



## OFFICE OF THE DISTRICT ATTORNEY

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SERVING ARAPAHOE, DOUGLAS, ELBERT AND LINCOLN COUNTIES

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04 June 21

Sheriff Tony G. Spurlock  
Douglas County Sheriff's Office  
4000 Justice Way  
Castle Rock, CO 80109

RE: Officer Involved Shooting of Samuel Yeager (DOB █████1997)

Dear Sheriff Spurlock,

I have been asked to review the shooting of Samuel Yeager by Deputy Christopher Lippolis which occurred on April 3, 2021.

### **EXECUTIVE SUMMARY**

On April 3, 2021, Douglas County Sheriff Deputies responded to a 911 call from █████ who reported that after a hike, his classmate from college, Samuel (Sam) Yeager had been acting irrationally. █████ said that at the top of the hike, they had both smoked some indica strain marijuana that █████ brought with him. Yeager made █████ feel threatened by his actions with a rifle that Yeager had brought with them to go shooting after the hike. However, because of the way Yeager was acting █████ was taking him straight back to his car, but then dropped Yeager off on the side of the off-ramp to Interstate I-25 at the Happy Canyon northbound exit. Yeager made several statements to █████ suggesting paranoid delusions. Dep. Brent Butler proceeded to the location and encountered Yeager, who had the rifle in a soft case. Dep. Butler gave repeated commands for Yeager to put the weapon down but Yeager did not comply. Instead, Yeager fidgeted with the weapon, raising it at least twice towards Dep. Butler in what certainly could have resulted in Yeager firing on Dep. Butler. Yeager then moved to the northbound on-ramp, continuing to ignore commands to put the weapon down. Dep. Christopher Lippolis arrived while Yeager was on the on-ramp. Yeager knelt down and then laid down on ground, removed the rifle from the case and then pointed it at Dep. Butler, then toward Dep. Lippolis. Evidence at the scene indicates that Yeager fired three times at the deputies. Dep. Lippolis fired three times. All three shots struck Yeager: once in the left hip and twice in the head. Yeager was killed instantly. No deputy was shot or injured, though there was evidence in the form of a bullet hole in an interstate sign just in front of Dep. Lippolis that indicates Yeager was shooting at Dep. Lippolis' direction.

Based upon my review of all materials, I find that Deputy Lippolis legally and justifiably shot Samuel Yeager based on his reasonable fear that Samuel Yeager was about to fire on Deputy

Butler, that Yeager did in fact fire at the deputies, and that Yeager's conduct constituted an imminent threat of death or serious bodily injury to himself, Dep. Butler, and citizens travelling on or near the I-25 and Happy Canyon junction.

**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 investigation into this shooting incident was conducted by a multi-agency team consisting of personnel from the Littleton Police Department, Douglas County Sheriff's Department, Lone Tree Police Department, Arapahoe County Sheriff's Office, and the 18<sup>th</sup> Judicial District Attorney's Office.

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 18<sup>th</sup> Judicial District, and includes the basis of the decision not to charge the involved officer with any criminal conduct.

**MATERIALS REVIEWED AND INFORMATION CONSIDERED**

Detective Robert Shiller of the Littleton Police Department is the lead Critical Incident Response Team ("CRT") Investigator. I have been provided materials produced by the Littleton Police Department investigation into the shooting, and reviewed the same.<sup>1</sup> The materials I reviewed include: all photographs from the scene, search warrants, and autopsies; all 911 calls and radio traffic

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<sup>1</sup> The materials include reports generated by the law enforcement agencies listed as part of the multi-agency team.

recordings; all relevant body worn camera (BWC) footage; all relevant dash camera footage; and all written reports and witness statements, including the autopsy report.

### **SUMMARY OF THE FACTS AND WITNESS INTERVIEWS**

On April 3, 2021, at approximately 6:18 p.m., 911 received a call from ██████████, who reported that he had just left Samuel (“Sam”) Yeager on the side of the off ramp at Happy Canyon and I-25. ██████████ related that he kicked Yeager out of his car because he was “acting crazy,” “hallucinating,” and had pointed an AK-47 rifle at him. ██████████ related that he thought Yeager was going to shoot him. ██████████ related that he met Yeager through an online course at the University of Colorado Boulder and they had met up that day to go hiking. ██████████ was afraid that Yeager was going to shoot someone. ██████████ stated that when Yeager got out of his car, Yeager had the AK-47 in a case. Yeager left several bullets and his hat in ██████████ car. Yeager’s car was parked at ██████████ home, and ██████████ expressed concerns that Yeager would do something when he came to get his car.

**Dep. Brent Butler** was interviewed by Inv. Joe Ryan Hartley of the 18<sup>th</sup> Judicial District Attorney’s Office and DCSO Det. Ronnie Dorrell. Dep. Butler stated that earlier that evening he heard the dispatch call of a person with a gun at Happy Canyon and I-25. Dep. Butler had just passed Happy Canyon on northbound I-25, so he turned around at Castle Pines exit and returned to the Happy Canyon overpass. He was driving a marked Sheriff vehicle. He was the first law enforcement officer to arrive. Upon arrival, he saw an individual—later identified as Yeager—with a black soft long gun case. He got out of his vehicle and ordered Yeager to set the weapon down. He gave the order numerous times. At some point he could see the butt of a rifle sticking out of the case. He was concerned because of the location that there was a lot of citizen traffic nearby. Yeager did not comply with orders and instead moved from the southeast side of the overpass across Happy Canyon Road and down the northbound on-ramp of I-25. Dep. Butler moved his car to block the on-ramp and then continued to order Yeager to drop his gun. Dep. Butler retrieved his patrol rifle. Yeager was about thirty to fifty yards away from him. Yeager dropped down to a prone position. Dep. Butler lost sight of the rifle and moved from the left side of his vehicle around to the right and then saw Yeager with the rifle out of the case. He then heard gunfire. He saw Yeager was down and approached then moved the AK-47 away from Yeager. Yeager was shot in the head and had sustained a clearly fatal wound. Dep. Butler never fired during the incident. Dep. Butler reiterated that he was concerned with citizen’s safety given the traffic on I-25 and on the overpass, but also said anyone around Yeager including himself could be shot.

The night of the incident, I reviewed Dep. Butler’s vehicle’s dash camera (as well as other BWCs). In preparation for this memo I reviewed those materials again.

As part of the case file, a combined side-by-side synched view of Dep. Butler’s vehicle’s dash camera and BWC was prepared. It shows that once Dep. Butler contacts Yeager, Yeager sets the rifle on the ground, but immediately picks it back up. Yeager has his right hand inside the case and holds the case in a cradle with his left hand. Dep. Butler repeats “put it down” nearly constantly. At 3:22 of the BWC, Yeager raises the rifle case towards Dep. Butler with one hand inside the case and his left hand supporting the weapon inside the case. The weapon could be fired at the deputy in this position. Yeager then begins to walk to the northbound on-ramp, and

as he crosses, at 3:42 he appears to point the rifle a second time at Dep. Butler. Again, the weapon could be fired at the deputy in this position. Dep. Butler re-enters his vehicle and begins to slowly follow Yeager down the on-ramp. Yeager begins to walk backwards facing Dep. Butler, and holding the rifle case in front of him. Dep. Butler then parks his vehicle in the middle of the northbound on-ramp, exits his vehicle and continues to give Yeager orders to “put it down.” Yeager fidgets with the case, starting to pull the case off, then pulling it back on. Yeager moves further down the on-ramp, again backing up but facing the deputy.

At 5:26 of the BWC/dash camera, Yeager goes to his knees and appears to take the rifle out of the case. Yeager then lies prone on the east side of the on-ramp, facing slightly back towards Dep. Butler.

At 5:35, Yeager has the rifle out of the case, is leaning his head against it and the muzzle is pointed in Dep. Butler’s direction. His right arm is visible bracing himself and the rifle. In the screen shot below, the muzzle of the rifle is directly at the camera.



At 5:37, Yeager sweeps the muzzle slightly away from Dep. Butler's position and to Yeager's right where Dep. Lippolis has stopped his vehicle and is standing outside his vehicle behind an open car door. The muzzle of the rifle can clearly be seen as indicated by the yellow arrow and is pointed roughly southwest.



At 5:38, several gunshots can be heard, and when examined carefully, six can be made out. The first four are nearly simultaneous, and then two more shots are fired. Yeager appears to start to stand up and then drops to the ground and does not move again. Dep. Butler moves up and removes the rifle from the grabbable area of Yeager. Dep. Butler comments on BWC that he thought he was being shot at, but then "realized it was someone shooting behind him." In actuality, both of his observations were accurate, as there is physical evidence that shows Yeager fired at the deputies, and Dep. Lippolis was positioned behind Dep. Butler and to his left.

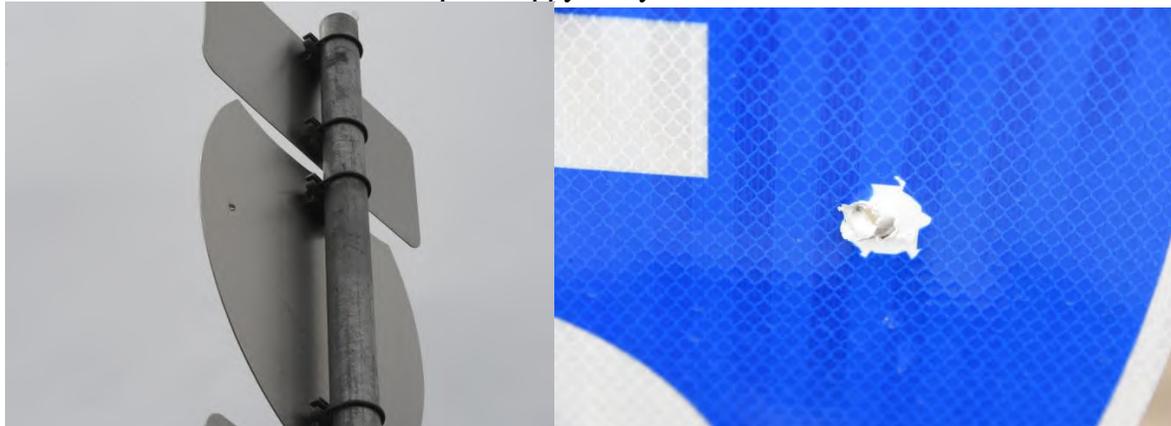
**DCSO CSI Moriah Bargas** marked fired casings near where Yeager lay with scene markers 3, 4, and 5. The casings were of Tulammo 7.62 x39 rounds, which is the same ammunition found in the rifle as described *infra*.



At 7:15 of the BWC, Dep. Butler's vehicle can be seen in the middle of the on-ramp, as well as Dep. Lippolis' vehicle (yellow arrow). Just north of Dep. Lippolis' vehicle is an I-25 road sign (orange arrow).



Three days later, CSI Bargas photographed an apparent bullet defect to the I-25 sign at the entrance to the northbound on-ramp at Happy Canyon:



The hole tested presumptive positive for the presence of lead and copper. A projectile rod indicated a direction consistent with Yeager's location.

Yeager's weapon was a Romarm/Cugir semi-automatic WASR-10 7.62 x39 caliber rifle.<sup>2</sup> Twenty-seven (27) live 7.62 x39 rounds were recovered from the magazine which had a capacity of thirty (30) rounds, and there was one round in the chamber.<sup>3</sup> The rifle was purchased by Yeager on May 28, 2020, from Grandpa's Pawn & Gun in Longmont, Colorado, after Yeager successfully passed a background check. On the Bureau of Alcohol, Tobacco, Firearms and Explosives Firearms Transaction Record for the purchase, Yeager checked "no" to questions 11(e) ("Are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance?"<sup>4</sup>) and 11(f) ("Have you ever been adjudicated as a mental defective **OR** have you ever been committed to a mental institution?").

Det. Shiller interviewed Dep. Lippolis on April 6<sup>th</sup>. I was present for and observed this interview.

**Dep. Lippolis** responded to the report of a man with a gun at Happy Canyon and I-25 in a marked Sheriff vehicle and ran with lights and sirens. Upon arrival he saw Dep. Butler near the northbound ramp to I-25 and the suspect "waving" the gun around as if trying to throw off the sheath. Dep. Lippolis pulled up near Dep. Butler's vehicle, facing east in the westbound lane of the overpass. Dep. Lippolis pulled his rifle out of the rack before stopping the car, and then once stopped, stepped out behind his door and acquired a sight on Yeager. He saw Yeager holding the rifle he recognized to be an AK-47 with a full magazine out of the case, then Yeager got on the ground facing Dep. Butler. Dep. Lippolis' weapon had a scope which he used to see Yeager clearer. Dep. Lippolis saw Yeager "cheek-weld" on the rifle in what appeared to be preparation to take aim at Dep. Butler. Yeager then squinted, which Dep. Lippolis believed was Yeager

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<sup>2</sup> This is a Romanian manufacture of rifle very similar to an AK-47.

<sup>3</sup> If a round is chambered, the total capacity of the rifle and magazine would be 31, which would account for the three 7.62 x39 casings found near Yeager at the scene and 28 live rounds in the weapon.

<sup>4</sup> After this question is a statement, in bold, "**Warning: The use or possession of marijuana remains unlawful under Federal law regardless of whether it has been legalized or decriminalized for medicinal or recreational purposes in the state where you reside.**"

taking aim to fire. Dep. Lippolis fired but believed he missed Yeager then readjusted his aim and took two more shots, at which point Yeager collapsed. Dep. Lippolis believed that Yeager was about to shoot and kill Dep. Butler. Dep. Lippolis was not sure if Yeager fired at him, although he heard more shots than the three he fired but believed those reports to be echoes. Dep. Lippolis did not believe Yeager saw him.

CSI Bargas located three casings at the scene of .223 ammunition: two on the ground and one located on the hood well of Dep. Lippolis' vehicle. A round count by Lone Tree Police Department Det. Gary Allen of Dep. Lippolis' Colt M4 carbine rifle disclosed 26 round of .223 cartridges in the magazine and one in the chamber for a total of 27 rounds. The magazine capacity is 30 rounds, which is consistent with both the physical evidence at the scene and Dep. Lippolis' recollection of firing three times. Round counts of the weapons of other officers on the scene confirm no one but Dep. Lippolis fired his weapon.

Inv. Charles Kelley of the Arapahoe County Sheriff's Office (ACSO) and DCSO Det. Kristen Tinsley interviewed **Dep. Jarrad Buxton** who reported that he responded to the call and as he arrived he heard Dep. Butler air that Yeager had pulled the rifle out of the sheath. He could see Yeager holding something in his hands facing Dep. Butler. He and Deputy Braden Seeman parked their vehicle and began to approach. Dep. Buxton saw Yeager on the ground and could see the rifle pointed in the direction of Dep. Butler or Dep. Lippolis. He then heard what he believed to be three to four shots.

Later that night DCSO Cpl. Randy Allen and 18<sup>th</sup> District Attorney Investigator Tonya Barnes interviewed ██████, the original 911 caller. ██████ related that he is a Junior at CU Boulder and met Yeager in an online course and had spoken offline. He knew Yeager for about two weeks prior to this date. They agreed to go hiking on April 3<sup>rd</sup> and then go to the shooting range. Yeager drove from Boulder and arrived at ██████ house in Castle Rock somewhere between 2:15 and 3:00 p.m. and they hiked Spruce Mountain in Larkspur. Yeager brought an AK-47 rifle and several bullets which were in the car as they hiked. At the top of the hike they smoked a joint of Indica strain marijuana that ██████ brought with him. As they hiked back down Yeager became delusional, claiming they were lost and trying to take ██████ phone. Yeager was asking irrational questions and made statements that people were after him. Once in the car, Yeager removed the AK-47 from the case and had it with him in the front seat. Yeager pointed the rifle at ██████ and ██████ pleaded for his life. Yeager told ██████ that he was not going to shoot him, however ██████ remained very fearful because of how Yeager continued to act. As they approached the Happy Canyon exit, Yeager began to demand that ██████ let him out because he didn't want to go into ██████ neighborhood. Yeager said he would walk to his car. When ██████ got to the northbound off ramp for Happy Canyon he pulled over and was able to get Yeager out of his car; however, Yeager would not step away from the car and ██████ said it seemed like they were in that position for about twenty minutes until Yeager was not holding onto the car and ██████ drove off with the passenger door still open. He then called 911. ██████ related that previously Yeager told him about his substance abuse problems which included "a lot of opiates, like codeine or hydrocodone," and that he was using Kratom to get off those drugs. Yeager told ██████ that he had quit Kratom "cold turkey" three days prior and that quitting cold turkey was making him paranoid. Yeager also told ██████ that he didn't have a smart phone and wasn't on social media because he was concerned about the government tracking him. ██████



are consistent with the other physical evidence and interview of Dep. Lippolis. Only the bullet wound to the top of the head struck any major organ. The autopsy toxicology also indicated the presence of Delta-9 THC (a metabolite of the active ingredient of marijuana) at 0.78ng/mL levels and Mitragynine (a metabolite of kratom) at the 24 ng/mL level. The manner of death was ruled a homicide.

### **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:

Dep. Lippolis' use of his service weapon, and firing three shots constituted the use of deadly physical force, as that term is defined by Colorado law. **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).

C.R.S. § 18-1-707 states in relevant part:

- (2) When physical force is used, a peace officer shall:
  - (a) Not use deadly physical force to apprehend a person who is suspected of only a minor or nonviolent offense;
  - (b) Use only a degree of force consistent with the minimization of injury to others...
- (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 or other deadly physical force, with sufficient time for the warning to be observed, 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.
- (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.

### **ANALYSIS AND CONCLUSION**

The question presented by law is whether Dep. Lippolis reasonably believed that the use of deadly physical force was necessary to defend himself or others from what he objectively reasonably believed to be the imminent use of deadly physical force. If so, his use of deadly physical force was legally justified. Further, there is the additional question of if Dep. Lippolis had an objectively reasonable belief that a lesser degree of force was inadequate.

Dep. Lippolis was aware that Yeager was armed with a gun based on the dispatch call. He was also aware that Yeager had pointed the gun at least once (it was more than once) towards Dep. Butler because Dep. Butler aired that over the radio. Upon arrival to the scene, he could see Yeager carrying what appeared to be a long gun in a soft case. He could hear Dep. Butler giving commands to Yeager to put down the weapon and could see that Yeager was refusing to comply. Yeager then

dropped to the ground and assumed a firing position with the rifle, pointing it at Dep. Butler. Dep. Lippolis saw Yeager squint, believing he was about to fire at Dep. Butler. Although Dep. Lippolis believed Yeager did not see him and though he, Dep. Lippolis, believed he was the only one to fire, the dash camera and physical evidence at the scene demonstrate that Yeager fired three times, at least once directly at Dep. Lippolis.

When Yeager pointed his rifle at Dep. Butler, he committed the crimes of Assault in the First Degree 18-3-202(1)(e), a class 3 felony, and Menacing, in violation of CRS 18-3-206, a class 5 felony.<sup>5</sup> He likewise committed the same felonies against Dep. Lippolis when he turned his rifle towards Dep. Lippolis. When Yeager fired his rifle at Dep. Lippolis, he, *at a minimum*, additionally committed the crimes of Attempted Assault in the First Degree, 18-2-101/18-3-202(1)(a), an F4 felony, and Attempted Murder in the Second Degree, 18-2-101/18-3-103(1), an F3 felony.

The offenses involved therefore were neither minor nor nonviolent.

When Dep. Lippolis fired, the area behind Yeager was an open field. Dep. Lippolis was firing away from I-25 and away from Happy Canyon Road, and therefore used only a degree of force consistent with the minimization of injury to others.

Both Dep. Butler and Dep. Lippolis were in marked DCSO vehicles and were in law enforcement uniforms, and clearly identifiable as peace officers. While Dep. Lippolis did not announce his intent to use deadly force, Yeager would clearly be able to see both Dep. Lippolis and Dep. Butler had guns drawn on him and he had been given commands to put down his own rifle. This is corroborated by numerous witnesses who saw the deputies with guns drawn and witnesses who heard Dep. Butler give the commands to Yeager to drop his weapon. Dep. Lippolis only fired when Yeager “cheeked-up” on the rifle and appeared to be ready to fire,<sup>6</sup> at which point requiring a verbal warning would unduly place peace officers at risk of injury or would create a risk of death or injury to other persons.

Based on all of the information, I find Dep. Lippolis was justified in using deadly force as he had an objectively reasonable belief that a lesser degree of force was inadequate and Dep. Lippolis had objectively reasonable grounds to believe, and did believe, that he or another person was in imminent danger of being killed or of receiving serious bodily injury.



Gary S. Dawson  
Chief Deputy District Attorney

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<sup>5</sup> There are three distinct acts of Yeager pointing the gun in the direction of Dep. Butler, so each act could constitute a separate count of Menacing and of Assault in the First Degree.

<sup>6</sup> As noted elsewhere, Yeager did in fact fire three times at the deputies.