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December 10, 2020

Chief John Collins
Englewood Police Department

RE: June 9, 2020 shooting at the RTD Park & Ride, 899 W. Floyd Avenue

Chief Collins,

Investigator Charles Kelley, with the support of the multi-agency 18th Judicial District's Critical Incident Response Team (CIRT), has completed an investigation into an officer-involved shooting incident at 899 W. Floyd Avenue on June 9, 2020. In an exchange of gunfire with police officers, Marcus Uribe was killed, and an officer was seriously wounded. I have reviewed the entire investigation. Below is a summary of the facts, the legal analysis, and my conclusion.

EXECUTIVE SUMMARY

Marcus Uribe had an argument with his girlfriend which resulted in her calling 911 to report that she had been menaced and assaulted. She also reported that Mr. Uribe was armed with a handgun. The responding officers located Mr. Uribe at the Englewood light rail station. When the officers called out to him, Mr. Uribe immediately fired multiple rounds at them. Officer Riddle was struck twice in the abdomen. Officers Riddle and Raddell returned fire with their handguns, wounding Mr. Uribe as they took cover. Armed with a rifle, Officer Smith approached Mr. Uribe where he had fallen. When Mr. Uribe again reached for his handgun, Officer Smith shot him a final time.

Based on my review of all materials, I find that Officers Riddle, Raddell and Smith reasonably believed that Marcus Uribe posed an imminent threat of danger or serious bodily injury to themselves and members of the public in the immediate area. I find all three Englewood officers had the legal right to defend themselves and others by the use of deadly physical force. Therefore, I find the officers legally and justifiably shot Marcus Uribe.

THE STATUTORY FRAMEWORK FOR INVESTIGATIONS INTO OFFICER-INVOLVED SHOOTINGS

C.R.S. § 16-2.5-301 governs investigations into peace officer-involved shootings.

This statute provides, in relevant part:

Each police department, sheriff's office, and district attorney within the state shall develop protocols for participating in a multi-agency team, which shall include at least one other police department or sheriff's office, or the Colorado bureau of investigation, in conducting any investigation, evaluation, and review of an incident involving the discharge of a firearm by a peace officer that resulted in injury or death. The law enforcement agencies participating need not be from the same judicial district.

C.R.S. § 16-2.5-301(1).

The 18th Judicial District's Critical Incident Response Team (CIRT) investigated this officer-involved shooting by three Englewood police officers. Investigator Charles Kelley of the Arapahoe County Sheriff's Office led the investigation with the assistance of detectives and crime scene technicians from multiple police agencies and the Office of the District Attorney.

C.R.S. § 20-1-114 provides, in relevant part:

The district attorney shall, if no criminal charges are filed following the completion of an investigation pursuant to section 16-2.5-301, C.R.S., release a report and publicly disclose the report explaining the district attorney's findings, including the basis for the decision not to charge the officer with any criminal conduct. The district attorney shall post the written report on its website or, if it does not have a website, make it publicly available upon request.

C.R.S. § 20-1-114(1).

This document constitutes a report of the findings of the District Attorney for the 18th Judicial District, and includes the basis of the decision not to charge the involved officers with any criminal conduct.

MATERIALS REVIEWED AND INFORMATION CONSIDERED

Investigator Charles Kelley of the Arapahoe County Sheriff's Office is the lead CIRT investigator. I reviewed all materials provided by Investigator Kelley, including all recorded interviews, surveillance video, written reports, radio traffic and photographs.

SUMMARY OF THE FACTS

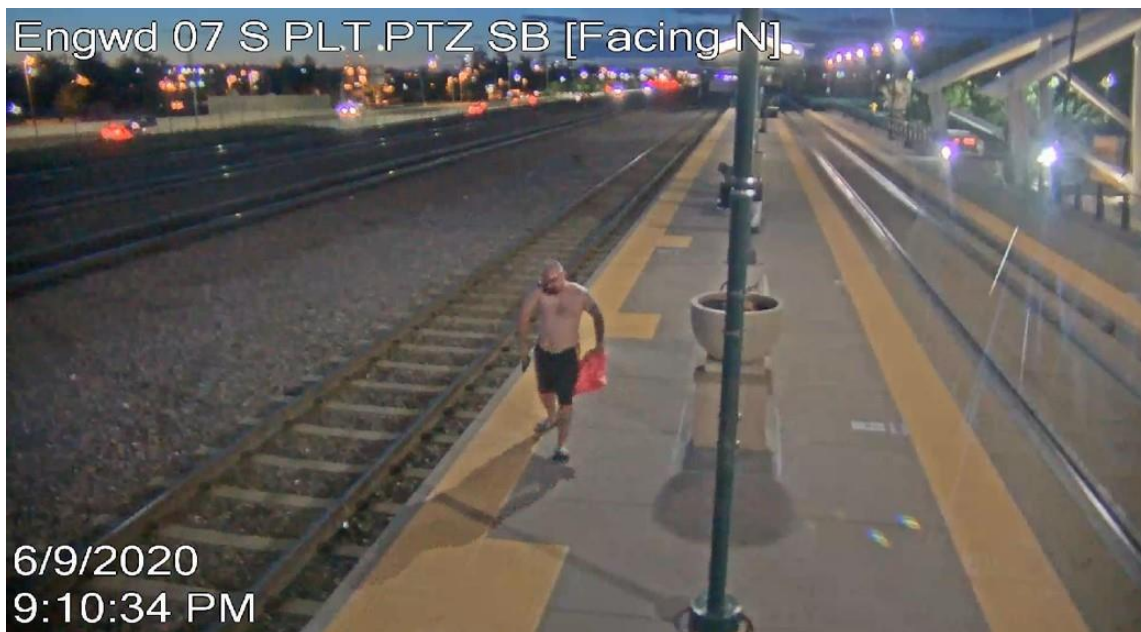
On June 9, 2020, at 8:56 pm, the Englewood Police Department (EPD) received a 911 hang-up call from 901 Englewood Parkway [REDACTED] in Englewood, Colorado. Dispatch called the number back and spoke with the reporting party who said that her boyfriend had assaulted her and her seventeen-year-old daughter then left the apartment. She described her boyfriend's height, age and clothing and named him as Marcus Uribe. She added that Mr. Uribe was intoxicated and not armed.

While still speaking with EPD dispatchers, the reporting party said that she was now locked in a bedroom with her seventeen-year-old daughter and a one-year-old infant. She then reported to the dispatchers that Mr. Uribe had returned. The reporting party began screaming, and the call with dispatch was then disconnected. Dispatch provided a city-wide notification of what was occurring.

Moments later the reporting party's seventeen-year-old daughter called 911 and stated that Mr. Uribe had kicked in the bedroom door and pointed a handgun at her and her mother, and then pointed the gun at his own head. In the background there was more screaming. The caller stated that Mr. Uribe had tried to take the baby with him but the daughter blocked him from leaving. Mr. Uribe threw her to the floor and knocked the baby into the wall. He then left the apartment without the baby but still armed with the handgun, heading in an unknown direction. She described to dispatch Mr. Uribe's appearance, the clothes he was wearing, and reported that he was intoxicated.

Several EPD officers responded to the area to look for Uribe. In doing so, Officer Dan Raddell contacted a witness who believed he saw Mr. Uribe run towards the nearby Civic Center building/parking structure where there is a light rail platform.

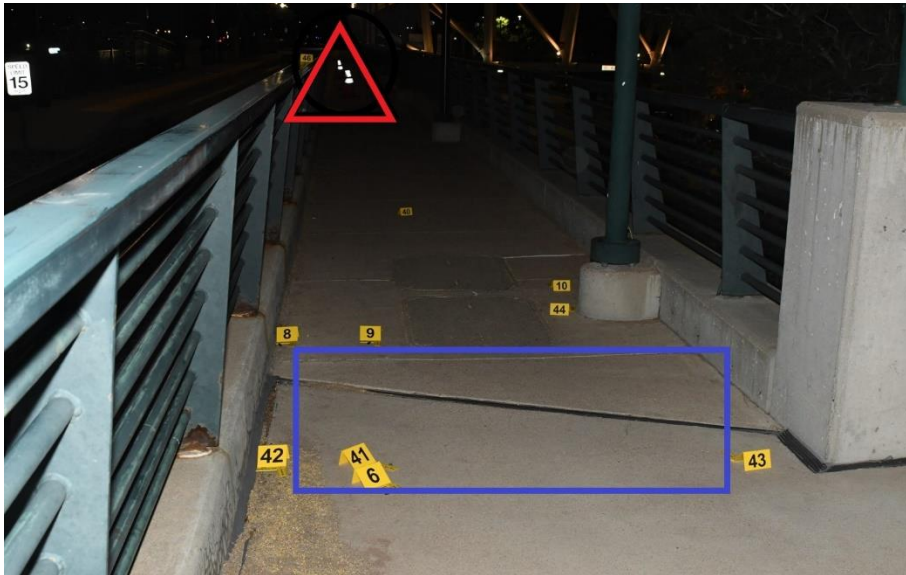
At approximately 9:10 pm, Mr. Uribe was found standing on the RTD Park and Ride light rail platform by EPD officers Dan Raddell and Lauren Riddle. Both officers were wearing their full EPD uniforms. They could see Mr. Uribe standing on the tracks with his shirt off. With the exception of the missing shirt, his appearance matched the description given to dispatch by the 17 year-old daughter. Mr. Uribe appeared to be talking on a cellular phone. Based on the report that Mr. Uribe was armed, both officers stood holding their agency-issued handguns concealed at their sides behind their legs.



Officer Raddell called out to Mr. Uribe, calling him "Partner," and asked to speak to him. Mr. Uribe did not respond verbally. Instead, he looked towards the officers at the south end of the tracks, put on his tee shirt, and he then raised a handgun and fired at the officers. The officers immediately returned fire, striking Mr. Uribe.

As Mr. Uribe fell to the ground and rolled back-and-forth on the platform, Officer Riddle realized she had been struck in the abdomen just below her vest. It was later determined that she had also been struck a second time, the second bullet impacting her handcuff case on her duty

belt. Officer Raddell helped her to cover behind a concrete wall while reporting the gunfire over the police radio. He also reported that an officer had been wounded.



(In the above still image, the red triangle indicates where Mr. Uribe fell. The blue rectangle marks approximately where Officers Riddle and Raddell returned fire)

EPD Officer Dirk Smith heard this information on the radio and approached the light rail platform from the north. He was also wearing his full department-issued uniform and carrying a rifle due to the report of gunfire – a report he heard aired by dispatch. Upon his arrival on the platform, Smith could see several people standing on the platform, as well as a dog that had been wounded. Each person he contacted pointed to the south. Officer Smith could see Mr. Uribe prone but moving on the platform near a brown handgun. Officer Smith could hear Officers Riddle and Raddell yelling commands at Mr. Uribe. This was approximately one minute after the exchange of gunfire between Mr. Uribe and Officers Riddle and Raddell according to flashes seen on video surveillance and open radio traffic.

As Officer Smith approached Mr. Uribe, he yelled for Mr. Uribe not to reach for the gun. Mr. Uribe, who was facing Officer Smith, disregarded the command and reached for the handgun that lay by his side. Officer Smith fired one time with his rifle, striking Mr. Uribe in the head. An ambulance transported Mr. Uribe to Swedish Hospital, where he was determined to be deceased. An autopsy by the Arapahoe County Coroner's Office determined that Mr. Uribe had died from multiple gunshot wounds.

Additional EPD officers arrived on scene and assisted Officer Riddle to the back of a patrol car. Officer Riddle was then rushed to Swedish Hospital. Officer Riddle was assessed by the trauma team and immediately taken into surgery. She was found to have a gunshot wound to the abdomen and had suffered serious bodily injury as a result.

Shortly after the shooting, the 18th Judicial District's Critical Incident Response Team (CIRT) arrived and began their investigation.

According to Mr. Uribe's parents, their son had been distressed since suffering a vehicle-related head injury after returning from Afghanistan (where he had served with the U.S. Marines). Since

returning home to Colorado, Uribe had been having issues with drinking and engaging in criminal conduct, and his relationship with his girlfriend was similarly tumultuous. Mr. Uribe had called his parents on the night of the shooting and told them he had assaulted his girlfriend and was drunk. He sounded very upset and could not be calmed down. They described him as sounding “out of control.” His father was trying to arrange to pick up Mr. Uribe from the light rail station near their home. Mr. Uribe stated he would take the light rail unless the police “get him first.” While his father continued to try and calm him, Mr. Uribe said, “This is it, Dad. The cops are here.” His father asked him to comply with the officers and raise his hands. Mr. Uribe did not respond. His father heard one initial gunshot that sounded close to the phone, and then others that sounded more distant.

Through the investigation, it was determined that Mr. Uribe was armed with a 9mm handgun he had purchased months before. It was established that Uribe fired eight rounds from the gun, emptying a partially-loaded magazine. Officer Raddell fired seven rounds with a .40 caliber handgun. Officer Riddle fired four 9mm rounds with her handgun. Officer Smith fired one .223 caliber round from his rifle. The autopsy determined that Mr. Uribe was struck twice in the legs with handgun rounds, once in the foot from a handgun round, and once in the head with a rifle round. Blood toxicology results revealed that he was heavily intoxicated at a level of .208 vitreous blood alcohol content.

Interviews with Officers Raddell and Riddle revealed that they were aware (via their radios) that the suspect was armed, on foot, and had menaced his girlfriend and others minutes earlier. They located the suspect on the well-lit light rail platform. He matched the description that had been aired over the radio. Officer Raddell called out to Mr. Uribe in a conversational tone and asked him to show his hands. Mr. Uribe put on his tee shirt then drew a handgun and began firing at them. Both officers feared for their lives and returned fire. Officer Riddle knew immediately that she had been hit. When Mr. Uribe fell to the ground, the officers took cover behind a concrete wall while shouting for Mr. Uribe not to move. Mr. Uribe continued rolling from side-to-side as Officer Smith approached from the other side of the light rail platform and ultimately fired one round with his rifle.

Officer Smith, when interviewed, described responding to search for the armed suspect. He heard a “ferocious” exchange of gunfire from the light rail tracks and headed there on foot with his rifle. Bystanders pointed to where the suspect was laying on the platform, rolling as if trying to get to his feet. Officer Smith could see the brown handgun by his side. Mr. Uribe was facing Officer Smith. Officer Smith told him to “Keep his hands up” but Mr. Uribe reached for the handgun. Officer Smith then fired a single shot with his rifle. Mr. Uribe was struck in the head by the round. Per police protocol, Uribe was handcuffed and then transported to Swedish Hospital by ambulance.

Surveillance video from RTD showed Mr. Uribe without a shirt on the light rail platform and apparently talking on his cell phone shortly before the officers initially called out to him. He stepped out of the camera’s view when he engaged the officers, so there was no video of the exchange of gunfire. The camera did capture Officer Smith approach Mr. Uribe and fire a single round with his rifle. There is no body-worn camera video of the incident as, at the time it occurred, Englewood police officers did not wear such cameras.

APPLICABLE LAW

The District Attorney's review of this event is guided by the following statutes pertaining to the use of deadly force by peace officers:

Deadly physical force "means force, the intended, natural, and probable consequence of which is to produce death, and which does, in fact, produce death." C.R.S. § 18-1-901(3)(d). Officers Raddell, Riddle and Smith used deadly physical force against Mr. Uribe. It is most likely that Officer Smith single shot with the rifle ultimately caused Mr. Uribe's death.

C.R.S. § 18-1-707 states in relevant part (note that this statute was amended beginning September 1, 2020):

(2) A peace officer is justified in using deadly physical force upon another person for a purpose specified in subsection (1) of this section only when he reasonably believes that it is necessary: (a) To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or (b) To effect an arrest, or to prevent the escape from custody, of a person whom he reasonably believes: (I) Has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon; or (II) Is attempting to escape by the use of a deadly weapon.

ANALYSIS AND CONCLUSION

The question presented to the District Attorney's Office for the 18th Judicial District is whether Officers Raddell, Riddle and Smith reasonably believed their use of deadly physical force was necessary to defend themselves or others from what they reasonably believed to be the imminent use of deadly physical force by Mr. Uribe. Officers Raddell and Riddle's actions were reasonable and justified based on Mr. Uribe's drawing a gun and firing at them. Mr. Uribe's actions included assaulting and menacing his girlfriend and her daughter with a handgun shortly before being contacted by the officers. Mr. Uribe drew his gun and fired at Officers Raddell and Riddle before they even had time to fully identify themselves, although both were clearly police officers in uniform. Mr. Uribe's statement to his father, "the cops are here," clearly indicated he knew they were police officers. Officer Raddell and Riddle did not communicate their intent to shoot Mr. Uribe but both, separately, made the same decision to shoot based on the imminent, deadly threat posed by Mr. Uribe.

Officer Smith's actions were also reasonable under the circumstances. Considering the information Smith had received via dispatch, combined with what he saw when he arrived, Officer Smith had a duty to approach Mr. Uribe to attempt to place him under arrest and keep him from gaining access to the gun he had already used to try to kill his fellow officers. After Uribe defied commands to raise his hands and reached for the weapon, Smith reasonably and justifiably shot Uribe to defend himself, and possibly others, from what he reasonably believed to be the imminent use of deadly physical force by Mr. Uribe.

I find that Officers Raddell, Riddle and Smith reasonably believed that Mr. Uribe posed an imminent threat of deadly physical force to all three officers as well as others in the vicinity. As such, I find that Officers Raddell, Riddle and Smith were justified in using deadly physical force against Mr. Uribe to defend themselves from the unlawful, imminent and actual use of deadly

physical force against them. Officers Raddell, Riddle and Smith did not commit any crime and criminal charges will not be filed against them.

Clinton McKinzie

Clinton McKinzie
Chief Deputy District Attorney
18th Judicial District