



# OFFICE OF THE DISTRICT ATTORNEY

## 4<sup>th</sup> Judicial District of Colorado

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### November 4, 2020

## Officer-Involved Shooting Ruled Justified

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February 16, 2021 [Release at Will]

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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.**

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