



**OFFICE OF THE DISTRICT ATTORNEY**  
Michael J. Allen, District Attorney  
Colorado's 4th Judicial District - Serving El Paso & Teller Counties

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## **September 1, 2021**

### **Officer-Involved Shooting Ruled Justified**

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The 4<sup>th</sup> Judicial District Attorney's Office has completed its review of the officer-involved shooting that occurred on September 1, 2021, in unincorporated El Paso County, 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 September 1, 2021, the El Paso County Sheriff's Office (EPSO) Communications Center received a call for service for a Suicidal Check the Welfare. The caller advised her son, Connor McDaniel, was suicidal and in the Monument/Colorado Springs area. As the call unfolded additional information was relayed that Mr. McDaniel was in possession of firearms, had sent individual goodbye emails to family members about committing suicide, and sent his location to family members via a cell phone app. This information was passed on to law enforcement.

Mr. McDaniel was located by EPSO deputies in the 17000 block of Gollihar Court, in Peyton, Colorado. Topographically, the homes on Gollihar Court are surrounded by sizeable hills that are steep and rocky in many places. Throughout law enforcement's contact with Mr. McDaniel, with the exception of the short timeframe leading up to the final shooting, Mr. McDaniel maintained high ground over deputies, as well as the surrounding homes and citizens. While deputies were in the area Mr. McDaniel would not allow them to get close to him and he frequently had a superior view of the surrounding area and any potential approach by law enforcement. Due to the topography and distance between Mr. McDaniel



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and law enforcement, communication was difficult and the ability for law enforcement to use less lethal options was significantly impacted.

Shortly after arriving to the scene, deputies heard a gunshot and they immediately observed Mr. McDaniel was on a hill above them and was armed with a handgun. As part of the initial law enforcement response, EPSO Crisis Negotiators were on scene. The Crisis Negotiators made verbal contact with Mr. McDaniel on and off for several hours. Deputies saw signs of alcohol use and during their negotiations Mr. McDaniel confirmed he had been drinking. During negotiations, Mr. McDaniel repeatedly said he wanted to kill himself, that he did not want to hurt anyone else but, if deputies approached, they would get shot.

During the lengthy negotiations, deputies and crisis negotiators attempted multiple ways to gain Mr. McDaniel's cooperation. Mr. McDaniel was provided a cell phone for direct communication with law enforcement, he was provided cigarettes and was also put in contact with family members and a civilian mental health professional. Deputies repeatedly requested that Mr. McDaniel drop his handgun, but these requests were ignored.

During the interaction with law enforcement, Mr. McDaniel was observed firing his handgun multiple times in seemingly random directions. Evidence collected during the investigation revealed that Mr. McDaniel fired at least 23 rounds during the entirety of this event. Because of this erratic behavior, deputies had safety concerns for nearby occupied homes, citizens, and themselves.

While negotiations were taking place, Deputy Ryan Gonzales was positioned on a roadway below Mr. McDaniel. Deputy Gonzales observed Mr. McDaniel aiming his firearm towards EPSO Deputies, including himself. Deputy Gonzales aired this information over his police radio. Shortly thereafter, Mr. McDaniel fired approximately three to four shots towards deputies and these shots were described by Deputy Gonzales as targeted, well aimed shots. Evidence collected during the investigation revealed that a bullet impact mark appeared in Mr. McDaniel's vehicle which was directly in line with Deputy Gonzales. Additionally, a bullet impact mark was observed on the bottom of the driver's door on Deputy Gonzales' unmarked patrol vehicle. Deputy Gonzales was standing behind this door at the time it was struck. Once being fired upon, Deputy Gonzales returned fire with his duty rifle. Again, three to four shots were fired at Deputy Gonzales by Mr. McDaniel.

Despite over three and half hours of negotiations with Mr. McDaniel in an attempt to resolve this situation peacefully, Mr. McDaniel's behavior was escalating in severity increasing the risk to citizens and law enforcement on scene. Despite the escalating behavior, including Mr. McDaniel having shot at deputies, they continued attempts to resolve this incident peacefully.

Eventually, Mr. McDaniel walked down the back side (north side) of the hill he was on. Prepositioned deputies were already on this side of the hill as there were additional residences in the area. These deputies included Deputy David Fisher and Deputy Andrew Peery amongst others. Deputies continued to engage Mr. McDaniel verbally in an effort to de-escalate the situation but these attempts were again unsuccessful.

While still on the north side of the hill, deputies could see Mr. McDaniel maintained possession of the handgun in his hand at various points during their contact with him. Deputies Peery and Fisher, who were in a position where they could observe Mr. McDaniel as well as other deputies in the area, saw Mr. McDaniel move the gun across his chest at the same time looking at the deputies, in such a manner they believed he was an immediate threat to law enforcement. As a result, Deputy Peery discharged his duty issued rifle two times and Deputy Fisher discharged his duty issued handgun one time. Mr. McDaniel was struck by multiple gunshots and fell to the ground. Deputies immediately approached Mr. McDaniel and addressed him verbally to no avail. Deputies deployed a 40mm less lethal impact round and no movement was observed. Deputies then approached Mr. McDaniel directly and conducted a medical assessment including checking for signs of a pulse but none was located.

Deputy Peery, Deputy Fisher, and multiple other deputies on scene were equipped with Body Worn Cameras (BWC.) These cameras were recording during the entirety of the interaction with Mr. McDaniel, including at the time of the shooting. The recordings were instrumental in providing an accurate assessment of this incident. Deputies made numerous attempts to de-escalate the situation over the hour's long negotiations with Mr. McDaniel. Law enforcement utilized specially trained personnel in crisis response, sworn and civilian, but these efforts proved unsuccessful in resolving the situation peacefully.

### **Analysis and Conclusion:**

After completing a thorough review of the facts and evidence, the 4<sup>th</sup> Judicial District Attorney's Office has determined the use of deadly physical force by El Paso County Sheriff Deputies Ryan Gonzales, Andrew Peery, and David Fisher was justified under the law of the State of Colorado.

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.

In addition to the analysis above, one final relevant subsection of CRS 18-1-707 was satisfied in concluding that the use of deadly force by Deputies 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.”

EPSO deputies were in uniform, and their BWC footage was made available and viewed during this investigation.

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

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