

Gordon P. McLaughlin
District Attorney



201 LaPorte Avenue, Suite 200
Fort Collins, Colorado 80521-2763

Phone: (970) 498-7200
Fax: (970) 498-7250

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Chief Wes Kufeld
Estes Park Police Department
170 MacGregor Avenue
Estes Park, CO 80517

Opinion Letter Regarding 9.23.21 CIRT Investigation, Case Numbers LCSO21-8523, BCSO21-5631, & EPPD21-1216.

On September 23, 2021, the Estes Park Police Department reached out to the Eighth Judicial District Critical Incident Response Team (CIRT) members asking for assistance in investigating allegations of domestic violence involving one of their officers. Due to the seriousness of the allegations, it was determined an independent investigation was prudent and the CIRT protocols were instituted. The purpose of a CIRT investigation is to provide an independent and comprehensive examination of critical incidents involving law enforcement to ensure there is accountability for any criminal conduct.

CIRT Protocols and Legal Authority

The criminal investigation surrounding this incident has been completed and submitted to my office. Pursuant to the Eighth Judicial District's Critical Incident Protocol, I am required to determine whether any person committed a crime during this incident. The scope of this review is purely criminal in nature and necessarily limited by Colorado statutes to determine whether any criminal charge is legally provable beyond a reasonable doubt. A CIRT investigation is not a review of police training methods, hiring practices, supervision protocols, or other internal procedures. Such actions are solely at the discretion of each individual agency.

A non-involved agency is required to lead all CIRT investigations to ensure the independence of their work. In this case, the Larimer County Sheriff's Office led the CIRT investigation with assistance from the District Attorney's Office for the Eighth Judicial District and tactical assistance from the Boulder County Sheriff's Office. Estes Park Police Department provided non-investigatory assistance where noted. I have reviewed reports, photographs, audio and video recordings, communication and global positioning system records, witness interviews, and other relevant evidence, along with a full presentation of the case by CIRT investigators.

Pursuant CIRT policy, written findings of such investigation shall be made public. The Eighth Judicial District CIRT takes our obligations of integrity and transparency to the Larimer and Jackson County communities seriously and endeavors to convey as much information as possible to the public to ensure trust in our criminal justice system and the CIRT process.

CIRT Investigation and Factual Background

On September 19, 2021, at approximately 5:16 PM, Captain Eric Rose of the Estes Park Police Department (EPPD), aired over the emergency radio that his wife was suffering from a seizure and foaming from the mouth. Mr. Rose transported his wife, Ms. Rose, to Estes Park Hospital in his patrol car with lights and sirens activated. Once at the hospital, Mr. Rose reported that his wife had been involved in an accident where she had fallen and hit her head while working on the deck at their family residence. According to Mr. Rose, the accident had occurred two days prior, and Ms. Rose had been suffering from headaches ever since. Mr. Rose repeated that claim to family members shortly thereafter.

After being initially treated and stabilized at the Estes Park Hospital, Ms. Rose was transported to Medical Center of the Rockies (MCR) in Loveland due to the severity of her injuries. The next day, September 20, 2021, Ms. Rose disclosed to one of her daughters, who had arrived in town for support, that her injuries were the result of domestic violence caused by Mr. Rose and not the result of an accident. Ms. Rose did not provide further details to her daughter at this point and specifically told her daughter not to share this information with anyone. During this time, Mr. Rose repeatedly visited Ms. Rose at the hospital and continued to maintain to family, friends, and colleges at EPPD that her injuries were the result of an accident. Family began to grow more suspect of Mr. Rose who was acting erratic and paranoid and his story changed multiple times. Eventually Mr. Rose claimed he had “blacked out” and didn’t recall what occurred on September 17, 2021. Mr. Rose took various steps between the night of the assault and the initiation of the CIRT investigation to prevent Ms. Rose from relaying what occurred, obstruct family members from seeking more information, and intimidate family from reporting the incident to law enforcement. Some of the manipulation and intimidation was captured through text message and recorded conversations and surely delayed the timing of the ultimate report to law enforcement.

Three days later, on September 23, 2021, Ms. Rose’s daughter informed her brother, Anthony Rose, and sister-in-law, Ashleigh Rose, about their mother’s disclosure. Both Ashleigh and Anthony Rose are members of Colorado State University Police Department (CSUPD). They advised that they are mandatory reporters and proceeded to promptly report what they learned to CSUPD’s chain of command. CSUPD Chief Wendy Rich-Goldschmidt contacted EPPD Chief Wes Kufeld and informed him that Ms. Rose’s injuries were alleged to be a result of domestic violence committed by Mr. Rose.

Chief Kufeld contacted Larimer County Sheriff Justin Smith and requested that CIRT take over the investigation into the domestic violence assault allegations against Mr. Rose so that independent and unbiased findings could be made. In consultation with CIRT commanders, I invoked the Eighth Judicial District CIRT protocol and designated the Larimer County Sheriff’s Office (LCSO) as the lead investigating agency. LCSO immediately dispatched investigators to Estes Park to take over the investigation and contact Mr. Rose.

Close in time to the activation of the CIRT, law enforcement was informed that Mr. Rose had discovered Ms. Rose’s disclosure regarding domestic violence. Ms. Rose’s family informed MCR that her injuries were a result of an assault at the hands of Mr. Rose. MCR put in place procedures to prevent Mr. Rose’s contact and visitation with Ms. Rose. When Mr. Rose arrived to visit Ms.

Rose on September 23, 2021, MCR staffed turned him away due to their domestic violence protocol.

During initial interviews family members informed CIRT investigators that Mr. Rose had made threats in the past to take his own life and they worried Mr. Rose was “either going to kill himself or he’s going kill other people during all this, because he’s not going to go down without a fight, because he knows his life is over.” The family concerns extended specifically to Mr. Rose’s daughter and mother who lived with Mr. and Ms. Rose at their residence in Estes. Concerns expressed to investigators included that Mr. Rose was “either going to make someone kill him or he’s going to kill himself.” Family members also reported directly to Chief Kufeld that they feared for the safety of Mr. Rose and others.

CIRT investigators became concerned that Mr. Rose presented an immediate risk to family members, law enforcement, and himself. Actions were immediately undertaken to remove his access to law enforcement sensitive locations and communication devices. Through a coordinated response by EPPD and LCSO, Mr. Rose was located at his residence, on Cherokee Drive in Estes Park and CIRT planned a rapid response to the scene. The initial response was complicated by Mr. Rose’s knowledge of law enforcement tactics and created additional safety concerns for investigators.

Initially, due to their proximity, EPPD officers setup surveillance on the residence. However, Larimer County Sheriff’s investigators took over as they arrived on scene pursuant to their role as lead CIRT agency. Contemporaneously, at MCR, investigators worked with Ms. Rose to learn more about what had occurred in the days leading up to her seizure and admission to Estes Park Hospital.

Interviews with Ms. Rose, both during the initial law enforcement response and later follow-up, revealed a lengthy series of events leading up to law enforcement becoming aware of what had occurred during this incident. Ms. Rose reported that on the evening of September 17, 2021, Mr. and Ms. Rose attended an engagement party where Mr. Rose consumed alcohol to the point of intoxication. Upon returning home, a verbal dispute ensued over a long-standing marital disagreement. Ms. Rose attempted to disengage from the ongoing verbal dispute, but Mr. Rose threatened to take his own life if she did. The verbal dispute turned physical when Mr. Rose repeatedly struck Ms. Rose with a handgun and kicked her after she fell to the ground. Ms. Rose stated he was “swinging at me and hitting my head so hard that I couldn’t see and couldn’t hear,” and Mr. Rose stated if he “kills himself it would be my fault.” At some point during the assault Ms. Rose reported Ms. Rose’s mother attempted to intervene and stop Mr. Rose. However, Mr. Rose shoved her aside and continue the assault of Ms. Rose. Eventually, Ms. Rose escaped and locked herself into another part of the residence. Mr. and Ms. Rose continued with weekend plans after the assault for another forty-eight hours until she was taken to the hospital by Mr. Rose. No physical evidence of the assault remained as Ms. Rose reported she cleaned the area up and several days had passed before law enforcement entered the home. However, Ms. Rose’s injuries were consistent with the assault she described.

While no other family members reported witnessing the assault, those present at home did confirm a disturbance, with one family member telling investigators there was a “ruckus” and “screaming”

and another reporting they yelled for it to stop. Both family members present reported difficulty remembering specific details about the incident. Ms. Rose's daughter reported communicating by phone with Mr. and Ms. Rose that night and learning of a serious verbal disturbance, though she did not know at the time it turned physical.

While investigators were speaking with Ms. Rose at MCR on September 23, 2021, she received a voice memo from Mr. Rose at approximately 3:53 PM stating:

"You know I love you; I love you; I love you. I'm so ashamed that alcohol just ruined everything we've built. It's my fault. I absolutely lost control of the alcohol. No other blame, just me. I love you more than I've ever, ever loved and how I let that go is beyond me. I cannot believe it came to this point; I just cannot believe it. You just keep getting better and better and better (inaudible) will support you. I'll also will give you opportunity....and your sister's strong, Chelsi's strong, the kids had nothing to do with this, you had nothing to do with this, I just can't fathom grandkids seeing their grandfather going through something like this. (sighs) I know you're going to be angry; you're going to be frustrated, you're going to be hurt, (inaudible) just trying to be, what's best I can do for this family. I'm supposed to be a protector and I'm protecting them. I just failed my job. I love you. I know you keep thinking you love me each day, but I certainly couldn't have me here putting you through everything I've become with something like this. Please don't share with anybody, just know I'll always, always, always, think of you no matter where or how I can get there but I'll always think of you. Please, get with the family, look for happy times, remember happy times and most of all just remember I love you a bushel and a peck every day. I'll try to squeeze (inaudible). Bye baby, I love you."

Shortly afterwards, Ms. Rose received a second voice memo stating:

I know the stresses of the job just are part of it. I just wish that I could have been a police Captain for a while, solely and not have to spend so much time on the emergency management piece. It's not that I didn't want to, I enjoyed it, it's just that I couldn't do both with everything I had but you know me, just want to go full blast. So, lots of stressors, you know, you know, lot. But please just remember, don't blame yourself, the family can't blame themselves. Boys have good heads, good wives, good kids. They will come together. Time will make this work and good memories will be had for all the times we had together. I'm sure of it. I know you're angry right now and want to (inaudible) neither of this, (inaudible) I wish I was here so you could punch me in the face. I just love you so, so much. I just can't drag this family through everything ahead of the mistakes that I made. It's so amazing to me how quickly this all occurred and how unbelievable it is cuz I told you I really, really don't remember a thing. The switch was off, and the switch came on in the morning just asking what the hell's going on. (sighs) No excuse. Many, many years of being controlled by alcohol. I love you. Bye.

LCSO Investigators worked with attorneys from the District Attorney's Office to draft a search warrant for Mr. Rose's residence on Cherokee Drive in Estes Park, and an arrest warrant for Mr. Rose for charges of Assault in the First Degree, a class Three Felony; Menacing, a class Five Felony; and a Domestic Violence Sentencing Enhancer. A District Court Judge reviewed and signed both warrants on September 23, 2021.

Investigators reached out multiple times to Mr. Rose with no response. Personnel from EPPD were also asked to attempt to contact Mr. Rose. Mr. Rose did not answer any phone calls or respond to any text messages after sending the voice memos. Investigators were able to make contact with two family members who were inside the residence. Investigators met with them outside the residence and were able to get them to safety. Over the next several hours, investigators continued to reach out to Mr. Rose as operators from the Larimer County All-Hazards / Crisis Response Team (AH/CR) prepared to serve the search warrant on the residence. Given the location of the Estes Valley, Larimer County was also assisted by the Boulder County Sheriff's Office SWAT Team. At approximately 9:18 PM on September 23, 2021, the AH/CR approached the residence and discovered Mr. Rose deceased, outdoors at the rear of the residence, from an apparent self-inflicted gunshot wound to the head.

On September 24, 2021, the Larimer County Coroner's office conducted an autopsy of Mr. Rose's body. The Larimer County Coroner ruled the cause of death as a self-inflicted gunshot wound to the head and the manner of death as suicide.

On Mr. Rose's waistband at the time of his death, investigators located a Glock 43x 9mm handgun. It was reported that Mr. Rose always carried this pistol on him. Ms. Rose could not be sure but believed that this handgun was the one used to assault her.



Figure 1: Firearm Collected from Mr. Rose's Waistband

Investigators also learned from Ms. Rose that domestic violence had occurred throughout the length of their marriage. The prior incidents Ms. Rose reported included Mr. Rose threatening her with firearms, firing a gun in the bedroom during a dispute, and physically assaulting her, but never violence rising to the level of what occurred on September 17, 2021. Ms. Rose stated that the

violence was usually in connection with Mr. Rose's alcohol consumption. Ms. Rose actively hid the on-going domestic violence from family, friends, and Mr. Rose's coworkers. When asked directly, Ms. Rose stated that she did not believe that any member of law enforcement knew about the abuse until the disclosures of September 23, 2021.

Investigators conducted a neighborhood canvas to see if anyone knew of the on-going domestic violence perpetrated by Mr. Rose. None of the neighbors reported knowing of any abuse. Family and community members were also interviewed regarding their knowledge of domestic violence. Mr. Rose's ex-wife did report a history of domestic violence while she was married to Mr. Rose prior to their divorce in 1994. His ex-wife also reported that Ms. Rose previously disclosed ongoing domestic violence with Mr. Rose that is consistent with Ms. Rose's reports to CIRT. Ms. Rose's sister also reported knowledge of a history of abuse but did not know the abuse had turned physical. On September 18, 2021, Ms. Rose disclosed to her sister that Mr. Rose hit her on the night of September 17, 2021, but she had not connected the assault with Ms. Rose's hospitalization until further information emerged later. Neither Mr. Rose's ex-wife nor Ms. Rose's sister believed that any of the domestic violence by Mr. Rose was ever reported to law enforcement. While other family members also reported knowledge that Mr. Rose could grow angry when intoxicated, they reported no knowledge of any physical abuse or reports to law enforcement, and they believed Mr. Rose was skilled at hiding his true character.

Investigators interviewed past and present members of Estes Park Police Department. No one reported any knowledge of domestic violence in Mr. Rose's past. In addition, inquiries into Mr. Rose's law enforcement records did not reveal any concerns regarding abusive behavior, domestic violence, excessive force, or unlawful use of his firearm.

Medical records revealed that Ms. Rose suffered a closed fracture of her L1 vertebrae, concussion with loss of consciousness, injury to her right vertebral artery, stenosis of right and left arteries, subdural hematoma with a midline shift, rupture of the left ear drum and a traumatic brain injury with altered mental status.

Law enforcement examined Mr. Rose's cell phone and discovered the following internet searches (parentheticals included for clarity) that were conducted on the day that he took his life:

- Prison yerms (terms) gor (for) second degree assault
- Collect social security in prison
- How to die of a heart attack
- Can you make someone have a heart arrow (attack)
- 5 medications that can cause heart failure
- Which causes death faster headshot or shot to the heart
- What angle is most deadly headshot

Mr. Rose's cell phone location history corroborated Ms. Rose's account of the events leading up to her admission to Estes Park Medical Center.

Legal Analysis of Eric Rose's Actions

Had Mr. Rose survived, the findings of the CIRT investigation would have led me to file the following criminal charges against him:

C.R.S. § 18-3-202(1)(a) "Assault in the First Degree", a class 3 felony: A person commits the crime of assault in the first degree when, with intent to cause serious bodily injury to another person, he causes serious bodily injury to any person by means of a deadly weapon.

C.R.S. § 18-3-206(1)(a) "Menacing", a class 5 felony: A person commits the crime of menacing if, by any threat or physical action, he or she knowingly places or attempts to place another person in fear of imminent serious bodily injury by the use of a deadly weapon or any article used or fashioned in a manner to cause a person to reasonably believe that the article is a deadly weapon.

C.R.S. § 18-6-800.3(1) "Domestic Violence Sentence Enhancement": means an act or threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship.

C.R.S. § 18-6-800.3(1) "Prohibited Use of Weapons", a class 2 misdemeanor: A person commits the crime of prohibited use of weapons if the person has in his or her possession a firearm while the person is under the influence of intoxicating liquor or of a controlled substance.

The following legal definitions were analyzed when making the charging decisions above:

C.R.S. § 18-1-901(3)(p) "Serious Bodily Injury": means bodily injury which, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures, or burns of the second or third degree.

C.R.S. § 18-901(3)(e) "Deadly Weapon": includes a firearm, whether loaded or unloaded.

C.R.S. § 18-6-800.3(2) "Intimate Relationship": means a relationship between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of the same child regardless of whether the persons have been married or have lived together at any time.

A review of Mr. Rose's actions revealed that that he committed the crime of "Assault in the First Degree" by causing serious bodily injury to Ms. Rose through the use of a "deadly weapon." While Mr. Rose never discharged the firearm, Colorado law does not require him to discharge his weapon to be criminally liable for the use of a deadly weapon during the assault. Mr. Rose's use of the firearm to repeatedly strike Ms. Rose qualifies as use of a deadly weapon during this incident. In addition, Ms. Rose's injuries rise to the level "serious bodily injury," as indicated by a treating physician at MCR, who noted serious injuries included a suffered a closed fracture of L1 vertebrae, stenosis of right and left arteries, and subdural hematoma with a midline shift. Ms. Rose's recitation of events was corroborated in various ways by several witness statements, the extent of her injuries, and other evidence. The recorded statements and apologies Mr. Rose made, Mr.

Rose's internet search history, and the actions of Mr. Rose to obstruct the search for the truth all showed a clear consciousness of guilt.

In addition, a review of Mr. Rose's actions revealed that that he committed the crime of "Menacing" by brandishing the firearm in a manner intended to cause Ms. Rose to fear imminent serious bodily injury, specifically by pointing it at Ms. Rose during the assault. In fact, Mr. Rose carried out those threats by assaulting Ms. Rose as outlined above.

Lastly, Mr. Rose was, by multiple accounts, including his own, intoxicated at the time he handled the firearm, which constitutes a prohibited use of such weapon.

All crimes would be accompanied by a "Domestic Violence Sentence Enhancement." Mr. Rose threatened and carried out an act of violence against Ms. Rose, with whom he had been married to for over twenty years.

As Mr. Rose is deceased, charges cannot be filed and there is no legal avenue to pursue the allegations against him. Therefore, there can be no legal finding and the charges remain allegations. However, it is my opinion that the investigation into Mr. Rose's actions by LCSO through activation of the CIRT protocol was thorough, the evidence against him strong, and there would be a reasonable likelihood of success in convicting him of the above charges.

Conclusion

Anytime a member of law enforcement is accused of a crime, let alone crimes as serious as those alleged herein, there is an understandable break in trust with the community and the public will rightfully have questions about who may have known and what could have been done. This CIRT investigation made every effort to answer those questions, so far as they raised any protentional of criminal conduct, with extensive community canvassing and questioning of family, friends, and law enforcement. The CIRT did not receive a single allegation that Mr. Rose had ever been reported for domestic violence to EPPD or any other agency in the past. Domestic violence is unfortunately very common throughout the country and the nature of domestic violence is such that the perpetrator chooses where it occurs and who is there to witness it. Mr. Rose appears to have made very deliberate choices to prepare his crimes in the seclusion of his home, without witnesses, and concealed his conduct from scrutiny.

Both EPPD leadership and staff were cooperative in this investigation, including but not limited to Chief Kufeld's initial call asking for an independent CIRT investigation and transparency with follow up interviews and information sharing. All evidence indicated that EPPD was unaware of the history of abuse and rightfully outraged upon learning its extent.

I thank LCSO for their prompt attention to this investigation. Upon request for assistance, they quickly mustered investigators to several locations around the County and activated their AH/CR in attempt to mitigate any harm Mr. Rose might try to inflict upon the community or himself. Their investigation was thorough, and they asked the tough and independent minded questions of a fellow law enforcement agency that the CIRT protocol demands.

The CIRT protocol exists to determine whether any criminal conduct occurred and, while this investigation cannot answer every question that a circumstance as tragic as this may engender, it was successful in determining criminal accountability. Any questions of agency policy and procedure, which go beyond the criminal scope of a CIRT investigation, should be directed to that agency. The sole individual bearing any criminal culpability in this case was Eric Rose. Mr. Rose is accused of committing serious and brutal acts of domestic violence and would be prosecuted but for his death.

Our thoughts go out to Ms. Rose as we wish her well in her recovery.

Victims of domestic violence in Larimer and Jackson counties in need of assistance can visit <http://www.larimer.org/da/vicwit/victim-witness-resources> for a list of local resources to help those experiencing family violence or abuse.

Gordon P. McLaughlin



District Attorney
8th Judicial District