



April 16, 2020

Tim Carlson
Chief of Police
City of Westminster
910 Yates Street
Westminster, Colorado 80031

Re: *The investigation of the officer involved shooting of Dakota Bleu Samuels, DOB: 1/17/1994, occurring on September 26, 2019.*

Dear Chief Carlson:

The investigation and legal analysis of the officer involved shooting of Dakota Bleu Samuels is complete. The 17th Judicial District Critical Incident Investigation Team (CIIT) conducted the investigation into this matter. The CIIT is comprised of detectives and crime scene technicians from multiple police agencies within the 17th Judicial District, as well as investigators from the Office of the District Attorney. Detective Doug Parker of the Thornton Police Department and Detective Mark Michieli of the Commerce City Police Department presented the factual findings of the investigation to my office on January 30, 2020. The CIIT presented police reports and videos of the interviews of witnesses, along with photographs, a 911 call and diagrams of the scene investigation. The Office of the District Attorney concludes that the investigation is thorough and complete.

The District Attorney's review is limited to determining whether criminal charges should be filed against the involved officer. The standard of proof for filing a criminal case is whether there is sufficient evidence to prove any criminal violations beyond a reasonable doubt to a jury. In this instance, the prosecution also has the burden to prove beyond a reasonable doubt that the use of force was not justified pursuant to Colorado law. This review does not evaluate the appropriateness of the actions of the involved officer, whether department policies or procedures were followed, or whether the policies, practices, or training at the involved agency were sufficient. That evaluation is left to each individual agency.

Based on the evidence presented and the applicable Colorado law, there is no reasonable likelihood of success of proving that the involved officer committed any crimes beyond a reasonable doubt at trial. Therefore, no criminal charges will be filed against the officer involved in this incident.

OVERVIEW OF THE INCIDENT

On September 26, 2019 Darlene Samuels called 911 and reported that her husband, Dakota Samuels, had just threatened to come to her home and kill her. She further reported that she suspected Mr. Samuels had stolen her 9mm handgun. The 911 operator immediately dispatched Westminster Police officers to Ms. Samuels' apartment located at 7100 Hooker Street in the city of Westminster. While officers were in route and Ms. Samuels remained on the phone with 911, Dakota Samuels, arrived at the apartment and began assaulting and threatening her. Ms. Samuels screamed on the 911 call, "Don't shoot me."

Sergeant Roger Cox arrived on scene and heard a Ms. Samuels screaming from the direction of her apartment. He arrived at the apartment and heard continued screaming. Dakota Samuels then stepped out from the front door on to the landing with a silver handgun in his hand, while attempting to pull Darlene Samuels out of the apartment door. Mr. Samuels raised the handgun in the direction of Sergeant Cox. Sergeant Cox had his shotgun deployed and fired one round at Mr. Samuels. Mr. Samuels then started to run down the steps of the apartment complex. Fearing that Mr. Samuels would shoot him, Sergeant Cox fired two more rounds at Dakota Samuels. Westminster Police Officers later apprehended Mr. Samuels near the apartment complex and he was treated for his injuries.

SYNOPSIS OF WITNESS AND OFFICER INTERVIEWS

All of the involved officer witnesses and lay witnesses were identified and contacted within a short time of the incident. Investigators from multiple police departments, including Thornton, Westminster, Commerce City, Adams County Sheriff's Office and the District Attorney's Office, conducted the witness interviews. All witnesses were interviewed at the Westminster Police Department, including Sergeant Cox, the officer who deployed his weapon during the incident. The following are summaries of the interviews of the relevant witnesses. There were no bodycam videos to review in this case.

Darlene Samuels

Thornton Police Detective Doug Parker and Westminster Police Detective Mike Lynch interviewed Darlene Samuels at the Westminster Police Department on September 26, 2019, hours after the incident. Darlene Samuels is the wife of Dakota Samuels. According to Ms. Samuels, they had been married for one and a half years at the time of the incident. She stated that Dakota Samuels was on parole and not permitted to have a weapon but that she owned a 9mm handgun. She stated that there had been domestic violence in their relationship in the past. Three days prior to this incident Dakota Samuels had moved out of their residence and told Ms. Samuels, "I fucking hate you. I'm moving out. We're done." The night prior to this incident Darlene Samuels called police to report that her handgun had been stolen from her one bedroom apartment.

On the morning of this incident, at approximately 9:00 am, Ms. Samuels said Dakota Samuels called her and stated: "You stupid bitch, I'm on my way to kill you" and then hung up the phone. She tried to call him back but the call went straight to his voicemail. She then called Mr. Samuels' cousin and his grandmother, who advised her to call 911, which she did. While on the phone with the 911 dispatcher, Ms. Samuels heard the doorknob to the apartment turn, at which point Mr. Samuels entered her apartment, approached her and pushed her. He covered her mouth and said, "We're getting out of here. You're fucking coming with me" and attempted to move her. He repeatedly told her to get off the phone. He then grabbed her wallet out of her hands, took the money out of it and began to leave. Ms. Samuels said that she needed the money, so she stood in front of the door.

Dakota Samuels then pulled out a handgun and pointed it at her face. Ms. Samuels immediately recognized the gun as her 9mm handgun that she reported stolen from her apartment. The 911 recording depicts Ms. Samuels saying, "Don't shoot me." With Mr. Samuels pointing the handgun at her face and Ms. Samuels positioned with her back toward the apartment door, she opened the door in order to call for help. As she opened the door, she saw a police officer on the landing near the front door. Mr. Samuels still had the handgun in his hand. At this point, the police officer shot at Mr. Samuels. Some pellets and debris struck Darlene Samuels when this occurred, but she was not seriously injured. Mr. Samuels dropped the handgun he was holding and ran down the apartment complex stairs, which are immediately outside the door of her apartment. The police officer continued to shoot at Mr. Samuels. Ms. Darlene Samuels retreated to the bathroom in her apartment and took shelter there.

Sergeant Roger Cox

Thornton Police Detective Doug Parker and Commerce City Police Detective Mark Michieli interviewed Westminster Police Sergeant Roger Cox. Sergeant Cox's attorney was also present during the interview. Sergeant Cox is a sixteen-year veteran of the Westminster Police Department and has been a sergeant for five years. He was working the dayshift on the day of the incident and was wearing his police uniform.

Sergeant Cox was southbound on Lowell Boulevard when he heard dispatch air a call regarding a female party in danger. The female party said her ex-boyfriend was on his way to the apartment threatening to kill her, that he was on parole, and that he had stolen a 9mm handgun from her residence. Sergeant Cox considered this a high priority call because the suspect was on parole, had threatened to kill the female, and had stolen her handgun. Upon arriving on scene, Sergeant Cox deployed his shotgun from his vehicle. As he approached the three-story apartment complex, he could hear screaming from a female voice. The screaming appeared to be coming from the second floor and he confirmed from dispatch that the apartment number was #221. He went up to the second floor and saw the door of apartment #221 ahead of him. As he approached the door, he could hear screaming coming from inside and was concerned that he might hear a gunshot at any moment based on the circumstances of the dispatch call.

When he was approximately one and a half apartments away from apartment #221, the door to the apartment swung open and a male stepped out with a silver, semi-automatic handgun in his hand. The male was holding onto a female and it appeared to Sergeant Cox that the male was attempting to drag the female out of the apartment door. The male was screaming and the female was saying something as well. The male looked at Sergeant Cox and began to raise his gun in the direction of Sergeant Cox. Sergeant Cox believed the male was going to shoot him and that his life was in danger. He believed that the male would kill the female as well. Sergeant Cox fired one round at the male, later identified as Dakota Samuels. The female party ran back into the apartment and the Mr. Samuels ran down the stairs of the apartment complex. Sergeant Cox believed Mr. Samuels was still a threat because he thought Mr. Samuels would start shooting at him from the stairs. Sergeant Cox leaned over the railing and fired his shotgun twice at Mr. Samuels as he went down the stairs. He then lost sight of Mr. Samuels. Sergeant Cox never saw Mr. Samuels drop the handgun. Sergeant Cox then went down the stairs and met Officers Sarconi and Beren. Sergeant Cox asked Officer Beren to check on the female party. He did not see Mr. Samuels again.

Officer Jess Beren

Commerce City Police Detective Michieli and Adams County Sheriff Detective Richard Brookman interviewed Westminster Police Officer Jess Beren. Officer Beren is a twelve-year veteran of the Westminster Police Department. She was working a day shift on September 26, 2019.

Officer Beren was in the area of 73rd and Lowell on an unrelated call when she heard dispatch air multiple units to 7100 Hooker. Dispatch aired that the reporting party claimed her husband was on his way to kill her and had stolen her gun the day before. Officer Beren was nearby and proceeded to the apartment complex. While in route, she heard dispatch air that the suspect was on scene and that a female was screaming. Officer Beren then proceeded emergent to the scene, activating her lights and sirens on her marked patrol vehicle. Upon arriving on scene, she heard Sergeant Cox say he could hear a female screaming from inside the apartment. Officer Beren arrived and proceeded on foot towards the apartment building when she heard two distinct shotgun shots. She started running at this point and noticed a trail of blood on the sidewalk and three shotgun shells laying in the dirt area of the courtyard. She then spotted Sergeant Cox and asked him if he was ok.

Officer Beren responded to the apartment to check on Ms. Samuels. She saw a handgun lying at the top of the landing near the stairs. She then found Ms. Samuels, who was visibly shaking and crying, with blood on her face from an open wound on the bridge of her nose. Ms. Samuels told Officer Beren that Mr. Samuels had pointed the handgun at her and that he had hit her, dragged her and tried to take her from the apartment. Ms. Samuels told Officer Beren she thought Mr. Samuels was going to kill her. Ms. Samuels identified the handgun on the landing as hers. Officer Beren did not see Dakota Samuels or interact with him.

Officer Michael Sarconi

Adams County Sheriff Detective Richard Brookman and Thornton Detective Scott Spurr interviewed Westminster Police Officer Michael Sarconi. Officer Sarconi was working the day shift on the day of the incident.

Officer Sarconi was on routine patrol with Officer Beren when dispatch aired a call regarding a male party threatening to kill a female party. While in route, it became clear that the male party was on scene and a disturbance had broken out. Officer Beren turned on her lights and sirens and continued emergent until arriving. They parked in front of Sergeant Cox's patrol car, and approached the apartment building on foot. As they approached, Officer Sarconi heard two clear shotgun shots. He told Officer Beren to report, "shots fired" on the radio. They ran into Sergeant Cox, who had a shotgun on him, and confirmed that he was not injured. Sergeant Cox said that the suspect had run west of the center court of the apartment complex. Officer Sarconi then accompanied Officer Beren up to the victim's apartment to check on the female party, where he saw a handgun lying on the landing just outside the door. Officer Sarconi noticed what appeared to be fresh holes in the apartment door from an apparent shotgun round. Officer Sarconi secured the handgun that was lying on the ground. He did not encounter the suspect.

Officer Charles Rush

Thornton Detective Doug Parker and Commerce City Detective Mark Michieli interviewed Westminster Officer Charles Rush. Officer Rush has been a police officer for fifteen years and has worked as an officer for the City of Westminster for five. He was working the day shift on the day of the incident and was wearing his police uniform.

Officer Rush was on a welfare check when he heard the radio dispatch regarding threats that a male party was on his way to kill a female party. He finished his welfare check and started heading to the scene. While in route, he heard that the male party had arrived on scene, so he turned on his lights, sirens and proceeded emergent. He was still in his vehicle when he heard someone dispatch that shots fired. As he arrived on scene, he saw a male run out of the main apartment complex. The male saw Officer Rush's marked police car, turned and ran away. Officer Rush did not see a gun in the males hands. Officer Rush followed the male suspect in his car with his emergency lights on.

The suspect ran to another apartment complex. Officer Rush parked his car and pursued him on foot. He quickly encountered the suspect, challenged him at gunpoint and ordered him to the ground. Officer Rush kept the suspect, later identified as Dakota Samuels at gunpoint, as other officers, who had just arrived, placed handcuffs on Dakota Samuels. Officer Rush noticed Mr. Samuels bleeding from his right leg, his face and noticed some blood on his chest. Officer Rush heard Mr. Samuels say something to the effect of "he just shot me." Mr. Samuels was transported in an ambulance to Denver General Hospital. Officer Rush followed the ambulance to the hospital and briefly spoke to Mr. Samuels before he was taken into surgery. Mr. Samuels asked if he was under arrest and stated, "I just opened the door and got shot."

CRIME SCENE INVESTIGATION

Thornton Crime Scene Investigator (CSI) Doug Young, Broomfield Criminalist Shallon Beckman and the Adams County Sheriff's Office Crime Scene Unit processed the scene of the shooting. CSI Young found a Taurus 9mm semi-automatic handgun lying on the ground just outside of apartment #221 between the apartment door and the top of the stairway, consistent with where Dakota Samuels was reported to have dropped the gun. The gun was loaded and had one live round in the chamber and eleven live rounds in the magazine.

CSI Young further noted a projectile strike on top of the railing along the south side of the second floor walkway. A projectile strike on the vertical railing bar at the bottom of the stairway. Multiple defects in the wooden steps. A defect on the wooden support post nearest apartment #221. Defect areas on the exterior surface of the apartment door for apartment #221 and defects inside the apartment itself. CSI Young located three fired empty twelve-gauge shotgun shells in the courtyard consistent with where Sergeant Cox fired his shotgun from the landing. CSI Young noted a blood trail on concrete from the base of the stairs proceeding west, consistent with where Mr. Samuels fled after the shooting.

SUSPECT INFORMATION & INJURIES

Dakota Samuels is a convicted felon per NCIC/CCIC. His criminal history includes arrests for assault, theft, motor vehicle theft, and burglary. Mr. Samuels was charged with several criminal violations as a result of this incident to include, assault in the first degree, aggravated robbery, two counts of felony menacing, assault in the third degree, theft and tampering with a victim/witness. He is set for arraignment on those charges in the 17th Judicial District Court on May 26, 2020.

According to medical personnel, Mr. Samuels suffered the following gunshot wounds: two wounds to the upper left shoulder; four wounds to the right flank/waist; one wound to the upper right thigh; one wound to the upper left thigh; and one wound to the right ankle.

LEGAL ANALYSIS

As previously noted above, this review is limited to a determination of whether criminal charges should be filed against Sergeant Roger Cox for the shooting incident that took place on September 26, 2019. 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 Colorado law. Generally speaking, criminal liability is established when the evidence is sufficient to prove all of the 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. In this instance, in order to file a criminal charge, the District Attorney's Office must prove beyond a

reasonable doubt that Sergeant Cox's actions were not justified under the circumstances surrounding this incident and the applicable law.

In this case, there is no dispute that Sergeant Cox fired his shotgun three times striking Dakota Samuels causing injuries. At the time of the shooting, Sergeant Cox was lawfully engaged in the course of his duties as a peace officer to respond to a disturbance at 7100 Hooker Street, where the reporting party had called 911 saying her husband was on his way to kill her. Therefore, the legal question presented to the Office of the District Attorney is whether, at the time Sergeant Cox fired his weapon, the prosecution can prove beyond a reasonable doubt that Sergeant Cox's actions were not justified under Colorado law.

The use of force by a law enforcement officer necessarily invokes an analysis under §18-1-707, C.R.S. (2019), the law applicable to the use of force by a peace officer. In pertinent part, the language of the statute reads as follows:

(1) A peace officer is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary:

(a) To effect an arrest or to prevent the escape from custody of an arrested person unless he knows that the arrest is unauthorized; or

(b) To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while effectuating or attempting to effect such an arrest or while preventing or attempting to prevent such an escape.

(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; or

(III) Otherwise indicates, except through a motor vehicle violation, that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay.

(3) Nothing in subsection (2) (b) of this section shall be deemed to constitute

justification for reckless or criminally negligent conduct by a peace officer amounting to an offense against or with respect to innocent persons whom he is not seeking to arrest or retain in custody.

(4) For purposes of this section, a reasonable belief that a person has committed an offense means a reasonable belief in facts or circumstances which if true would in law constitute an offense. If they believed facts or circumstances would not in law constitute an offense, an erroneous though not unreasonable belief that the law is otherwise does not render justifiable the use of force to make an arrest or to prevent an escape from custody. A peace officer who is effecting an arrest pursuant to a warrant is justified in using the physical force prescribed in subsections (1) and (2) of this section unless the warrant is invalid and is known by the officer to be invalid.

“Deadly physical force” is defined as “force, the intended, natural, and probable consequence of which is to produce death, and which does, in fact produce death.” §18-1-901(3)(d), C.R.S. (2019).

Sergeant Cox responded to 7100 Hooker Street after Darlene Samuels called 911 to report that her husband, Dakota Samuels, was on his way to kill her. Ms. Samuels also reported that Dakota Samuels likely had her gun. While still on the phone with 911, Ms. Samuels reported that Mr. Samuels had arrived and then started screaming. On the 911 call she said, “don’t kill me” on the phone and Sergeant Cox could hear her screaming as he exited his vehicle. Sergeant Cox rushed to the second floor of the apartment building and could hear screaming coming from apartment #221. The door to the apartment then opened and he saw Mr. Samuels with a handgun. Mr. Samuels saw Sergeant Cox and began to raise the handgun in Sergeant Cox’s direction. Sergeant Cox, knowing the history of the call and Mr. Samuels’ threats to kill Ms. Samuels, and seeing the handgun pointing in his direction, reasonably feared for his life and for the life of Darlene Samuels. He then fired one round at Mr. Samuels. Fearing that Mr. Samuels would shoot at him as he fled down the stairs, Sergeant Cox fired two more rounds at Mr. Samuels.

Under these facts, there is no likelihood of success of proving to a jury that Sergeant Cox’s action of firing three rounds at Dakota Samuels were not justified in protecting himself and Darlene Samuels from what he reasonably perceived to be the use of deadly physical force under §18-1-707, C.R.S. (2019).

CONCLUSION

Applying the facts of this incident to the applicable Colorado law, the evidence does not support the filing of any criminal charges against Sergeant Roger Cox for discharging his weapon in the shooting incident involving Dakota Samuels on September 26, 2019. Please feel free to contact me if you have any questions or if you believe that there is a need for further investigation.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Young". The signature is stylized with a large, sweeping initial "D" and a cursive "Y".

Dave Young
17th Judicial District Attorney

