

MICHAEL J. ROURKE
District Attorney



ROBERT W. MILLER
Assistant District Attorney

Office of the District Attorney
Nineteenth Judicial District

915 10TH Street
P.O. Box 1167
Greeley, CO 80632
Phone: (970) 356-4010
Fax: (970) 352-8023
www.weldda.com

June 18, 2021

Chief Mark Jones
Greeley Police Department
2875 W. 10th Street
Greeley, CO 80634

RE: Investigation of the April 3, 2021 Officer-Involved Shooting of Devin Goneau

Chief Jones:

The investigation into the shooting of Devin Goneau has been completed by the Critical Response Incident Team (CIRT). Applying the facts from the investigation to applicable Colorado law, criminal charges will not be filed against the officer who discharged his weapon. Attached hereto are the findings of the Investigations Section of the District Attorney's office based on the entirety of the CIRT investigation. This report applies the facts from the investigation to the pertinent Colorado laws.

APPLICATION OF THE FACTS TO THE LAW

The District Attorney's office may ethically charge an individual with a crime only in cases where there is a reasonable likelihood of conviction. The law states that criminal liability is established in Colorado only if it is proven beyond a reasonable doubt that someone has committed all the elements of an offense defined by Colorado statute.

Further, it must be proven beyond a reasonable doubt the offense was committed without any statutorily recognized justification or excuse. While knowingly or intentionally shooting another human being or shooting at another human being is generally prohibited as homicide or attempted homicide in Colorado, the Criminal Code specifies certain circumstances in which the use of physical force is justified, also known as an affirmative defense. Because the evidence establishes that Goneau was shot by one of the responding officers, the determination of whether the officer's conduct was criminal is a question of legal justification.

Colorado Revised Statutes § 18-1-707, as amended by the Colorado General Assembly in 2020 by SB 20-217, establishes when a peace officer can use potentially deadly force to defend himself or others. The pertinent subsections of the statute read as follows:

C.R.S. § 18-1-707(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

C.R.S. § 18-1-707(4) A peace officer shall identify himself or herself as a peace officer and give a clear verbal warning of his or her intent to use firearms...unless to do so would unduly place peace officers at risk of injury or would create a risk of death or injury to other persons.

C.R.S. § 18-1-707(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.

C.R.S. § 18-1-901(3)(d) “Deadly Physical Force” means force, the intended, natural, and probable consequences of which is to produce death, and which does, in fact, produce death.

Colorado case law unequivocally states that when determining whether it was necessary for an individual to act in self-defense or in the defense of someone else, that person is entitled to rely on “apparent necessity.” This can be relied on so long as the conditions and circumstances are such that a person would reasonably believe the defensive action was necessary. *See People v. LaVoie*, 395 P.2d 1001 (1964); *Riley v. People*, 266 P.3d 1089 (Colo. 2011). Thus, it is irrelevant in this analysis whether Cotter intended to use deadly force. The issue is whether it was reasonable for the officers to believe that he was about to use deadly physical force against the officers or another person with a deadly weapon.

In this case, two officers, Cantin and Simental, were attempting to contact Goneau’s residence because the burglar alarm had been activated. Goneau triggered the alarm because he believed someone was in his house. As the officers approached, a gunshot was heard inside the residence. Shortly thereafter, Goneau exited his house armed with a pistol. Officers commanded him to put down the pistol. When Goneau pointed the firearm in the direction of the officers, Officer Simental fired, striking Goneau’ foot.

Officers were giving commands, but never announced they were officers based on body camera footage. At the hospital, Goneau said he knew that the individuals were officers and was remorseful, but later recanted the statement that he knew they were police.

In this case, Officer Simental believed when he fired his weapon that he and Officer Cantin were in danger of death or serious bodily injury or death. They had heard a gunshot in

the house earlier, Goneau exited his house armed and did not immediately comply with commands that were made.

Based on the facts gathered during this investigation as summarized in the attached report and the legal analysis outlined above, I find that that any possible charge against Officer Simental could not be proven beyond a reasonable doubt. Based on the circumstances of the call and the officers' observations, Officer Simental believed that it was necessary to protect himself and others from Goneau's use of potentially deadly physical force.

CONCLUSION

When considered against the elements of C.R.S. § 18-1-707, the evidence against Officer Simental is not sufficient for charges to be ethically filed. As a result, the Weld County District Attorney's Office will not file charges against the officer for the use of force in this event. If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael J. Rourke", is written over the printed name.

Michael J. Rourke
District Attorney



**Officer Involved Shooting
April 3, 2021
Subject: Devin Goneau**

21G024698 (GPD-Alarm)
21W012815 (WCSO)
21WP05773 (Windsor)
21EL01719 (Eaton)
21EP05259 (Evans)
21DA00033 (DA)

Investigator Jennifer Fick

Summary

On April 3, 2021 at 0322 hours, the Weld County Communication Center received a burglar alarm at 2108 50th Avenue in Greeley, Weld County, Colorado. Dispatch notes indicated the homeowner activated the alarm through the Ring Alarm Monitoring application, but the alarm company was unable to reach either keyholder from the account. The alarm was dispatched to available Greeley Police Officers on patrol and two Officers, Officer Cantin and Officer Simental, immediately responded to the address.

At 0326, Officer Cantin arrived on scene and about a minute and a half later Officer Simental arrived. Officer Cantin parked his marked patrol vehicle on the south side of the residence, near 21st Street Road and 50th Avenue. Officer Simental parked his marked patrol vehicle on the north side of the residence, near 21st Street and 50th Avenue. Officer Cantin walked on the south side of the residence and he heard one single gunshot come from inside the residence. Officer Cantin radioed to dispatch that he heard a gunshot from inside the residence. Officer Simental also confirmed with Officer Cantin that he heard the single gunshot when he arrived on scene too. Both Officers had their body worn cameras activated during this incident.



(Google Map of 2108 50th Avenue. The blue markers indicate an approximate location where the marked patrol vehicles were parked).

Officer Cantin and Officer Simental met up behind a Prius vehicle that was parked, facing south, across the street at 2107 50th Avenue. Around 0330 hours, while the Officers were behind the Prius as cover, a female neighbor heard voices and looked out her window. She saw two people kneeling by her sisters-in-law's Prius. She asked what was going on, Officer Cantin identified himself as police and told her to go inside.

Around 0333 hours, Officer Simental told Officer Cantin that he could see someone opening the front door and the male had a gun in his hand. Moments later, Officer Simental said, "he's got a gun, step it up." Officer Simental activated his flashlight that was attached to his handgun and yelled, "let me see your hands; let me see your hands" and Officer Simental fired a volley of shots toward the male.

Officer Cantin and Officer Simental held their positions, gave commands until additional Officers arrived on scene to assist. The officers formed a contact team and placed the male in handcuffs. They asked the male if he had been hit and he complained his foot hurt. Officer Simental took off the male's shoe and saw blood on

his sock. The male was transported to the North Colorado Medical Center (NCMC) to receive treatment for a bullet that entered the heel of his foot. The male did not sustain serious bodily injury.

The 19th Judicial District Critical Incident Response Team (CIRT) was activated, and an immediate investigation ensued. Lieutenant Thomas Suter with the Eaton Police Department was designated as the lead investigator. The investigation identified the male who was shot, as 26-year-old Devin Goneau.



(Photos of Devin Goneau's left shoe that was removed on scene and the blood on the tag of his shoe).

Previous Calls for Service at 2108 50th Avenue Involving Devin Goneau

20G058486: On July 21, 2020, at 0204 hours, Devin Goneau called 911 to report a suspicious person. He told dispatch there were lights shining through the back windows of his house. He said it looked like a spotlight, possibly from the park, but it looked far away. Officers arrived and were flagged down by Mr. Goneau outside his house. Officers were unable to locate the light described by Mr. Goneau.

20G071051: On August 31, 2020, at 0108 hours, Devin Goneau called 911 to report a suspicious person. He reported there were a, "bunch of people outside of the house, can see them on cameras, hear voices." When asked how many he said, "at least two." He stated he saw a person on one of his front cameras and heard people out back.

Mr. Goneau mentioned that this has been an ongoing issue, and people were walking through his yard to get to the park. He claimed people would go down the side of his house whenever he went out front to look. He said he has been seeing people around his house and they were following him. He said he lives immediately west of Monfort Park. Mr. Goneau said the people never come up to his house, but they trigger the motion lights. He said he has also been followed by various cars. He said his cameras has caught people walking by his house, but he can't see any faces. Mr. Goneau thinks people are "messaging" with him.

The Officer canvassed the area, no one was located, and Mr. Goneau was notified.

20G071061: On August 31, 2020, at 0207 hours, Devin Goneau called 911 to follow up on the suspicious person from his previous call (20G071051). He said the people are still outside his house. The officer reviewed the video with Mr. Goneau and did not see anyone. The motion light was activated, but no people were in view. Mr. Goneau was advised to take photos of the people when he sees them.

21G005328: On January 20, 2021, at 1907 hours, Devin Goneau called to report that two of his neighbors' dogs were loose and when he tried to shut the gate, they tried to bite him. The dog owner was given a warning.

21G007588: On January 28, 2021, at 2352 hours, Devin Goneau called 911 regarding a suspicious person. He told the dispatcher that he "thinks someone is in the house or trying to get in at the back window." Dispatched noted that Mr. Goneau could not get to a safe place, but the doors and windows are locked. He told the dispatcher to send officers to his house and the phone disconnected. The original call came in as a hang-up and when the dispatcher called back, it rang once and went to voicemail. This is a previous call to which Officer Simental responded. He discussed this prior contact with Mr. Goneau during this investigation.

21G024698: On April 3, 2021, at 0320 hours, dispatch received a burglar alarm, which resulted in this Critical Incident Response Team (CIRT) call out.

21G024825: On April 3, 2021, at 1906 hours, dispatch received a burglar alarm activation from the front door. The alarm company reached Angela McCartney who advised everything was ok, but she didn't have a passcode. At 1910 hours, the alarm company called back and requested to cancel, because the "keyholder set it off."

Officers Statements – SUMMARY



Officer Cantin – Greeley Police Department

Officer Cantin was dispatched to 2108 50th Avenue on an alarm and the alarm company was unable to contact the keyholder. When Officer Cantin approached 20th Street and 50th Avenue, he turned off his headlights, blacked out. He drove past the address and made a U-turn back north. Officer Cantin parked his marked patrol vehicle on the east side of the roadway, south of the residence and got out of his vehicle. When Officer Simental arrived, he parked north of the residence, on the west side of the street.

Officer Cantin walked on the south side of the residence and was ten (10) yards away, when he heard a single gunshot come from inside the house. The lights in the house were on and the curtains were drawn. Officer Cantin found cover across the street, south west of the alarm residence, behind a parked vehicle. Officer Cantin confirmed with Officer Simental that he also heard the gunshot. Officer Cantin described the west side of the street where Officer Simental and he were positioned it was dark, but the east side was well lit.

There was a female neighbor in her home, behind where the Officers were positioned. When she asked what was going on, Officer Cantin told her to go back inside her house and identified himself as a police officer.

Both officers were positioned behind the parked car. After a couple of minutes, Officer Simental saw the front door open. A white male came out the front door and he appeared to have a black handgun in his hand. The male brought the gun up in the direction of the officers, but Officer Cantin didn't believe the male saw them. Officer Cantin heard gunshots and positioned himself further behind the parked car. At that time, he was unable to determine who fired a weapon. When Officer Cantin was able to safely look over the car, the shooting had stopped.

Officer Cantin saw the male in the driveway, sitting down with his hands up in the air but couldn't hear what the male was saying. Officer Cantin did not know if the male was shot because there was no visible blood. Officer Cantin confirmed he did not fire his weapon.

Officer Simental – Greeley Police Department

On April 3, 2021, Officer Simental was interviewed at the Greeley Police Department. Officer Simental spoke about his prior knowledge of the residence and Devin Goneau. Officer Simental stated about three (3) months ago, Mr. Goneau called 911 to report someone was breaking into his house. Officer Simental responded to the house and checked the perimeter, but there were no footprints in the fresh snow. Officer Simental explained to Mr. Goneau that nothing was found. He disagreed with Officer Simental and was convinced someone was trying to break into his house. During this contact, Officer Simental told Officer Cantin that Mr. Goneau was a "recovering meth addict," he was "very, very paranoid" and had mental health issues. Due to Officer Simental's previous interaction with Mr. Goneau, his level of awareness was raised when he received the burglar alarm on April 3, 2021.

On April 3, 2021, around 0322 hours, Officer Simental was dispatched to 2108 50th Avenue in Greeley, Colorado for a burglar alarm. Officer Simental said in his experience with responding to prior burglar alarms, "99% of the time" the alarms are "front motion or garage door." This alarm was different because it was activated by the owner of the property and Officer Simental had never seen that before.

Officer Simental estimated it took him about eight (8) minutes to arrive on scene. Officer Simental parked his marked patrol vehicle on the north side of the residence. Officer Simental exited his vehicle and heard a single gunshot come from the residence where he responded to the alarm. Officer Simental told Officer Cantin over the radio that he was coming towards him. At this time, Officer Simental did not know if "the shot had come from the house" or if Officer Cantin had fired his weapon.

Officer Simental made his approach on foot, towards Officer Cantin. As Officer Simental made his approach closer to the residence, each house he passed activated a motion light. Officer Simental thought this call could be an ambush situation and the person could be waiting for police to arrive. Officer Simental was concerned because he was being spotlighted by other neighbor's houses as he approached Officer Cantin. Officer Simental described the house was in front of a park and on the north side was an abandoned house. Officer Simental noticed all the lights in the house were on, including the basement.

Officer Cantin asked Officer Simental if he heard the gunshot and Officer Simental confirmed he did. As they were having that conversation, Officer Simental saw more lights in the basement turn on making it even brighter.

Officer Simental clarified over the radio with Dispatch, that neither he nor Officer Cantin had fired the gunshot they heard when they arrived on scene. At that point, Officer Simental saw the front door to the residence open and he saw a male with a gun in his hand. Officer Simental told Officer Cantin multiple times, "he's got a gun."

Officer Simental stated he was positioned partially behind the parked vehicle across the street. Officer Simental was towards the front of the parked car, near the passenger side headlight and Officer Cantin was near the passenger front tire. The driver's side of the parked car was closest to where the alarm came from. Officer Simental said it was completely dark behind him and Officer Cantin.

Officer Simental stated, "when he (Devin Goneau) comes out and he has a gun, I'm staring down the barrel of the gun." Officer Simental said it was "quick." The only thing Officer Simental thought was "all this guy has to do is pull the trigger and I'm dead." Officer Simental said the "last thing I thought about was getting shot in my head" and not being there for his kids.

When the male party came out of the front door, Officer Simental said the male was looking in their direction. Officer Simental said with all the lights on at the house, he was certain the male had a gun in his hand. Officer Simental said the only light where he was positioned was the light attached to his handgun.

When Officer Simental saw the gun in the male's hand, he announced "Greeley Police, drop the gun." At that time, the male did not drop the gun and it was still pointed in the officers' direction. The male was walking, so Officer Simental fired his department issued handgun, with the light from his gun turned on. Officer Simental stated he fired shots from kneeling and standing positions. Officer Simental does not know how many times he shot, but knew it was more than once.

Officer Simental said when he saw the male drop the gun, he immediately stopped shooting. They had visual on Mr. Goneau the rest of the time. Officer Simental said the male dropped the gun near some mulch or garden area. The male was lying on the ground approximately five (5) feet from the gun he had dropped. Officer Simental said the male was "rambling" but he couldn't understand what he was saying as they waited for safely approach.

After he dropped the gun, he was near the driveway and trash can area of the house with his hands up above his head. Officer Simental continued to give commands to "keep your hands up." They gave responding officers direction to come from the south and asked for a shield to make the approach.

Another officer took over commands, and they planned to approach the male. The officers tried to get Mr. Goneau to crawl on his belly and come towards them. He told officers that he couldn't because that was the same location where he threw his gun.

They approached Mr. Goneau and Officer Simental grabbed one arm and another officer grabbed the other arm, placing his hands behind his back and putting on handcuffs. The officers asked Mr. Goneau if he was hit and he told them his foot hurt. Officers completed a quick "weapons sweep" and did not find any other weapons on Mr. Goneau. Officer Simental took off Mr. Goneau's shoe and he could see blood from his sock.



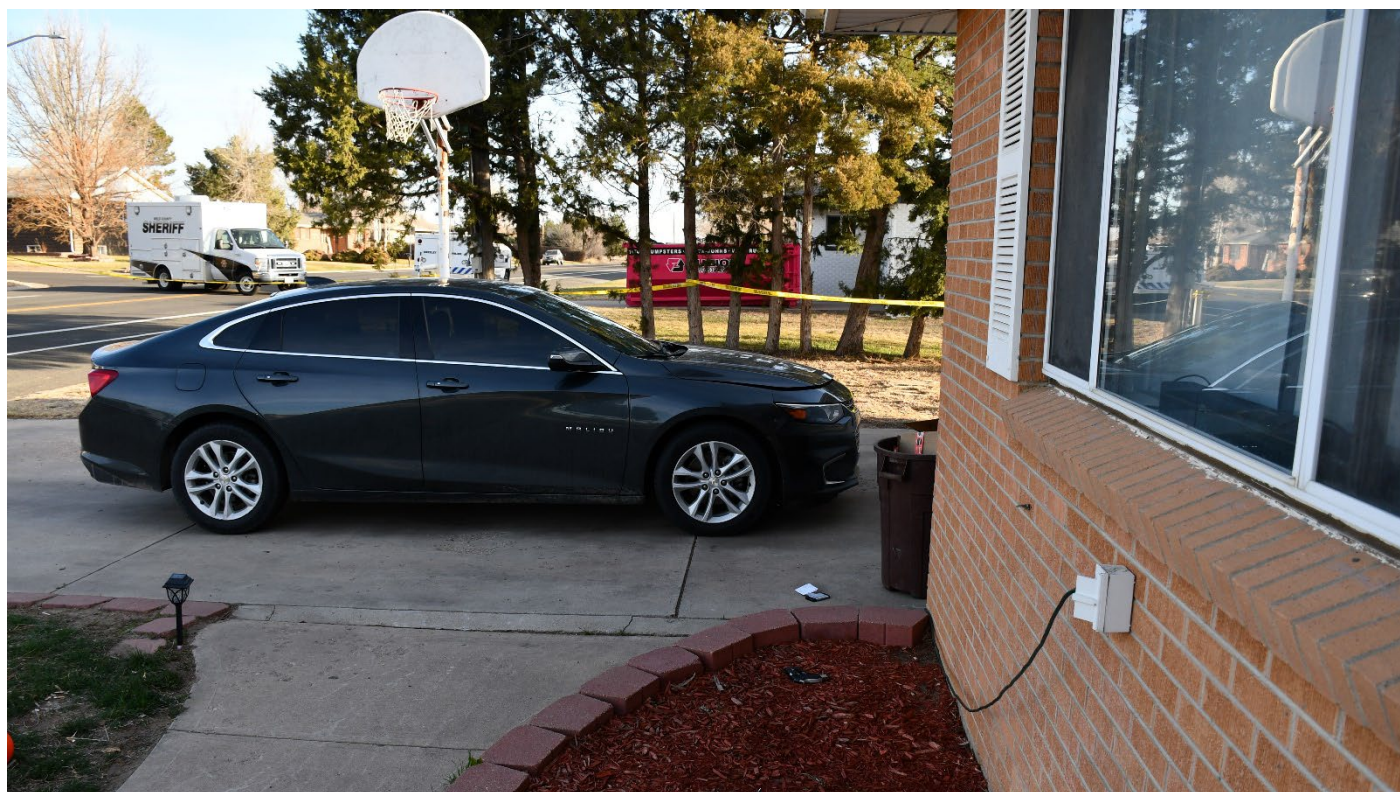
(Parked vehicle at 2107 50th Avenue where Officer Simental and Officer Cantin used as cover. Also, where Officer Simental fired shots).



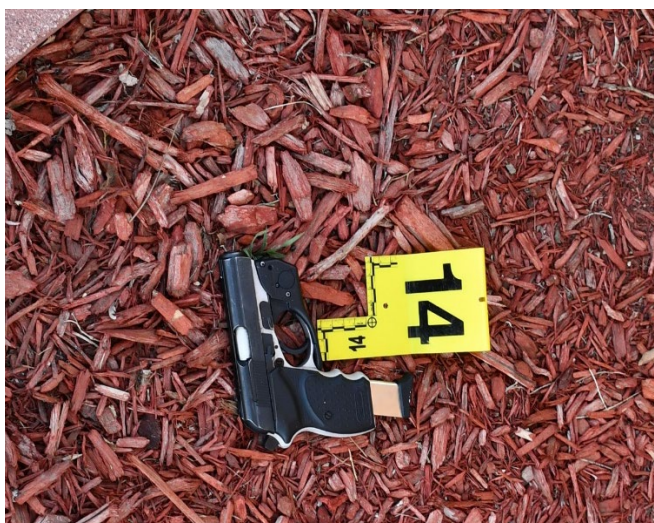
(Parked car where Officer Simental fired. The yellow markers indicate the seven (7) spent shell casings).



(Photo of the front of 2108 50th Avenue, where the trash can was located and the area where Devin Goneau was shot).



(Closer view of the area Devin Goneau was shot and where his gun was thrown).



(.380 Bursa handgun with extended magazine that Devin threw to the right of his front door. The safety on the gun was off and there was a bullet in the chamber and a laser attachment on the gun).

Witness Statements – Summary

Angela McCartney's statement (Devin Goneau's girlfriend)

On April 2, 2021, Friday morning, Angela McCartney went over to Mr. Goneau's house to pick up their two children and this was the last time she saw him. Mr. Goneau and Ms. McCartney did communicate via text messages on April 2, 2021 at 1655 hours until the last message on April 3, 2021 at 0217 hours and there was nothing remarkable.

On April 3, 2021, at 0323 hours, Ms. McCartney was notified from the alarm company that Mr. Goneau's residential alarm was activated. She called Mr. Goneau at 0324 hours and again at 0325 hours, but there was no answer. She confirmed that Mr. Goneau has used methamphetamines, cocaine and alcohol in the past.

Mario Borrego's statement (Devin's friend)

Mario Borrego and Mr. Goneau have been friends since high school and Mr. Goneau has struggled with drugs in the past. On April 2, 2021, around 2000 hours, they were hanging out at another friend's house and eating tacos. Mr. Goneau was in a good mood and was not on any drugs when Mr. Borrego left early April 3, 2021.

Kathryn Conner's statement (neighbor)

On April 3, 2021, around 0323 hours, Kathryn Conner heard voices outside her window and a sounding alarm. She got up to look out her window and saw two people in front of her sister-in-law's car. She asked what they were doing, and they said they were the police.

Around 330 hours, Ms. Conner saw her neighbor, Devin Goneau, come to his front door and jog towards the driveway. She saw Mr. Goneau with something in his hand and then she heard an officer say, "he's got a gun" and then she heard shooting. She ducked down during the shooting. After the shooting stopped, she heard the officers giving commands; "keep your hands up, if you drop your hands you will be shot." The Officers asked Mr. Goneau if he had been hit and he said, "I think so, in my foot."

Ms. Conner said there was a van parked in front of Mr. Goneau's residence and believed it was difficult for officers to see him. Mr. Goneau's dog kept barking and he tried to get the dog to be quiet. He asked the officers not to shoot his dog and the officers warned him the dog could be sprayed.

Ms. Conner said additional Officers arrived on scene, along with an ambulance.

Devin Goneau statement

Devin Goneau was interviewed in his hospital room. On April 2, 2021, in the evening, Mr. Goneau went to a taco stand located near 11th Avenue and 34th Street with his friend, Mario Borrego. While at the taco stand, Mr. Goneau took two (2) shots of Hennessy (Brandy). Then, Mr. Borrego and he went to a friend's house to drink but Mr. Goneau did not stay very long because there were people there that he didn't feel comfortable around and "I feared for myself."

Mr. Goneau returned to his home and admitted he consumed less than a gram of cocaine. He stated he used to be a drug addict and has been through rehab three (3) times. Mr. Goneau said it was "a big fucking mistake and it ruined everything," but what happened wasn't because of the alcohol and drugs.

Mr. Goneau stated he had a home alarm system and he thought someone was trying to break into his home. In the past when his alarm was set off, law enforcement had not shown up because he disarmed it. On April 3, 2021, in the early hours, he said his alarm system "went off" and he tried to use the keypad. Eventually, the alarm sound stopped, and he tried to set the alarm siren off again by using the application on his phone. Mr. Goneau stated in the right-hand corner, there was an option to activate the siren. Instead of activating the siren, he slid the activation over that notified the "Police," because he believed someone was outside or inside his house.

Mr. Goneau said he was sweating because he was so scared; he armed himself with a shotgun because he believed someone was trying to break into his house. He didn't even know if there was anyone inside his house or outside. He stated he "cleared" most of his house but didn't check all the closets or under beds. Mr. Goneau did not feel could do anything to keep himself safe and did not believe the police were coming to help him. He believed if the police were coming, they would have knocked down his door, used a loudspeaker, called his phone or done something to let him know they were there. He said, "I would have loved to have known you guys were there."

Mr. Goneau sat in his downstairs shower for about 30 minutes because it was tiled, and he felt that was the safest place to be if someone broke into his house. He was not sure if someone was in his house, so he shut the lights off downstairs. He laid in the shower, with his shotgun pointed at the door. He didn't want to light up where he was in case someone was inside his house. Mr. Goneau viewed one surveillance video from his phone and said, "this sounds so stupid now, after the fact to me. I seen a kid in a red shirt and my dumbass is wearing a red shirt. That's the only reason I'm like fuck." He said the kid in a red shirt was Mexican and had long hair and "he hopped over my patio. I swear to God I heard banging on my back window like someone was trying to get in."

Mr. Goneau went upstairs and armed himself with his .380 handgun and laid inside his upstairs bathtub. He admitted he fired one shot to scare away whoever might be inside his house. Mr. Goneau said the shot went through his bathroom wall and does not believe it went outside his brick home. He decided he needed to get out of his house in case someone was inside, so he went outside where is vehicle was parked.

Mr. Goneau said, "I would never, bro, never ever, shoot at the police number one. I would never put someone else's life at jeopardy like that. Besides, now that I think about it, I obviously shot into the wall."

That shot could have strayed or gone somewhere else. He said, "that was the stupidest shit. That is the dumbest shit I've ever done. I didn't even think about that."

Mr. Goneau said, "I get their point of view because they heard a gunshot and I went outside and had a firearm in my hand. Obviously, I don't blame them because if I had their job, I probably would have done the same thing." He said he has a daughter that he wants to come home too. Devin said he understands, but at the same time he knows he didn't do anything wrong. He said, "it should have never happened."

Mr. Goneau said, "I would never freaking go outside with a gun if I knew I was already safe." He said if he would have known the police were there, "I would have never went outside with a firearm in my hand; maybe my pocket." He said he wasn't sure if someone one was inside his house, but it didn't cross his mind that the police were there. He said his first instinct was "you wanna live and your vicinity is safe."

Mr. Goneau said he went out his front door and the only two places he was worried about was to his right and to his left. He stated he saw a car across the street that "looked sketchy to me." He said he was trying to unlock his car, so he could get out of his house. He said he doesn't know if he saw the light first or heard the officers first. The only thing Mr. Goneau could see was the blue car across the street and a light. He said, "one thousand percent, I did not know they (police) were there at all."

Mr. Goneau said as soon as he realized it was the police, he threw his gun away from his body, into the grass. He said he had already thrown the gun and was still being shot. He had his hands in the air saying, "please don't shoot me, please don't shoot me." He believed he had already thrown his gun before they started to shoot; "like a hundred percent."

Mr. Goneau said he would never take a person's mom or dad away from their kids. He said he knows at the end of the day; we need to go home to our families, and this is why he got shot. He said, "because my dumbass went outside with a firearm in my hand. You guys did what you had to do because you want to go home at the end of the day." He said he would have never shot and never put someone's life in jeopardy. He said when the facts come out, the Greeley Police Department might try to "cover their ass" because he might try to sue them.



(Crime scene marker #25 marking the location of the spent shell casing found in the bathroom, where Mr. Goneau fired his handgun).



(Close up of the spent shell casing found in the bathroom).



(Photo of bullet that entered Devin Goneau's heel of his left foot).



(Bullet removed from Devin Goneau's foot after surgery).

Conclusion

All officers' body camera footage was reviewed, along with both officer and witness statements regarding the incident, as well as the physical evidence collected at the scene. After reviewing body camera footage, neither Officer Cantin nor Officer Simental identify themselves as police or with the Greeley Police Department. Both Officer Cantin and Officer Simental stated the area where they were positioned was dark and there was no light on that side of the street; however, the house at 2108 50th Avenue was well lit, along with that side of the street.

Devin Goneau's handgun magazine did not appear to be loaded to full capacity. The extended magazine contained seven (7) bullets and one (1) bullet in the chamber, totaling eight bullets. The evidence at the scene supported Mr. Goneau's statements that he fired one (1) round while he was in his bathtub. There was a spent shell casing found inside the bathtub. That bullet struck the bathroom door frame, through a detached bedroom door, through a bedroom wall and was found lodged into the living room drywall. The bullet did not travel outside the home.

Officer Simental was the only officer who fired a weapon, firing a total of seven (7) rounds, from approximately 45 yards (135 feet) away from behind a parked vehicle. Evidence collected at the scene show that Officer Simental's seven (7) shots fired, struck the outside of the brick home, the parked car in the driveway and one bullet entered Devin's right heel of his foot.

Mr. Goneau was transported to the North Colorado Medical Center (NCMC) where he underwent surgery to remove the bullet. Dr. Robert Vickerman, a surgeon with NCMC, confirmed that Mr. Goneau did not sustain serious bodily injury. He was released from the hospital and is expected to make a full recovery. Mr. Goneau would not sign a medical release of information; therefore, further medical information could not be obtained.

Although Mr. Goneau was cooperative with law enforcement, he wanted to consult with an attorney before providing consent to view his home video surveillance. Devin obtained an attorney to represent him. The video surveillance was preserved by law enforcement. Devin did give consent for law enforcement to view his video surveillance, but the video was no longer available because it was only retained on the system for three (3) days; therefore, video surveillance could not be obtained or viewed.



(Crime Scene photo taken from inside bathroom where Mr. Goneau fired his gun. #1 marker shows the first defect found from the bullet on the door frame).



(Marker #2 and #3 is a detached child's bedroom door where the bullet traveled).



(Marker #4 is the defect in a child's bedroom east wall that is shared with the living room wall. Marker #5 is the defect from the other side of the bedroom wall, into the living room west wall where the bullet was lodged into the drywall).