



**OFFICE OF THE DISTRICT ATTORNEY**

**Jefferson and Gilpin Counties**

**Peter A. Weir, District Attorney**

August 2, 2016

Chief Bill Kilpatrick  
Golden Police Department  
Golden, CO

RE: Officer Involved Shooting incident involving 3 Golden PD Officers on June 21, 2016, CIRT # 2016-031

Dear Chief Kilpatrick,

On June 21, 2016, the Jefferson County Critical Incident Response Team was called to respond to an officer involved shooting that injured David Edward Little, DOB 2-16-76. This incident occurred in the area of 22<sup>nd</sup> Avenue and Jay Street in Edgewater, Colorado and the shooting was done by three Golden PD Officers. My office has now reviewed the 1<sup>st</sup> Judicial District Critical Incident Response Team's submitted reports regarding this incident. Senior Chief Deputy District Attorney Eva Wilson responded to the scene and observed interviews of the involved officers and other witnesses. Members of my staff and I were present for a briefing presented by CIRT members on July 14th at the District Attorney's office. At that time, my office was presented with all reports regarding this particular incident. Senior Chief Deputy District Attorney Eva Wilson has been responsible for the CIRT file review.

**APPLICABLE LAW**

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

**§ 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.

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

(1) ...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 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.

**§18-1-707, C.R.S. Use of physical force in making an arrest or in preventing an escape**

(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 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 effecting 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 the 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 that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay.

### SUMMARY OF OPINION

Applying these legal standards to the facts presented through this investigation, I find that all of the Golden Police Officers involved in this incident were justified in their actions having used reasonable and appropriate physical force upon the suspect, David Little.

The following is a brief factual summary of the relevant events of that afternoon compiled from a review of the reports, photographs and interviews done by the CIRT, observations of the scene and the CIRT presentation.

### RELEVANT FACTS

On April 13, 2016, a no-bond, nationwide arrest warrant was issued for David Edward Little for several felony charges including Distribution of Marijuana to a Minor, Sexual Assault on a Child (Position of Trust), Aggravated Incest, and Sexual Assault on a Child (Position of Trust- Pattern). These incidents involved [REDACTED]. Golden Detective Eric Jones had interviewed the defendant previously, had conducted two search warrants at his home and was actively involved in attempting to apprehend Little for the outstanding charges but Little's whereabouts were unknown. Despite protection orders which prohibited contact between the suspect and [REDACTED] Detective Jones was aware that Little had been attempting to communicate with [REDACTED] on Facebook and had made statements that sounded suicidal and that he also made statements that mentioned kidnapping. He was also aware that suspect Little was known to possess firearms and that his weapons had not been located during the execution of the search warrants at his home.

On the morning of Tuesday, June 21, 2016, Detective Jones received information that suspect Little had been seen driving his white Jeep the previous evening in the area of [REDACTED] home in Edgewater. With the assistance of cell phone technology, Detective Jones ascertained that the suspect may be in the area of 20<sup>th</sup> Avenue and Sheridan Boulevard which was an area not far from [REDACTED] location. Detective Jones drove to that area in an attempt to locate the suspect and he found an unoccupied white Jeep in the parking lot of Little Caesar's at 2045 Sheridan Blvd. . At about 12:20 pm, Detective Jones called for assistance as he believed he had possibly found the suspect's vehicle. Golden Sgt. Chad St. Aubin and Detective Courtland Kloberdance proceeded to that area to assist Detective Jones. All three GPD officers were in plain clothes and in unmarked police vehicles. Detective Jones donned his black tactical vest while he was doing surveillance at Little Caesars and his metal police badge was mounted on the left side of the vest with the word "POLICE" visible on the right side of the vest. The other two Golden officers had their police badges on their belts.

Upon arrival in the general area of 20<sup>th</sup> and Sheridan, Detective Kloberdance also located a white Jeep parked in the Target parking lot, one block south of the Little Caesars, with a white male sitting in the driver's seat. While Detective Jones remained at Little Caesars to watch that Jeep, Sgt. St. Aubin drove over to the Jeep in the Target lot to see if he could identify Little as the driver. The individual in the Jeep got out of the car and walked into Target but Sgt. St. Aubin was unsure if that man was David Little. Detective Jones then left Little Caesars for Target to get a better look at the individual but as he pulled in, the man returned to the Jeep and drove out of the parking lot.

The male in the white Jeep headed west-bound on 20<sup>th</sup> Avenue and eventually made a turn to head north on Jay Street which was in the direction of the victim's foster home. The officers were communicating via police radio about how to tactically contact the suspect vehicle and they also called for assistance from local agencies to conduct a traffic stop on the Jeep. Prior to any of those agencies having time to respond, the Jeep pulled to the curb less than a block south of the victim's foster residence. Pursuant to the plan they derived to block in the Jeep, Sgt. St. Aubin and Detective Jones approached the stopped vehicle from the north and Det. Kloberdance approached from the south. Sgt. St. Aubin pulled his blue Chevy Impala in front of the Jeep to block it in and Det. Kloberdance pulled his black Ford Fusion in behind the Jeep. Det. Jones pulled his maroon Ford Fusion in at a southeastern angle towards the Jeep's driver's door.

The driver was reclined in the Jeep at first and then sat up as the cars pulled in around him. Immediately, he put the Jeep in gear and drove forward into Sgt. St. Aubin's Impala. He then put his vehicle in reverse and collided with the front end of Det. Kloberdance's Fusion. Sgt. St. Aubin pulled forward to close any gap so the suspect could not drive away. The Jeep continued to attempt to reverse into Kloberdance's vehicle and the Jeep's tires began to smoke.

The driver, who Detective Jones immediately recognized as the suspect David Little, looked over at Detective Jones and Little then reached down into his pants area. Detective Jones immediately went for his handgun as Little raised a gun with both hands and pointed it directly at Jones. Little fired at Jones through the Jeep's driver's door window. While Detective Jones could not recall if he or Little fired first, Sgt. St. Aubin clearly saw Little shoot three to four times at Detective Jones. Detective Jones recalled firing and then diving to his right to lay down in the front seat of his car as Little continued to fire rounds at him. Detective Jones believed that Little had recognized him from their previous encounters and that Little was trying to kill him.

Sgt. St. Aubin then saw Little turn the gun and point it at him. According to Sgt. St. Aubin, Little then shot at Sgt. St. Aubin one or two times and St. Aubin ducked down and opened his driver's door. He got both feet on the ground outside of his car between the door and his car's frame. As he saw Little continuing to rotate his gun to shoot towards Jones and him, Sgt. St. Aubin shot back at Little. Little fired back at him and one of his rounds hit the door in front of Sgt. St. Aubin which caused the Sgt to move to the rear of his car. Sgt. St. Aubin continued to fire at Little until his gun locked back. Sgt. St. Aubin believed that Little was trying to kill Jones and himself and he had to eliminate the threat.

During this time, Detective Kloberdance had his foot on his car's brake, and the tires on the Jeep were screeching and smoking as Little tried to reverse the vehicle and escape. He heard shots and saw Little firing towards Detective Jones' car. Detective Kloberdance was still seat belted in his car behind Little. He pulled his handgun and fired out his driver's door window with his left hand towards the Jeep's doors in an effort to get Little to stop shooting. Detective Kloberdance believed that the other officers were in danger of being shot so he fired his gun until it locked back. When

the shooting stopped, Detective Kloberdance grabbed his other handgun and got out of the car to approach Little from the driver's side door.

Sgt. St. Aubin also had noticed that Little, who was still inside his Jeep, had raised his hands. Sgt. St. Aubin approached the Jeep's front passenger door and attempted to open it but it was locked. He ordered Little to open the door but Little did not move. Sgt. St. Aubin then went to the driver's door and he and Detective Kloberdance pulled Little from the vehicle. Little was uncooperative and the officers struggled to control his hands and to move him out of the car. Little continued to struggle against the two officers and Detective Jones got out of his car to help subdue Little. Jones kicked Little in the chest and Little went to the ground where the officers were able to handcuff him. Throughout their efforts to maintain control of Little, he yelled repeatedly, "Shoot me in the head! Just kill me!" After Little was subdued, he stated "I saw you guys at Target. I should have taken care of it down there." Little was taken into custody and an ambulance was called to provide medical assistance. Little was taken to the hospital where he later told CIRT investigators that he was sorry he shot at the two officers but that he did not want to get caught.

Numerous neighbors were home that afternoon and many came out of their residences on Jay Street after the shooting. Some of them saw the suspect's combative behavior. Once he had been arrested, individuals offered assistance to the officers. One of the citizens offered a towel to them and the officers placed it under Little's head which was bleeding.

Little's injuries included a perforating gunshot wound to the back of his ear which went through his earlobe and along the right side of his face, a gunshot wound to his upper left arm, an intra-articular heard fracture and a glenoid fracture. He survived all of these injuries and is currently being held without bond in the Jefferson County Jail.

Detective Jones suffered numerous small cuts to both arms and to his face. Sgt. St. Aubin suffered cuts to his right arm as well. Both of their vehicles sustained numerous bullet holes and extensive damage. The shots fired into Sgt. St. Aubin's car and Detective Jones' car included shots directly into their windshields. Sgt. St. Aubin's vehicle had four bullet holes through the front driver's side windshield, one of which appeared to have gone through the driver's headrest. Detective Jones' car had six bullet holes including one in the top center of the windshield and another on the driver's side windshield.

Based upon the CIRT investigation, Little was armed with a Glock 17 9mm semi-automatic handgun which was recovered from his back seat. It was empty and fifteen 9mm shell casings were recovered from inside the Jeep. Sgt. St. Aubin fired eleven rounds from his Glock 30 .45 caliber handgun and Detective Kloberdance fired eleven rounds from his Glock 30 .45 caliber handgun. Detective Jones fired three rounds from his Kimber Ultra CDP .45 caliber handgun.

All weapons, casings and recovered bullets have been submitted to the Colorado Bureau of Investigations for processing. No results of their analysis have been received at the time of this writing.

Other evidence recovered from Little's Jeep demonstrated that Little's plan was to wear a disguise in order to kidnap [REDACTED] using violence if necessary. Additional evidence from the vehicle revealed that Little had affixed stolen plates to his vehicle in an effort to avoid being arrested on the felony warrants. Evidence indicated that Little completely understood the risk that he may be caught by the police and that he preferred to commit suicide or have the police kill him so that he

could avoid being sent to prison for his crimes. Evidence in the vehicle revealed that he carried with him a "kidnap, kill, and self-destruct bag" everywhere he went due to his belief that he would eventually have a shootout or would have to escape from the police.

### LEGAL ANALYSIS

We find in our review of this shooting that none of the conduct of any of the police officers involved in this action was criminal.

It is the conclusion of my office, based upon the applicable law and the facts and circumstances of this case, that law enforcement's actions during this incident clearly meet the legal requirements of the affirmative defense of self-defense as contained in §18-1-704 (1)(2)(a). The officers' actions also meet the legal requirements of §18-1-707 "Use of deadly force in making an arrest or preventing an escape".

Defendant Little had a clear plan to kidnap [REDACTED] and, if his plan went awry, to use deadly physical force against law enforcement in an effort to escape and to avoid apprehension on the numerous serious felony charges that had been lodged against him. As he sat in his vehicle within two blocks of [REDACTED] who was the victim of his sexual crimes, he was confronted by police. Defendant Little did not hesitate but immediately drew his gun and clearly attempted to murder both Detective Eric Jones and Sergeant St. Aubin. He fired until his gun was empty and continued to resist the officer's attempts to arrest him. He confessed to shooting at the officers in an effort to not get caught, just as he had planned. These officers not only had the clear legal authority to use physical force against the defendant, they had absolute authority to use deadly physical force to save their own lives and to prevent his escape. However, since the defendant did not die, this analysis is limited to their use of physical force. These three officer's heroic efforts likely prevented further crimes from occurring and most likely prevented a child from being kidnapped by her father and subjected to far greater danger and further atrocities.

Based upon the entire investigation of this incident, it is the final conclusion of my office that the legal requirements of the affirmative defense(s) were satisfied by law enforcement actions, that law enforcement was justified in the use of physical force in this case and that their conduct did not violate any criminal statutes.

Sincerely,



Peter Weir  
1<sup>st</sup> Judicial District Attorney

cc: CIRT Commander Mark Dewhurst