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September 8, 2023

Chief Adam Turk
Greeley Police Department
2875 W. 10th Street
Greeley, CO 80634

RE: Investigation of the June 12, 2023 Officer-Involved Shooting of Anthony Carroll

Chief Turk:

The investigation into the shooting of Anthony Carroll 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 Sergeant Fisher and Officer Wegscheider. Attached hereto are the findings of the Investigations Unit 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 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 Anthony Carroll was shot and killed by law enforcement, the determination of whether the 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 Carroll 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 him or another person with a deadly weapon.

In this case, Greeley officers were attempting contact Anthony Carroll for shooting into the other residence attached to his duplex. Officers heard a gunshot from Carroll shortly after arriving on scene and Carroll shot at officers from his garage when it was breached via an armored police vehicle. Sgt. Fisher fired at Carroll from across the street while he was in his garage but missed. Sgt. Fisher and Officer Wegscheider moved to the roof of the house next door to Carroll. They saw Carroll in a void created when the armored vehicle breached the garage. They saw he was still armed and fired upon him as it was clear he was not complying with commands and was aiming his .308 rifle at officers.

Carroll would have clearly known that the Officers were law enforcement, they arrived in police cars, they were wearing police uniforms and had identified themselves.

The Sergeant and Officer reasonably believed when they fired their weapons that they or others were 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 Sergeant Fisher and Officer Wegscheider were justified in using lethal force against Carroll. The use of such force was reasonable based on Carroll's threatened use of deadly physical force.

CONCLUSION

Under C.R.S. § 18-1-707, the actions of Sergeant Fisher and Officer Wegscheider were justified and authorized by law to defend and protect themselves and others from the lawless and threatening actions of Anthony Carroll. As a result, the Weld County District Attorney's Office will not file charges against the Officers 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 loop at the end of the last name.

Michael J. Rourke
District Attorney



Officer Involved Shooting

June 12, 2023

Subject: Anthony Carroll

23DA00124

Investigator Dan Boyle

GPD – 23G008838 (original)

GPD – 23G008945 (OIS)

WCSO – 23W003819

CSP – 23IS0573

SUMMARY

On June 12, 2023, at approximately 4:40 AM, the residents at 603 46th Avenue Court called 911 and said a gunshot went through their wall. Shortly thereafter, when Greeley Police officers arrived on scene, another shot was fired. The area was locked down while officers attempted to contact the suspect, identified as Anthony Carroll. Carroll lived at 605 46th Avenue Court, which is the other half of a duplex attached to house number 603. A SWAT response was required and as the snipers arrived, they could see Carroll in his living room with an AR style rifle slung on his shoulder. A standoff ensued, during which communications were ongoing with Carroll via phone calls or texts. Carroll expressed his perception that law enforcement on scene were members of the cartel trying to kill him.

An armored vehicle was used to breach the front door which forced Carroll to barricade himself in the garage. The garage door was also breached, and Carroll responded by firing several rounds at the armored vehicle and officers. Numerous less lethal chemical munitions were deployed to attempt to get Carroll to surrender. After the garage was breached, the armored vehicle was used to push a vehicle in the garage towards Carroll to pin him down and minimize his ability to be mobile. A drone was deployed to locate Carroll in the garage. Drone footage confirmed Carroll was in possession of an AR style rifle. Snipers eventually moved to the rooftop next door to Carroll. They were able to see Carroll hiding in a void in the wall of the garage. Several shots were fired at Carroll, and he was pronounced dead on scene.

The 19th Judicial District Critical Incident Response Team (CIRT) was notified, and an investigation was conducted.

CARROLL'S RECENT HISTORY

Tanya Nichols (Carroll's mother) said that Carroll had been "spiraling" and using drugs. She said she was not sure what kind of drugs he was using but knows he has used methamphetamine, acid, heroin, mushrooms, and drinks alcohol heavily. Around November to December 2022, she and Carroll moved into an apartment together in Greeley. At first it was ok, but things changed in February 2023. Carroll was using drugs more and became aggressive. She said he hallucinated and was very delusional and scary, and because of this she did not feel physically safe around him anymore. She described that Carroll would believe people were breaking into the home when no one was actually there. On June 11, 2023, the day before this incident, Carroll was served an eviction notice and she believed this may have caused Carroll to behave in the manner described. Ms. Nichols said that between the eviction and the drugs "he was determined to go out this way."

DISPATCH TIMELINE

(Call ID #: 20230612-00102) 06/12/2023

04:38 - 911 call received.

04:41 - Dispatched.

04:46 - First GPD unit arrives on scene.

04:53 - Carroll closed his front door.

04:58 - Additional shots fired from Carroll.

06:12 - In phone contact with Carroll, he said there were two intruders in his basement trying to kill him.

08:17 - Front door and garage door breached.

08:19 - Additional shots fired by Carroll.

08:21 - Additional shots fired by Carroll.

08:27 - Additional shots fired by GPD (Fisher).

08:38 - Additional shots fired by GPD (Fisher).

08:53 - Additional shots fired by GPD.

09:06 - Additional shots fired by GPD (can hear Carroll screaming).

09:20 - Final shot by GPD

INTERVIEWS

Sergeant Steve Fisher

Sgt. Fisher and Officer Wegscheider were the designated snipers for this call. They initially deployed south of the residence where they could see the north-facing wall towards the front door and two large windows. Sgt. Fisher saw the Carroll open the blinds where he periodically looked out the window and then would sit in a living room chair. He said it appeared that Carroll was assessing where the armored vehicles were and what was happening outside.

Later, the front door was breached with the armored vehicle, Sgt. Fisher had a clear picture of Carroll. He could see that Carroll had taken the sling off his shoulder and held the rifle with both hands, like he was prepared to start shooting. Instead of shooting, Carroll quickly ran out of view and into the garage.

Officers then used the armored vehicle to push open the garage door, and as soon as the garage door fell, Sgt. Fisher observed the armored vehicle receive a volley of gunfire coming out of the garage. Sgt. Fisher said that from his position, he could see the rounds striking the armored vehicle.

Sgt. Fisher changed vantage points to get a better view inside the garage. He stated that once he got positioned, he saw Carroll's feet through his scope underneath a vehicle that was inside the garage. Sgt. Fisher fired one round at his feet which did not strike Carroll.

Once the drone was utilized, Sgt. Fisher was able to see live footage and could see Carroll had barricaded himself in the garage with the rifle. Carroll was positioned on his knees and aiming the rifle through an opening in the garage.

After observing the video from the drone, Sgt. Fisher and Officer Wegscheider moved to the roof of the next-door neighbor's house. Once they were up on the roof, Sgt. Fisher was still armed with his sniper rifle. Sgt. Fisher was looking down from an elevated position at the garage where Carroll was hiding. Through cracks in the wall, he observed what appeared to be Carroll's arm and shoulder area. It was clear Carroll was still holding his rifle. Sergeant Fisher fired what he believed to be two rounds from his sniper rifle through the opening. Next, he saw Carroll point the barrel of a rifle through an opening in the debris. At this point, Sgt. Fisher pulled out his pistol and began shooting through the wall at Carroll.

After firing his pistol, Sgt. Fisher saw the suspect attempting to retrieve the rifle. Sgt. Fisher aimed his pistol at the suspect's head and was going to engage him. However, the suspect fell back into the garage.

Officer Chad Wegscheider

Officer Wegscheider arrived on scene and observed Carroll through the front window using the scope on his sniper rifle. He could see that the suspect was armed with what he described as an AR-style rifle, and at the butt of the rifle, he could see a sling and an AR magazine coming out of the rifle. He observed the armored vehicle being utilized, which forced Carroll into his garage.

After Carroll fled into the garage, Officer Wegscheider retrieved his .223 rifle to replace his sniper rifle. He met up with Sgt. Fisher to move to the roof of a neighboring house. When he was on the roof, he saw that the back wall of the garage had buckled out from the bottom. Where the garage buckled there was a small triangular void in the garage wall. Officer Wegscheider saw a barrel of a gun come out through the triangular area. Officer Wegscheider described the barrel was black and the end of it had a muzzle brake on it, so he knew it was a firearm. After Sgt. Fisher shot his handgun at Carroll, he heard screaming and saw Carroll's rifle fall partially out of the garage and onto the ground.

Officer Wegscheider stated other officers were still giving commands and attempting less lethal options after Sgt. Fisher fired his sidearm. He saw a hand come out of the garage and reach for the rifle. Officer Wegscheider stated that he fired two shots through the wall where he believed Carroll's shoulder would be. Carroll fell backwards out of the garage, and he could see Carroll's head and his face. He fired one more round, striking Carroll's head.

Officer Andy Gilmore

Officer Gilmore was the operator of the armored vehicle. He breached the front door and the garage door using an armored vehicle. He saw muzzle flashes coming from within the garage as he breached it. He saw Carroll positioned towards the back of the garage behind a vehicle. Carroll was shooting over the roof of that vehicle. Using the armored vehicle, Officer Gilmore pushed the vehicle towards the back of the garage trying to pin Carroll down. After ramming the garage structure several more times, Officer Gilmore heard several gunshots and was advised Carroll has been shot and was not moving.

WITNESS STATEMENTS

Eduard and Deborah Mostert

Eduard and Deborah Mostert live at 603 46th Ave. Ct. which is the adjoining residence of a duplex with 605 46th Ave. Ct. They said they were awakened by their son at approximately 4:30 a.m. because he heard a loud bang. Deborah said that while talking to her son she heard another loud bang and saw a lot of dust in the hallway. Eduard said when he heard the gunshot, he was able to locate a hole in the common wall between the two structures.

Crime Scene Investigation and Evidence

The crime scene was processed by investigators from the CIRT team. Due to the instability of the residence and garage of 605 46th Ave. Ct., they were not searched. Sgt. Fisher fired five times from his .308 rifle and Officer Wegscheider fired two times from his .223 rifle. Both officers combined fired eight times from their 9 mm handguns. Further, the officers wore body worn cameras (BWC) and they were reviewed. The BWC footage, witness statements, drone video, and crime scene corroborated Sgt. Fisher and Officer Wegscheider. Below are several photos from the incident and of Carroll's firearm collected at the scene.



Weapon used by Carroll .308 caliber.



Image from drone showing Carroll armed with a .308 rifle in his garage as officers are attempting to contact him.



Image from drone showing Carroll armed with a .308 rifle in his garage as officers are attempting to contact him.



Drone image showing the front of Carroll's residence and Officer Wegscheider on the roof of the house next door.



Drone image of the view Officer Wegscheider and Sgt. Fisher had of Carroll armed with the .308 in the void created by the armored vehicle.

AUTOPSY

Carroll received ten gunshot wounds, either penetrating or grazing in the exchange of gunfire with law enforcement. The forensic pathologist determined the cause of death was from multiple gunshot wounds.

TOXICOLOGY/AUTOPSY RESULTS

Tested positive for 41 ng/mL of THC.