



OFFICE OF THE DISTRICT ATTORNEY

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Colorado's 4th Judicial District - Serving El Paso & Teller Counties

December 13, 2024 Officer Involved Shooting

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Colorado's 4th Judicial District Attorney's Office has completed its review of the officer-involved shooting that occurred on December 13, 2024, 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 December 13, 2024, at approximately 11:05 p.m., officers with the Colorado Springs Police Department were dispatched to the 3800 block of Astrozon Boulevard in response to calls for service regarding an active shooter. Employees of a restaurant at that location said a man, later identified as Dean Ackerman, had approached the building, acted belligerently towards them, and pulled out a handgun when they would not let him inside. Video surveillance recorded Mr. Ackerman firing into the business, then getting back into his vehicle in a parking spot directly in front of said business. Restaurant employees reported they were in fear for their lives. Several officers responded to the scene, arriving at 11:07 p.m.

Earlier in the evening, the El Paso County Sheriff's Office received a request for a call for service from Jennifer Ackerman, Mr. Ackerman's wife, at a residence located in the 400 block of Eudora Street in El Paso County. She reported the two had been arguing, that Mr. Ackerman was armed, appeared to be intoxicated, and had made suicidal statements before getting into his vehicle and driving away.

The El Paso County Sheriff's Office searched for Mr. Ackerman but was unable to locate him. EPSO dispatch aired a BOLO (Be on the Lookout) related to concerns for Mr. Ackerman being



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armed, dangerous, and suicidal, and cautioned law enforcement officers to utilize “extreme caution” upon making any contact.

CSPD Sergeant Brady Mitts and Officer Michael Dauchy made initial contact with Mr. Ackerman, who was sitting inside his vehicle in a parking lot located in the 3800 block of Astrozon Boulevard. Within seconds, Officer Dauchy saw a handgun in Mr. Ackerman’s hand, and began issuing verbal orders that he put the gun down and show officers his hands. Sgt. Mitts contacted CSPD dispatch to inform them Mr. Ackerman was armed, had pointed a gun at his own head, and refused to comply with officers’ commands to drop the weapon and exit the vehicle.

CSPD dispatch provided officers with information regarding the EPSO-issued BOLO related to Mr. Ackerman. Officers were not given specific details regarding the incident that occurred before the BOLO was issued.

At approximately 11:15 p.m., additional officers arrived at the 3800 block of Astrozon Boulevard, including at least two K9 Officers and a negotiator. All responding officers were in full uniform and clearly identifiable as law enforcement officers.

Moments after officers made initial contact with Mr. Ackerman, he fired a round from his handgun into the roof of his vehicle. Officers did not return fire. They retreated to locations of cover and worked to reassess how to remove Mr. Ackerman from his vehicle.

Using his handgun, Mr. Ackerman alternated between pointing the weapon at various officer locations and then holding the gun to his own head. He fired approximately four rounds into the roof of his vehicle. Officers determined Mr. Ackerman had not aimed at them and did not return fire.

Because Mr. Ackerman would not exit his vehicle per law enforcement commands, officers positioned an armored vehicle behind his parking spot to prevent him from driving away. Additional officers positioned a marked CSPD SUV at the southern end of the parking lot to provide cover and gain another angle on Mr. Ackerman’s position.

At this point, approximately 10 officers were positioned in the immediate area of the suspect and about 15 additional officers were on scene for support and containment. The team discussed whether to deploy a K9 and less-lethal rounds. They also provided details on the backdrop from each officer’s location.

At approximately 11:53 p.m., Mr. Ackerman exited his vehicle with his handgun pointed towards his head. Mr. Ackerman then moved away from his vehicle and began pointing his weapon at the officers inside the armored vehicle positioned behind his truck. He walked away from his own vehicle and pointed his handgun towards officers positioned behind a marked CSPD SUV.

At this point, Officer Tyler Koets deployed a 40mm impact round, a type of ammunition designed to deliver a less-lethal impact, at Mr. Ackerman. At the same time, K9 Officer Tyler Dawson deployed OC (pepper ball) ball rounds, also less lethal, to deter Mr. Ackerman and get him to drop his handgun.

The less-lethal munitions struck Mr. Ackerman and caused him to fall to the ground, but he maintained control of his handgun. He again pointed his gun at his own head, but after approximately 10 seconds, he re-positioned, aimed his gun in the direction of CSPD officers who had taken cover behind a marked cruiser south of him, and fired a round.

Officers did not return fire, and Mr. Ackerman aimed his handgun at his head once again. Seconds later, he rose to a sitting position on the ground, twisted his body, and fired a round at officers located east of him.

Multiple CSPD officers quickly returned fire. Mr. Ackerman was struck numerous times and fell to his back. Officers stopped firing their weapons but continued to issue verbal commands for Mr. Ackerman to drop his handgun and to show his hands. Mr. Ackerman did not respond to those commands and did not move.

Officers then approached him to render medical assistance and to gain control over his gun. Despite the administration of medical aid, Dean Ackerman died at the scene.

The El Paso County Coroner's Office ruled Mr. Ackerman's manner of death a homicide and identified the cause as "multiple gunshot wounds." Mr. Ackerman's autopsy also revealed he had illegal narcotics in his system.

All CSPD officers involved had their body worn cameras activated, and their recordings of this incident were successfully downloaded in their entirety. All BWC recordings are incorporated into this report by reference as video evidence of the facts.

Post-Shoot Interviews

Aside from the facts outlined above, there were multiple relevant statements made by law enforcement officers during their post-shoot interview.

Sgt. Brady Mitts has been employed by the Colorado Springs Police Department for approximately 12 years. He was identified as a shooting officer in this incident. In an interview conducted by the El Paso County Sheriff's Office, he said he remembered, "hearing something that this individual had just been in pursuit with El Paso County as well, so as far as what we were going there for, we were there for an active shooter call."

Sgt. Mitts also stated, "Officer Martens was trying to do everything he could to try to get this individual to put the gun down and he would not do it." And that, "While we were out there, giving this individual commands, suddenly he fires off a round inside the truck, upwards. It caused glass to shatter inside the truck, so I think there might have been a sunroof or something of that nature because I saw the glass fall down on him."

Sgt. Mitts also reported, "There were times when I was holding a firearm on him where I was very concerned for the safety of the officers that were over there. If he swung that handgun towards us, or should he decide very quickly to fire a round, I had this belief that he did want to commit suicide by police officer."

Officer Cleverson Eleuterio has been employed by the Colorado Springs Police Department for approximately less than a year. Officer Eleuterio was not a shooting officer, but as a witness on scene, reported that Mr. Ackerman, "started shooting in the air. But at some point, he changed

the angle, and almost like was trying to shoot back because he was irritated about the non-lethal they were shooting at him. And when he actually shoots back, I'm not sure if he – what direction he shoots, but it was not in the air anymore.”

Officer Daniel Brom has been employed by the Colorado Springs Police Department for just over two years. He was identified as a shooting officer in this incident.

In an interview with the El Paso County Sheriff's Officer, he noted, “it was reported over the radio that he had shot into the restaurant here” and that “the individual was highly agitated. You could hear him screaming at one point. Again, he would shoot through the roof. You could see him rocking back and forth, holding the gun to his head and screaming and at some points he'd roll the window up.”

Speaking to Mr. Ackerman's state of mind during the incident, Officer Brom said, “I heard a statement that he wasn't going to walk away, he wasn't leaving alive or something into that matter.”

Further, Officer Brom reported, “He raised a hand up and went back and aimed that firearm towards the other officers. That – that was my key, ‘Hey, this guy's not giving up. He's gonna shoot at my other officers.’ And I had to make that decision, obviously, as well as everybody else to end that threat. I wasn't going to let anything happen to my people.”

Officer Brom stated concern for the safety of law enforcement officers on scene and that of civilians nearby, saying, “If he hadn't already, he was going to shoot at the other officers. He could have killed somebody. He could've killed the bystanders that were across the street, recording, ‘cause we could hear them in the background.”

Officer Javin Samiliano, identified as a shooting officer in this incident, has been employed by the Colorado Springs Police Department for approximately two and a half years.

In his interview with the El Paso County Sheriff's Office he said, “We negotiated with him for 60 minutes. I think he had every opportunity to drop the weapon. I remember hearing the negotiator asking him to drop the weapon so we could talk to him, making everyone feel unsafe. We deployed, we had a K9 asset on scene also, and we also had somebody with the 40mm gun.”

Further, Officer Samiliano reported, “At that point we had no other option. He was a threat to me, officers, and the community.”

Officer Joseph Martens has been employed by the Colorado Springs Police Department for approximately 3 years. Officer Martens was not a shooting officer, but served as a trained negotiator, and said, “I took over verbal commands for almost the entirety of the incident.”

In his interview with the El Paso County Sheriff's Office, Officer Martens said, “While in contact with him he fired several shots and, forgive me, I don't know how many he fired. I know the first one he shot through the roof of his truck, and then another one I recall is him firing out the driver's side window, like westbound almost towards where officers were.”

Additionally, Officer Martens reported that, “On several occasions I told him, ‘We didn't want to do this, we don't want to hurt you. We want to resolve this peacefully, and what I need you to do is put the gun down.’ There was one time I said, you know, cause I never really understood why

he was there. He never told me what – well – what was going on and what brought him to the parking lot. And I asked again, you know, ‘What are you doing here?’ And that’s when, I believe, he fired the shot westbound almost towards the officers.”

Further, Officer Martens told EPSO, “The gun was in his hand almost the entire time. He would switch hands. He would hold it different ways in his – at his head. At one point, he reached out of the vehicle like this, you know, head out the window with his – barrel of the gun, ‘Just shoot me, shoot me.’”

Officer Nicholas Cassalia has been employed by the Colorado Springs Police Department for approximately three years. He was identified as a shooting officer in this incident.

In his post-shoot interview with the El Paso County Sheriff’s Office he said, “So, I think it was the third time he had gotten out of the vehicle. We had officers deploy a 40mm impact round which hit him, I think it hit him in the chest, making him fall to the ground. That officer sent a few more 44mm impact rounds at the suspect which were having a good effect. They were hitting him and everything, but when he – after he fell to the ground and was rolling around a little bit – and he had turned towards the officers that were on the west side of the parking lot, pointed his handgun at them, and fired a round. That’s when myself and several other officers discharged our weapons.”

Further, Officer Cassalia stated, “So, like, one of the things that he did was – when he, I think it was the first time he got out of the car, he turned around and he pointed at us, and he started counting. Me, Steve Lawson, and Dan Brom. Started counting us. I heard him counting the other officers that were hanging out over in this area. Kind of took that as an aggressive action. It seems like he was trying to come up with some sort of like battle plan to, you know, engage with us. He’s trying to figure out how many cops were there and what their locations were and everything like that.”

Analysis

CRS 18-1-704, Use of physical force in defense of a person, defines each person’s right to defend themselves against the use, or the imminent use, of unlawful physical force by another person.

This statute 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.

The facts relevant to analysis under this standard of review include that all law enforcement officers on scene during this incident knew Mr. Ackerman was involved in discharging a weapon towards an occupied restaurant, that he’d made repeated threats towards officers on scene, and that he had fired his weapon towards them.

Further, officers did not immediately fire at Mr. Ackerman when he discharged his weapon into the air, nor when he made statements to the negotiator that would be consistent with someone attempting to end their life through a forced shooting circumstance. Instead, officers discussed, then utilized lesser degrees of force, such as OC ammunition, 40mm impact rounds, and nearly an hour of dialogue with the trained negotiator, without success, prior to their use of deadly force.

Officers only used deadly force once Mr. Ackerman fired his weapon directly towards the location of officers, thereby placing those officers in imminent danger of being killed or receiving serious bodily injury.

CRS 18-1-707, Use of force by peace officers, outlines a peace officer's duty to use only a degree of force consistent with the minimization of injury to others.

This statute states, in relevant part,

(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. 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; [and] The suspect poses an immediate threat to the peace officer or another person; [and]

(b) 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 that the law enforcement officers' contact with Mr. Ackerman were based on his actions at the restaurant, many of which would be considered felony offenses involving the use of a deadly weapon or the potential infliction of serious bodily injury or death; and involving the use or threatened use of deadly physical force.

Additionally, Mr. Ackerman's conduct on scene made officers concerned that he was preparing to engage in violence towards himself or others. He also fired his weapon into the air and generally in the direction of officers and other nearby businesses; pointed his weapon directly towards officers' locations and made comments to the negotiator that indicated he was willing to use deadly physical force, harm officers or others on scene, and was suicidal.

Each officer considered the backdrop behind Mr. Ackerman's vehicle and, together, tried to place their shots in a manner which did not immediately create a substantial risk of injury to other persons. Officers identified the side of the building immediately to the east of Mr. Ackerman's position was made of brick; additionally, officers took steps to ensure that no one else was present inside of the building while the stand-off with Mr. Ackerman developed. Finally, the distance between officers and Mr. Ackerman was short enough to provide a reasonable degree of accuracy for each shot, thereby minimizing any potential risk of stray

rounds going towards the brick wall or other buildings to the east of the restaurant.

CRS 18-1-707 (4.5) dictates that, when using deadly force, a peace officer must believe a threat to his/her personal safety, or the safety of a third party would be otherwise unavoidable.

This subsection states:

(4.5) 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.

Officers discussed, then deployed, less-lethal degrees of force to include verbal commands, extensive dialogue with a trained negotiator, and OC ammunition and 40mm impact rounds.

Those tactics were unsuccessful, and Mr. Ackerman fired his weapon in the direction of several responding officers, which created an imminent threat of being killed or receiving serious bodily injury. Only at that point did officers deploy deadly force. Each of the officers involved in the response to this incident performed their duties with the utmost professionalism.

Conclusion

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 Colorado Springs Police Sergeant Brady Mitts, Officers Daniel Brom, Javin Samiliano, Evan Dashiell, Michael Dauchy, Nicholas Cassalia, Steven Lawson and Oswaldo Cisneros on December 13, 2024, was justified, based on all the facts and circumstances of this case under the laws of the State of Colorado. No charges will be filed based on the statutes outlined previously, as well as the necessary application of ethical rules.

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