**November 20, 2022**

**Officer Involved Shooting Ruled Justified**

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Colorado’s 4th Judicial District Attorney’s Office has completed its review of the officer-involved shooting that occurred on November 20, 2022, in Fountain, 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 November 20, 2022, the victim called 911, El Paso County Sheriff’s Office (EPSO) Communications, from her neighbor’s residence in the 6000 block of Village Meadows Drive in Fountain, Colorado. She detailed an argument and an act of domestic violence against her resulting in her fleeing her own residence in the 6900 block of Meadows Drive. During this call, she described that her husband, Mr. Ross Floersheim, had access to firearms in the home. Fountain Police Department (FPD) Officers were dispatched to this location in response to this call for service. Officer Brett Ryder, FPD, was the first to arrive and immediately made contact with the victim in the neighbor’s garage. With his body worn camera (BWC) activated, he took information from the victim. She described to him that she had been in a verbal argument with Mr. Floersheim and when she tried to leave with her eight-year-old son, Mr. Floersheim physically inhibited her movement and threw her to the ground. Officer Ryder asked her about a fresh-looking abrasion on her neck and, not realizing it was visible, she described it was part of the injury she suffered from her husband shoving her to the floor. She described that Mr. Floersheim was intoxicated and her son was still inside the residence. As Officer Ryder was speaking with the victim, a second officer, Corporal John Haley, FPD, arrived on scene.

After receiving information of an act of domestic violence and needing to check the welfare of the child in the home, both officers, wearing BWC, broke contact with the victim and approached the home of Mr. Floersheim. As they approached, Corporal Haley described that he has had adverse contact with Mr. Floersheim in the past and he thought it would be a better idea for Officer Ryder to make initial contact. He stated to Officer Ryder, “You’re going to have to speak to this dude.” He continued, “This is the dude who I charged with DUI and then after the case, he called and threatened me.” In fact, Corporal Haley previously arrested Mr. Floersheim for an offense of DUI on November 21, 2020, and later Mr. Floersheim called the Fountain Police Department on March 14, 2022, and made veiled threats against law enforcement, specifically directed to Sergeant Stephen Williams, FPD, and Corporal Haley. From Call Screen Notes on that date, Mr. Floersheim indicated he wanted to speak to Williams or Haley and when told he could not, he wanted to “send them a message…tell them to be ready…just tell them be ready.” Mr. Floersheim then stated, “Russia, Ukraine…just be ready.” This call resulted in a departmental caution for officers and a directive to “send two officers for future calls for service.”

Accordingly, Officer Ryder approached the front door, with only his flashlight in his hand, opened the glass storm door and knocked on the solid wood door. Corporal Haley was positioned off the front stoop, and its affiliated wrap-around railing, on the driveway. Corporal Haley had a vantage point of the front door but was actually behind a front porch support beam. Several moments after Officer Ryder knocked on the door, he heard a gun “rack” on the other side. He told Corporal Haley, “I heard a gun,” right before the door opened. In response, Officer Ryder drew his sidearm, a Glock 17, 9mm pistol. As soon as the door opened, Mr. Floersheim emerged and was in possession of an AK-style semi-automatic rifle with a large magazine and he raised it toward Officer Ryder. In response, Officer Ryder directed Mr. Floersheim, at least 4 times, to “put the gun down,” at an elevated volume. Corporal Haley also yelled for Mr. Floersheim to put the gun down at least 4 times. Mr. Floersheim refused to comply with officer’s direct orders to drop his firearm and continued to point it at Officer Ryder. Officer Ryder fired a single shot into Mr. Floersheim’s torso after 8 commands given and 7 seconds had elapsed. Mr. Floersheim immediately dropped to the ground and within 2 seconds, began shooting rounds from his rifle out of the front door in the direction of the officers. Corporal Haley stated that he tried to fire his sidearm, but it malfunctioned and through the course of events, never fired a round. This is observed by BWC, and two ejected cartridges are found. Furthermore, Corporal Haley can be seen trying to clear a misfire. Both officers fled their respective locations to obtain a safer position. From BWC footage, at least twenty-three rounds can be heard coming from Mr. Floersheim’s firearm.

Once additional officers arrived, a tactical team known as the hostage rescue team (HRT) approached and found Mr. Floersheim laying on his living room floor, unable to move due to a spinal cord injury. They entered with the intention of locating the child and rendering aid to Mr. Floersheim. While conscious, Mr. Floersheim was gravely injured. Officers restrained Mr. Floersheim and medical personnel were brought into the residence. Despite the seriousness of his injury, Mr. Floersheim was still agitated and verbally abusive to officers as well as paramedics that rendered aid. Mr. Floersheim was transported to a local hospital where he succumbed to his injuries.

**Officer Brett Ryder’s Post-Shoot Interview:**

Aside from the facts outlined above, there were multiple relevant statements made by Officer Ryder during his post-shoot interview. Officer Ryder described his background as a patrol officer for the last 5 years. Officer Ryder Described the call to the Floersheim’s residence as follows:

Officer Ryder was at the Fountain Police Department when dispatched to a Domestic Violence call in progress on Village Meadows Drive. Officer Ryder was informed of a caution note affiliated with the address. Corporal Haley described the basis of this caution note to Officer Ryder on scene after speaking to the victim. The victim described the argument, trying to leave with her son, and the suspect pulling the child back inside before shoving the victim down a set of stairs in the garage, injuring her.

Officer Ryder described that the plan was to approach the suspect and see if he could speak to him about the victim’s claims and her injury. Officer Ryder described his uniform and that his hat, vest, badge, and patches all said Fountain Police Department along with “Police K-9” in bright white lettering on his uniform. He described being on the porch and hearing what he thought was a rifle “rack.” After the door opened, Officer Ryder described the gun being in the suspect’s right hand/shoulder and the suspect holding the glass door open with left arm.

Officer Ryder described seeing the rifle “pointed directly up at me.” He continued, “I was looking directly down the barrel and I could see the sights and everything.” Officer Ryder only recalled 2 commands given to drop the gun and can’t remember if it was himself or Corporal Haley. Officer Ryder recalled the suspect saying something to the effect of “If you don’t get the fuck back…” right before Officer Ryder fired his only shot at the suspect. He described his agency issued gun as a Glock 17, 9 mm, and the seventeen round magazines he has plus one in the chamber. Officer Ryder describes seeing the suspect fall and then believes the suspect fired ten to fifteen rounds. As the suspect was shooting at the officers, both he and Corporal Haley re-grouped in a safe position, but they knew that the child was still in the home.

Officer Ryder described fearing for his own life beginning when he heard the gun rack on the other side of the door and then seeing the gun and its barrel pointed at his face. Officer Ryder believed that firing his weapon was “the only option” he had. Officer Ryder believed that less lethal options were not available because “there was no time.” Once he heard the gun rack, he went for his firearm and the fear of a gun was immediately confirmed when he saw the rifle. Officer Ryder described it made no sense to put his lethal option away in favor of less lethal when a gun was trained upon him. Officer Ryder believed that the suspect’s intentions were to shoot himself or Corporal Haley.

After the shooting, the officers could not quickly render aid because the suspect began immediately firing from his gun upon them and they were unaware if he had additional guns or magazines available to him. They retreated, took cover and waited for additional units to respond.

During the shooting, Officer Ryder only fired one round because he fell to the left and he could no longer see Mr. Floersheim or any other people in the house, knowing that a child was in there. Officer Ryder stated, “I didn’t wanna just blindly start shooting rounds thought the side of the house and hit the 8-year-old.” Officer Ryder believed that he radioed both that shots were fired and for medical attention.

Officers had Probable Cause to arrest Mr. Floersheim for misdemeanor Domestic Violence Harassment, maybe Assault in the third degree, but when Mr. Floersheim came to the door and pointed a gun, it created Probable Cause for felony menacing.

**Post-shooting Investigation:**

The shooter, Mr. Floersheim, was found immobile inside the residence just inside the front door near an Arma Rifle LHV-47 rifle that fires 7.62 x 39 mm rounds. A live cartridge remained in the chamber and several live rounds of that caliber were located on the floor as well. Twenty-seven 7.62 mm shell casings, of varying brand/headstamp, were found scattered in the immediate vicinity to him. An additional magazine for the rifle was located nearby with twenty-nine cartridges within it.

A single 9 mm shell casing was found on the front porch bearing a head stamp of FC Luger. Officer Ryder’s Glock 17, 9 mm, was collected and the magazine contained sixteen rounds and 1 in the chamber. The headstamp for all rounds was FC Luger. Two additional magazines collected from Officer Ryder include seventeen rounds of 9 mm, head stamp of FC as well.

Two non-expended 9mm cartridge cases were found on the side of the house with headstamp FC Luger consistent with Corporal Haley’s location and his BWC showing him ejecting live rounds to figure out why his gun misfired.

Both medical records and the final autopsy report reveal that a single gunshot wound caused significant injury and ultimately, led to the pathologist’s conclusion that the death of Mr. Floersheim was caused by the projectile. Of note, Mr. Floersheim did reject a surgical intervention to repair injury (a hole) to his stomach. This could be deemed an intervening event to confuse the legal question (not the pathologist’s concern) of whether the injury was the proximate cause of his death. Nevertheless, for this inquiry, it is of no concern to the outcome of analysis below.

**Analysis and Conclusion:**

In making this determination the facts of this case must be analyzed considering CRS 18-1-704 and CRS 18-1-707:

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.

**The facts relevant to analysis under this standard of review include:**

Officer Brett Ryder is a sworn peace officer employed by and carrying out his official duties on behalf of the Fountain Police Department, a law enforcement agency. All officers involved in this incident were in official police uniforms and driving marked police patrol vehicles.

Any analysis begins with a consideration of the use of force guidelines in C.R.S. 18-1-707(1). It was not possible to apply non-violent means to a suspect that immediately presented a deadly threat to at least 1 officer upon his arrival at the door to check the welfare of a child in the home and investigate the claims of domestic violence that preceded the officer’s arrival. While initially approaching upon on probable cause of misdemeanor domestic violence offenses of harassment, assault in the 3rd degree, and possibly child abuse, the suspect’s pointing of the firearm at a peace officer created a new factual predicate in which to examine. This was, at a minimum, probable cause for the felony offenses of menacing and assault in the 1st degree against a peace officer. Further, the suspect pointing a rifle, combined with the officer hearing the suspect chamber a round through the door and the verbal threat “If you don’t get the fuck back…” led Officer Ryder to reasonably believe that he, and Corporal Haley, were in imminent threat of injury and/ or death. A reasonable officer must also conclude that if they proceed in effecting an arrest, nonviolent means would be ineffective against someone that has a rifle trained upon them.

While deadly physical force was employed by Officer Ryder, several things are clear: (1) the single round fired at the suspect’s torso was consistent with the minimization of injury to anybody else, (2) medical aid was rendered as quickly as the medical provider’s safety could be ensured by the team that entered and secured the continued threat the suspect posed, and (3) immediate family members were contacted as soon as the son was reunited with the suspect’s wife next door prior to suspect’s transport to the hospital.

Officer Ryder utilized a measured and restrained use of force in firing only one round from his firearm. As articulated by Officer Ryder himself, a lesser degree of force was inadequate because of the lethal threat posed by Mr. Floersheim immediately upon contact. Further, Officer Ryder described that the time taken to step-down his level of force to non-lethal would have exposed both officers to the suspect’s deadly force even further making that prospect untenable. Combining what he heard, with what he was seeing in that moment, not to mention Corporal Haley’s recent description of this suspect threatening law enforcement in the past, Officer Ryder’s assessment is a reasonable one. Further, consistent with C.R.S. 18-1-707(4), these officers gave at least 8 commands for Mr. Floersheim to “put the gun down,” and to their own peril, afforded him sufficient time to comply even though that time allotted likely placed them in risk of death or serious bodily injury.

Finally, Officer Ryder would be justified in his use of force because he is, after all, entitled to the use of force any other person could use, as provided by C.R.S. 18-1-704. Officer Ryder reasonably believed that unlawful physical force by Mr. Floersheim was used against him and he used the degree of force that he reasonably believed necessary for the protection of himself and a third person. Responding with gunfire was perfectly appropriate and legally justified for anybody with the facts Officer Ryder possessed and given all the attendant circumstances.

After completing a thorough review of the facts and evidence, Colorado’s 4th Judicial District Attorney’s Office has determined the use of deadly physical force by Fountain Police Department Officer Brett Ryder, was justified based on all the facts and circumstance of this case under the law of the State of Colorado.

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

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