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September 1, 2023

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

RE: Investigation of the June 28, 2023 Officer-Involved Shooting

Chief Turk:

The investigation into Officer Riddle discharging his firearm at an unknown suspect 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 Officer Riddle. 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 at another human being is generally prohibited as 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 Officer Riddle discharged his firearm at an unknown suspect, 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 the unknown suspect 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 him or another person with a deadly weapon.

In this case, Officer Riddle attempted to contact the unknown suspect for a municipal code violation involving improper lighting for his bicycle. The suspect did not stop immediately when the officer attempted to contact him. He finally stopped for the officer and began to flee when Officer Riddle was getting out of his vehicle to contact him. As he was fleeing, he removed his sweatshirt and pointed what appeared to be a firearm at the officer. Officer Riddle fired at him because he was in fear of death or serious bodily injury. The suspect was never apprehended.

The suspect would have clearly known that Officer Riddle was law enforcement, he was wearing a police uniform and had identified himself. Further, Officer Riddle was in a marked patrol car and used both his overhead lights and siren to contact the unknown suspect.

Officer Riddle reasonably believed when he fired his weapon that he was in imminent danger of death or serious bodily injury. Even though the weapon the suspect pointed at the officer was a BB gun, it looked like a 1911 pistol.

Based on the facts gathered during this investigation as summarized in the attached report and the legal analysis outlined above, I find that Officer Riddle was justified in discharging his firearm at the unknown suspect. The use of such force was reasonable based on the suspect's threatened use of deadly physical force.

CONCLUSION

Under C.R.S. § 18-1-707, the actions of Officer Riddle were justified and authorized by law to defend and protect himself and others from the threatening actions of the unknown suspect. As a result, the Weld County District Attorney's Office will not file charges against Officer Riddle 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

June 28, 2023

Subject: Unknown

23DA00138- District Attorney's Office

23-1671-Erie Police Department

23WP009975-Windsor Police Department

23EP01379- Eaton Police Department

23W004213- Weld County Sheriff's Office

23G009975- Greeley Police Department

Summary:

On 6/28/2023, Officer Riddle from the Greeley Police Department was conducting routine patrol responsibilities in his sector. At approximately 11:01PM he observed a male on a bike that was not equipped with a lamp on the front end emitting white light at 14th Ave and 10th Street near the 7-Eleven. Officer Riddle initiated a stop at the 1200 block of 6th Street. The male continued on his bike heading east eventually stopping at the corner of 12th Avenue and 6th street. Once Officer Riddle stepped out of his patrol vehicle, he observed the male start to run west then north across 6th street. While crossing the street the male took off a black hoodie and reached into his waistline drawing a handgun and pointed it directly at Officer Riddle. Officer Riddle drew his firearm and fired at the male who continued to run north with Officer Riddle following. Officer Riddle lost sight of the male once he turned east in an alley north of 6th street.

Responding units arrived shortly thereafter and set up a perimeter in the surrounding area. The Greeley Police Department canine unit was deployed to track the male suspect. Law enforcement was unsuccessful in tracking or apprehending the suspect involved. The scene was secured for further investigation with the 19th Judicial District Critical Response Team (CIRT).

Officer Riddle Interview

Officer Riddle was interviewed and provided the following details. On 6/28/2023 at 11:01:51 pm, Greeley Police Officer Riddle was working his regular shift from 9:30 pm to 7:30 pm. He was wearing his Greeley Police patrol uniform with police patches on the sleeves and an outer vest carrier adorned with his badge. He was wearing his body camera, which was activated during the incident and reviewed in its entirety. Officer Riddle was carrying his department issued Glock 17 firearm with a full magazine and one in the chamber (18 rounds), along with two additional extended magazines loaded to capacity (22 rounds each).

Officer Riddle was in his assigned patrol vehicle driving north on 14th Avenue near 10th Street in Greeley. He observed a male on a bicycle riding east on 6th street crossing 14th avenue. The bike appeared to have reflectors on the tires, however, there was no visible lamp on the front end emitting white light. Officer Riddle knew this to be a Greeley Municipal Code violation.



The photo above is the X-treme Ross Mountain bike S/N S5D114, ridden by suspect collected as evidence.

Officer Riddle initiated a traffic stop at the 1200 block of 6th street by activating his overhead emergency red and blue lights. The male continued to ride the bike on the south side of 6th Street heading east on the sidewalk while gradually slowing down, but not stopping. Officer Riddle hit his siren three times in attempt to initiate the stop. Following the third sound of the siren, the male stopped his bike at the corner of 12th avenue and 6th street. Though the male stopped riding his bike, he did not dismount and remained on the bike with his feet on the ground.



Above is a google earth photo of the area Officer Riddle first observed the male, where the traffic stop occurred, the grass yard/alley where the male ran after shooting and the alley way between 5th and 6th street.

Officer Riddle stepped out of his patrol vehicle and attempted to contact the male. The male jumped off of his bike and ran west on the 6th street sidewalk past Officer Riddle's patrol vehicle, then ran north, crossing 6th street. Officer Riddle followed the male giving the commands, "Greeley Police stop." The male continued to run despite the orders from Officer Riddle. While running north across 6th Street, the male removed a black hoodie and dropped it. Officer Riddle recalled at this moment he was about to get on his radio to announce he was in a foot pursuit, when the male reached into his waistband and pulled out what Officer Riddle identified as a handgun. The male pointed the gun directly at Officer Riddle. Officer Riddle heard a click that indicated to him that the male pulled the trigger of the gun in his hand. Officer Riddle stated, "I was in fear for my life, I believed he was attempting to shoot and kill me." At that point, Officer Riddle drew his weapon and fired three rounds at the suspect while giving lawful orders to drop the gun.

The male continued north through a grass yard/alley between apartments to the west and a fence line of a houses to the east. Officer Riddle continued to follow the male and lost sight of him as he turned east onto an alleyway between 6th and 5th street. As Officer Riddle lost sight of the male, he slowed his pace approaching the alleyway. When he got to approximately 10 feet from the alley, he heard something that sounded like branches. Later, while Officer Riddle was walking through that area, he found the handgun that he had seen the male with. The gun was laying in the area he heard the branches moving. Officer Riddle described the gun to be a black handgun that appeared to be a "1911" style.

Once Officer Riddle was able to safely view the east and west portion of the alleyway, and could no longer see the male, he waited there for officers to arrive on scene.

Responding officers arrived and set up a surrounding perimeter to attempt to locate the male suspect. The search provided no additional substantial witnesses or indicators as to the whereabouts of the male suspect or his identity.

Suspect

Officer Riddle stated that the closest he got to the suspect was approximately 15-20 feet away. He believed the suspect to be a male based off his body build and hair that appeared to be short or possibly balding. The male also appeared to have a goatee. The male was wearing blue jeans, a black hoodie, and a black t-shirt.

Physical Evidence

Collected on scene of the incident was a black sweatshirt/hoodie between 1211 6th street and 530th 13th avenue. Directly north of that sweatshirt were 2 spent .9mm cartridges in front of the curb in the street. The immediate surrounding area was searched for a third cartridge with no success.



Shell casings marked with business cards at the north curb of 6th street.

The black sweatshirt was later collected and contained a blue unknown clothing item in a pocket. Inside the clothing was a crushed glass smoking device commonly used to smoke methamphetamine. Additionally located was an unknown pill and torn 12 oz Modelo can.



Athletics Works Black Sweatshirt dropped by suspect on 6th street.

The black handgun that the male suspect was carrying was located approximately 30 yards west of address 511 12th avenue. It was later identified as a BB gun.



The suspects gun in the alleyway between 6th street and 5th street



.177 Caliber Marksman BB gun, spraypainted black

Officer Riddle

Officer Riddle was carrying a Glock 17 Gen 5 SN. When the gun was collected it contained 13 rounds in the magazine with one in the chamber. The ammunition used in the gun was Speer 9mm Luger. At full capacity of rounds, the magazine can hold 17 rounds with one in the chamber.

In total, 4 rounds were missing.



Officer Riddle's firearm and Magazine

The body camera of Officer Riddle was reviewed, and it is consistent with the evidence collected on the scene and Officer Riddle's statement.

The investigation is ongoing to attempt to identify the suspect.

Greeley Municipal Code

Sec. 16-54. - Bicycle equipment.

(a) No other provision of this article II and no provision of article III of this chapter shall apply to bicycles or to equipment for use on bicycles except those provisions in this chapter made specifically applicable to bicyclists, bicycles, or their equipment.

(b) Every bicycle in use at the times described in section 16-37 shall be equipped with a lamp on the front emitting a white light visible from a distance of at least 500 feet to the front.

(c) Every bicycle shall be equipped with a red reflector of a type approved by the department of revenue, which shall be visible for 600 feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle.

(d) Every bicycle when in use at the times described in section 16-37 shall be equipped with reflective material of sufficient size and reflectivity to be visible from both sides for 600 feet when directly in front of lawful lower beams of head lamps on a motor vehicle or, in lieu of such reflective material, with a lighted lamp visible from both sides from a distance of at least 500 feet.

(e) A bicycle or its rider may be equipped with lights or reflectors in addition to those required by subsections (b) to (d) of this section.

(f)A bicycle shall not be equipped with, nor shall any person use upon a bicycle, any siren or whistle.

(g)Every bicycle shall be equipped with a brake or brakes which will enable its rider to stop the bicycle within 25 feet from a speed of ten miles per hour on dry, level, clean pavement.

(h)A person engaged in the business of selling bicycles at retail shall not sell any bicycle unless the bicycle has an identifying number permanently stamped or cast on its frame.

(Code 1994, § 11.01.221; Ord. No. 80, 1997, § 2, 12-16-1997)