



OFFICE OF THE DISTRICT ATTORNEY

Fourth Judicial District
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PRESS RELEASE April 20, 2000

The District Attorney's Office has completed its review of all investigative reports relating to the shooting death of Richard AuBuChon, age 28, on April 9, 2000. This occurred at 38 N. Garland Avenue in Colorado Springs.

A 911 call was placed by Heather AuBuChon shortly before 11 p.m. on the night of April 9th. When officers responded, she reported that her husband, Richard AuBuChon, had been drinking and they had gotten into an argument. Heather reported that Richard had shoved her and hit her in the side of the head. Richard then threw her out the front door of the house and locked the door behind her. Heather's three children, ages 7, 5, and 1, were still in the home. Heather also reported that there was a gun in the house.

As police officers arrived, they saw Richard AuBuChon inside the house. They directed him to come out but instead he turned off the inside lights. The two older children were at a bedroom window. Officers tried to get the children out through the window. As they were trying to do this, Richard AuBuChon came up to the window. Officer Chris Kurtzhals was at the window and directed Richard AuBuChon to show his hands and come out. As Officer Kurtzhals was yelling at AuBuChon to show his hands, Kurtzhals was joined by Officers Brian Strickland, Hugh Velasquez, and Duncan Moorman. Officer Kurtzhals tried to reach in through the window to grab Mr. AuBuChon. Mr. AuBuChon pushed Officer Kurtzhals away with one hand and raised his other hand up. All of the officers saw that Mr. AuBuChon was holding a gun which was pointed at the officers. At that point, Officers Strickland and Velasquez fired at Mr. AuBuChon. Mr. AuBuChon fell back away from the window and out of sight of the officers. This entire event was also witnessed by firefighters who had been called to provide medical assistance to Heather AuBuChon.

Because the condition of Mr. AuBuChon was unknown at the time, a tactical unit was called to make entry into the residence. Upon entry, the body of Richard AuBuChon was found laying in a hallway with a .357 Smith and Wesson revolver on the floor.

At autopsy, the cause of death was determined to be multiple gunshot wounds to the chest. There were five total shots fired by the two police officers and the wounds on the body indicate that all five shots struck Mr. AuBuChon.

Because Richard AuBuChon raised and pointed a gun at the police officers, the officers' use of deadly force meets the requirements of self defense under C.R.S. 18-1-704 as well as the more specific provision for an officer's use of deadly force under C.R.S. 18-1-707.



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PRESS RELEASE

November 2, 2000

Bruce A. Graham (DOB 12-21-32) a resident of Canon City, was arrested on 10-18-00 for Driving Under the Influence of Alcohol, after pulling out of the parking lot of the Midnight Rose Casino in Cripple Creek. Investigators have determined that that after Graham bonded out of jail he constructed an apparatus in the bed of his pickup truck that would allow him to spray gasoline or other fire accelerants from the cab of that pickup.

Just after 10:16 p.m., the following night, 10-19-00, Officer Daniel Sperry and Dispatch Supervisor Krystal Mason, both of the Cripple Creek Police Department, left the police station through an east side door adjacent to the building's parking lot. Immediately upon exiting the police station the officer and dispatcher could see Bruce Graham seated in the cab of his pickup truck holding a hose out side his driver's side window spraying a substance that smelled like gasoline toward the ground and toward the rear of some parked police cars. According to both the officer and dispatcher, Officer Sperry quickly asked the man in the truck what he was doing. Mr. Graham said words to the effect of "I'm going to burn this place down". The dispatcher ran for cover behind one of the parked patrol cars, and Officer Sperry, who had drawn his duty weapon immediately upon seeing Mr. Graham squirting fuel, ordered Mr. Graham to stop. Mr. Graham continued to point the hose at the officer, the parked vehicles, the dispatcher and the police station itself, then the officer saw the fuel ignite and saw a flash of fire behind the parked patrol cars. Two dispatchers and at least one additional police officer were in the police station at this time. Officer Sperry fired at Mr. Graham five times. After Officer Sperry fired, Graham pulled forward in his pickup Officer Sperry began to run behind the rear of the vehicle and again ordered Graham to stop and get out of the truck. The Officer and Dispatcher heard Mr. Graham say "I can't" in response to the Officer's command. The officer then saw that Mr. Graham had a rifle in the cab of the truck and could see that Graham had picked up the rifle and began directing the barrel of that weapon out of his driver side window. Upon seeing this, Officer Sperry fired two more times at Mr. Graham and used his radio to call for assistance. Officer Karla Haley came out of the station to assist. As the officers approached Graham's vehicle they could see no signs of movement but could see that Mr. Graham was holding a rifle in his lap. Officer Haley opened the driver's side door and removed Mr. Graham from the front seat. Medical assistance arrived almost immediately.

As is routine in all cases of officer involved shootings, the Fourth Judicial District Attorney's Office was called upon to investigate the incident. In addition to the foregoing information, District Attorney investigators collected physical evidence with the assistance of the Colorado Bureau of Investigation and attended the autopsy conducted by the El-Paso County Coroner's Office. It was determined that Mr. Graham died from gunshot wounds having been struck by 4 of the officer's bullets. The toxicology report completed by the Teller County Coroner shows Mr. Graham had both valium and alcohol in his system at the time of the incident.

Investigators further determined that at some point after his DUI arrest it appears that Mr. Graham secured a large 26-30 gallon plastic tank to the bed of his pickup along with a pump. Mr. Graham attached the pump to a car battery and ran a long hose from the tank through the back window of the cab so that the fuel in the tank could be sprayed from the driver's seat. Investigators found road flares in the pickup and one on the ground that Mr. Graham had used to ignite the fuel and start the fire in the parking lot. Beside the rifle that Mr. Graham had in his lap when taken from the vehicle, he had one other rifle, a handgun, additional ammunition clips and an ammo can with 250 live rounds of ammunition in the vehicle with him. At Mr. Graham's cabin in Fremont County, investigators found a blue plastic bag containing important documents, family pictures, \$240 cash and a note, identified as Mr. Graham's writing by family members, asking that Mr. Graham's dog be taken care of.

Colorado law provides, pursuant to C.R.S. 18-1-707, that a peace officer is justified in using deadly physical force upon another person to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly force. The statute further provides than an officer may use deadly force to effect an arrest of a person whom he reasonably believes has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon or indicates that he is likely to endanger human life unless apprehended without delay. In this case, the investigation has determined that Officer Sperry's use of deadly force was justified pursuant to the above-cited statute.