett's home to contact other witnesses.

Several times during the investigation, while officers were standing away from Mr. Burnett's home and yard, Mr. Burnett emerged and communicated from a distance. He also tossed random items of property out into his front yard several times, one of which was a folding knife. During one such outing, Mr. Burnett emerged with a thick wooden dowel that resembled a baton, stood in his driveway, and swung the baton around in the air while threatening to kill officers before going back inside his home.

Following their investigation, officers concluded that they had probable cause to arrest Mr. Burnett for the felony crime of Menacing against the male neighbor. Because Mr. Burnett appeared to pose an ongoing, unpredictable threat to his neighbors, because he had been repeatedly uncooperative with officer requests and had threatened officers, and because of concerns about his access to weaponry, officers decided to take him into custody using force. Body worn camera of the arrest event has already been compiled and publicly released by CSPD.

When Mr. Burnett again went into his front yard and started speaking with officers about random topics, Sergeant Inazu and Officers Daigle, Fleming, and Barth quickly approached Mr. Burnett to physically arrest him. Mr. Burnett ran into the house away from officers, but they pursued and physically detained him in the front living room area. Mr. Burnett, a former athletic cyclist who was six feet, eight inches tall and weighed at least 220 pounds, physically struggled with all four officers, resisted efforts to handcuff him, called for help, insulted and swore at officers, and ignored multiple verbal commands to stop resisting. At one point during the struggle, Sergeant Inazu saw Mr. Burnett attempt to access another officer's firearm. A few compliance strikes were used on areas that were not Mr. Burnett's head, but officers primarily wrestled with Mr. Burnett and tried to control him by holding his body.

Early in the arrest, about 9 seconds after it began, Officer Barth attempted to incapacitate Mr. Burnett with her taser and deployed 1 taser cartridge aimed at Mr. Burnett's lower torso. The prongs deployed, and an automatic post-deployment, 5 second shock was discharged. About 20 to 25 seconds afterwards, Officer Barth discharged 2 additional, 1 second shocks separated by a 3 second break between them. None of the taser shocks were effective at incapacitating Mr.

Burnett, which is believed to be due to the taser prongs deploying too close together to cause an effective incapacitating shock and 1 prong having partially snagged in Mr. Burnett's heavy clothing. About 30 seconds after deploying the taser, Officer Barth requested medical staff to respond to the scene as per standard CSPD protocols on taser deployment.

About 2 minutes after the arrest began, officers were able to handcuff Mr. Burnett and control Mr. Burnett sufficiently to begin walking him to the door of the house, at which point, Mr. Burnett began to struggle again, shouted repeatedly that they were not getting him out of his house, swore at officers, and threw himself forward, causing him to fall face-down to the ground on the front concrete step. Officers spoke to Mr. Burnett and attempted to calm him down to make the arrest go more smoothly. Mr. Burnett appeared to calm, and officers attempted to raise him up again to walk him to a police vehicle, but Mr. Burnett again yelled that officers were not getting him out of the house and threw himself back into the house using his body weight. Mr. Burnett continued to struggle, swore at the officers, and called them "fake police." Officers were able to control his body and held him in place in the front hallway of the home. Officer Jacob Carroll arrived during this time and assisted with applying leg restraints to Mr. Burnett.

Approximately 2 minutes after throwing himself back into the house, Mr. Burnett had stopped actively struggling and began to speak less. Officers believed that he might be feigning calm to throw them off guard, so they kept him in place and didn't attempt to move him out of the house. When Mr. Burnett remained still, officers checked, and found, a pulse several times. At one point, approximately 10 minutes after the arrest first began, one officer noted that he had lost a pulse, but then affirmed that he did feel one, and Mr. Burnett was noted to be blinking a minute afterwards. When Mr. Burnett's pulse and breathing stopped, officers began to administer CPR chest compressions until ambulance staff that Officer Barth had previously called to the scene arrived. Loss of pulse was confirmed by an officer approximately 14 minutes after the arrest had first begun. CPR techniques and lifesaving measures were unsuccessful in reviving Mr. Burnett, and he was pronounced dead on the scene.

Deadly Force team investigators were dispatched to the home following Mr. Burnett's death. Within and around Mr. Burnett's house, investigators located multiple open containers of alcohol and weapons. In the front yard near the front walkway leading from the front door, investigators found a knife in the grass. In the master bedroom, the only inhabited bedroom in the residence, investigators found a knife stabbed blade-first into a bedside table that also bore dozens of suspected stab marks on its surface. Investigators found a baton-like, approximately 24 inch-long wooden dowel on the bed that resembled the one used to threaten officers earlier that day. In the living room, investigators found a knife that was wedged blade-first into the base of a wall near the floor and appeared to possibly have been flung across the room. In the master bedroom's bathroom, investigators found a loaded and chambered semi-automatic .45 caliber handgun.

Investigators also learned that, in the weeks leading up to May 24, 2020, CSPD had become aware of a pattern of erratic, threatening, and harassing conduct on the part of Mr. Burnett. Based on those concerns, CSPD elected to send out their mental health Community Response Team (CRT) to his house. Each CRT unit is composed of one civilian clinician, one civilian paramedic, and one police officer, and is dispatched to provide mental health resources during check the welfare calls. For safety and therapeutic reasons, CRT does not respond to in-progress criminal offenses or warrant arrests. On May 9, 2020, CRT had gone to Mr. Burnett's

house on a check the welfare call and spoke to him briefly at his door. They later spoke to him on the phone and advised him about available mental health resources in the community. It is unknown if he chose to seek those resources. On another occasion, May 18, 2020, CRT attempted another check the welfare call after a family member expressed concerns for his welfare. Officers saw him inside of the house and spoke to him briefly, but he left the door and went elsewhere in his house. Officers tried calling his record numbers and left him voicemails, but he didn't answer the phone and didn't return those voicemails.

Additionally, in the weeks leading up to this incident, Mr. Burnett had expressed a belief to an associate that his neighbor's wife had killed his mother, and that he would take a knife over there if he had to. At another point leading up to this incident, he had accused a completely different neighbor of having killed his mother. There is no evidence to substantiate those claims, as Mr. Burnett's mother had passed away at home in bed a year and a half before this incident and no foul play was suspected. The investigation also revealed that, on the morning of May 24, 2020 at around 11:00 am, Mr. Burnett had left a voicemail for a long-time family friend and physician threatening to slit the physician's throat if he didn't return Mr. Burnett's call.

The El Paso County Coroner's Office's autopsy of Mr. Burnett concluded that he died "as a result of sudden death associated with physical altercation, taser deployment, cardiac hypertrophy with myocardial fibrosis, and bipolar disorder featuring acute psychotic episode." The primary coroner conducting the autopsy, Dr. Daniel Lingamfelter, has clarified that, while all of the listed factors in the autopsy opinion were potential contributors to the death, the most likely causal factors of this sudden death were heart failure due to severe heart disease and a rapid heart rate brought on by agitation from the stress of the physical altercation with the officers.

Dr. Lingamfelter informed that Mr. Burnett had a severely diseased heart, which would not have been apparent to non-physicians, and Dr. Lingamfelter would not have expected a person with a healthy heart to have died from this incident. Dr. Lingamfelter further clarified that the physical altercation was significant to the death because it raised Mr. Burnett's heart rate, and he noted that Mr. Burnett's heart rate could have been dangerously raised by any other significant physical exertion or agitation even if the officers were not involved. Dr. Lingamfelter ruled the death a "homicide" because of the involvement of other persons in this physical altercation that resulted in death, and clarified that a medical finding of "homicide" means death at the hands of another person, but does not imply wrongdoing or criminal intent.

Dr. Lingamfelter opined that the taser was less likely to have been a primary causal factor of the death due to Mr. Burnett's continuous and repeated physical resistance towards officers after the taser deployment and the approximately nine-to-ten minute break between the taser deployment and Mr. Burnett's first noted loss of pulse. Dr. Lingamfelter saw no evidence that officers had used any chokeholds or asphyxiating techniques.

A blood toxicology screen taken from autopsy samples revealed Mr. Burnett had a blood alcohol content (BAC) of .076% and a blood THC content of 12.4 ng/mL. Witness statements from family obtained during the investigation indicated that Mr. Burnett had been prescribed mental health medication in the past, but the autopsy blood toxicology screen showed no evidence of any active mental health medications in Mr. Burnett's system. His urine screen showed that he may have previously used Bupropion (Wellbutrin), an anti-depressant medication.

Following our review of all relevant evidence, the District Attorney's Office has concluded that the force used by the officers during this arrest was reasonable and appropriate and did not even rise to the level of deadly force. There is no evidence of officers using any chokeholds or asphyxiating techniques. Without Mr. Burnett's severe heart disease, which was unknown to the officers and would not have been physically apparent to them, the evidence indicates that Mr. Burnett would not have died from this encounter.



NEWS FROM THE OFFICE OF THE DISTRICT ATTORNEY

FOR IMMEDIATE RELEASE
September 9, 2020

Lee Richards
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No Charges in May 29, 2020 Sheriff's Deputy-Involved Shooting

The 4th Judicial District Attorney's Office has completed its review of the El Paso County Sheriff's Office deputy-involved shooting that occurred on Friday, May 29, 2020, in Colorado Springs, Colorado. Pursuant to Colorado Revised Statute 16-2.5-301, captioned Peace Officer-Involved Shooting investigations, all officer-involved shootings that result in injury or death shall be reviewed by a multi-agency team, a Deadly Force Investigation Team.

Colorado Revised Statute 20-1-114 states that a 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 and publicly disclose a report explaining the district attorney's findings, including the basis for the decision not to charge the officer with any criminal conduct. Because there is an open and pending criminal case against Daniel Nunez, this will be an abbreviated report.

On May 29, 2020, at approximately 9:00 P.M., El Paso County Sheriff's deputies were dispatched to a call for service regarding an alleged domestic violence incident in the Cimarron Hills area of Colorado Springs. The reporting party indicated 28 year old Daniel Rene Nunez was intoxicated, destructive, and threatening to harm someone in his house. They also reported that there were two guns in the home.

Deputies Bethany Gibson and Curtis Lenz, driving separate marked patrol cars, responded to the scene of the incident. Deputy Lenz arrived first, parked in the neighborhood near the suspect's residence and heard the dispatcher instructing the reporting party, who was outside with a young child, to walk toward his patrol car. As soon as they were safe inside his vehicle, Deputy Lenz began walking toward the suspect's house when he spotted the suspect with a handgun and retreated to his vehicle to get his rifle. As the deputy neared the suspect's house he heard several gunshots and immediately took cover. Although the deputy could not see what the suspect was shooting at, a subsequent investigation revealed that the suspect had fired several shots into his own truck. Deputy Lenz announced "shots fired" over his radio.

Moments later, Deputy Gibson arrived near the scene of the shots fired and spotted the suspect moving toward her with a handgun in his left hand. The deputy exited her patrol car while repeatedly ordering him to drop his weapon. The suspect ignored all commands and continued to advance toward the deputy with his right hand raised and the gun still in his partially raised left hand. He held his hands outstretched to his sides, waving the gun around, which at times pointed at the deputy. Deputy Gibson began shooting at the suspect, who continued to ignore

verbal commands. The gun was later found to have six rounds in the magazine and one in the chamber.

One bullet fired by Deputy Gibson struck Daniel Rene Nunez in the leg. He has since recovered from his injury and is facing charges including 1st Degree Assault-Threatening a Peace Officer with a Weapon, a Class 3 felony. His next court appearance is a Preliminary Hearing, set for September 22, 2020. Please keep in mind these charges are merely allegations. All defendants are presumed innocent unless and until they are proven guilty beyond a reasonable doubt.

Colorado Revised Statutes 18-1-707 provides that a peace officer is justified in using deadly force if he or she reasonably believes it necessary to defend himself or a third person from what he reasonably believes to be imminent use of deadly physical force, or to effect an arrest of a person he reasonably believes has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon, or otherwise indicated that he is likely to endanger human life or to inflict serious bodily to another unless apprehended without delay. In addition, Colorado Revised Statutes 18-1-704 provides all citizens with the right to defend themselves with deadly force if they reasonably believe they are in imminent danger of being killed or receiving great bodily injury and reasonably believe a lesser degree of force is inadequate.

Following a careful review of the facts and evidence, the 4th Judicial District Attorney's Office has determined that El Paso County Sheriff's Deputy Bethany Gibson acted reasonably when she fired her weapon on May 29, 2020, striking Daniel Nunez. No charges will be filed.



FOR IMMEDIATE RELEASE
Richards
December 7, 2020

Lee

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No Charges in July 11, 2020 Trooper and Deputy-Involved Shooting

The 4th Judicial District Attorney's Office has completed its review of the Colorado State Patrol and El Paso County Sheriff's Office officer-involved shooting that occurred on July 11, 2020, in Monument Colorado. Pursuant to Colorado Revised Statute 16-2.5-301 Peace Officer-involved shooting investigations – protocol, all officer-involved shootings that result in injury or death shall be reviewed by a multi-agency team, a Deadly Force Investigation Team (DFIT.)

Shortly after 5:00 pm on July 11, 2020, the Colorado State Patrol received a REDDI (Report Every Drunk Driver Immediately) report from dispatch concerning a red jeep traveling southbound on I-25 in Douglas County, Colorado. State Patrol also received a BOLO (be on the lookout) from dispatch that a red jeep had been involved in a Menacing call for service.

At approximately 5:16 pm Colorado State Patrol Troopers observed a red Jeep Patriot matching the description of the suspect vehicle. Troopers Michael Carlton, Vic Sargenti, and Lance Curry began following the jeep in separate vehicles. It was later learned that the jeep was stolen.

While traveling southbound on I-25 in Douglas County near Exit 166 the suspect began to swerve and drive recklessly in an attempt to elude the troopers. He then exited at County Line road and ran the stop sign. Shortly after running the stop sign the jeep crashed on the bridge/highway overpass. Upon crashing, the driver, later identified as 23-year-old Antonio Mancinone, exited the vehicle with a black handgun in his right hand.

Trooper Lance Curry, who was in full uniform and driving a marked Colorado State Patrol vehicle, was the closest to the crash scene when Mr. Mancinone exited the vehicle. At that point, Mr. Mancinone pointed his handgun at Trooper Curry. Trooper Curry ducked into his patrol vehicle, and Mr. Mancinone proceeded to run east on County Line Road toward the northbound exit ramp. It should be noted that all law enforcement involved in this incident were wearing duty-issued uniforms and driving marked law enforcement vehicles.

At the end of the northbound exit ramp Mr. Mancinone ran to a black SUV driven by a citizen whose SUV was stopped at the stop sign. Mr. Mancinone attempted to open the

driver side door without success as the vehicle's doors were locked. Mr. Mancinone struck his firearm against the victim's driver side window then ran toward the car directly behind the SUV. At that point Trooper Curry, having followed Mr. Mancinone in his vehicle, was behind Mr. Mancinone when Mr. Mancinone pointed his firearm at Trooper Curry a second time. In an effort to stop Mr. Mancinone Trooper Curry struck Mr. Mancinone with his vehicle, who fell down and rolled, then quickly got up and continued to flee with the firearm in his right hand.

Troopers, who were now on foot, began pursuing Mr. Mancinone through a field. Mr. Mancinone pointed his gun at Trooper Vic Sargenti, who was also pursuing Mr. Mancinone on foot. Troopers continued to pursue Mr. Mancinone through a field for approximately a quarter mile, while repeatedly ordering him to stop and drop his gun. Mr. Mancinone did not comply and was observed putting the gun to his head and mouth.

Mr. Mancinone began approaching the backyard of a home on Doewood Drive in Monument where approximately ten people were located. Some members of the group were in the backyard, including small children. Upon seeing Mr. Mancinone and the troopers approaching the house, the residents fled inside the house and into an upstairs bedroom for safety. Mr. Mancinone jumped the fence, ran to the back of the home and began trying to enter the basement from an exterior door. Troopers continued to give commands for Mr. Mancinone to drop his gun, which he continued to ignore and again was observed putting the gun to his head and mouth.

Mr. Mancinone did not respond to the troopers' request to drop his gun and stop. Meanwhile, Trooper Curry went to the front of the home, quickly started evacuating the people inside and entered the home. Mr. Mancinone climbed the stairs of the back deck and tried to enter the residence through the locked back door and then began banging on the windows. Troopers continued to give Mr. Mancinone commands, which were ignored. Mr. Mancinone then fired a shot through a dining room window, broke the glass, and entered the home.

In order to protect lives and stop Mr. Mancinone, who had now just entered a private residence with a firearm after firing into it, El Paso County Sheriff's Deputy Spencer Stringham fired one shot from his rifle from his position outside the yard behind the fence. Trooper Lance Curry, who was inside the home, fired seven rounds from his pistol from his position in the kitchen and living room area. At the time they fired, Trooper Curry and Deputy Stringham indicated they felt there was a significant safety threat to law enforcement, any potential residents who may still be in the home, and neighbors in that community if Mr. Mancinone were to continue into the house with his firearm.

After firing their weapons, law enforcement from Colorado State Patrol and the El Paso County Sheriff's Office quickly entered the home, approached Mr. Mancinone who was lying on the floor, and kicked the firearm away from him. They then began to immediately render medical aid to Mr. Mancinone, but he was pronounced dead on scene. Following the shooting law enforcement was able to sweep the home to make sure no one else was inside. A shell casing from the defendant's firearm was recovered inside the home. Shell casings associated with Trooper Curry's pistol were located in

the home. One shell casing associated with Deputy Stringham's rifle was found in the field outside the fence behind the residence.

According to the coroner's autopsy report, Mr. Mancinone sustained multiple gunshot wounds. Toxicology results indicated the presence of the following substances: amphetamine, methamphetamine, Tricyclic Antidepressants, amitriptyline.

According to Colorado Revised Statutes §18-1-707(2):

A peace officer is justified in using deadly physical force upon another person for a purpose specified in subsection (1) of this section only when he reasonably believes that it is necessary:

(a) To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or

(b) To effect an arrest, or to prevent the escape from custody, of a person whom he reasonably believes:

(I) Has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon; or

(II) Is attempting to escape by the use of a deadly weapon; or

(III) Otherwise indicates, except through a motor vehicle violation, that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay.

In addition, Colorado Revised Statutes 18-1-704 provides all citizens including the aforementioned with the right to defend others with deadly force if they reasonably believe another is in imminent danger of being killed or receiving great bodily injury and reasonably believe a lesser degree of force is inadequate. Further, under 18-1-704;

(2) Deadly physical force may be used only if a person reasonably believes a lesser degree of force is inadequate and:

(b) The other person is using or reasonably appears about to use physical force against an occupant of a dwelling or business establishment while committing or attempting to commit burglary as defined in sections 18-4-202 to 18-4-204; or

(c) The other person is committing or reasonably appears about to commit kidnapping as defined in section 18-3-301 or 18-3-302, robbery as defined in section 18-4-301 or 18-4-302, sexual assault as set forth in section 18-3-402, or in section 18-3-403 as it existed prior to July 1, 2000, or assault as defined in sections 18-3-202 and 18-3-203.

The 4th Judicial District Attorney's Office found Antonio Mancinone had threatened multiple lives with a vehicle and a firearm, committed multiple felonies, was becoming increasingly dangerous, and repeatedly refused commands to stop and drop his

gun. This was prior to Mr. Mancinone ultimately entering an occupied private residence with a firearm.

For nearly 20 minutes, from the County Line Road I-25 overpass through a field to the home on Doewood Dr., which is approximately a ¼ mile away, Mr. Mancinone repeatedly refused to cooperate or follow law enforcement commands. Prior to forcibly entering the occupied private residence with a firearm and being shot, Mr. Mancinone placed troopers and citizens at risk of a crash on I-25, threatened troopers and private citizens with a firearm, attempted to carjack a woman in a black SUV, and had begun moving toward a second vehicle before being hit by the trooper's vehicle and fleeing through a field.

Deputy Stringham reported that when Mr. Mancinone fired into and then used force to enter the home, which immediately preceded the deputy's gunshot, the deputy believed Mr. Mancinon to be an imminent threat. Trooper Curry noted at the time he fired he was in fear for his life and for anyone who may still be inside the home.

As a result, no charges will be filed against Trooper Lance Curry or Deputy Spencer Stringham.



OFFICE OF THE DISTRICT ATTORNEY

4th Judicial District of Colorado

Michael J. Allen
District Attorney

Martha McKinney
Assistant District Attorney

November 4, 2020

Officer-Involved Shooting Ruled Justified

February 16, 2021 [Release at Will]

Release: #2021-001

Howard Black
Public Information Officer

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Colorado Revised Statute (C.R.S.) § 20-1-114 requires the Office of the District Attorney to release a report and publicly disclose a report explaining findings and the basis for a decision to not charge police officers with criminal conduct following the completion of an investigation into a peace officer involved shooting pursuant to C.R.S. § 16-2.5-301.

Facts:

On November 4, 2020 Colorado Springs Police Department (CSPD) Sergeant William Wingert was contacted by a citizen in the parking lot of Safeway located at 6520 South Academy Boulevard. The citizen reported a road rage incident involving a male driving a light color Nissan Altima, who may have brandished a firearm. Sergeant Wingert located the vehicle and attempted to contact the driver and sole occupant, but the vehicle fled the area. Sergeant Wingert aired a description of the vehicle along with a partial license plate number. Sergeant Wingert also aired the suspect may be armed with a gun. Additionally, Sergeant Wingert aired that the suspect looked directly at him and attempted to get him to chase the suspect.

Corporal Clinton Ford was in the area and began looking for the suspect vehicle. Corporal Ford located the suspect vehicle near the intersection of Hwy 115 and Norad Road. Corporal Ford followed the suspect vehicle attempting to ascertain whether the vehicle in fact matched the aired description. Corporal Ford did not have any emergency lights or siren activated. Corporal Ford followed the suspect vehicle as it exited Hwy 115 at O'Connell Road heading toward Gate 2 of Fort Carson. Due to the curvature of the road, Corporal Ford momentarily lost sight of the suspect vehicle. When Corporal Ford saw the vehicle again it had apparently made a U-turn in the middle of the road and was now stopped in the road facing the approaching Corporal Ford. The driver's door of the suspect vehicle swung open and Corporal Ford believed the suspect was going to run. At that point Corporal Ford activated his emergency lights and stopped his patrol car. Corporal



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Ford's body worn camera activated at this point. Corporal Ford observed the suspect, later identified as Dean Jay Trasente Jr., exit the vehicle with what appeared to be a gun in his hand. Corporal Ford exited his patrol car and gave multiple commands for Trasente Jr. to drop the gun. Corporal Ford gave commands to drop the gun and matched Trasente's movements. Corporal Ford observed Trasente Jr. raise his gun and point it directly at Corporal Ford. Corporal Ford had a split-second hesitation whether Trasente Jr. had a real or fake gun because he thought it may have an orange tip, so did not fire his own weapon at Trasente Jr. Corporal Ford was also cognizant of the residential neighborhood directly behind Trasente Jr. Corporal Ford aired he needed backup immediately.

Officer Ashley D'Amour arrived on-scene at that time and joined Corporal Ford in engaging Trasente Jr. At this point they were all back around the suspect vehicle. Corporal Ford again directly engaged Trasente Jr., and Trasente Jr. again pointed his gun at Corporal Ford. Officer D'Amour heard Trasente Jr. say something to the effect of "I'm not going back to jail" while pointing his gun at Corporal Ford. Corporal Ford, as before, did not fire his weapon; instead, he continued to give commands to drop the gun. Trasente Jr. then lowered his gun and ran to Corporal Ford's patrol car and got into the driver's seat. Trasente Jr. was able to activate the emergency siren while sitting inside Corporal Ford's patrol vehicle. Corporal Ford made the decision to holster his handgun and drew his taser while Officer D'Amour maintained cover with her handgun drawn. Corporal Ford opened the driver's door and attempted to tase Trasente Jr. but the taser deployment was ineffectual. Trasente Jr. then leaned out of the driver's side of the patrol car and fired a gunshot at Corporal Ford. Officer D'Amour heard the gunshot, knowing it did not come from Corporal Ford because she had seen that Corporal Ford had his taser in hand. Officer D'Amour fired one round through the front passenger side window and several other rounds through the passenger side of the front windshield. Trasente Jr. was struck multiple times and fell out of the driver's side door onto the pavement and was facing the front of the patrol vehicle.

Corporal Ford meanwhile was at the rear driver's side of the patrol car. From his vantage point he believed Trasente Jr. was in a position to shoot Officer D'Amour as she came around the front of the patrol car. Corporal Ford made the decision to shoot Trasente Jr. several times in the back. Corporal Ford and Officer D'Amour continued to yell commands at Trasente Jr. to drop the gun so they could render medical aid. Trasente Jr. was unresponsive. Officer D'Amour maintained lethal cover while Corporal Ford handcuffed Trasente Jr. Other responding officers then immediately began rendering medical aid to Trasente Jr. Trasente Jr. died on-scene from 7 gunshot wounds. Officer D'Amour entered the patrol vehicle to turn off the emergency siren and found Trasente Jr.'s handgun on the center console. Officer D'Amour did not touch the gun or otherwise cause it to move. The gun was later determined to be a Taurus .40 caliber semiautomatic handgun. A .40 caliber shell casing was located under the driver's side of the patrol car. A second .40 caliber shell casing was located jammed in the ejection port of Trasente's gun. Notably, both Corporal Ford's and Officer D'Amour's duty weapons, which they fired during this incident, were 9mm caliber. The shell casings ejected from their weapons when they fired could therefore be distinguished from the shell casings from Trasente's gun.

Corporal Clinton Ford's Interview:

Aside from the facts outlined above, Corporal Ford made the following statements during his interview:

- Regarding the first time Trasente Jr. pointed his gun at Corporal Ford: “But he’s off kind of at the edge of the roadway and I’m still in the roadway somewhat close to my car but I moved away from my car a little bit and, uh, he stops and he turns at me and he - he raises the gun and he points it straight at me, and so I - I came up on target too and it was surreal and, like, so many thoughts going through my head, but as he raised it up there was a, uh - I don’t know if the - the light caught it certain or what but it almost looked like the end of the - the muzzle was, like, an orange tip, like, it was a BB-gun.” “So now I’m second-guessing myself maybe it’s not even a real gun, um, and he didn’t shoot, he sits there - I can’t remember if it was one-hand or a two-hand hold that he was doin’ it, I couldn’t tell ya’. Um, so and - sorry, I guess I should backup, the - as he’s walkin’ off the side of the road, I was also givin’ him commands to drop the gun.” “Uh, so I gave him numerous commands, “Drop the gun, drop the gun, drop the gun,” and then he turns, and he raises and he points it at me, and s- so I came up on target - I was pointin’ at him - uh, tell him to drop the gun, he didn’t shoot, I’m just kinda waiting - I didn’t like my backdrop, there’s a bunch of houses behind him - I also know the last thing I wanted to do was have to shoot him. Um, so I was basically waitin’ for him to shoot first and, uh, thankfully he didn’t, so after a few seconds of us starin’ at each other, he lowers it back down by his right side and he starts walking back to his car - I think somewhere during that time I - I told my cover to step up, uh, which means I wanted them - Code-3, I needed somebody there right away.”
- Corporal Ford did not elaborate much about the second time Trasente Jr. pointed his gun at Corporal Ford. Corporal Ford stated: “Um, so he starts walkin’ back around the rear of his car - as he’s headed back to his car is when the other officer shows up, Officer (D’Amour), and she hops out - I think she saw the gun, she aired that, ‘He’s got a gun’ - I don’t even know if I ever even aired that he had a gun honestly, I was just so focused. Um, so he walks around the back of his car and goes back towards his driver’s side, and we’re initially behind my car, still drawn down - I think we were still givin’ him commands but it’s a blur honestly, couldn’t tell you for sure.”
- Immediately after attempting to tase Trasente Jr., Corporal Ford heard, although did not see, the gunshot fired by Trasente Jr. in the direction of Corporal Ford. Corporal Ford stated he knew the shot came from inside the patrol car based on how it sounded. He then heard Officer D’Amour return fire as he was moving to the rear of the patrol car for cover.
- Corporal Ford was specifically asked about why he shot Trasente Jr. four times in the back. Corporal Ford described seeing Trasente Jr. laying outside of the driver’s door of the patrol car facing the front of the patrol vehicle. Corporal Ford then shot Trasente Jr. four times in the back. Corporal Ford said “Um, so immediately I just dropped my Taser on the ground, I drew my handgun again and I began moving w- back around the rear of the vehicle. Officer (D’Amour) had moved around the front of the vehicle and I believe she returned fire into the front of the vehicle. And as I came around the rear of the vehicle, I don’t - I don’t know if he had been hit, I don’t - I don’t know anything, um, but I see him laying outside of the - the driver’s door - the driver’s door was still open - he was a good distance away, it didn’t look like he had just, like, simply fallen out of the car but he was laying along his left-side with his body rigid and his right arm was tight against his side, and I couldn’t see his hands - I couldn’t see a gun but it looked like he was basically in a high-

ready, watchin' for movement under the car - maybe waitin' on somebody to come around the front of the car, but in that moment I believed he was still armed with a handgun and I believed that he was going to shoot somebody, myself or Officer (D'Amour) if we had come around the front of that vehicle. Um, so I fired three - I think it was three, it coulda been four, uh, rounds from behind my car into the middle of his back. After my shots, um, I saw him - so he was kinda, like, in a leaned forward position, like almost, like, in a more aggressive one. After I fired my shots my shots, he had kinda slumped back and his right arm kinda dropped, so it was more relaxed. So, I felt a little bit more comfortable that he's not, at least i- in a posture where he's that immediate threat necessarily." Corporal Ford elaborated later in the interview that officers are trained to shoot around and underneath things, and he perceived Trasente Jr. to be in a shooting position to ambush Officer D'Amour as she came around the front of the patrol car. Specifically, Corporal Ford stated, "I fired my shots to prevent him from bein' able to shoot her."

Officer Ashley D'Amour's Interview:

Aside from the facts outlined above, there were several relevant statements made by Officer D'Amour during her interview.

- Regarding Officer D'Amour's arrival on-scene and observing Trasente Jr. pointing his gun at Corporal Ford, Officer D'Amour stated: "And, uh, I put my car in park, my lights were on. And then I looked and I saw - I saw Ford's reflective police thing on the back of his vest in the grassy area. And he and this guy were walking, kind of parallel to each other, back onto O'Connell. So they were in the grassy area on the north side of the road. Um, the guy was tall, he had a black ski mask on, and he had a black handgun held down by his right leg. And so, they kinda walked and then the guy ran in front of Ford's cop car, to the trunk area of the Nissan Altima. At this point, then Ford and I were both kind of at the front bumper of the Nissan Altima and I'm a little more towards the passenger door. Um, he pointed his gun at Ford. Um, Ford kept giving him commands before, kind of, like, walking there. That part's kind of blurry about how we ended up over there. Um, Ford's yelling at him. I think he said something along the lines of, 'Don't, you don't have to do this. Don't do this.' Something like that." "Yeah, to the - to the suspect. And then, um, I yelled, "Drop the gun." And then, the guy said, "I'm not going back to jail." And the whole time, he still had his gun pointed at Ford. I think, briefly, he moved it over to me and then went back to Ford." Later in the interview Officer D'Amour added, "While - while the gun was pointed at Ford, he was still saying, drop it, you don't have to do this. He was still trying to talk him out of it."
- Regarding the shooting of Trasente Jr., Officer D'Amour stated: "And then, um, I saw Ford take a taser out, so he transitioned to the taser. I still had my gun out. Um, I heard the taser go off. I never heard, there's, like a - like a clicky noise when the taser makes contact, like the arc, the arcing. I never heard that. Um, and then a few seconds later, I heard a gunshot, and I saw a movement in the front of the car. Um, and at this point, I'm on the passenger back door. That's where I'm at. Um, and then I heard a gunshot. I knew it wasn't Ford and I - I thought he was gonna kill Ford. I, and, uh, I stepped up and I - I believe I fired a round through the passenger door. And then moved around into the front of the vehicle and I think I fired three to four more rounds into the windshield. And then, um, there was no more

movement. Uh, Ford, I also heard additional gunshots then from Ford, and - and then, um, we held on the car and we moved back around. And then, I kept lethal cover. Ford pulled the guy out of the car. We couldn't see his hands at first. We were still giving commands, show us your hands, show us your hands. He wasn't doing anything. And I remember yelling, 'Do not move your hands.' And then, we got him twisted around so that he was on his stomach. Um, Officer Davidson arrived then at that point. We got the guy in handcuffs. Um, they flipped him over. She started cutting through his shirt to see wounds. Um, I holstered my gun. I leaned into the car to turn the siren off, um, 'cause the siren's been on this whole time. And, uh, I turned the siren off and I saw the gun on the little armrest."

- When asked whether less lethal would have been appropriate in this situation, Officer D'Amour stated: "Because if Ford gets shot, he dies and/or seriously injured and that's not - not a time to do less lethal. He gave verbal commands. We were there. He, um, he had had tons of opportunity to put that gun down and then, um, even still after that, Ford tried the less lethal and then the gunshot happened. And so, I just don't think that, you know, my taser wouldn't have been effective from a passenger window or you can't taze through glass. So, there was, I didn't really have another choice."

Investigation:

There were several relevant and notable things that were discovered during the investigation following the shooting.

- It was discovered that Trasente Jr. had in fact fired a second shot. This shot was fired from the interior of the patrol car through the windshield. This shot, as evidenced by the exit defect in the windshield in relation to the entrance defects from bullets fired by Officer D'Amour as she moved around the front passenger quarter panel of the patrol car, was fired in the direction of Officer D'Amour. It was also discovered that after firing this shot Trasente Jr.'s gun malfunctioned due to the shell casing from the bullet he fired at Officer D'Amour not being fully ejected and jammed the gun.
- The shell casing from the first shot Trasente Jr. fired at Corporal Ford was recovered from underneath the driver's side of the patrol car. This is consistent with what can be seen in Corporal Ford's body worn camera of Trasente Jr. leaning out of the driver's door and firing the gun in the direction of Corporal Ford.
- It was discovered that the Nissan Altima Trasente Jr. was driving was stolen. Trasente Jr. had been released from the Jefferson County Jail at 9:19 pm on November 3, 2020. At 10:52 pm Trasente Jr. approached a woman in the parking lot of the jail. The woman was outside of her vehicle, but the vehicle was running. Trasente Jr. asked for a ride and the woman said no. Trasente Jr. then got into the driver's seat, shoved the woman out of the way when she tried to stop him, and took the vehicle by force. This action constituted Robbery and Aggravated Motor Vehicle Theft, both felony crimes. It is believed that Trasente Jr. then went to his residence in Arvada, Colorado to get tools and the gun he used to shoot at officers, and then proceeded to Colorado Springs for an unknown reason. This was information not known by Corporal Ford and Officer D'Amour at the time of the shooting, but it is critically relevant in understanding the circumstances leading up to the

shooting and Trasente Jr.'s actions. Further, although this cannot be heard on either officers' body worn camera video, it does lend considerable credibility to Officer D'Amour's statement that she heard Trasente Jr. say something to the effect of "I am not going back to jail" while pointing his gun at Corporal Ford.

Analysis and Conclusion:

Dean Jay Trasente Jr. died as a result of multiple gunshot wounds caused by bullets fired by Colorado Springs Police Department Corporal Clinton Ford and Officer Ashley D'Amour. This was a Homicide, but the use of deadly physical force by both officers in this case was justified. In making this determination the facts of this case must be analyzed in light of C.R.S. § 18-1-704 and C.R.S. § 18-1-707.

C.R.S. § 18-1-704 states in relevant part, "a person is justified in using physical force upon another person in order to defend himself or a third person from what he reasonably believes to be the use of unlawful physical force by that other person, and he may use a degree of force which he reasonably believes to be necessary for that purpose. Deadly physical force may be used only if a person reasonably believes a lesser degree of force is inadequate and the actor has a reasonable ground to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving great bodily injury."

C.R.S. § 18-1-707 states in relevant part, "Peace officers, in carrying out their duties, shall apply nonviolent means, when possible, before resorting to the use of physical force. A peace officer may use physical force only if nonviolent means would be ineffective in effecting an arrest, preventing an escape, or preventing an imminent threat of serious bodily injury or death to the peace officer or another person. ... (3) A peace officer is justified in using deadly physical force to make an arrest only when all other means of apprehension are unreasonable given the circumstances and: (a) The arrest is for a felony involving conduct including the use or threatened use of deadly physical force; (b) The suspect poses an immediate threat to the peace officer or another person; (c) The force employed does not create a substantial risk of injury to other persons."

The facts relevant to analysis under this standard of review include:

- Corporal Ford and Officer D'Amour were both sworn peace officers employed by and carrying out their official duties on behalf of the Colorado Springs Police Department, a law enforcement agency. Both Corporal Ford and Officer D'Amour were in official police uniforms and driving fully marked police patrol vehicles.
- The initial information officers had received was that a male driving a vehicle that closely resembled that being driven by Trasente Jr. had been involved in a possible road rage incident during which he may have brandished a weapon. Officers had information that Trasente Jr. may have committed the felony offense of Menacing with a deadly weapon.
- When Corporal Ford first encountered Trasente Jr. he got out of the suspect vehicle holding a gun. The gun, a Taurus .40 caliber semiautomatic handgun, was a deadly weapon, which was capable of causing serious bodily injury or death to another person. This gun was functional as evidenced by the fact that Trasente Jr. used it to fire two bullets at officers.

- Corporal Ford gave Trasente Jr. multiple commands to drop the gun. Trasente Jr. refused to comply with all lawful commands to drop the weapon.
- Trasente Jr. pointed the gun at Corporal Ford on two separate occasions and Corporal Ford did not discharge his weapon. Instead Corporal Ford repeatedly told Trasente Jr. to put the gun down. Officer D'Amour did not discharge her weapon when she arrived on scene and observed Trasente Jr. point his gun at Corporal Ford and possibly her as well. Trasente Jr. committed the felony crime of Menacing when he pointed his gun at the officers. This crime was committed in the officers' presence and is clearly captured on body worn camera video.
- When Trasente Jr. entered Corporal Ford's patrol vehicle and reasonably appeared to be trying to escape following the commission of a felony crime, Corporal Ford did attempt less lethal means to arrest Trasente Jr. by utilizing his taser.
- Only after Trasente Jr. fired first at Corporal Ford did Officer D'Amour and Corporal Ford fire their duty weapons at Trasente Jr. The act of firing his gun at Corporal Ford posed an immediate deadly threat to a peace officer.
- Officer D'Amour reasonably believed Trasente Jr. was going to kill Corporal Ford and she shot Trasente Jr. to protect her fellow officer. Although she was unaware at the time, Trasente Jr. also fired a shot at Officer D'Amour after he first fired at Corporal Ford.
- Corporal Ford shot Trasente Jr. because from his vantage point and based on his training and experience, he reasonably believed Trasente Jr. was poised to shoot Officer D'Amour when she came around the front of the patrol car.
- Neither Corporal Ford nor Officer D'Amour used deadly physical force in a manner that posed an immediate threat of substantial risk of injury to another person, other than Trasente Jr. who was the intended target of their justified deadly force. It is further noted that when Trasente Jr. first pointed his gun at Corporal Ford, Corporal Ford's decision not to shoot Trasente Jr. was in part influenced by the fact that he was cognizant of the residential neighborhood behind Trasente Jr. at the time. When Officer D'Amour fired her weapon, she shot directly into the patrol car at point blank range. When Corporal Ford fired his weapon there were no people or residences in the background behind Trasente Jr.

In addition to the analysis above, one final relevant subsection of C.R.S. § 18-1-707 was satisfied in concluding that the use of deadly force by Corporal Ford and Officer D'Amour was justified. Subsection (4.5) states, "Notwithstanding any other provision in this section, a peace officer is justified in using deadly force if the peace officer has an objectively reasonable belief that a lesser degree of force is inadequate and the peace officer has objectively reasonable grounds to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving serious bodily injury."

- Corporal Ford utilized less lethal means attempting to arrest Trasente Jr. prior to firing his weapon. Corporal Ford loudly and clearly issued multiple verbal commands to Trasente Jr. to drop his gun. Corporal Ford exhibited remarkable restraint by continuing to verbalize those commands and not shooting Trasente Jr. the first two times Trasente Jr. raised his

gun and pointed it directly at Corporal Ford. Corporal Ford switched from lethal handgun to less lethal taser in a final attempt to take Trasente Jr. into custody. It was only after Trasente Jr. had fired a gunshot in the direction of Corporal Ford and then Corporal Ford perceived an objectively reasonable deadly threat to Officer D'Amour that he shot Trasente Jr.

- Officer D'Amour, as the cover officer, observed Corporal Ford's non-lethal actions as described above. Officer D'Amour, based on her training and experience, believed that the non-lethal measures taken by Corporal Ford had been ineffective. Officer D'Amour heard a gunshot that she believed was not fired by Corporal Ford and saw movement in the patrol car. Officer D'Amour knew that a less lethal taser would not penetrate through the car window glass and therefore, would not be effective in subduing Trasente. At that point she objectively believed that Trasente Jr. posed an imminent threat and danger of serious bodily injury or death to Corporal Ford.

After completing a thorough review of the facts and evidence the Office of the District Attorney, 4th Judicial District of Colorado, has determined that the use of deadly physical force by both Corporal Clinton Ford and Officer Ashley D'Amour of the Colorado Springs Police Department was justified under the law of the State of Colorado.

Note to Media: All updates will only come from the Public Information Office when available.

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