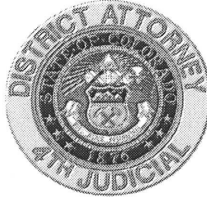


NEWS FROM THE
ATTORNEY



OFFICE OF THE DISTRICT

FOR IMMEDIATE RELEASE
Richards
May 16, 2016

Lee

Community Outreach Director
4th Judicial District
(719) 520-6084

Colorado State Trooper-Involved Shooting Ruled Justified

Following a careful review of the facts and evidence, the 4th Judicial District Attorney's Office has concluded that Colorado State Trooper Gregory James was justified when he fired his weapon on January 22, 2015, striking Joseph Francis Cimeno in the leg. Law enforcement officers attempted to stop Cimeno's vehicle on three separate occasions. On the third attempt, and following a lengthy pursuit, Joseph Cimeno stopped, exited his vehicle and assaulted Trooper James while attempting to grab the trooper's handgun. During the course of events, Cimeno was shot in the leg by Trooper James. Cimeno faces a charge of 2nd degree assault on a peace officer. His next court appearance is scheduled for March 20, 2015. As with all defendants, Mr. Cimeno is presumed innocent until proven guilty in a court of law.

Colorado Revised Statutes 18-1-707 provides that an officer is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary to defend himself from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect such an arrest, or 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 otherwise indicated 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 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.



NEWS FROM THE OFFICE OF THE DISTRICT ATTORNEY

FOR IMMEDIATE RELEASE
July 1, 2016

Lee Richards
Community Outreach Director
4th Judicial District
(719) 520-6084

Deputies Cleared in Officer-Involved Shooting

The 4th Judicial District Attorney's Office has completed an investigation into the officer-involved shooting that occurred in the early evening hours of May 8, 2015. Following careful review of the facts and evidence surrounding the incident, it has been determined that the deputy's use of force against the suspect was reasonable, appropriate and justified.

Colorado Rules of Professional Conduct, Rules 3.6 and 3.8 limit information that prosecutors and law enforcement agencies can provide to the public regarding an investigation. Due to Mr. Lowe having an open criminal case, the District Attorney's Office cannot release police reports at this time and the extent of information provided in this report is restricted by due process considerations. Additional reports or information can be released in the future. Information relating to specific statements of witnesses, criminal history information on witnesses, credibility determinations, a confession or a refusal to make a statement by a suspect, and what laboratory or forensic testing is being completed or the results of that testing are examples of information that cannot be disseminated to the public. Information contained in the public record may be obtained directly from the court unless the court deems the information shall not be released in the interests of justice.

On May 5, 2015, a warrant was issued for Brian Lowe for Escape and the warrant was still active on May 8, 2015.

Shortly before 6:00 p.m. on May 8, 2015 El Paso County Sheriff's Office Sergeant Shane Mitchell and Deputy Keith Duda were notified that Mr. Lowe was at the Hobby Lobby store on 8th Street in Colorado Springs. Mr. Lowe's whereabouts were determined by another law enforcement agent and Sgt. Mitchell and Deputy Duda were asked to contact and arrest Mr. Lowe due to the active arrest warrant. When Sgt. Mitchell and Deputy Duda arrived at the Hobby Lobby they attempted to arrest Mr. Lowe on the active warrant. After being notified that he would be arrested, Mr. Lowe immediately became uncooperative with the deputies and a struggle ensued. During the struggle Mr. Lowe threatened the deputies with a knife and Sgt. Mitchell attempted to tase Mr. Lowe twice. Mr. Lowe

continued to struggle with the deputies and also armed himself with Sgt. Mitchell's taser. During the struggle Deputy Duda fell to the ground and Mr. Lowe turned toward Deputy Duda and attempted to use the knife and taser to harm Deputy Duda. At this point in the altercation with Mr. Lowe, Sgt. Mitchell shot Mr. Lowe. Mr. Lowe was transported to Memorial Hospital and is expected to survive.

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 District Attorney's Office reviews all incidents involving a discharged weapon by a deputy. The facts and evidence from this investigation show that Sgt. Mitchell of the El Paso County Sheriff's Office acted reasonably at the time. Thus, based on the law and the facts, the investigation has determined that the deputy was justified under the law of the State of Colorado. No criminal charges will be pursued against Sgt. Mitchell.

Mr. Lowe will be charged with several crimes arising from this incident including First Degree Assault on a Peace Officer and Menacing. Mr. Lowe is entitled to due process under the law and the charge is merely an accusation. Mr. Lowe is entitled to the presumption of innocence unless and until proven guilty beyond a reasonable doubt.

The 4th Judicial District Attorney's Office, in coordination with the El Paso County Sheriff's Office, has completed its review into the Fountain Police Department (FPD) Officer-involved shooting that occurred in Fountain, CO on September 24, 2015. Pursuant to Colorado Revised Statute 16-2.5-3-1 Peace Officer-involved shooting investigations – protocol, all officer-involved shootings that result in injury or death shall be reviewed by a neutral agency. The outside participating agency in this incident is the El Paso County Sheriff's Office.

At approximately 2:20 pm on September 24, 2015, FPD received a 911 call from Elizabeth Alvar regarding a physical disturbance at 775 Legend Oak Drive. At that time FPD officers were dispatched to the location. Officer John Kay, dressed in full police uniform and driving a fully marked FPD car, was first to arrive on scene.

Officer Kay stopped his cruiser a couple of houses away from 775 Legend Oak Drive in order to assess the situation. He observed a motorcycle lying on its side in the driveway of 775 Legend Oak Drive and could see the overhead garage door open, but nobody outside. The motorcycle appeared to be on because the headlight was shining.

Officer Kay was aware of the fact that this was the home of Elizabeth Alvar and that her son Patrick O'Grady was a runaway who had stolen his parents' vehicle a few days earlier and was trying to sell it.

While Officer Kay was observing the residence he saw Elizabeth Alvar come out of the garage area waving her arms and motioning for him to come into the home. Officer Kay then drove closer to the residence, parked his police car and got out of the vehicle. At this time Ms. Alvar stated "come here, come here, I need you" while continuing to wave her arms.

Officer Kay knew that another officer from FPD was en route to this location when he exited his vehicle. He requested that his fellow officer "step up" his response to the location. At no time did Officer Kay receive any information to indicate what exactly the disturbance was at this location from dispatch or Ms. Alvar.

Ms. Alvar then pointed to the open door which leads from the garage to the residence and Officer Kay followed her into the home. He followed her through the residence to the stairs where Officer Kay could see a bathroom at the top of the stairs. The bathroom door was half open. At this time, Officer Kay and Ms. Alvar went up the stairs. At the top of the stairs, Ms. Alvar pointed to the bathroom, but did not verbally make any statements to Officer Kay. Upon reaching the bathroom door, Officer Kay could hear the shower running. Ms. Alvar opened the door and Officer Kay saw Patrick O'Grady standing in the bathroom. Officer Kay then saw Patrick O'Grady turn and grab a gun from the bathroom counter and point it at the officer. At that time, Officer Kay drew his gun and fired one shot in the direction of Patrick O'Grady, who was struck by the bullet. O'Grady was transported to the hospital, where he later died from the gunshot wound.

Unknown to Officer Kay, earlier in the day the gun and other items had been stolen from a home in Fountain and witnesses positively identified Patrick O'Grady as being one of the individuals seen carrying stolen items from the residence. During this investigation, Facebook

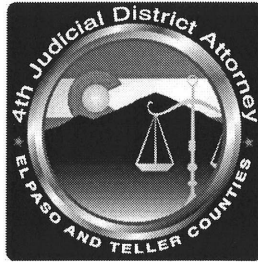
and text messages, along with interviews, confirmed that Patrick O'Grady was in possession of a gun. The loaded gun found in the bathroom inches away from Patrick O'Grady was tested for DNA and the results confirmed his DNA was on the gun.

The investigation also revealed that Patrick O'Grady had returned to the residence that day to gather items and shower before leaving the state. O'Grady and another juvenile suspect had kicked in the front door of 775 Legend Oak Drive and were gathering items to steal, including the motorcycle in the garage. While the juvenile suspect was attempting to take the motorcycle, he was confronted by Elizabeth Alvar. The juvenile suspect then dropped the motorcycle and fled. Ms. Alvar chased the juvenile suspect for a couple of blocks then returned to the residence and called 911 to report the disturbance.

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. 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 of receiving great bodily injury and reasonably believe a lesser degree of force is inadequate. Under either standard, Colorado law allows an individual to act based on their subjective reasonable belief. Following careful review of the facts and evidence surrounding the incident, it has been determined that the officer's use of deadly force against the suspect was reasonable and justified.

Pursuant to Colorado Revised Statutes 20-1-114, The District Attorney's Office shall review all incidents involving a discharged weapon by an officer, release a report explaining the District Attorney's findings, including the basis for the decision not to charge the officer. The facts and evidence from this particular investigation show that Officer John Kay acted reasonably and was justified in defending himself and others from the imminent use of deadly physical force by Patrick O'Grady. Because the officer's actions were justified under Colorado law, no criminal charges will be pursued.

For further information, please contact Lee Richards at 520-6084.



Investigative Report from 10/31/2015 Incident Pursuant to C.R.S. §§ 16-2.5-301 and 20-1-114

The 4th Judicial District Attorney's Office, in coordination with the El Paso County Sheriff's Office (EPSO), has completed its review into the Colorado Springs Police Department (CSPD) Officer-involved shooting that occurred in Colorado Springs, Colorado, on October 31, 2015. 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 neutral agency. The outside investigative agency in this incident was the El Paso County Sheriff's Office (EPSO).

At approximately 9:00 a.m. on October 31, 2015, CSPD Officers engaged an armed suspect, later identified as Noah Harpham, crossing North Wahsatch Avenue at East Platte Avenue. Officers ordered the suspect to drop his weapon. The suspect turned on officers and began firing an AR-15, a military semi-automatic rifle, at the officers. Officers from CSPD returned fire, hitting the suspect one time and killing him. Although a police cruiser was hit, no officers from CSPD were struck. This report will discuss the events that led to this armed confrontation.

230 North Prospect Avenue, victim Andrew Myers

Noah Harpham, 33, lived alone at 230 North Prospect. On October 31, 2015, around 7:30 a.m., Noah Harpham called and left a voice message for his ex-girlfriend and former roommate, Elizabeth Tucker, wanting to spend time with her. She did not return his call. Harpham's mother, Heather Kopp, had warned Tucker the previous night to stay away from Harpham. Both Heather Kopp and David Kopp had made plans to attempt to have Harpham hospitalized. Tucker, who lived directly across the suspect at 231 North Prospect, informed the police of the call from Harpham after the shootings. Later that morning, around 8:10 a.m., a neighbor, Carrie Payne, witnessed Harpham outside his residence pacing back and forth.

At 8:30 a.m., Harpham was seen by a different neighbor, Naomi Bettis, carrying a long gun and what appeared to be gas cans. Harpham was seen going in and out of the business below his residence through a broken front glass door. Bettis then phoned 911 and informed CSPD dispatch of the situation. Because Harpham did not appear threatening to any person at the time, the 911

operator terminated the phone call with Bettis. The call taker informed Bettis that officers would be dispatched as soon as possible.

Around 8:45 a.m., Carrie Payne was leaving out her front door and witnessed a confrontation between Harpham and an unknown bicyclist. The bicyclist saw Harpham with the long gun and told him he could not have that type of weapon on the street. Harpham raised his gun and started shooting at the bicyclist. The suspect fired the rifle a total of five times. While attempting to flee, the bicyclist was struck by rounds from the suspect's gun. He died at the scene. Both Payne and Bettis (again) called 911 after witnessing the shooting. The victim on the bicycle was later identified as Andrew Alan Myers, a three tour Iraq War veteran. At autopsy, Mr. Myers was declared to have been a victim of a homicide caused by multiple gunshot wounds.

543 East Platte Avenue, victims Jennifer Vasquez and Christine Galella-Baccus.

Harpham then started walking to the north travelling to Platte Avenue where he turned to the west. A third neighbor, Mathew Abshire, who lived at 751 East Platte Avenue, saw what had happened to Mr. Myers and after Harpham passed his residence and turned to the west, Abshire began to follow him at a distance. Numerous witnesses saw Harpham travelling west on Platte Avenue carrying both the long gun and a silver handgun. These witnesses, including Abshire, provided dispatchers with physical descriptions of the suspect which in turn were aired to CSPD units responding to the shooting. Harpham travelled on the south side of Platte Avenue crossing over North Franklin and North El Paso Streets. Harpham was contacted by a resident from this area and told to put his gun down. Harpham ignored the request.

Harpham continued on Platte and encountered the residents at 543 East Platte Avenue. Harpham shot his rifle six times thus killing two women who were out on the porch enjoying the morning. The women were later identified as Jennifer Vasquez and Christina Galella-Baccus. Galella-Baccus was pronounced dead on scene while Jennifer Vasquez was transported to Memorial Hospital where she was later pronounced dead. At autopsy, both Galella-Baccus and Vasquez were declared to have been the victims of homicide caused by multiple gunshot wounds.

North Wahsatch and East Platte Avenues, Noah Harpham is killed by CSPD

Harpham continued west on Platte to the intersection of Platte and Wahsatch where he was confronted by CSPD Officer Gary Darress. Officer Darress was one of the first officers to respond to the initial call that stemmed from the shooting at 230 North Prospect. Darress was driving his CSPD cruiser east on Platte when he saw someone who matched the description of the suspect that was aired by dispatch. Darress was further flagged down by a citizen and directed back to the west where the suspect was nearing the intersection of North Wahsatch and Platte Avenues. Officer Darress turned around heading west on Platte Avenue and proceeded to the intersection, stopped his police cruiser and ordered the suspect to drop his gun. Sergeant Patrick David, also responding to call, was right behind Officer Darress.

Officer Darress and Sergeant David were driving standard CSPD police cars and were in standard CSPD Blue Uniforms. Officer Darress ordered the suspect to "Drop the gun." The

suspect turned and raised the AR-15 and fired at Darress and David. Both Officers took cover. Officer Darress' CSPD cruiser was struck in the windshield, the round exiting the rear window. Officer Darress and Sergeant David did not return fire after they both saw an unarmed civilian walking his dog in the line of fire. Additionally, they were concerned about the backdrop of their handgun rounds hitting the Wendy's Restaurant at 222 North Wahsatch.

The next set of CSPD Officers to engage Harpham were two groups of training officers with their trainees. Officer Randall Scott Hallas was paired with Officer Charles Surratt and Officer Edward Crofoot was paired with Officer Matthew Anderson. Officers Surratt and Anderson had recently graduated from the CSPD Training Academy. All four officers were wearing standard issue CSPD uniforms and were driving CSPD marked patrol cars. Officers Anderson and Crofoot approached the intersection canting their car in a southwesterly direction. Both Officers got out of their car and fired their standard issue Smith and Wesson M & P 9 mm handguns at Harpham. Like Officer Darress and Sergeant David, they made sure their backdrop of fired rounds did not threaten innocent civilians. Officer Anderson discharged his handgun a total of five times while Officer Crofoot discharged his handgun three times.

Officers Hallas and Surratt approached the intersection from the west, stopping short of the intersection. Officer Surratt exited the car and fired his Smith and Wesson M & P 9 mm handgun two times at the suspect. Officer Hallas got out of his car and approached Harpham, who was firing at Officer Darress and Sergeant David. Harpham was shooting and retreating towards the Wendy's Restaurant. Officer Hallas made his way into the north end of the Wendy's parking lot and shot his Smith and Wesson M & P 9 mm handgun three times at Harpham. Harpham was struck by one round near the northeast corner of the sidewalk closest to the Wendy's restaurant where he fell and was immediately handcuffed by CSPD Officers. Officers quickly located the suspect's AR-15 as well as a 9 millimeter semi-auto handgun. Numerous loose bullets were inside of the coat Harpham was wearing. The bullets were of the three calibers of the guns Harpham was carrying. Investigators found seven spent shell casings that were fired by Harpham at CSPD Officers.¹ A silver 357 handgun was also found in the intersection of Platte and Wahsatch. The handgun matched descriptions from previous witnesses who saw Harpham carrying a silver handgun.

Members of the Colorado Springs Fire Department (CSFD), Station One, and American Medical Response (AMR) were dispatched to the first shooting at 230 North Prospect. These units were staging at the intersection of East Platte and North Wahsatch when the Harpham started shooting at the Police. Officers from CSPD and CSFD checked the unarmed civilian who was in the crossfire near the median intersection of Wahsatch and Platte Avenue. The civilian was shaken but uninjured. AMR, CSFD Firefighters from Engine One and CSPD Officers rendered aid to Harpham, then transported him to Memorial Hospital where he was later pronounced dead. At autopsy, Noah Harpham was declared to have died due to a gunshot wound to his upper torso. The coroner further reported that he had marijuana metabolites in his urine at the time of his death.

¹ A few of Harpham's fired rounds struck the parking area near the north end of Palmer High School athletic complex, with one round hitting a telephone line conduit and severing the phone cable. A youth wrestling tournament was being held at Palmer the morning of October 31, 2015.

During the investigation, Detectives were able to obtain video from a business halfway between the second and third scenes. The address is 423 East Platte and the camera faced to the north. At the beginning of the video footage, the distinct sound of gunfire can be heard from the suspect's rifle at the second shooting scene, 543 E. Platte. Shortly after the gunfire the video shows Harpham walking west on Platte and crossing onto the sidewalk on the west side of North Corona. Video footage shows Harpham wearing a green jacket and carrying his long gun in his left hand. Harpham continued west, raising up his long gun as a CSPD cruiser goes by headed east. Thirty seconds after Harpham walked out of camera range, the audio picked up faint voices. Gunfire from the rifle is then heard. The audio clearly demonstrates Harpham shoots at the Officers first. Both Officers and witnesses confirmed this. The audio also depicts Officers shooting their handguns. The entire shooting episode occurred in less than 10 seconds. Further, from a video captured from a camera at the Taco Bell, 405 East Platte Avenue, Harpham passed on the North side of the business and a few seconds later a camera on the South side of Taco Bell captures a person later identified as Ross Trottier leaving his business while walking his dog. Shortly after leaving the field of vision Trottier is crossing Wahsatch with his dog. Trottier took cover as Harpham fired his gun the police. Trottier's dog was later found unharmed and returned to Trottier.

Aftermath

CSPD, CSFD and AMR continued to respond to the other shooting scenes. Truck One from CSFD arrived at 230 North Prospect and realized the ground floor of the structure containing Harpham's residence was on fire. This is the building the neighbor saw Harpham enter numerous times prior to the first homicide of Andrew Myers. CSFD Station One firefighters quickly extinguished what was later determined to be an incendiary fire. Stacked wood, combustible fluids and pour patterns appeared once the fires were extinguished. Four separate barbecue type propane tanks were found near the fires. Multiple unfired rounds of the same caliber guns carried by Harpham were also strewn about the place. No one was inside the building. CSFD was able to extinguish the fires with little damage to the structure.

CSPD and EPSO Major Crime Detectives then began the painstaking process of investigating each and every scene from this tragic day. CSPD Detectives investigated the scenes at 230 North Prospect Street and 543 East Platte Avenue. EPSO Detectives investigated the shooting at East Platte and North Wahsatch Avenues. It is their collective work that this report covers in summary fashion.

This investigation revealed other noteworthy details. Harpham's mother and step father, Heather and David Kopp, had been in regular contact with Harpham. They were former residents of Colorado Springs for some time but had moved to the East Coast in December of 2014.

In the days leading up to this event his family grew alarmed about Harpham's situation. According to Elizabeth Tucker, Harpham had been diagnosed with bipolar disorder. Harpham's step father told investigators that Harpham had become 'more manic' as of late. Harpham's mother also informed his ex-girlfriend this was happening, stating "He (Harpham) has escalated to a new level." Heather Kopp warned Elizabeth Tucker to "Do everything you can to avoid contact with him (Harpham)." Heather Kopp further had contact with Harpham's psychiatrist.

Due to these concerns, his stepfather, David Kopp and his brother, Nathan Harpham, boarded separate planes on October 31, 2015, to come to Colorado Springs. They had made plans to try and have Harpham hospitalized. In a later statement from Heather Kopp, she informed law enforcement, "We wanted to get Noah to a medical treatment facility and considered if the police could assist. But we were told by both Dr. Everett and the Cedar Springs Mental Health Center that unless Noah was a threat to himself or others (which he wasn't) the police wouldn't be able to assist us" She further stated, he was having "...manic delusions of grandeur and (was) in need of medical help. Prior to coming out to get him hospitalized, his stepfather informed Harpham he was coming to Colorado Springs. David Kopp reported that Harpham told him he (Harpham) was euphoric. The stepfather said Harpham told him 'it would be great and it would happen here', and 'it would be awesome' and 'it would blow your mind.' Harpham's stepfather arrived in Colorado Springs in the evening of October 31, 2015, several hours after the shootings. Harpham's mother and stepfather were aware that Harpham had several guns, including the long gun.

Upon piecing together a timeline of October 31, 2015, the approximate time the first victim, Andrew Myers, was killed was around 8:45 a.m., the second victims, Jennifer Vasquez and Christina Galella-Baccus were killed was around 8:57 a.m., and the final confrontation with CSPD occurred over 7-8 seconds at 9:00 a.m. All three of the victims were fatally shot by Harpham with the AR-15. Over the course of the three scenes, Harpham fired 18 rounds from the AR-15. While both handguns were fully loaded, neither handgun was fired. According to paperwork found in Harpham's apartment, the three guns the suspect was carrying were legally purchased by Harpham and a receipt indicated the 357 Ruger revolver was purchased from Paradise Sales, 605 West Colorado Avenue. Gun cases for the guns were found inside of Harpham's residence. The breakdown of the purchases are as follows;

- 9 mm Springfield handgun was purchased in July of 2009;
- 357 Ruger was purchased in October of 2009;
- AR-15 DPMS Rifle was purchased in December of 2009.

Pursuant to Colorado Revised Statutes 20-1-114, The District Attorney's Office shall review all incidents involving a discharged weapon by an officer, release a report explaining the District Attorney's findings, including the basis for the decision not to charge the officers. Following careful review of the facts and evidence surrounding the incident, it has been determined that the officers' use of deadly force against the suspect was reasonable and justified.

The facts and evidence from this particular investigation show that CSPD Officers Randall Scott Hallas, Edward Crofoot, Matthew Anderson and Charles Surratt acted reasonably and were justified in defending themselves and others from the continued use of deadly physical force by Noah Harpham. Officers Hallas, Crofoot, Anderson, Surrat, David and Darress performed admirably in preventing further carnage in the City of Colorado Springs. Their actions were not only justified; they were heroic. Because their actions were justified under Colorado law, no criminal charges will be pursued.

This report and a Power Point investigative summary that includes 911 calls, video and audio recordings, photographs, diagrams and computer animation will be released on a DVD disc.

NEWS FROM THE
ATTORNEY



OFFICE OF THE DISTRICT

FOR IMMEDIATE RELEASE
May 16, 2016

Lee Richards
Community Outreach Director
4th Judicial District
(719) 520-6084

2015 Colorado Springs Police Department Shooting Ruled
Justified

Following a careful review of the facts and evidence, the 4th Judicial District Attorney's Office has concluded that Colorado Springs Police Department Officers Matthew Peterson and Derek Wilson were justified when they fired their weapons on November 10, 2015, striking Dana Ott. Law enforcement officers responded to a domestic disturbance on Lanagan Drive, in which an armed suspect was reported walking down the street. Upon arrival, Officers Peterson and Wilson encountered Dana Ott armed with a firearm. Mr. Ott verbally and physically threatened the officers with the rifle. Shots were then fired at Ott. Ott faces multiple counts of felony Menacing, stemming from both the domestic disturbance and from his encounter with law enforcement. His next court appearance is scheduled for February 8, 2016. As with all defendants, Mr. Ott is presumed innocent until proven guilty in a court of law.

Colorado Revised Statutes 18-1-707 provides that an officer is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary to defend himself from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect such an arrest, or 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 otherwise indicated 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 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.



NEWS FROM THE OFFICE OF THE DISTRICT ATTORNEY

FOR IMMEDIATE RELEASE
May 16, 2016

Lee Richards
Community Outreach Director
4th Judicial District
(719) 520-6084

December 30, 2015 Colorado Springs Police Department Shooting Ruled Justified

The 4th Judicial District Attorney's Office, in coordination with the El Paso County Sheriff's Office, has completed its review of the Colorado Springs Police Department's Officer-involved shooting that occurred in Colorado Springs, CO on December 30, 2015. 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 neutral agency. The outside participating agency in this incident is the El Paso County Sheriff's Office.

Evidence presented during the preliminary hearing revealed that law enforcement officers responded to a burglary in progress call on Sierra Springs Drive and, upon arrival, Mr. Guolee fired upon the responding officer. A vehicular pursuit ensued and after crashing a stolen vehicle, Mr. Guolee fled on foot armed with a firearm. CSPD Officer Hartbauer fired one time striking Mr. Guolee in the thigh. Guolee has been charged with Attempted Murder of a Peace Officer, First Degree Assault, Attempted First Degree Burglary, Vehicular Eluding, Aggravated Motor Vehicle Theft and multiple counts of Possession of a Weapon by a Previous Offender. A preliminary hearing was held on April 21, 2016 and the Court found probable cause for all charges. His next court appearance is scheduled for June 15, 2016. As with all defendants, Mr. Guolee is presumed innocent until proven guilty in a court of law.

Colorado Revised Statutes 18-1-707 provides that an officer is justified in using reasonable and appropriate physical force upon another person when necessary to effect an arrest or to prevent the escape from custody of an arrested person. In addition, a peace officer may use physical force to the extent that he reasonably believes it necessary to defend himself from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to affect such an arrest. Further, peace officers are justified in using deadly physical force upon another person 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 if he or she reasonably believes it necessary to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force. 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 Colorado Springs Police Department Officer Nicholas Hartbauer was justified when he fired his weapon on December 30, 2015, striking Thomas Guolee.