



OFFICE OF THE DISTRICT ATTORNEY

4th Judicial District of Colorado

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October 3, 2021

Officer-Involved Shooting Ruled Justified

January 28, 2022 [Release at Will]

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The 4th Judicial District Attorney's Office has completed its review of the officer-involved shooting that occurred on October 3, 2021, in Colorado Springs, 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.

On Sunday, October 3, 2021, Colorado Springs Police Department (CSPD) Officer Chase Gardner was working an extra-duty assignment at the Walmart located at 3201 East Platte Avenue. While in that assignment he was contacted by Walmart Loss Prevention reference a suspicious person. Loss Prevention was conducting surveillance on Mr. David Jacques during his time in the store and saw him leave with items without paying for them.

The investigation revealed that Mr. Jacques arrived at the Walmart with his girlfriend, Zena Morris, and they began selecting items and both walked past all points of sale and left the store without paying. A Walmart Loss Prevention Officer notified Officer Gardner of their observations of Mr. Jacques and Ms. Morris. Officer Gardner contacted Mr. Jacques in the Walmart parking lot and informed him that he was under arrest for shoplifting but that it was just a ticket. Mr. Jacques replied "okay" before he reached into his pocket. Officer Gardner told Mr. Jacques to stop reaching into his pocket and tried to grab his arm. Mr. Jacques then ran away on foot and Officer Gardner ran after him. Mr. Jacques continued to reach into his pocket as Officer Gardner gave chase.

Officer Gardner told Mr. Jacques that he was going to tase him and arced his taser. During the chase, Officer Gardner lost sight of Mr. Jacques but had information from another officer that Mr. Jacques had



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not crossed North Chelton Road. Officer Gardner continued to search the area and ultimately located Mr. Jacques hiding under a parked vehicle in a used car lot located in the 200 block of North Chelton Road.

Officer Gardner notified CSPD Communications that he had found Mr. Jacques in the 200 block of North Chelton Road. Officer Gardner immediately gave commands to Mr. Jacques to come out and again notified him that it was “just a ticket.” Mr. Jacques continued to ignore the commands given by Officer Gardner. Officer Gardner did observe Mr. Jacques moving and partially push himself from under the vehicle. Officer Gardner was holding his taser and again told Mr. Jacques that he would use the taser. Officer Gardner fired his taser, but Mr. Jacques continued to be noncompliant and showed no signs of being hit by the taser. Officer Gardner dropped his taser and transitioned to his duty weapon. Officer Gardner then heard one gunshot fired by Mr. Jacques and believed Mr. Jacques was firing at him. Officer Gardner then fired two shots from his duty handgun, striking Mr. Jacques twice. Other CSPD officers and Colorado Springs Fire Department personnel arrived on scene and began rendering medical aid to Mr. Jacques. Mr. Jacques succumbed to his injuries at a local hospital.

Officer Gardner was equipped with the standard body worn camera system, but it did not record during this incident despite his attempts to activate it during his search for Mr. Jacques. All other CSPD Officers involved were also equipped with body worn cameras, and their equipment operated correctly. Recordings from those body worn camera systems were reviewed, along with surveillance footage obtained from Walmart, Finishline Motors, and Full Throttle.

The weapon that Mr. Jacques fired was found on scene, along with a spent shell casing that had been fired by that handgun. The handgun is a Taurus G2C, 9mm and had been reported lost to the El Paso County Sheriff’s Office (EPSO) on August 23, 2021. The black Chrysler Sebring convertible Mr. Jacques was operating at the date of this incident was reported stolen to the Aurora Police Department on September 25, 2021. That vehicle also had an attached license plate which had been reported lost to EPSO on October 2, 2021.

At the time of this incident Mr. Jacques likely knew that he had active warrants for his arrest, including for a felony. He was also on probation at the time of this incident.

Analysis and Conclusion:

Officer Gardner was justified in his use of deadly force during this incident. Mr. Jacques posed an immediate threat to Officer Gardner as he fired a handgun as Officer Gardner was attempting to take him into custody. Mr. Jacques died as the result of gunshot wounds caused by two bullets fired by Officer Gardner. This was a Homicide, but the use of deadly physical force by Officer Gardner was justified. Officer Gardner considered and used less lethal options and only turned to use of deadly physical force after Mr. Jacques shot at him creating an imminent deadly threat. The shot was in the direction of a busy street, creating a possible deadly risk to the greater community. In making this determination the facts of this case must be analyzed in light of CRS 18-1-704 and CRS18-1-707:

C.R.S. § 18-1-704 sets forth the standards for the use of force in defense of a person:

(1) ... 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.

(2) Deadly physical force may be used only if a person reasonably believes a lesser degree of force is inadequate and (a) 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 sets forth the standard for use of physical force in making an arrest or in preventing an escape:

(1) 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.

After completing a thorough review of the facts and evidence the 4th Judicial District Attorney's Office has determined the use of deadly physical force by Colorado Springs Police Department Officer Chase Gardner was justified under the law of the State of Colorado.

Note to Media: All updates will only come from Communications when available.

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