



OFFICE OF THE DISTRICT ATTORNEY

Jefferson and Gilpin Counties

Peter A. Weir, District Attorney

August 21, 2017

Sheriff Jeff Shrader
Jefferson County Sheriff's Office
200 Jefferson County Parkway
Golden, CO, 80401

Re: Critical Incident Response Team Investigation 17-01 (Sheriff's Deputy Shooting of Jeffrey Snyder on July 18, 2017)

Dear Sheriff Shrader,

The Critical Incident Response Team (CIRT) for the First Judicial District was activated pursuant to protocol on July 18, 2017 to investigate the shooting of Jeffrey Snyder by Deputy Erik Baughman of the Jefferson County Sheriff's Office. Jeffrey Snyder survived the shooting, but was injured by a minor grazing wound under his right arm, in the triceps area. CIRT was formed to investigate incidents in which any law enforcement officer within the First Judicial District uses deadly force, or attempts to use deadly force, against a human being while acting under the color of official law enforcement duties. In this instance, CIRT conducted a thorough investigation into the use of potentially deadly force by Deputy Erik Baughman on July 18, 2017. The investigation was conducted for the purpose of determining whether criminal charges are warranted with respect to Deputy Erik Baughman's conduct.

At the time of CIRT activation in this case, Chief Deputy District Attorney Steven L. Jensen responded to work in coordination with CIRT investigators and lend legal assistance as necessary. He personally observed key interviews of participants, including Deputy Erik Baughman and Jeffrey Snyder, and was advised of witness statements in close proximity to the time of their making and actively questioned officers as to their observations and interviews.

CIRT investigators completed a thorough investigation into this incident and generated detailed reports and documentation. The file is voluminous and includes transcripts of witness interviews, numerous reports, diagrams, and multiple compact discs. These discs contain recorded interviews, 911 calls, police communications, photographs, and video recordings related to the incident.

A review of CIRT reports and documentation filed with my office has been completed and I, along with members of my staff, have been fully briefed regarding this incident by CIRT Commanders in charge of the investigation.

My findings, analysis, and conclusions of law with respect to Deputy Erik Baughman's use of force in this incident are as follows:

APPLICABLE LAW

The legal framework for our analysis in this case is found in the following sections of the Colorado Revised Statutes.

§ 18-1-704, C.R.S. Use of physical force in defense of a person

(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.

(2) Deadly physical force may be used only if a person reasonably believes a lesser degree of force is inadequate and:

(a) The actor has reasonable grounds to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving great bodily injury.

§18-1-901, C.R.S. Definitions

(3)(d) "Deadly physical force" means force, the intended, natural, and probable consequence of which is to produce death, and which does, in fact, produce death.

§ 18-1-407, C.R.S. Affirmative defense

(1) "Affirmative defense" means that unless the state's evidence raises the issue involving the alleged defense, the defendant, to raise the issue, shall present some credible evidence on that issue.

(2) If the issue involved in an affirmative defense is raised, then the guilt of the defendant must be established beyond a reasonable doubt as to that issue as well as all other elements of the offense.

§ 18-1-710, C.R.S. Affirmative defense

The issues of justification or exemption from criminal liability under sections 18-1-701 to 18-1-709 are affirmative defenses.

SUMMARY OF OPINION

Applying these statutes to the facts presented through this investigation, I find that Deputy Erik Baughman is not subject to criminal prosecution for his actions on July 18, 2017.

In all cases, the District Attorney's Office criminal filing standard requires that there be a reasonable likelihood of conviction in order to bring criminal charges against an individual. The evidence establishes that at the time Deputy Erik Baughman discharged his firearm at Jeffrey Snyder it was reasonable to believe that Jeffrey Snyder had used or threatened the imminent use of

unlawful physical force against Deputy Erik Baughman. Additionally, the evidence clearly shows that the conduct of Jeffrey Snyder would have reasonably been perceived by Deputy Erik Baughman as posing an imminent threat of death or serious bodily to Deputy Erik Baughman, providing legal justification for Deputy Erik Baughman to fire upon Jeffrey Snyder. Jeffrey Snyder has been charged in Jefferson County District Court case 17CR2549 with one class five felony count of Menacing with a Deadly Weapon, in violation of 18-3-206(1)(a),(b), and one class two misdemeanor count of Prohibited Use of a Weapon, in violation of 18-12-106(1)(a). Therefore, the District Attorney's Office would not be able to prove beyond a reasonable doubt that the use of force by Deputy Erik Baughman was unjustified. Rather, the evidence establishes that Deputy Erik Baughman lawfully acted in self-defense after being menaced with a deadly weapon by Jeffrey Snyder.

RELEVANT FACTS

The following summary was derived from CIRT reports, interviews of witnesses, transcripts, and a briefing by CIRT command staff regarding the incident of July 18, 2017.

On Tuesday 07/18/2017, between 1650 and 1655 hours, Jefferson County Sheriff's Deputy Erik Baughman arrived at 5955 Garrison Street in Arvada to serve a protection order on Jeffrey Mark Snyder (DOB: 10/17/1958). Deputy Baughman is assigned to the Sheriff's Office Civil Unit, and it is his responsibility to serve such legal documents. Deputy Baughman was wearing a standard Sheriff's Office uniform and was readily recognizable as a Sheriff's Deputy. Initially, Deputy Baughman walked to the front door of the residence, which faces east toward Garrison Street and pressed the doorbell button, which did not appear to be functional, waited approximately ten seconds, and then knocked on the door two or three times at approximately ten second intervals. When there was no response, Deputy Baughman walked to the house's north facing door. This door has an outer metal storm door, which Deputy Baughman opened five to six inches in order to reach his hand in and knock on that door to the residence. Although, Deputy Baughman knocked on this door with his hand, he did not orally identify himself as a Sheriff's Deputy.

A short time after Deputy Baughman knocked on the door, it was suddenly flung open by Jeffrey Mark Snyder. Jeffrey Snyder was holding a 9mm handgun in one hand, which he had pointed at Deputy Erik Baughman. Deputy Baughman stated in his interview, "I was looking down the barrel the whole time and I panicked. I was trying to get my gun out and I was just staring at it and I just was screaming 'Drop the gun, drop the gun!' Deputy Baughman stated he was "pretty damn terrified." Jeffrey Snyder did not say anything during incident, nor did he drop or lower the gun. Deputy Baughman drew his gun, a .45 caliber semi-automatic Glock 21 handgun, and fired multiple times at Jeffrey Snyder, before retreating away from the residence and immediately calling police dispatch and reporting that shots were fired by him. One of those rounds caused a 12 to 14mm in length (approximately ½ inch) grazing wound under the right arm of Jeffrey Snyder, in the triceps area, for which he received medical treatment and was then quickly medically released to law enforcement.

Jeffrey Snyder was thoroughly interviewed at the Arvada Police Department following his release from the hospital. He was advised of his Constitutional rights and agreed to make a statement. He indicated that for a little over a week he had been staying at 5955 Garrison Street, which was the residence of his daughter and son-in-law, because he was going through a recent divorce situation, which included acrimonious financial discussions and threats by him to provide to a third party indiscreet digital images. He claimed to be out of work because of a disability involving degenerative disk disease to his lower back, but had previously been employed as an aviation

mechanic. He indicated he was taking medication for his back condition as well as for blood pressure. After the incident, recovered from the residence were the following prescriptions in the name of Jeffrey Snyder: Gabapentin (300 mg); Clonazepam (1 mg), Lisinopril, Naproxen (500 mg), Simvastatin (40 mg), Hydroxyzine, Tramadol (50 mg), Trazadone (50 mg), and Metaxalone (800 mg).

Jeffrey Snyder stated that he had eaten and drank two glasses of wine earlier and had dozed off on a love seat when he heard knocking at the doors to the residence. His descriptions of the knocking were variable in nature. However, the most cogent description (Page 33 of Transcript) described the knocking as follows:

“There was two or three different sections of it. The first time was just a normal knock. And nobody answered. The second time was a little bit louder and the third time, either the second or third time was hard pounding.”

Jeffrey Snyder stated that he couldn't put a time on the length of knocking, but that it was “less than five minutes”, and that the knocking did not wake up his daughter Lindsay, who was also asleep in the house. He indicated that “after the first one I was already headed to the bedroom to get the gun.” He indicated that the second series of knocks, which he stated may have been the only subsequent knocking, occurred when he was in the bedroom.

Jeffrey Snyder described answering the door with a 9mm semi-automatic pistol in hand. He stated, “Guns in the right hand, throw the door open, I see the green shirt and that was the first I knew it was a sheriff.” He described being perhaps five feet away from the sheriff's deputy. He admitted that the gun was pointed at the deputy sheriff, indicating that at first “the gun is kinda pointed waist high,” and “I was up higher so I was pointing it down.” He described trying to do something to shift the gun to his other hand to act submissive and grab it by its barrel, but the description was rather nonsensical. He claimed that as soon as he opened the door with the gun pointed out that the deputy began to fire at him. He claimed that the deputy made no announcement or warning before he opened fire and that only during and after the shooting did the deputy sheriff say, “Drop the gun. Drop the gun.”

Jeffrey Snyder described his motivations in opening the door with a gun in his hand in a number of ways. Initially, he stated that when he heard pounding on the door “I suspected that it was some of those hoodlums that run around and do process serving.” He indicated he had this thought “because I expected to be served with divorce papers.” He provided no cogent explanation as to why he felt that it would be appropriate to point a gun at a civilian process server. He later stated, “my mind was that somebody was bangin' the crap out of the door and it wasn't locked and I was scared and I was scared for my daughter.” He stated that the gun was unloaded and that he wanted to use it as a visual deterrent to give the impression that he had a loaded gun and that he was willing to use it. When asked to put himself in the place of the sheriff's deputy at the door, he said “You don't just pound on somebody's door hard like that and not expect somethin' to happen. Okay. What would I have thought? ‘Fuck I'm gonna die here.’ Yeah. Maybe he thought that.” He later stated, “The Sheriff was probably just as scared as I was.”

Jeffrey Snyder's statements as to not being directed to drop the gun until during or after the shooting were contradicted by the statements of Deputy Baughman and of two independent witnesses. Deputy Baughman indicated that he repeatedly told the man to drop the gun before he fired, fearing for his life. Andrew Vigil (DOB 02/09/05) who resides at 5950 Garrison Street with

his family, reported on the evening of the shooting that he was outside of his home with his half-brother, Antonio Prieto (DOB 12/30/03). Andrew Vigil indicated that he heard a door shut and saw the sheriff's deputy walking with a notepad in his hand. Andrew Vigil described that a short time later he heard the deputy yelling, "Sir please put down your gun! Sir please, no, no, no. Sir please." Andrew Vigil then described then hearing six shots "go pop, pop, pop, pop." The statement of Antonio Prieto was nearly identical, with him indicating that he saw the police officer walking on the other side of the street, holding a notebook. He stated that he and Andrew were sitting on a bench by their home's front door when he heard the officer say, "Sir please put your gun down. Please sir. Please." He indicated that he then heard approximately six "gun fires." He stated that only after the officer stopped speaking did the gun fire start.

LEGAL ANALYSIS

This office's review of the shooting of Jeffrey Snyder by Deputy Erik Baughman of the Jefferson County Sheriff's Office is limited to an analysis of applicable criminal statutes and affirmative defenses which may apply to the incident. If affirmative defenses are present, a determination is made as to whether there is a reasonable likelihood that the applicable affirmative defense would be able to be disproven beyond a reasonable doubt as required for conviction under Colorado law.

Based upon the investigation conducted by investigators and detectives assigned to the Critical Incident Response Team, there is no question that Deputy Erik Baughman of the Jefferson County Sheriff's Office shot at and caused minor injury to Jeffrey Snyder only after Jeffrey Snyder pointed a 9mm semi-automatic pistol at the deputy Baughman. Although the 9mm pistol was unloaded, it would have appeared from the vantage point of Deputy Baughman as if it were loaded and he would have had no reason to question that fact under the circumstances presented. The statements of Jeffrey Snyder make it clear that it was his intention to give the impression that he had a loaded gun and was willing to use it.

The next question to be answered in this analysis is whether it was unreasonable for Deputy Erik Baughman of the Jefferson County Sheriff's Office to fire at Jeffrey Snyder in response to having a 9mm pistol aimed directly at him from close range. Although Jeffrey Snyder claims that he was not directed to drop the gun until he was fired upon, the best evidence clearly is that Deputy Erik Baughman repeatedly told Jeffrey Snyder to drop his gun prior to firing at him and causing a minor grazing wound. The action used by Deputy Erik Baughman to defend himself was not unreasonable, and this is underscored by the statements of Jeffrey Snyder that the deputy would probably have been scared and thought, "I'm gonna die here." Consequently, it was not unreasonable for Deputy Erik Baughman to believe he was in imminent danger of being killed or receiving great bodily injury and to respond in the manner that he did.

I find in the review of this shooting that the actions of Deputy Erik Baughman did not involve criminal conduct. It is the conclusion of my office, based on the applicable law and the investigation, that the actions during this incident met the legal requirements of the affirmative defense as contained in C.R.S. Section 18-1-704 C.R.S. Based upon the evidence and the interviews in this matter, I am certain there is not a reasonable likelihood that the District Attorney's office could disprove the affirmative defense available to Deputy Erik Baughman beyond a reasonable doubt.

Based upon the investigation of this incident, it is the final conclusion of my office that the legal requirements of the affirmative defense of self-defense were satisfied by the actions of Deputy Erik Baughman, and his conduct did not violate any criminal statutes.

Sincerely,

Peter Weir
District Attorney
First Judicial District Attorney