



OFFICE OF THE DISTRICT ATTORNEY

GEORGE BRAUCHLER, DISTRICT ATTORNEY
23RD JUDICIAL DISTRICT
SERVING DOUGLAS, ELBERT AND LINCOLN COUNTIES

March 10, 2025

Chief Jack Cauley
Castle Rock Police Department
100 Perry Street
Castle Rock, CO 80104

**Re: Report of Findings Regarding the Officer-Involved Shooting in Castle Rock at 3715
Bilberry Street on October 9, 2024**

Dear Chief Cauley,

On October 9, 2024, Castle Rock Police Department (CRPD) received a 911 call from a neighbor who claimed subject Mr. David Tamm, broke his phone and threatened him with a stick.

Officers arrived on scene and located Mr. Tamm breaking into the Ridge Apartments leasing office. Mr. Tamm exhibited erratic behavior, both inside and outside of the leasing office. The incident quickly developed and, while outside of the leasing office, Mr. Tamm pointed a handgun at officers and fired one round. A total of five officers returned fire on Mr. Tamm, who died from gunshot wounds.

I reviewed all the evidence provided by the Critical Incident Response Team to determine whether there was any illegal use of force by the four officers who fired their weapons.

SUMMARY

Applying the law to the facts of this incident, as described in more detail below, I conclude that the officers were legally justified in using lethal force against Mr. Tamm. The use of force by the police officers was reasonable, necessary, and appropriate to defend themselves and others from the threat posed by Mr. Tamm.

STATUTORY FRAMEWORK

C.R.S. § 16-2.5-301 governs investigations into police 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 the 23RD Judicial District Critical Incident Response Team (CIRT). The lead investigator was Detective Kristen Donoho with the Douglas County Sheriff's Office (DCSO). Other investigators from the District Attorney's Office participated as well as numerous Police Departments and Sheriff's Offices throughout the jurisdiction.

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 23RD Judicial District and includes the basis of the decision not to charge the involved officers with any criminal conduct.

MATERIALS REVIEWED AND INFORMATION CONSIDERED

I reviewed all materials provided by the lead investigator and members of the CIRT, including body-worn camera video, surveillance videos, drone video, forensic analysis, reports of investigating officers and crime scene technicians, the interview of the involved officers, all reports and recorded interviews with witnesses, and photographs and video of the scene.

SUMMARY OF FACTS

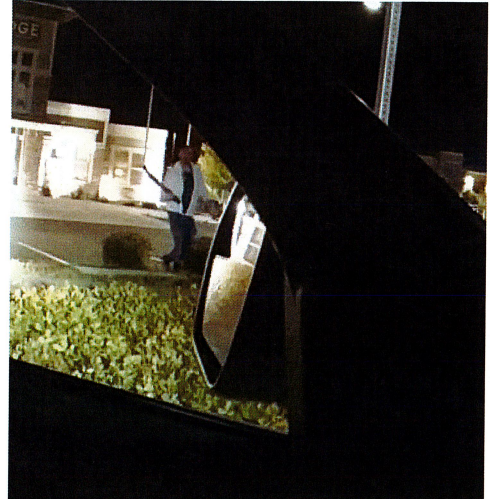
On October 9, 2024, at 10:12 PM, the Castle Rock Police Department received a 911 phone call from a concerned neighbor, who lived at 2397 Fiji Dr. Castle Rock, CO 80109. The neighbor reported Mr. David Tamm came out of his home and grabbed the neighbor's phone and broke it. The neighbor also reported that Mr. Tamm wanted to fight him with a stick. Mr. Tamm was last seen wearing a gray sweater and walking on Celestial Avenue with an object in his hands, presumed by the neighbor to be a shotgun.

Officer Devin Jarvis arrived on scene at 10:19 PM and was flagged down by a citizen who told him that Mr. Tamm was down the street, attempting to break into the Ridge Apartments leasing office. Officer Jarvis drove down Bilberry Street and observed Mr. Tamm slamming an object into the leasing office window. As Officer Jarvis positioned his vehicle toward the front of the building, Mr. Tamm approached Officer Jarvis.

Officer Jarvis illuminated his spotlight on Mr. Tamm and observed a black shotgun in Mr. Tamm's right hand. Mr. Tamm was holding the shotgun by the stock, with the barrel pointed towards the ground. As Mr. Tamm continued to approach Officer Jarvis, Mr. Tamm tossed the shotgun up into the air and caught the shotgun by the barrel. Mr. Tamm then pointed the stock of the shotgun outward, away from the right side of his body and then lowered the shotgun to the right side of his body. Officer Jarvis challenged Mr. Tamm and ordered him to "Drop the gun!" multiple times.



Still from Officer Jarvis' BWC of Mr. Tamm approaching with shotgun



Still from Officer Jarvis' BWC of Mr. Tamm extending the shotgun

Mr. Tamm pointed with his left hand at a passing vehicle and appeared to be screaming. Mr. Tamm turned around and walked back towards the Ridge Apartments leasing office. Mr. Tamm could be heard screaming on Officer Jarvis' body camera, "Where's all the cops? Where's all the birds? Where's all the people?"

At 10:21 PM, Mr. Tamm returned to the front of the Ridge Apartments leasing office and used the shotgun to break out a front window on the Northeast side of the building. Mr. Tamm climbed inside the window and gained access into the leasing office. Mr. Tamm forcibly gained access into multiple offices and rooms within the leasing office, using the shotgun to break glass and breach doors. Officers observed Mr. Tamm pacing back and forth from the front of the leasing office to the rear. Officer Jarvis observed Mr. Tamm open the rear door of the leasing office, walk out onto the back patio and then reenter the leasing office multiple times.

At 10:22 PM, Officer Colin Rosten arrived on scene and deployed his department issued rifle, Colt M4 Carbine 5.56 MM. At 10:25 PM, Officer Rosten pulled his Castle Rock Police Department patrol vehicle onto the sidewalk on the East side of the leasing office, with direct line of sight into the building.

At 10:26 PM, Corporal Paul Longuevan was positioned on the North side of the leasing office and advised he heard a loud bang inside. Corporal Longuevan and Officer Rosten believed it was a gunshot. Corporal Longuevan unholstered his Glock 17 and took a position of cover behind a concrete pillar.

Officer Jared Smith arrived on scene, drove his Castle Rock Police Department patrol vehicle to Corporal Longuevan's position and deployed his department issued rifle, Colt M4 Carbine 5.56 MM.

At 10:27 PM, Officer Alexander Wyche arrived on scene and deployed his department issued rifle, a Colt M4 Carbine 5.56 MM. Officer Wyche positioned himself behind a Castle Rock Police Department patrol vehicle at the intersection of Bilberry Street and Celestial Avenue.

At 10:28 PM, Officers observed Mr. Tamm prop open the front door to the leasing office. Mr. Tamm continued to pace back and forth from inside the leasing office, outside the front doors to the front of the leasing office. Each time Mr. Tamm was seen at the front doors of the leasing office or at the rear of the leasing office, officers announced themselves as the "police" or "the Castle Rock Police Department" and ordered Mr. Tamm to come out with his hands up.

Officer Schroeder responded with the less lethal Pepperball gun and Sergeant DeLumeau responded with the less lethal 40-millimeter launcher.

At 10:29 PM, Mr. Tamm walked to the front of the leasing office and stopped in the vestibule area. Mr. Tamm could be heard screaming, "And the blood of Jesus Christ!" Mr. Tamm then turned around and walked back inside the leasing office out of view.

On October 9, 2024, Officer Bennington was concluding firearms training at the Highlands Ranch Law Enforcement Training Facility in Littleton on Highway 85 around 9:30 PM-10:00 PM. Officer Bennington was on his way home to Castle Rock and heard the disturbance call being aired on the radio. Officer Bennington did not pay too much attention to the radio until he heard an officer air that he had "one" at gunpoint and the suspect was armed with a shotgun.

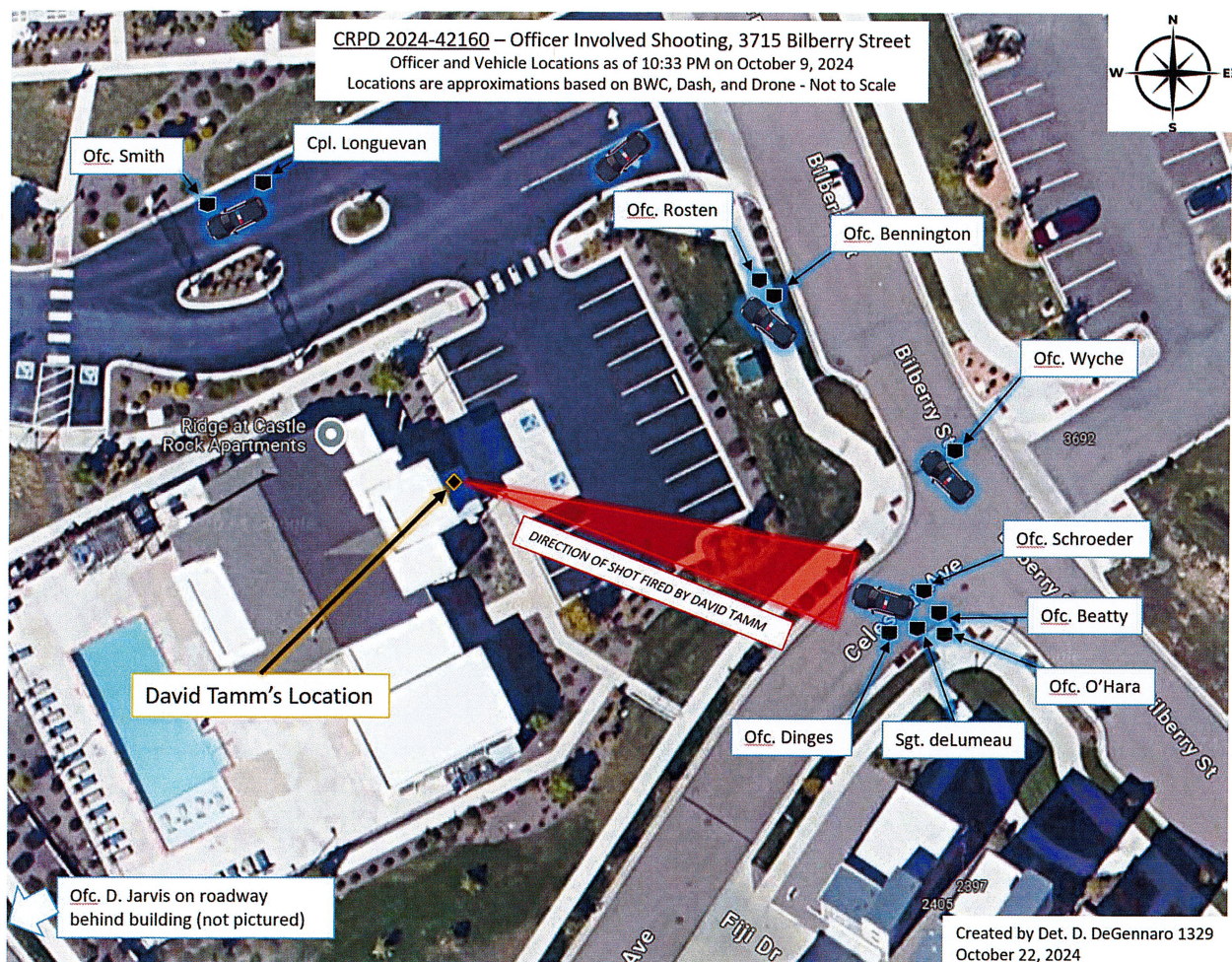
Officer Bennington heard officers on the radio requesting less lethal resources, such as the 40 MM launches and the pepper ball gun. Officer Bennington heard on the radio that another designated marksmanship officer, Officer Blake Burch, was enroute to the call with the pepper ball gun and recognized that a designated marksmanship officer would be a good resource for this type of call. It was at that moment, Officer Bennington made the decision to attach himself to the call and respond.

At 10:31 PM, Officer Bennington arrived on scene with the DMR (designated marksmanship rifle), which has a high magnification powered scope. Officer Bennington positioned himself in front of the leasing office, with his DMR propped up on the hood of Officer Rosten's Castle Rock Police Department patrol vehicle. Officer Casey Beatty was also in position behind Officer Rosten's patrol vehicle. When Officer Bennington arrived, Officer Beatty left that position and contacted officers positioned behind a patrol vehicle at Celestial Ave. and Bilberry St. to obtain a less lethal option. At that time, Officer Beatty heard one gunshot, then multiple gunshots in quick succession.

On October 9, 2024, while on another call for service, Officer Burch heard officers air on the radio that they had a subject at gunpoint, armed with a shotgun. Officer Burch is a certified instructor of the Pepperball launcher system. Initially, Officer Burch did not have his Pepperball launcher

in his patrol vehicle. Officer Burch then re-routed to the police department to retrieve this system. After retrieving the Pepperball launcher, Officer Burch responded to The Ridge leasing office. As Officer Burch arrived on scene, he parked his patrol vehicle near the intersection of Meadows Boulevard and Bilberry Street and began approaching the leasing office while armed with his Pepperball launcher. As he neared the intersection of Bilberry Street and Celestial Avenue on foot, Officer Burch heard a gunshot quickly followed by a volley of gunfire from officers.

At 10:32 PM, Mr. Tamm exited the front of the leasing office covered in blood. Officer Bennington observed Mr. Tamm holding a black handgun pointed down at his side. Officer Bennington order Mr. Tamm to “drop the gun!” twice. Officer Rosten yelled, “Let me see your hands, this is the police department!” Mr. Tamm ignored commands given by Officer Bennington, Officer Rosten and other officers on scene. Officer Bennington observed Mr. Tamm walk by a pillar on the North side of the entrance, next to a bush. Mr. Tamm “did something” at the bush for a brief second and then emerged on the south side of the pillar with a black handgun in his right hand.



Location of all involved officers at the time of the shooting

At 10:33 PM, Mr. Tamm took a shooting stance position, raised the black handgun into the air with his right arm and pointed the gun in the direction of several officers positioned at the

intersection of Celestial Avenue and Bilberry Street. Mr. Tamm fired one round toward officers and was simultaneously met with returning gunfire by Officer Wyche, Officer Bennington, Officer Rosten, Officer Smith and Corporal Longuevan.



Mr. Tamm taking a shooting stance, captured on Officer O'Hara's dash camera

At 10:33 PM, multiple officers aired "shots fired" on the radio.

At 10:34 PM, a contact team was established, and Officer Beatty gave multiple commands to Mr. Tamm to put his hands out to his side. Mr. Tamm was laying in the rocks in front of the leasing office, unresponsive. When officers contacted Mr. Tamm, they initially noted that Mr. Tamm had a gunshot wound to the left chest, upper back, upper left arm and lower left leg. Officer Beatty placed handcuffs on Mr. Tamm and identified a black handgun in between Mr. Tamm's legs.

At 10:36 PM, Officer Mattson Schroeder applied a chest seal to the gunshot wound on the left side of Mr. Tamm's chest. Officer Rosten applied pressure to Mr. Tamm's upper left arm and used dressings to wrap the gunshot wounds. At 10:38 PM, Officer Blake Burch applied to tourniquet to Mr. Tamm's upper thigh, to control the bleeding from the gunshot wound to Mr. Tamm's lower leg. At 10:40 PM, Officer Dinges noted that Mr. Tamm was not conscious and he was not breathing. Officer Schroeder rolled Mr. Tamm onto his back and started chest compressions.



Location of handgun in relation to Mr. Tamm's body

At 10:41 PM, members of the Castle Rock Fire Department arrived on scene and directed Officer Schroeder to stop administering chest compressions. At 10:43 PM, members of the Castle Rock Fire Department pronounced Mr. Tamm deceased.

A protective sweep was conducted of the leasing office and a black Garavsar Fear-118, 12-gauge shotgun was discovered on the desk in the front office. The stick that Mr. Schickel initially reported to have seen in Mr. Tamm's hands was discovered on the Northeast stone pillar, outside of the leasing office.



Mr. Tamm's shotgun found on leasing office desk



Stick used to threaten Mr. Schickel

On October 14, 2024 at 8:00 AM, Douglas County Coroner's Office Pathologist, Dr. Leon Kelly, conducted the autopsy of Mr. Tamm. It was determined that Mr. Tamm sustained a total of 10 gunshot wounds, two of which were deemed graze wounds. Dr. Kelly preliminarily noted that David sustained a gunshot wound to his chest (through and through), which entered the right side of the chest, punctured the right lung, went through the heart, punctured the left lung and exited the left chest. Dr. Kelly deemed this wound as fatal.

APPLICABLE LAW

The ethical obligation of prosecutors and the policy of the District Attorney's Office is to only prosecute a case when 1) there is a good faith basis to believe the individual to be prosecuted has committed the crime, and 2) there is a reasonable likelihood of conviction at trial. This is a higher standard than the probable cause standard used by police officers making arrest decisions. Criminal liability for charging is established when there is a good faith basis to believe the individual committed the crime, and there is sufficient evidence to prove all the elements of the crime beyond a reasonable doubt, to include the criminal conduct and the criminal mental state. Additionally,

the prosecution must disprove any statutorily recognized justification or defense beyond a reasonable doubt.

The District Attorney's review of an officer-involved shooting event is guided by the statutes pertaining to the affirmative defenses applicable to use of force by peace officers, specifically C.R.S. § 18-1-707:

(1) Peace officers, in carrying out their duties, shall apply nonviolent means, when possible, before resorting to the use of physical force. A peace officer may use physical force only if nonviolent means would be ineffective in effecting an arrest, preventing an escape, or preventing an imminent threat of serious bodily injury or death to the peace officer or another person.

(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; (c) Ensure that assistance and medical aid are rendered to any injured or affected persons as soon as practicable; and (d) Ensure that any identified relatives or next of kin of persons who have sustained serious bodily injury or death are notified as soon as practicable.

(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 of death or serious bodily injury to the peace officer or another person; (c) The force employed does not create a substantial risk of injury to other persons.

(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 to the District Attorney's Office for the 23RD Judicial District is whether the five CRPD officers, when firing their weapons at Mr. Tamm, reasonably believed the use of deadly physical force was necessary to defend themselves and/or others from what they believed to be the imminent use of deadly physical force by Mr. Tamm.

The shooting officers, as well as the many witness officers who did not fire their weapons, were all wearing body-worn cameras. These cameras recorded both audio and video. In addition, patrol vehicles had dash camera that recorded video. The recordings were collected and reviewed by the CIRT investigators. The recordings and the statements of the officers involved gave a consistent and accurate account of what occurred throughout the entire incident. The officers who fired their weapons all described being in fear for their own lives and the lives of others.

The subsequent investigation by the CIRT investigators determined that the following officers fired their weapons:

CRPD Corporal Paul Longuevan fired 3 rounds of 9mm ammunition from his Glock handgun.

CRPD Officer Jared Smith fired 2 rounds of 5.56 caliber ammunition from his Aimpoint patrol rifle.

CRPD Officer Joel Bennington fired 7 rounds from his Designated Marksmanship Rifle.

CRPD Officer Alexander Wyche fired 3 rounds of 5.56 caliber ammunition from his Aimpoint patrol rifle.

CRPD Officer Colin Rosten fired 2 rounds of 5.56 caliber ammunition from his Aimpoint patrol rifle.

All the officers were individually interviewed by CIRT team investigators in the days following the incident. All five officers described fearing for their own lives and the lives of their fellow officers when Mr. Tamm fired at fellow officers. The statements of all five officers were consistent with the images and sound recorded by their body-worn cameras, the dash cameras, and the statements of the many officers who witnessed the shooting.

In conclusion, Mr. Tamm possessed a shotgun, was acting erratically, and was not complying with police orders. In addition, Mr. Tamm was armed with a handgun, which he pointed at and fired toward officers. These threats were observed by officers and are a significant factor in the reasonableness of the officers' actions.

The actions of the five officers, in firing their firearms at Mr. Tamm, were reasonably justified. Mr. Tamm, while breaking into the Ridge Apartment leasing office and destroying property, was armed with a shotgun and a handgun. The evidence shows that Mr. Tamm fired at officers. The officers attempted to coordinate the use of a lesser amount of force, however, Mr. Tamm fired at officers before they could do so.

Mr. Tamm, by his actions, placed the officers in fear for their own lives and the lives of other officers. Mr. Tamm's actions were the proximate cause for the use of deadly force by the five

officers who fired their weapons. Those officers fired at Mr. Tamm to defend themselves as well as other officers and citizens.

I find that the officers reasonably believed that Mr. Tamm posed an imminent threat of deadly physical force to themselves and others in the vicinity. The officers attempted to coordinate the use of lesser force and attempted to deescalate the situation over the course of the encounter. The officers were justified in using deadly physical force against Mr. Tamm to defend themselves and others from the unlawful use of deadly physical force against them. The officers did not commit any crime and criminal charges will not be filed against them.

Respectfully,

Keasa H. Reynolds

Senior Deputy Keasa Reynolds