



OFFICE OF THE DISTRICT ATTORNEY

GEORGE H. BRAUCHLER, DISTRICT ATTORNEY
18TH JUDICIAL DISTRICT
SERVING ARAPAHOE, DOUGLAS, ELBERT AND LINCOLN COUNTIES

August 11, 2017

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

Re: Deputy-involved shooting of Deyon Marcus Rivas-Maestas by Deputy Bradley Proulx
Littleton Police Department criminal case number 2017-002316
18th Judicial District Critical Response Team case number 17-3

Dear Sheriff Spurlock,

I have completed my review of the deputy-involved shooting of Deyon Marcus Rivas-Maestas by Douglas County Deputy Bradley Proulx which occurred on May 12, 2017. The following are my factual and legal findings based on my review of the criminal case investigation completed by Littleton Police Detective Erin Brannan and the 18th Judicial District Critical Response Team investigation completed by Parker Police Department Detective Shannon Brukbacher. My review includes 911 dispatch calls, law enforcement reports, witness interviews, scene photographs, attendance at team meetings, and review of body worn camera footage of Deputy Proulx and other responding deputies.

At approximately 6:47 p.m. on May 12, 2017, while on routine patrol near the area of South Santa Fe Drive and East County Line Road, in the city of Littleton, County of Douglas, Deputy Bradley Proulx noted a white GMC Yukon SUV appearing to be disabled partially in the roadway facing eastbound on County Line Road. Deputy Proulx was in full uniform, driving a fully marked Douglas County Sheriff's Office K9 SUV. Deputy Proulx noted four parties on scene, including two unidentified females and a male (Deyon Marcus Rivas-Maestas) in the driver's seat of the Yukon. The fourth individual, a white male wearing a military uniform, later identified as Frederick Hockett, was determined to be an uninvolved citizen attempting to assist the parties with the disabled vehicle who left the scene shortly after Deputy Proulx's arrival. Deputy Proulx aired a motor assist call via police radio.

Deputy Proulx exited his sheriff's vehicle and, after first contacting Hockett, subsequently made contact with the first female on the passenger side of the Yukon. He described her as Hispanic in her mid-twenties, 5'05", heavy set, long dark hair with streaks in it, wearing a white shirt and jeans. She advised "we're good, we're good." Deputy Proulx noted in his opinion her response was not normal, as if she did not want him there. When asked, she said they had broken down and a ride was on the way. Deputy Proulx told the female that he would wait behind them until their help arrives. This interaction was not recorded on Deputy Proulx's body worn camera.

While speaking with the first female, a light colored Honda CRV arrived, and the female indicated that was their ride. The female Deputy Proulx was talking with then got into the Honda CRV and Deputy Proulx returned to his vehicle.

The second unidentified female remained inside the Yukon, talking with the driver (Rivas-Maestas). The second female was described as Hispanic, skinnier, wearing light jeans and a white short sleeved shirt, long straight mid-back length brown hair, and drinking an orange soda. The second female also approached and entered into the Honda CRV. Deputy Proulx did not talk to this female.

The Honda CRV then left the scene with both females, leaving Rivas-Maestas in the driver's seat of the Yukon. Deputy Proulx remained inside his sheriff's vehicle.

Since the Yukon was partially blocking the roadway, Deputy Proulx decided to approach the driver (Rivas-Maestas) and offer to push the vehicle with the push bumper on his sheriff's vehicle. Deputy Proulx activated his department issued body worn camera, exited his patrol SUV, and made a right side approach to the Yukon. Deputy Proulx tried to get the driver's attention and noted the driver's door opened, but the passenger side window did not go down. Deputy Proulx told the driver (Rivas-Maestas), "I'll come around to you." Deputy Proulx travelled from the passenger side of the Yukon to the rear of the Yukon. As he approached the driver's side of the vehicle, Deputy Proulx observed Rivas-Maestas coming at him full speed with an AR-15, barrel-side up. Unknown to Deputy Proulx, the rifle was secured with a gun lock. Deputy Proulx noted that Rivas-Maestas was looking right at him "like he was bringing the fight to me" and that Rivas-Maestas brought the rifle down towards Deputy Proulx in a striking motion. In response, Deputy Proulx drew his personally owned service weapon, Sig Sauer model 320 9mm, and fired two shots. The first shot struck Rivas-Maestas in the right bicep/upper arm. The rifle came out of Rivas-Maestas' hands and traveled past Deputy Proulx. As Rivas-Maestas turned and ran eastbound, Deputy Proulx fell to the ground onto his back, firing a second shot which missed Rivas-Maestas, striking the open driver's side door. The two shots were fired within two seconds of each other.

At approximately 6:53 p.m., Deputy Proulx radioed "shots fired", got to his feet, and saw Rivas-Maestas at the front of the Yukon. Douglas County Sheriff's Deputy Nathan West was the first cover officer to arrive. He observed Deputy Proulx standing off to the side of his patrol car covering Rivas-Maestas, who was on the ground about 20-30 feet in front of the Yukon. Deputy West noted that Deputy Proulx told him "he came at me with that", pointing to an AR-15 lying on the ground. Additional Douglas County Sheriff's deputies responded to the area, ultimately taking Rivas-Maestas into custody. Littleton Fire Rescue arrived, transporting Rivas-Maestas to Littleton Adventist Hospital, where Rivas-Maestas was treated for his gunshot wound. Rivas-Maestas survived the shooting.

Around the time of the shooting, civilian witness Amy Pelland called 911 emergency and reported hearing a "loud pop", immediately seeing Deputy Proulx forcibly falling backwards as if he'd been pushed. Pelland reported seeing Rivas-Maestas running in the opposite direction, approximately 6 feet from Deputy Proulx.

During the course of the investigation, Deputy Proulx's body worn camera was analyzed. Investigators noted the entirety of the interaction with Rivas-Maestas was recorded. Still images of the interaction are shown below:





An image of the AR-15 used by Rivas-Maestas was later photographed on the ground:



Colorado law allows the use of physical force in defense of a person in specified circumstances. C.R.S. § 18-1-704 provides, in pertinent part:

- (1) Except as provided in subsections (2) and (3) of this section, a person is justified in using physical force upon another person in order to defend himself or a third person from what he reasonably believes to be the use or imminent use of unlawful physical force by that other person, and he may use a degree of force which he reasonably believes to be necessary for that purpose.
- (3) Notwithstanding the provisions of subsection (1) of this section, a person is not justified in using physical force if:
 - (a) With intent to cause bodily injury or death to another person, he provokes the use of unlawful physical force by that other person; or

- (b) He is the initial aggressor; except that his use of physical force upon another person under the circumstances is justifiable if he withdraws from the encounter and effectively communicates to the other person his intent to do so, but the latter nevertheless continues or threatens the use of unlawful physical force; or
- (c) The physical force involved is the product of a combat by agreement not specifically authorized by law.

In this circumstance, Deputy Proulx reasonably believed unlawful physical and deadly force was about to be applied upon him by Rivas-Maestas. Deputy Proulx recognized Rivas-Maestas possessed an AR-15 rifle, more powerful than the service weapon he was carrying. Deputy Proulx reasonably believed Rivas-Maestas would or could use the rifle not only in a striking motion, but perhaps to fire at him. It was only after the confrontation that Deputy Proulx learned the rifle was secured via gunlock. Deputy Proulx did not provoke the use of force by Rivas-Maestas, was not the initial aggressor, nor was there any sort of combat by agreement. In short, Deputy Proulx reasonably believed physical and deadly force, was about to be applied towards him by Rivas-Maestas. In response, Deputy Proulx fired his service weapon at Rivas-Maestas, using a degree of force he reasonably believed necessary to prevent Rivas-Maestas from applying such physical and deadly force.

Therefore, I conclude Deputy Proulx reasonably believed that his life was in danger and acted reasonably in shooting Deyon Marcus Rivas-Maestas. Further, Deputy Proulx used an appropriate level of physical force given the circumstance. Accordingly, I find Deputy Proulx's actions were justified and did not violate Colorado law.

Sincerely,

Jacob Edson

Jacob Edson
Chief Deputy District Attorney

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