



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

November 15, 2021

Officer-Involved Shooting Ruled Justified

March 17, 2022

Release: #2022-003

Howard Black
Public Information Officer

719-520-6084
howardblack@elpasoco.com

The 4th Judicial District Attorney's Office has completed its review of the officer-involved shooting that occurred on November 15, 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. *As cases against this defendant remain open and pending, this will be an abbreviated review.*

On November 15, 2021, the Colorado Springs Police Department (CSPD) received information from a bail bondsman that a Mr. Brian Reynoso had nine felony warrants for his arrest, was possibly armed with a handgun and was in a possibly stolen vehicle which was located on Half Turn Road, in Colorado Springs. CSPD confirmed there were nine active warrants and more than one of the warrants related to felony offenses. Further information reported, Mr. Reynoso was in a black Range Rover parked in the 3800 block of Half Turn Road. A CSPD Officer was able to locate the vehicle parked as reported. The vehicle was unoccupied at that time. The license plates on the vehicle returned a "no record found," when run through law enforcement records.

CSPD Officer John Clay was sent to the location of the suspect vehicle and contacted an individual who was removing items from the suspect vehicle. The individual identified herself as Mr. Reynoso's girlfriend. The girlfriend reported she had an argument with Mr. Reynoso and that he left the area approximately 20 minutes ago. During the contact with the girlfriend, CSPD Officers were approached by a female who identified herself as the girlfriend's mother and reported that Mr. Reynoso was armed



4thjudicialda.com



@4thjudicialda

with a handgun, described as having an “extended magazine.” Officers provided the firearm information to dispatch via CSPD radio communications which was audible to other CSPD officers, including Officer Clay, who was now checking the area assisting with efforts to locate Mr. Reynoso. Officer Clay reported in his interview that he became aware of the additional information regarding Mr. Reynoso’s firearm via CSPD radio communications.

CSPD received additional information from a community member that Mr. Reynoso was walking southbound through the Featherstone Apartments in the 3800 block of Half Turn Road, toward Village Green Park, and that Mr. Reynoso was wearing a black shirt, black pants and had a backpack. Based on that information a CSPD officer was able to see the suspect walking southbound in the Village Green Park through a ditch. The officer confirmed and reported via CSPD radio communications that the suspect was wearing all black, had a backpack and that he had his hands in his pockets and was repeatedly looking back towards the direction from which he had walked. The officer then reported that the suspect had turned towards the park fence line and the neighboring Green Tree Village apartments. In response to that information Officer Clay positioned himself to the south, in the direction of the suspect’s travel, parking his patrol car at the Creative Play Center’s parking lot off North Carefree Circle. Officer Clay proceeded on foot to the north, into the Green Tree Village apartment complex towards the last reported location of the suspect.

After walking approximately 250 feet to the north, Officer Clay observed Mr. Reynoso walking into a small courtyard in the Green Tree Village apartment complex. Mr. Reynoso was dressed in all black and matched the suspect’s description by clothing, location, and direction of travel. Officer Clay drew his firearm, pointed it at Mr. Reynoso and gave immediate orders to Mr. Reynoso to show his hands. Mr. Reynoso did not comply with Officer Clay’s direct orders. Mr. Reynoso immediately began running heading west out of the courtyard and then in a northwest direction through the apartment complex. Officer Clay followed Mr. Reynoso on foot while repeatedly directing Mr. Reynoso to either “PUT YOUR HANDS UP!” and to “SHOW ME YOUR HANDS!” in a loud and commanding voice. These directives were repeated six different times. During the foot pursuit, Officer Clay reports that he was unable to see both of Mr. Reynoso’s hands at the same time and that Mr. Reynoso’s hands were not moving as a person’s hands would move if they were simply running. Officer Clay reported that based on his training and experience Mr. Reynoso’s movements indicated a probability that he was armed, consistent with the repeated reports that law enforcement had received.

As Mr. Reynoso runs in a northwest direction through the apartment complex he makes several turns, cutting through various parking areas, sidewalks, and common areas of the apartment complex. Mr. Reynoso is attempting to flee and evade Officer Clay. Officer Clay continues to pursue Mr. Reynoso, running behind Mr. Reynoso at a variable distance of approximately 30-50 feet. Fairly quickly Mr. Reynoso reaches the southwest corner of one of the apartment buildings and takes a 90-degree right hand turn to the north around the corner of the building, disappearing from Officer Clay’s sight. Within seconds Officer Clay arrives at the same building corner but slows down and takes a wider line around the building corner in order to avoid being ambushed by Mr. Reynoso on the other side of the building corner. After coming around the building corner, Officer Clay can again see Mr. Reynoso running away towards the north and in the immediate vicinity of and in the direction of a blue Camaro, with a man

standing next to the passenger side of the vehicle and in front of a garage door. At this time, Officer Clay sees a firearm in the hand of Mr. Reynoso. Officer Clay also sees multiple additional individuals standing to the left/west of Mr. Reynoso as Mr. Reynoso continues to run north directly towards the blue Camaro. Officer Clay sees Mr. Reynoso point his firearm directly at the man standing on the passenger side of the vehicle. The taillights of the Camaro are illuminated indicating that the vehicle is running. As Officer Clay continues to run after Mr. Reynoso, Mr. Reynoso runs directly towards the driver's door of the Camaro and proceeds to get into the driver's seat of the Camaro. As Mr. Reynoso is in the process of entering the Camaro, Officer Clay begins to fire rounds from his handgun. Shortly before Officer Clay begins firing his weapon, he verbalizes that Mr. Reynoso has a gun. While Officer Clay is shooting, Mr. Reynoso continues to get into the Camaro. The brake lights illuminate on the Camaro and the vehicle begins to move forward, slowly at first and then accelerating rapidly before slamming into a neighboring garage unit, two units to the north. At this time, Officer Clay's firearm locks in the open slide position, as a result of an empty magazine. Officer Clay reloads his firearm with a new magazine but does not fire any additional shots during the incident.

Officer Clay's firearm had a magazine capacity of seventeen rounds and Officer Clay reported that the firearm was loaded prior to the incident with eighteen rounds (seventeen in the magazine and one round in the chamber, per standard operating procedure). The body worn camera and all the physical evidence at the scene indicates that Officer Clay fired eighteen rounds.

Following the conclusion of the shooting, the man that had been standing next to the Camaro, tells Officer Clay that his wife is also in the Camaro, in the front passenger seat. Previously the front passenger seat of the Camaro had not been visible from Officer Clay's vantage point. In his interview, Officer Clay stated he saw the suspect enter the vehicle at the driver side and directed his gunfire at that location. Officer Clay further stated he did not know the vehicle was occupied by a passenger. The female in the passenger seat was not struck by any of the bullets fired by Officer Clay. The female did suffer a minor injury to her head as a result of Mr. Reynoso crashing the Camaro into the garage wall.

After the Camaro crashed into the garage wall it was disabled. Officer Clay opened the driver's side door of the Camaro and removed Mr. Reynoso from the vehicle at which time Mr. Reynoso was placed into handcuffs and the critical part of the incident came to a conclusion.

Immediate medical attention was provided by on-scene Officers for the female and Mr. Reynoso. Medical personnel arrived on scene and provided treatment, but the female declined transportation to the hospital. However, she sought further medical treatment at a later time. Mr. Reynoso was transported to a local hospital where it was determined that he suffered only a single minor injury to his upper left arm as a result of being stuck with a portion of the copper jacket from one of the rounds fired by Officer Clay. The copper fragment was removed from Mr. Reynoso's arm, his wound was treated, and Mr. Reynoso was released from the hospital into the custody of CSPD. The treating physician did not find that the injury constituted "serious bodily injury" under Colorado's legal definition.

The owner of the vehicle reported that he does not own a firearm and any firearms located in the vehicle would have been put in the vehicle by Mr. Reynoso. During the subsequent investigation detectives

from the El Paso County Sheriff's Office did locate a handgun inside the Camaro. The handgun was a Hi-Point .45 caliber semi-automatic handgun. The handgun had a live round in the chamber and was additionally loaded with a magazine containing seven live rounds, for a total of 8 rounds of ammunition.

Detectives interviewed two additional on scene witnesses that had been standing in the apartment complex parking lot in the immediate vicinity of the Camaro, just to the west. Both reported that at the time of the incident they were working on a vehicle in the parking lot near the Camaro. Both individuals reported they observed an unknown male (Mr. Reynoso) running through the parking lot holding a firearm, being chased by a police officer who was yelling at Mr. Reynoso. Both men reported Mr. Reynoso got into the Camaro at which time the police officer began firing his weapon.

Mr. Reynoso was taken into custody by law enforcement officers on the outstanding felony warrants. Mr. Reynoso was subsequently charged with Second Degree Kidnapping, F2; Aggravated Robbery, F3; Aggravated Motor Vehicle Theft, F4; two counts of Menacing, F5; Possession of a Weapon by a Previous Offender, F6 and Assault in the Third Degree, M1, in case 21CR6557.

Analysis and Conclusion:

Officer John Clay was justified in the level of force used as the suspect posed an immediate threat to Officer Clay and others in the immediate vicinity. 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 Officer Clay 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.”

All CSPD officers involved had their body worn cameras (BWC) activated, and their recordings of this incident were successfully downloaded in their entirety. All BWC recordings were made available and viewed during this investigation.

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 John Clay was justified under the law of the State of Colorado.

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

###