



# OFFICE OF THE DISTRICT ATTORNEY

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

## September 3, 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 September 3, 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 September 3, 2024, at 9:09 a.m., the Colorado Springs Police Department was alerted to the theft of a company vehicle at a business located in the 2300 block of Powers Boulevard in Colorado Springs. Further, two additional vehicles at that location had been broken into and sustained damaged. A CSPD officer entered the description of the stolen vehicle, a white 1997 Chevrolet Silverado 2500, into law enforcement databases.

At approximately 10:23 p.m. on the night of September 3, CSPD officers were notified that the stolen Chevrolet Silverado had been seen near Pine Tree Square and Chelton Road in Colorado Springs.

CSPD Officers Nicholas Cassalia and Katlyn Delgado were on patrol in the area of the sighting and agreed to check the parking lot of a Walmart store located in the 3200 block of E Platte Avenue. The officers located the stolen truck in the parking lot, confirmed no one was inside, and notified dispatch.



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Two CSPD officers working an extra-duty shift inside Walmart heard the radio call and, using an in-store camera system, located the two people associated with the stolen truck: a man – later identified as Tyler Jacob Ben - and a woman who will not be identified in this report.

Officers Cassalia and Delgado coordinated with the officers working inside the store and decided to contact the pair as they exited Walmart. As Mr. Ben and his female companion entered the breezeway on their way to the parking lot, Officer Cassalia called out, “Police department, get your hands up right now, both of you!”

Officer Delgado approached the woman accompanying Mr. Ben and ordered her to stop, turn around, and face the wall. The woman complied with Officer Delgado’s orders.

Officer Cassalia approached Mr. Ben, who did not comply with police orders to stop. Mr. Ben began walking backwards as Officer Cassalia continued to issue orders such as, “Get your hands up right now! Get your hands up right now!”

This contact occurred inside the breezeway, which is a small, enclosed area that separates the inside of Walmart from the parking lot.

In response to law enforcement commands, Mr. Ben yelled, “Make me!” At the same time, he reached his left hand to his waistband and pulled out a handgun.

Officer Cassalia pushed Mr. Ben back with his left hand, then fired his duty weapon multiple times, striking Mr. Ben, who fell to the floor on his back. While down, Mr. Ben continued to move with his gun still gripped in his left hand. Officer Cassalia fired multiple additional rounds at him.

Officer Cassalia notified dispatch of shots fired and ordered Mr. Ben, “Do not move!” Officer Cassalia then provided cover for extra-duty officer Nate Johnson who approached Mr. Ben and disarmed him.

Several Colorado Springs Police Officers began to provide medical assistance to Mr. Ben until emergency medical personnel arrived at 10:47 p.m. Despite collaborative rescue efforts, Mr. Ben died at the scene.

Mr. Ben’s weapon was recovered at the scene and discovered to be a Beretta Px4 Storm handgun with a defaced serial number. The gun had one round chambered and an additional twelve rounds in the magazine.



Following an autopsy, the El Paso County Coroner found Mr. Ben died as the result of multiple gunshot wounds. A toxicology report confirmed that Mr. Ben had 210 ng/ml of amphetamine and 971 ng/ml of methamphetamine in his system at the time of his death.

No charges were issued against the woman traveling in Mr. Ben's company.

Officers Cassalia, Delgado, and the extra-duty officers on scene were equipped with body worn cameras that functioned correctly and recorded events.

### **Post-Shoot Interviews**

Aside from the facts outlined above, there were multiple relevant statements made by law enforcement officers and witnesses.

Officer Nicholas Cassalia has been employed by the Colorado Springs Police Department for approximately three years.

In an interview conducted by the El Paso County Sheriff's Office following the shooting, Officer Cassalia said, "I kept, uh, going towards [the suspect], telling them to put his hands up multiple times. At one point he ended up grabbing, I saw him draw a handgun out of his waistband. I think I might have pushed him."

After firing at Mr. Ben, Officer Cassalia said, "...When he fell to the ground, he was lying on his back with the handgun still gripped in his hand and the gun was on his chest. I wasn't sure if he was still a threat at that time. I perceived him to still be a threat at that time."

Officer Cassalia further stated, "I thought that [Mr. Ben] was gonna kill me and my partner and possibly other people in the Walmart."

Officer Cassalia's statements were corroborated by video from his and other officers' body worn cameras, as well as from surveillance video captured inside Walmart.

Colorado Springs Police Officer Gerard Boowmans was working on extra-duty assignment at Walmart and was interviewed by the El Paso County Sheriff's Office following the shooting.

During his interview, Officer Boowmans said he witnessed a physical altercation and saw the suspect grab at his waist. Further, Officer Boowmans noted he heard one loud shot, then several additional shots. Finally, Officer Boowmans said he heard someone yell, "Stop reaching!"

Colorado Springs Police Officer Katlyn Delgado, who responded with Officer Cassalia on the initial call for service regarding the stolen vehicle, was also interviewed by the El Paso County Sheriff's Office. Officer Delgado remained outside of the store with Mr. Ben's female companion but reported she "heard a pop" and could see Mr. Ben, with his hands together up above his waist, fall backward.

The El Paso County Sheriff's Office also conducted a voluntary interview with a Walmart employee who witnessed the incident.

The employee stated she heard “one pop,” then five more in quick succession immediately after. She said the suspect collapsed after the first shot was fired.

### **Analysis**

In evaluating the actions of Officer Nicholas Cassalia, the facts of this case must be analyzed in light of CRS 18-1-704 and CRS 18-1-707.

**CRS 18-1-704, Use of physical force in defense of a person**, speaks to 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.

Officer Cassalia’s initial contact with Mr. Ben occurred in the confines of an enclosed breezeway with no options for cover. While in that small space, Mr. Ben pulled out a handgun and pointed it at Officer Cassalia from a short distance.

Officer Cassalia pushed Mr. Ben away – a tactical maneuver used to create space between the two, as he continued to issue orders for Mr. Ben to stop and put his hands up. Mr. Ben ignored all orders and continued to back-up into the store with a gun in hand.

The store was open at the time of this incident and several shoppers were inside.

Officer Cassalia considered less-lethal options but concluded there was insufficient time to deal with the immediate deadly threat posed by Mr. Ben. Officer Cassalia stated he felt his life, his partner’s life, and the lives of the shoppers inside the store were in danger.

**CRS 18-1-707, Use of force by peace officers**, speaks 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 Officer Cassalia was a sworn peace officer employed by and carrying out his official duties on behalf of the Colorado Springs Police Department, a law enforcement agency. Officers Cassalia and Delgado were in official police uniforms at the time of the incident.

Officers Cassalia and Delgado were aware that Mr. Ben and his female companion were suspected of Aggravated Motor Vehicle Theft, a felony charge.

Officer Cassalia gave multiple orders for Mr. Ben to stop and to put his hands up, which Mr. Ben ignored. Further, Mr. Ben pulled a handgun from his waistband and raised it towards Officer Cassalia in a confined vestibule and then moved into an open Walmart with shoppers and employees inside.

Officer Cassalia gave two additional orders for Mr. Ben to put his hands up, “Right Now!” At the same time, Mr. Ben yelled, “Make me!”

Officer Cassalia pushed Mr. Ben back, checked that the area behind Mr. Ben was clear, then fired his weapon.

**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:**

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.

Officer Cassalia contacted Mr. Ben because Mr. Ben had been identified as a suspect in a felony crime. At contact, Mr. Ben reached for his handgun and pointed it at Officer Cassalia in an enclosed area with no options for cover.

Mr. Ben did not comply with any officer commands, displayed a weapon, and attempted to go back inside an open store with multiple civilians inside.

Officer Cassalia stated he felt his life, his partner’s life, and the lives of the shoppers present inside the store were in imminent danger.

**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

Officer Nicholas Cassalia on September 3, 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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