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May 5, 2020

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

RE: Investigation of the February 26, 2020 Officer-Involved Shooting of Ramiro Carrasco

Chief Jones:

The investigation into the shooting of Ramiro Carrasco has been completed by the Critical Incident Response Team (CIRT). Applying the facts from the investigation to applicable Colorado law, criminal charges will not be filed against the Officer 1. 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.

I have determined that, under the circumstances presented in this investigation, I will not release the name of the officer involved in this incident. The Colorado Supreme Court in *Harris v. Denver Post Corporation*, 123 P.3d 1166 (Colo. 2005) and *Freedom Colorado Information v. El Paso County Sheriff's Department*, 196 P.3d 892 (Colo. 2008) addressed the issue of whether, and under what circumstances, the Criminal Justice Records Act (CJRA) requires disclosure of records of official actions by criminal justice agencies.

These cases are not directly on point as the release of the officers' names alone does not fall squarely within the CJRA, but they are informative in analyzing whether such disclosure is appropriate. The cases require a "balancing test" by the custodian of criminal justice records prior to the disclosure of criminal justice records. This balancing test considers "the privacy interests of individuals who may be impacted by a decision to allow inspection; the agency's interest in keeping confidential information confidential; the agency's interest in pursuing ongoing investigations without compromising them; the public purpose to be served in allowing inspection; and any other pertinent consideration relevant to the circumstances of the particular request." *Harris* at 1175; *Freedom Colorado Information* at 899.

Here, the balancing test shows that the privacy interests of the individuals who may be impacted by a decision to allow inspection outweigh the other four factors to be considered. The continued safety of the officer and the family of the officer is of paramount concern in this case since the individual involved in the incident with law enforcement has very strong and documented ties to known criminal gangs. Therefore, I will not release the name of the Officer, and he will be referred to in this report as Officer 1.

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 of 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 is generally prohibited as 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 Carrasco was shot and killed by Officer 1, the determination of whether the conduct was criminal is a question of legal justification.

C.R.S. § 18-1-707(2) establishes when a peace officer can use deadly force to defend himself or others. The statute reads, in pertinent part, as follows:

A peace officer is justified in using deadly physical force upon another person...only when he reasonably believes that it is necessary...**to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force...**

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 Carrasco intended to use deadly force. The issue is whether it was reasonable for the officer to believe that he was about to use deadly physical force against the officer or another person with a deadly weapon.

In this case, Officer 1 was attempting to contact Carrasco as the driver of a suspicious vehicle he observed commit a traffic infraction. When he was ultimately contacted by Officer 1, Carrasco had a handgun in his lap area and there was a female in the passenger seat. Carrasco was repeatedly ordered by Officer 1 to keep his hands on the ceiling of the car, however Carrasco failed to comply with the command. Carrasco ultimately reached for the firearm and Officer 1 fired four rounds at him.

Carrasco would have clearly known that the individual giving him commands was a police officer because Officer 1 was in uniform and parked his marked police vehicle where it was clearly visible.

Officer 1 reasonably believed when he fired his weapon that he was in imminent danger of death or serious bodily injury.

Based on the facts gathered during this investigation as summarized in the attached report and the legal analysis outlined above, I find that Officer 1 was justified in using lethal force against Carrasco. It was reasonable to defend against Carrasco's threatened use of deadly physical force.

CONCLUSION

Under C.R.S. § 18-1-707(2)(a), the officer's actions in this situation were justified and authorized by law in order to defend and protect from the threatened actions of Mr. Carrasco. As a result, the Weld County District Attorney's Office will not file charges against Officer 1 for the use of deadly physical force in this event. If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Michael J. Rourke". The signature is written in a cursive style with a prominent initial "M".

Michael J. Rourke
District Attorney



Officer Involved Shooting

Ramiro Carrasco DOB/07/30/1989

Greeley, Colorado

Chief Investigator Thomas M Walde

February 26, 2020

GPD 20G017287

Summary:

On February 26, 2020 at about 0113 hours Officer 1 of the Greeley Police Department was conducting crime suppression patrol in the area of the Island Grove Apartments located at 119 14th Avenue. The Officer located a suspicious vehicle parked in the northeast corner of the parking lot. Officer 1 knew this area to be a high crime area specifically, narcotics and a dumping ground for stolen vehicles.

Officer 1 noted the vehicle did not have a front license plate and the vehicle appeared to be unoccupied. As Officer 1 approached the vehicle he saw movement in the passenger seat. Officer 1 got out of his patrol vehicle and walked up to the suspicious vehicle. As Officer 1 approached the vehicle the female passenger opened the door and became verbally confrontational. While Officer 1 was talking with the female passenger, he noticed a gun on the lap of the male driver. Officer 1 immediately told the driver to keep his hands away from the gun. The female passenger was continually verbally aggressive, making every effort to distract the officer from the gun. The female denied there was a gun in the car when the officer could clearly see the gun. Officer 1 told the driver numerous times to keep his hands away from the gun.

The driver reached for the gun with his right hand. The driver grabbed the gun and began rotating his arm as if to bring the gun up to a firing position. Officer 1 recognized the threat and took a step back from the vehicle still telling the driver to drop the weapon. The driver failed to comply with the officer's direction. Officer 1 fired his weapon through the windshield of the vehicle hitting the suspect several times.

The officer had previously contacted dispatch requesting additional units, as those units arrived Officer 1 placed the passenger in handcuffs. Officer 1 and others then began to render first aid to the driver.

An ambulance arrived and transported the driver, later identified as Ramiro Carrasco. Carrasco was taken to the hospital and later pronounced deceased.

This incident was captured on Officer 1's Body Worn Camera.

The 19th Judicial District Critical Incident Response Team was called in and an investigation was completed.

Suspect:

Ramiro Carrasco

DOB 07/30/1989

Carrasco was discharged from DOC 01/01/2019. He was sent to DOC on one Boulder County case, three Weld County cases and one case from Larimer County. Carrasco served his time and was not on parole. He has an extensive criminal history dating back to 2003. Most of his cases are narcotics related. Carrasco was an active gang member since 2008. Carrasco also had an active restraining order prohibiting him from contacting Keya Pobanz. He was also prohibited from possessing or purchasing a firearm. On February 26, 2020 he was on bond from Larimer County for Eluding Causing Injury, Possession of Schedule II controlled substance and other driving charges. Carrasco currently has an outstanding warrant from Boulder County for Obstruction and Disorderly Conduct. Boulder County has been advised of the death of Carrasco.



Statements:

Witness Kaya Pobanz: The following statement is paraphrased from the original recorded statement and a later non-recorded statement given to Commander Smith.

During her initial interview immediately after the shooting, Pobanz said she and Teflon (Ramiro Carrasco) were just “kicking back” at the Island Grove Apartments. Pobanz admitted to smoking meth the last few days with Carrasco and others. Pobanz saw the officer approach them and she opened her door to ask why they were being stopped. The officer asked what they were doing there, and Pobanz told the officer Teflon lives at IGP. Pobanz said as soon as she opened her door the officer began giving commands because he saw a gun in the car. Pobanz claimed she did not know where the gun was but was aware there was a gun in the car. This statement is contrary to what she was telling the officer on the body-worn camera footage. In the footage Pobanz is heard yelling there is no gun, or words to that effect.

Pobanz said when she fell out of the car, the gun came with her and ended up on the ground. Pobanz said she was trying to close her door and she believes Teflon was opening his door when the cop started shooting. Pobanz said she does not know why the cop started shooting as Teflon kept his hands up the whole time. The Body Worn Camera footage clearly showing Carrasco lowering his right hand towards the gun.

Pobanz told Commander Smith she was recording this entire incident on her phone. Evidence technicians later found there were no videos on the phone belonging to Pobanz. Pobanz told Commander Smith that she had given another couple a ride to the IGP apartments and the gun belonged to the male. Pobanz was not able to provide names of these other people. Pobanz said Teflon should not be blamed for the gun. Pobanz did say Teflon is a gang member but he is a good person.

Several hours later, at about 1600 hours on the 26th Pobanz phoned Commander Smith to ask about getting her phone and car back. She arrived at the Greeley Police Department on the 27th at about 1530 hours to retrieve her phone. While at the police department she discussed incident further with Commander Smith. The following statement was not recorded and took place in the office of Commander Smith.

Pobanz told Commander Smith she was with Teflon for the last few days. During this time Teflon had told Pobanz he was not going back to prison as he has spent the better part of his life in prison. She didn't know why he kept the gun lying on his lap as the officer approached. She said they knew the cop was going to contact them when he pulled into the lot, and she did not know why Teflon did not hide the gun prior to being contacted by the police.

Officer Statements:

Officer 1 Statement:

Officer 1 was interviewed by Lt. Handel of the Milliken Police Department. I was present during the interview. After obtaining some preliminary information and completing an officer advisement, the following is paraphrased statement of Officer 1.

Officer 1 said he has been employed by the GPD for 15 years. Officer 1 said he works ate shift on the B side, his hours are from 2130 to 0700. Officer 1 could not remember the exact time he was able to start his shift on the street.

Officer 1 said this call was self-initiated activity and not a dispatch call for service. He observed a green Honda Accord stopped at a stop sign. He said this car was able to proceed from the stop sign but it did not pull away from the sign right away. Officer 1 later saw this same vehicle enter the IGP apartment parking lot. Officer 1 parked a short distance away to watch the car. Officer was going to research the car, but it had no front plate displayed. Officer 1 did not see anyone in the car.

Officer 1 decided to contact the vehicle and he saw movement from the passenger seat. Officer 1 said he did not see a headrest on the drivers' side of the vehicle, which led him to believe the seat was in a reclined position. Officer 1 knew this area to be a high crime area for narcotics and a dumping ground for stolen vehicles. Officer 1 said he approached the vehicle from the passenger side because there was another parked next to the driver's side that he felt was close enough to limit his ability to make contact on the driver's side.

As Officer 1 approached the car he saw a male in the driver's seat, the female was opening the door and he assisted her by placing his hand on the top portion of the door. Officer 1 said that within a few seconds he saw a handgun on the driver's lap. Officer 1 immediately began giving commands to the drivers to get his hands up and away from the gun. This information has been confirmed by body-worn camera footage. Officer 1 said he also saw baggies inside the vehicle, and he was trying to see if those contained any materials. He was unable to see anything in the baggies. Officer 1 also saw the driver of the vehicle had some facial tattooing which is indicative of gang association. Officer 1 said the female then started to become argumentative saying there was no gun in the car. He felt the female was making efforts to distract him from the gun.

Officer 1 said he told the driver to place his hands on the ceiling of the vehicle. The driver did not comply with this direction. The driver was moving his hands up and then down he did not yet reach for the gun. Officer 1 said at this point the driver reached over and opened his door. Officer 1 felt the driver was either going to flee or confront him with the gun. At this point Officer 1 moved to the front of the suspect vehicle to create some distance and remove the female from

his line of fire. The male's hands were now going further down towards his lap, Officer 1 saw the driver rotate his arm indicating he now had the gun in his right hand. Officer 1 believed the driver was bringing the gun up and he was about to be shot. Because he thought he was about to be shot Officer 1 discharged his weapon at Carrasco.

When the shots were fired the female immediately jumped out of the car. Officer 1 saw the driver and believed he had stopped the threat based on what he saw. Officer 1 said the driver was now starting to slump forward and he could blood around his facial area.

Officer 1 then handcuffed the female and she said something to the effect of it wasn't his gun. Officer 1 could not remember what exactly the female said during this time. Officer 1 noticed a gun on the ground and believed at the time this may be a second gun. As it turned out this was the gun that was originally on the driver's lap.



Body-worn camera image of gun in lap.

Officer Vaughn Statement:

Officer Vaughn began his shift on 02/25/2020 at 1630 hours. Officer Vaughn said at about 0130 hours he heard Officer 1 call for back-up officers at the Island Grove Apartments. Officer Vaughn said that as he arrived, he heard Officer 1 giving commands to the person in the suspect vehicle. Officer Vaughn said he heard something to the effect of keep your hands up and don't reach for it. As officer Vaughn was walking towards Officer 1 he heard Officer 1 say, "he's got a gun on his lap." Officer Vaughn stated this comment was directed at him.

Officer Vaughn said that shortly after that statement he saw and heard Officer 1 fire his weapon three or four times.

Officer Vaughn was armed with his patrol rifle and approached the suspect vehicle from the driver's side. Officer Vaughn said he was telling the driver to keep his hands up, Officer Vaughn could see the driver was bleeding from what he thought was a wound to his arm. Officer Vaughn maintained cover and told Officer Kubala to retrieve a medical kit.

Other officers approached the vehicle and removed the driver from the car and began to render aid.

Officer Vaughn said he looked into the car and did not see a gun; he later found the gun was on the ground near the passenger side of the car.

Officer Kubala statement:

Officer Kubala said he also works the B side of late shift. Officer Kubala began his day at 2130 hours. Officer Kubala was with Officer Vaughn parked in the area of 9th St. and 14th A venue. Officer Kubala first entered the apartment complex at the south entrance, he then heard Officer 1 telling them to come to the north gate. Officer Kubala backed up and drove to the north gate.

Officer Kubala said as he drove up to the area, he heard four shots. Officer Kubala said he could see the suspect was injured and bleeding. Officer Kubala said other officers were trying to help the suspect and someone asked for chest seals. Officer Kubala ran back to his patrol car to grab some chest seals. When he got back to assist in rendering aid to the suspect, the suspect began fighting with officers. Kubala said the suspect was swinging and kicking at officers. Kubala said the officers had to handcuff the suspect before they could try and help him. Officer Kubala said the medical personnel arrived a short time later and took the suspect to the hospital. Officer Kubala said the suspect made no comments or statements. Officer Kubala was later told to take Officer 1 to the station. Officer Kubala did not speak with Officer 1 about this incident during the trip. Officer Kubala did not fire his weapon during this incident.

Citizen witness statements:

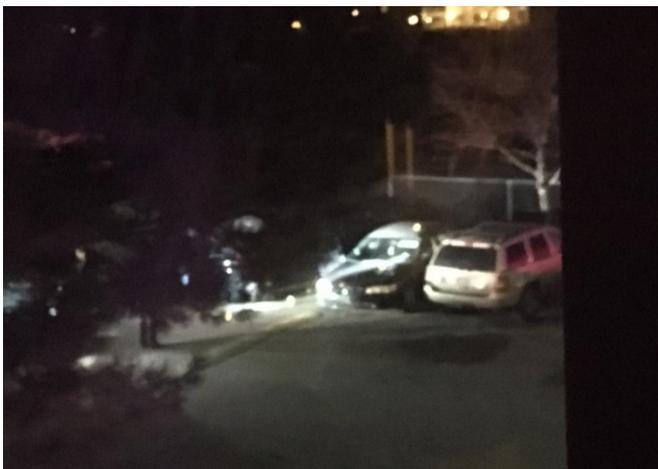
Alexis Wright:

Alexis claims to have witnessed the shooting. Alexis also claimed to have a video of the incident. The video she had on her phone was viewed by officers and clearly did not start until after the shots had been fired and the suspect had been removed from the car and officers were rendering aid to the suspect. Alexis did tell officers it was common for Ramiro to carry a gun. She stated he carries the gun for safety. Alexis described the gun as being palm sized and black. Alexis claims to have been at the north west corner of the apartment building when the shots were fired. Alexis says Ramiro had his hands up and was not resisting when shots were fired.

The information obtained from Alexis is not consistent with the evidence collected and is contrary to the body-worn camera footage.

Vanessa Varos:

Vanessa says she lives at the Island Grove Apartment and she saw this entire incident from her bedroom window. Vanessa says as she looked out her window, she saw an officer drive up on the lawn. This would have been around the time Officer Vaughn was arriving at the scene. Vanessa said she could see two officers outside her bedroom window. There is some confusion in her statement. She says she could see two officers then later says the one officer she could see did not shoot. The statement obtained from Vanessa is not consistent with evidence collected or the body-worn camera footage.

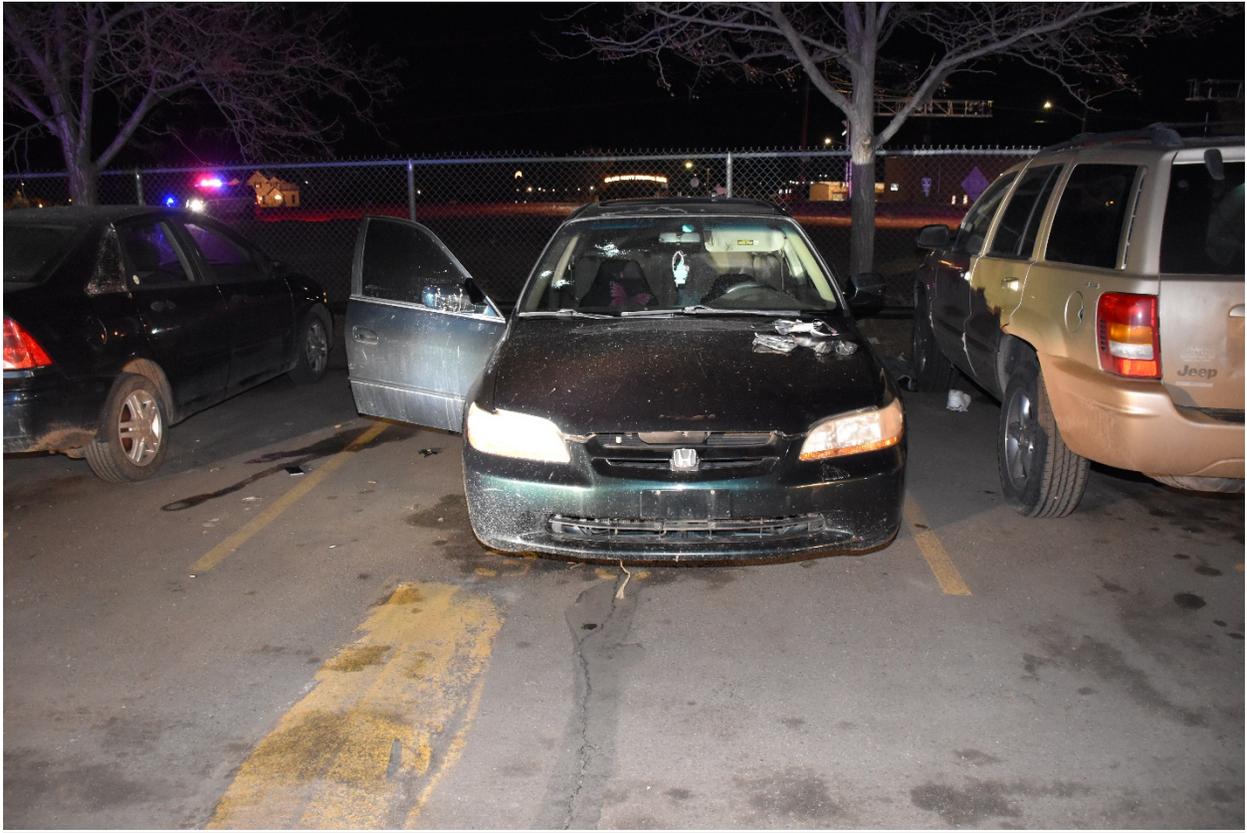


View from apartment 3c northeast bedroom window.

Evidence/Images from scene:



Gun found on ground passenger side of Carrasco car.



Suspect vehicle view from front.



View from Officer 1's vehicle.

Autopsy/Toxicology Results:

Toxicology positive findings:

Amphetamine 69 ng/ml

Methamphetamine 1100 ng/ml

Delta-9 Carboxy THC 7.4 ng/ml

Delta-9 THC 1.0 ng/ml

Blood levels of 200 - 600 ng/mL of methamphetamines have been reported in methamphetamine abusers who exhibited violent and irrational behavior. High doses of methamphetamine can also elicit restlessness, confusion, hallucinations, circulatory collapse and convulsions.

The autopsy report stated Carrasco had three gun shot wounds. Two to the right side of his neck and one that travelled through his right forearm into his torso.