



For Immediate Release:
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October 20, 2022

Decision Letter:

Attached is the decision letter issued by District Attorney Brian Mason related to an officer-involved shooting in Commerce City on November 29, 2021.

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District Attorney Mason assumed the oath of office on January 12, 2021. The 17th Judicial District Attorney's Office endeavors to seek justice on behalf of the citizens of Adams and Broomfield counties in felony and misdemeanor cases. DA Mason and his staff are dedicated to transforming the criminal justice system to better serve the citizens of the 17th Judicial District.

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Instagram: [@da17colorado](https://www.instagram.com/da17colorado) YouTube: [ColoradoDA17](https://www.youtube.com/ColoradoDA17)*



October 19, 2022

Director Rick Myers
Director of Public Safety
Commerce City Police Department
7887 E. 60th Avenue
Commerce City, CO 80022

Sheriff Rick Reigenborn
Adams County Sheriff
4430 S Adams County Pkwy 1st Floor, Suite W5400
Brighton, CO 80601

RE: The officer-involved shooting of Oscar Gurrola, occurring on November 29, 2021

Dear Director Myers and Sheriff Reigenborn:

This letter is a review of the 17th Judicial District Critical Incident Response Team (CIRT) investigation into the November 29, 2021 police-involved shooting of Oscar Gurrola. Four police officers discharged their firearms in the incident that led to Mr. Gurrola's injuries, two from the Adams County Sheriff's Office and two from the Commerce City Police Department. The 17th Judicial District Critical Incident Response Team (CIRT) conducted the investigation, led by Thornton Police Detectives Fred Longobricco and Bryan Adair. The remaining investigators on the CIRT who worked on this investigation are associated with law enforcement agencies independent of the Adams County Sheriff's Office and the Commerce City Police Department. The Office of the District Attorney concludes that the investigation was thorough and complete. This letter includes a summary of the facts and materials that the CIRT presented for review, along with my pertinent legal conclusions.

This review is mandated by Colorado law which requires the public release of a report explaining findings and the basis for a District Attorney's decision relative to the filing of criminal charges when an officer is involved in a shooting that results in serious bodily injury. As such, this review is limited to determining whether any criminal charges should be filed against the involved officers for a violation of Colorado law. The standard of proof for filing a criminal case is whether there is sufficient evidence to prove all elements of a crime beyond a reasonable doubt. The prosecution also has the burden to prove beyond a reasonable doubt that the use of force was *not* legally justified. This independent investigation and review is not intended to take the place of an internal affairs investigation by your agency. The 17th Judicial

District Attorney's review does not evaluate compliance with any departmental policies, standards, or procedures.

The circumstances surrounding this incident resulted in criminal charges against two civilians which, as of the date of this letter, are still pending in Adams County District Court. Individuals charged with a crime retain a presumption of innocence until the final resolution of the case. Therefore, in addition to the law requiring public disclosure of decisions with respect to the filing of charges against an officer, we must also follow our ethical obligations in preserving the integrity of a pending criminal case. Consequently, and based on limitations set forth in the Colorado Rules of Professional Conduct restricting pretrial publicity, this letter does not reveal all of the facts pertinent to the entire investigation. Furthermore, in an effort to preserve the integrity of the pending case, the record of this investigation will remain restricted from public access until the conclusion of the criminal proceedings. The record and any video evidence of this investigation will not be made available until there is a disposition of the pending case associated with this matter.

Based on the evidence presented and the applicable Colorado law, there is no reasonable likelihood of success of proving the elements of any crime beyond a reasonable doubt against the involved officers. Therefore, no criminal charges will be filed against the law enforcement officers involved in this incident.

FACTUAL SUMMARY OF THE INCIDENT

At approximately 6:15 p.m. on November 29, 2021, a civilian called 911 reporting a disturbance on the roadway near the 7500 block of Brighton Road in Commerce City. The report was that two males were fighting in the middle of the street. Commerce City Police Department Sergeant Megan Cordova was first to arrive at the location, where she observed two males standing outside a dark sedan. The sedan appeared to be smoking. Sergeant Cordova approached the sedan in her marked patrol vehicle with the emergency lights activated. From about two car lengths away, she saw one of the males draw a handgun. The male was dressed in a red shirt and walked toward her vehicle. The male pointed the gun at Sergeant Cordova and yelled something that she did not understand. Sergeant Cordova reversed and reported over the radio that the male wearing a red shirt pointed a gun at her.

The male continued to walk toward Sergeant Cordova and fired the gun at her as she backed away. Within seconds, Commerce City Police Officers Sergio Rosales and Michael Rahn drove up alongside Sergeant Cordova in their respective patrol cars with their emergency lights activated. Officer Rosales parked on the left of Sergeant Cordova's vehicle and Officer Rahn parked on the right. The officers shined their spotlight on the sedan that remained parked about one block away. Sergeant Cordova retrieved a shield and took cover with Officer Rosales behind his patrol vehicle. Officer Rahn also got out and positioned himself behind his vehicle. Both Officers Rosales and Rahn were each armed with a 5.56 rifle. The male again fired his gun at the officers. Officers Rosales and Rahn both returned fire. Officer Rosales fired seven times, and Officer Rahn fired four times. Adams County Sheriff's Office Sergeant Jason Gallegos drove up behind the Commerce City officers in his patrol vehicle just as the shots were fired. Sergeant Cordova got on the radio and called for assistance.

Adams County Sheriff's Office Sergeant Gilbert Abdulla heard the report of shots fired at officers and responded to assist. As he approached the area, Sergeant Abdulla heard several gunshots. As Sergeant Abdulla arrived, the male shooter got into the passenger side of the sedan and the vehicle fled eastbound on 76th Avenue. Commerce City Officers identified the suspect vehicle to Sergeant Abdulla and he pursued it with emergency lights and sirens activated. Sergeant Gallegos got in his vehicle and joined the pursuit. Sergeant Abdulla caught up to the sedan, while it was idle in a parking lot of a nearby business. Sergeant Abdulla parked and got out to confront the suspects on foot. The sedan revved the engine and spun around facing toward Sergeant Abdulla. Sergeant Abdulla drew his Glock 9mm semi-automatic handgun and ordered the occupants to get out. The occupants ignored his commands. The sedan drove toward Sergeant Abdulla, causing him to fire his weapon at it. The sedan veered and crashed into a parked vehicle, continuing on westbound down 76th Avenue.

Sergeant Gallegos heard the gunshots as he was driving. He parked his vehicle on 76th Avenue and got out to take cover on the side of the road. He was armed with a .223 rifle. He then heard Sergeant Abdulla giving commands and another volley of gunfire, so he left his cover and ran east on 76th Avenue to assist. He recognized the sedan racing back westbound toward his direction. Sergeant Gallegos fired twelve shots from his rifle into the driver's side door of the sedan to try and stop the suspects from causing further harm.

Sergeant Abdulla pursued the sedan west on 76th Avenue until it turned southbound on Brighton Road. Being aware that other officers and civilians were in the area, Sergeant Abdulla conducted a "PIT maneuver" (precision immobilization technique) on the sedan. The sedan spun around, headed northbound and then ran into a boulder. Patrol vehicles quickly surrounded the sedan. A male in a white shirt initially got out of the driver's seat, but then got back inside the sedan when he realized the officers' presence. The male in the red shirt was in the rear passenger seat on the driver's side. Law enforcement officers ordered the occupants out of the vehicle, but they refused to comply. Additional officers arrived on scene and the occupants engaged in a lengthy standoff before they were arrested.

After their arrest, the two males remained uncooperative with law enforcement officers and refused to provide their proper identification. The male in the red shirt was later identified by a family member as Oscar Gurrola, date of birth, 10/11/1994. He suffered multiple gunshot wounds as a result of this incident. The male in the white shirt was identified as Estevan Valverde, date of birth 12/18/1992. He was uninjured.

Two civilian witnesses were identified and interviewed. One of the witnesses reported seeing a police car backing up on Brighton Road as a male in a red shirt walked toward the car with a handgun extended in his right arm. This witness saw the male fire the gun at the officers and the officers return fire. Another witness observed the incident from a nearby business on 76th Avenue. This witness saw the sedan speed eastbound on 76th Avenue followed by a police car. The sedan turned around and struck a parked vehicle in the business parking lot. The witness believed that the occupants saw him watching from the window of the business because one of them fired about five gunshots in his direction. He showed officers the bullet impacts in the building caused by the shooting.

Criminalists conducted an extensive examination of the scene and collection of evidence. A search of the suspect vehicle revealed a black Taurus 9mm handgun in the center console of the sedan. The investigators discovered multiple 9mm shell casings along Brighton Road consistent with rounds fired from this weapon. The involved officers turned over their weapons for examination and round accountability. In addition, each of the involved officers participated in a recorded interview with CIRT investigators. Because the underlying criminal case remains pending, this review provides a summary of those interviews only as it relates to the legal decision to not file criminal charges against the officers.

LEGAL ANALYSIS

As was previously noted, this review is limited to a determination of whether criminal charges should be filed against the law enforcement officers involved in this incident. The decision to file criminal charges involves an assessment of all known facts and circumstances as well as an evaluation of whether there is a reasonable likelihood of conviction at trial under the applicable law. Criminal liability is established when the evidence is sufficient to prove all elements of a crime beyond a reasonable doubt. In addition to proving the elements of a crime, the prosecution must also disprove any statutorily recognized justification or defense beyond a reasonable doubt. Consequently, in order to file a criminal charge, the District Attorney's Office must be able to prove beyond a reasonable doubt that the involved law enforcement officers' actions were *not* justified under the circumstances surrounding this incident and the applicable law.

Under Colorado law, a law enforcement officer may use an amount of force, including deadly physical force, only when it is reasonable and appropriate under the circumstances. In this case, an analysis of the use of deadly physical force as defined by law is not necessary because the use of force did not cause death. As such, this review focuses on the officers' use of physical force against the civilians.

A law enforcement officer may use physical force in effecting an arrest, preventing an escape, or preventing an imminent threat of injury to the peace officer or another person. However, physical force may be used only if nonviolent means would be ineffective and must use only that degree of force consistent with the minimization of injury to others. Additionally, under Colorado law, police officers, like any other individual, have the right to defend themselves or others from the use or imminent use of unlawful physical force. An officer's right to use physical force in self-defense is an affirmative defense, meaning that the prosecution must prove beyond a reasonable doubt that the use of force was not justified.

The law applicable to the officers' use of force at the time of this incident requires that

[w]hen 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.

§18-1-707(2), C.R.S. (2022).

Applying the legal standard in this case, the first question is whether physical force was appropriate under the statute. Sergeant Cordova responded to a report of a disturbance involving two men fighting in the middle of Brighton Boulevard. As she arrived and attempted to initiate contact, the man later identified as Mr. Gurrola drew a handgun and pointed it at her. Sergeant Cordova backed out of the area as Mr. Gurrola pursued her and fired the weapon at her vehicle. These facts were broadcast by Sergeant Cordova over the radio when she asked for assistance. By these actions, Mr. Gurrola demonstrated his willingness to use lethal force against law enforcement officers. Given these circumstances, it would be unreasonable to expect the law enforcement officers who responded to this call to attempt to apprehend Mr. Gurrola by nonviolent means. Regardless, the officers did not use deadly physical force as defined by law. The use of physical force by the officers here was indeed appropriate not only to effect Mr. Gurrola's arrest, but also to prevent the imminent threat of injury to the officers or another person.

The second question is whether the degree of force was consistent with the minimization of injury to others. Mr. Gurrola is alleged to have fired a weapon at individuals clearly identified as police officers. As such, Mr. Gurrola's behavior presented a threat to the officers and others in the immediate vicinity resulting in the officers' escalation of force. This degree of force proved to be necessary to apprehend Mr. Gurrola without further threat of injury to others.

The investigation demonstrates compliance with the remaining provisions of the law as written. The officers who apprehended Mr. Gurrola rendered medical aid to him upon his contact. Further, Mr. Gurrola's relatives were notified of the incident during the ensuing investigation.

Though not specifically required by the language of the statute applicable here, proper application of the law of self-defense must answer the question whether an objectively reasonable officer, confronted with the same facts and circumstances, would have reasonably believed that Mr. Gurrola posed an immediate threat to the safety of the officer or others, and that the officer used a degree of force that the officer reasonably believed to be necessary for the purpose of defending themselves or others. The facts of this investigation reveal that uniformed police officers were shot at while attempting to respond to the situation. Fellow officers arrived to assist. Sergeant Cordova, Officer Rosales, and Officer Rahn all expressed fear for their lives as Mr. Gurrola was shooting at them. Officer Rosales and Officer Rahn stated that they fired their weapons at him to stop him from killing them.

After shooting at the officers, Mr. Gurrola fled the scene in a vehicle. Sergeants Abdulla and Gallegos knew the suspect had fired a gun at several uniformed officers and chased the vehicle to apprehend the suspect. Once the vehicle was stopped, Sergeant Abdulla drew his weapon and ordered the occupants to get out. The suspects both refused to comply with these reasonable commands and, instead, the driver drove toward Sergeant Abdulla. Sergeant Abdulla believed that his life was in danger. He fired his weapon at the vehicle because he thought either the vehicle was going to strike him or an occupant would start shooting again.

Sergeant Gallegos heard a report over the radio that the suspects were driving back toward his direction. He took a position of cover to avoid being trapped in his vehicle when the suspects returned. He heard several gunshots nearby and believed that Sergeant Abdulla was in a gunfight with the suspect. Sergeant Gallegos left his cover to assist Sergeant Abdulla. As he ran to the area, the suspect vehicle drove back toward him. As the sedan approached, Sergeant Gallegos aimed his rifle at the driver's side and fired to stop the sedan. He tried to stop the vehicle because he believed that the shooter would continue to shoot at other officers in the area if he was not stopped.

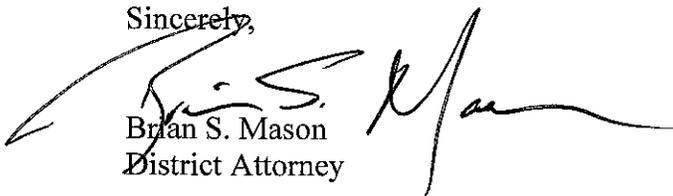
Each of the officers who fired their weapons explained that Mr. Gurrola's actions caused them fear for their own life, as well as the lives of their partners involved in the effort to apprehend him. The facts of the investigation support a conclusion that at the time the officers used force upon Mr. Gurrola, the officers reasonably believed that Mr. Gurrola presented a threat to themselves, as well as other officers responding to the area. These facts further support a conclusion that the officers reasonably believed that the degree of force they employed was necessary to prevent the risk of harm presented by Mr. Gurrola. Under the circumstances, the use of a less lethal force was not a reasonable alternative.

I find the actions of the officers involved in this incident to be justified. Given the totality of the circumstances and evidence, the prosecution cannot prove that the involved officers were not justified in using reasonable force under §18-1-707, C.R.S. (2022). Therefore, applying the facts of this incident to the applicable law, the evidence does not support the filing of criminal charges against Commerce City Police Officers Sergio Rosales and Michael Rahn and Adams County Sheriff's Office Sergeants Gilbert Abdulla and Jason Gallegos.

Please feel free to contact me if you have any questions or if you believe that further investigation is warranted.

Sincerely,

Brian S. Mason
District Attorney

A handwritten signature in black ink, appearing to read "Brian S. Mason", is written over the typed name and title.