

Gordon P. McLaughlin
District Attorney



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

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

Regarding 10/21/22 CIRT incident: LCSO #22-9352, LPD #22-8351, FCPS #22-14751, WPD #22-20101, JPD #22-9867, DTF #22-130

Sheriff Justin Smith,

The District Attorney's Office has been asked to review the shooting of Christopher Roldan on October 21, 2022, near the intersection of the Southeast frontage road and East County Road 18, Johnstown, Colorado to determine whether Larimer County Sheriff personnel violated any Colorado criminal statutes with respect to the shooting. My determination includes an assessment of whether there is a reasonable likelihood that any criminal charges, if filed, could be proven unanimously beyond a reasonable doubt.

I. EXECUTIVE SUMMARY

Applying the law to the facts of this incident, as described in greater detail below, I conclude that Deputy Steven Fay and Sergeant Josiah Thiemann were legally justified in their use of force, including deadly force, to defend themselves and other officers from the threat posed by Christopher Roldan on October 21, 2022. Having concluded that Deputy Fay was legally justified in his use of deadly force and Sgt. Thiemann was legally justified in his use of non-deadly force, no criminal charges will be filed against them or any other peace officer.

II. THE STATUTORY FRAMEWORK FOR OFFICER INVOLVED SHOOTING INVESTIGATIONS

C.R.S. 16-2.5-301 governs investigations into peace officer-involved shooting. It provides, in relevant part:

Each police department, sheriff's office, and district attorney within the state shall develop protocols for participating in a multi-agency team, which shall include at least one other police department or sheriff's office, or the Colorado Bureau of Investigation, in conducting any investigation, evaluation, and review of an incident involving the discharge of a firearm by a peace officer that resulted in injury or death. The law enforcement agencies participating need not be from the same judicial district.

The investigation into this shooting incident was conducted by a multi-agency team consisting of personnel from agencies within the jurisdiction who are members of the district's Critical Incident Response Team (CIRT). Specifically, Loveland Police Department was the lead agency, and they were aided by other agencies, including, the Windsor Police Department, Johnstown Police

Department, Northern Colorado Drug Task Force, Larimer County Sheriff's Office (in a capacity limited by CIRT protocol), Fort Collins Police Services, and the District Attorney's Office.

C.R.S. 20-1-114 provides:

The District Attorney shall, if no criminal charges are filed following the completion of an investigation pursuant to Section 16-2.5-301, C.R.S., release a report and publicly disclose the report explaining the District Attorney's findings, including the basis for the decision not to charge the officer with any criminal conduct. The District Attorney shall post the written report on its website or, if it does not have a Website, make it publicly available upon request.

This document constitutes a report of the District Attorney's findings and includes the basis of the decision not to charge any involved peace officer with any criminal conduct.

III. MATERIALS REVIEWED

I have been provided materials produced during the CIRT investigation into the shooting of Christopher Roldan. The information I have considered includes:

- The body worn camera footage of the involved peace officers
- Reports/Summaries of the CIRT investigators
- Recorded interviews of involved peace officers
- Computer aided dispatch reports, audio recordings of police dispatch, audio recordings of police radio traffic
- Photographic evidence
- Physical evidence (e.g., firearms, ballistics, etc.)
- Maps and scans depicting the geographical area in which the events took place
- Police reports
- Coroner's report

IV. APPLICABLE LAW

The District Attorney's review of this event is guided by the Colorado Statutes pertaining to the use of force by peace officers, including self-defense. Deputy Steven Fay, Sergeant Josiah Thiemann and all other persons referred to as "deputies" or "peace officers" in this letter, are "peace officers" per statute. *See*, C.R.S. 16-2.5-101 through 103.

By using his service weapon and shooting at Christopher Roldan causing his death, Deputy Fay used force, and thus his conduct implicates Colorado's peace officer use of force and self-defense statutes. Similarly, by striking Christopher Roldan causing him injury, Sgt. Thiemann used force, and thus his conduct also implicates Colorado's peace officer use of force and self-defense statutes.

Pursuant to C.R.S. §18-1-901(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.

Therefore, the deadly force statutory language below is relevant to my conclusions regarding this event.

C.R.S. § 18-1-707 (Use of force by peace officers-definitions), states in relevant part:

(1) Peace officers, in carrying out their duties, shall apply nonviolent means, when possible, before resorting to the use of physical force. A peace officer may use physical force only if nonviolent means would be ineffective in effecting an arrest, preventing an escape, or preventing an imminent threat of injury to the peace officer or another person.

(2) When 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.

(3) A peace officer is justified in using deadly physical force to make an arrest only when all other means of apprehension are unreasonable given the circumstances and:

- (a) The arrest is for a felony involving conduct including the use or threatened use of deadly physical force;
- (b) The suspect poses an immediate threat of death or serious bodily injury to the peace officer or another person;
- (c) The force employed does not create a substantial risk of injury to other persons.

(4) A peace officer shall identify himself or herself as a peace officer and give a clear verbal warning of his or her intent to use firearms or other deadly physical force, with sufficient time for the warning to be observed, unless to do so would unduly place peace officers at risk of injury or would create a risk of death or injury to other persons.

(4.5) Notwithstanding any other provision in this section, a peace officer is justified in using deadly force if the peace officer has an objectively reasonable belief that a lesser degree of force is inadequate and the peace officer has objectively reasonable grounds to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving serious bodily injury.

C.R.S. § 18-1-704, Colorado's general self-defense statute, states in relevant part:

(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 physical force may be used only if a person reasonably believes a lesser degree of force is inadequate and [t]he actor has reasonable ground to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving great bodily injury.

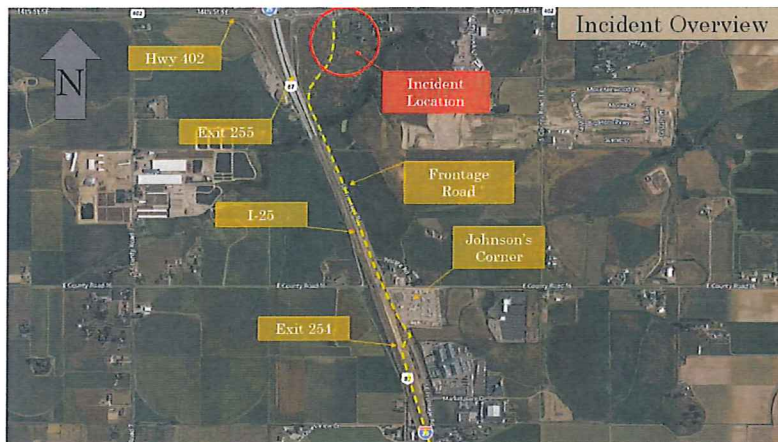
Under Colorado law, for a person to act legally to defend himself or others requires the presence of "both reasonable belief and actual belief" on behalf of the actor. *See Sanchez v. People*, 820 P.2d 1103, 1108 (Colo. 1991). The law requires the fact finder to "weigh all relevant circumstances to determine whether a person asserting the defense of self-defense has acted as a reasonable person would act in similar circumstances." *Id.*

V. SUMMARY OF RELEVANT FACTS

Overview based on officer interviews, and review of reports, photos, and evidence

On October 21, 2022, the Northern Colorado Drug Task Force (NCDTF) contacted Larimer County Sheriff's Office regarding a vehicle they had under surveillance. The NCDTF asked patrol deputies to contact the vehicle. The NCDTF told deputies that the female passenger was known to transport fentanyl and was often armed with a handgun.

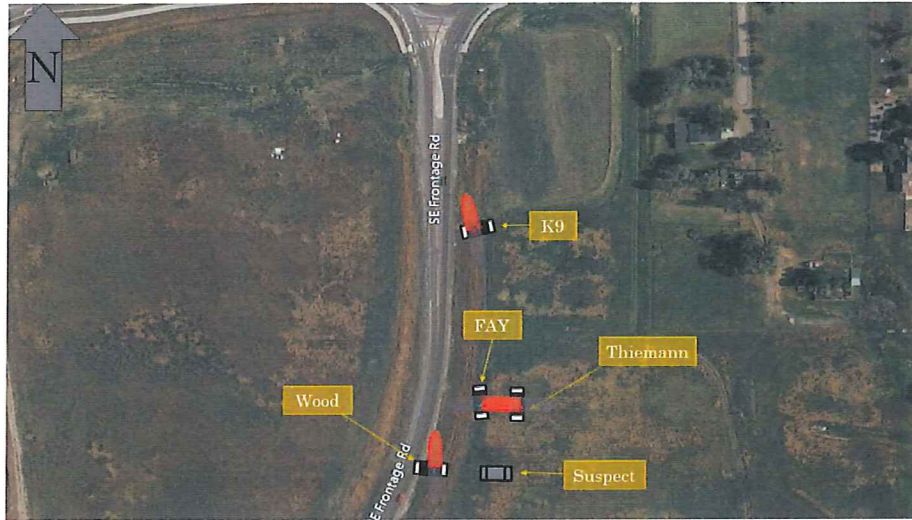
At approximately 10:12 PM, LCSO Deputy Nathan Wood, located and initiated a traffic stop on the vehicle, a silver 2005 Honda Pilot, displaying an expired temporary registration number. The location of the initial stop was on the frontage road in Johnstown, CO, just south of Johnson's Corner restaurant. When Deputy Wood turned on his overhead lights, the driver of the vehicle failed to pull over, ran a stop sign at County Road 16, and continued northbound on Frontage Road at a high rate of speed (approx. 100 mph).



Overview of Path Traveled During Pursuit

As the suspect vehicle entered the roundabout at Hwy 402, Deputy Wood unsuccessfully attempted a Precision Immobilization Technique (PIT) on the vehicle (a PIT is a dynamic police tactic that is used to bring a potentially dangerous vehicle pursuit to an end by engaging/contacting the pursued vehicle with a police vehicle to accomplish a forced rotational

stop of the pursued vehicle). The suspect vehicle drove southbound, driving over the roundabout island, when an LCSO canine unit attempted another unsuccessful PIT on the vehicle. The suspect vehicle continued southbound into a field east of the frontage road, where it became disabled and stopped.



Final Positions of Vehicles

LCSO Deputies Fay, Wood, and Sgt. Thiemann began to set up to perform a high risk stop on the vehicle. The female passenger complied with deputies' commands and put her hands out of the window. The male driver, later identified as Christopher Roldan, exited the driver's door and ran towards deputies with a knife in his raised hand. Mr. Roldan disobeyed commands from deputies to drop the knife and continued forward running towards them.

As Mr. Roldan got closer to deputies' vehicles, Deputy Fay fired two rounds from his pistol, striking Mr. Roldan in the abdomen once. Mr. Roldan fell to his hands and knees in between two of the patrol vehicles, while continuing to disobey deputy commands to show his hands. As Mr. Roldan was attempting to rise off the ground, Sgt. Thiemann struck Mr. Roldan once in the side of the head with his rifle, causing him to fall back to the ground. Deputies gained control of Mr. Roldan and put him in handcuffs. Deputies located a silver bladed folding knife on the ground next to Mr. Roldan's head which was later found with its blade opened.

Deputies took the female passenger, identified as Brittany Garcia, into custody without incident or injury.

As soon as Mr. Roldan was in custody and the scene secure, deputies identified his injuries and performed life-saving efforts until emergency medical personnel arrived. Mr. Roldan was transported to Medical Center of the Rockies (MCR) where he died from his injuries the next day, October 22, 2022.

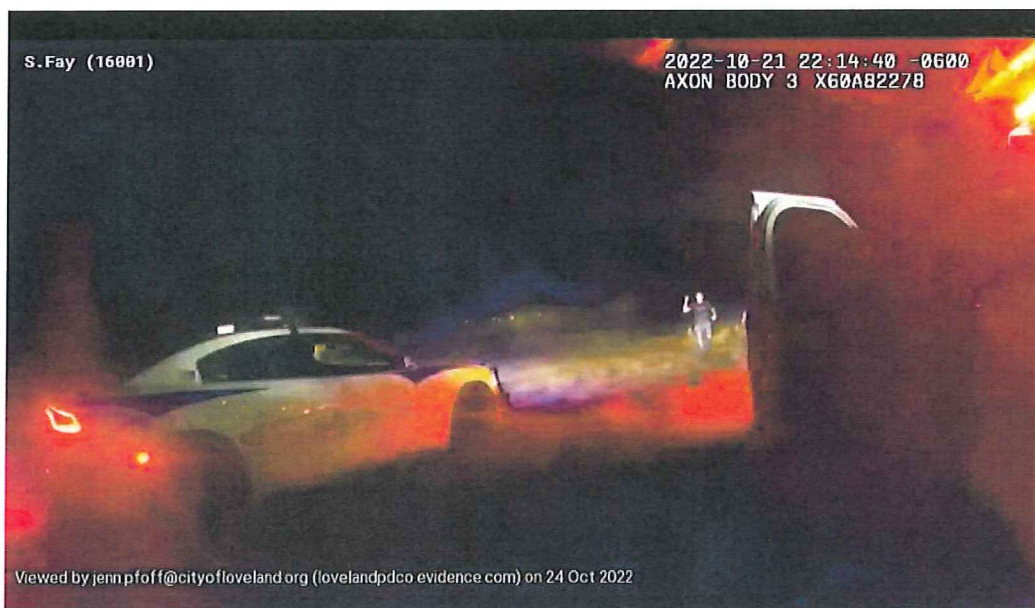
Mr. Roldan's criminal history revealed at least four active warrants for false reporting and drug possession at the time of the pursuit.

Interview - Deputy Steven Fay

Deputy Fay heard Deputy Wood call out a pursuit over the radio with a vehicle northbound on the east side of the frontage road. Deputy Fay remembered receiving information that an occupant may be armed with a firearm.

After Deputy Fay joined the pursuit, he witnessed Deputy Wood conduct a PIT maneuver on the vehicle in the roundabout at Hwy 402. However, the maneuver was unsuccessful, and the vehicle continued driving southbound. Another PIT maneuver was conducted by a truck containing a K9 unit, causing the suspect vehicle to go into a field on the southeast corner of the frontage road and Hwy 402.

Deputy Fay initiated a high risk stop with other deputies on scene. Commands were given to the driver and the passenger. He could see the passenger complying with commands but could not see the driver. Suddenly, the male driver came around the rear corner of the vehicle and started running at Deputy Fay with his right arm raised. Deputy Fay said the male's arm was up in a stabbing motion.



Still Image from Deputy Fay's Body Worn Camera

Deputy Fay yelled something to the effect of telling the male to stop and the male yelled, "fuck you!" The male continued to run towards Deputy Fay with his arm still in the same position. Deputy Fay said he perceived the position of his arm as indicative of the male being armed with a knife, but Deputy Fay also knew a firearm was potentially still a concern.

Deputy Fay moved from the driver's door back behind his vehicle to get additional cover and to conceal himself behind the light. As the male came into better lighting, Deputy Fay saw the male was holding a silver thin bladed object. He believed it was a knife. Deputy Fay told the male to drop the knife and again the male said, "fuck you."



Still Image from Deputy Fay's Body Worn Camera

Deputy Fay said the male was closing the distance fast between the vehicles. Deputy Fay estimated the two vehicles were 25-35 yards away from each other. Deputy Fay said it did not take the male more than a few seconds to close the gap between the two vehicles.

Deputy Fay thought that if the male got to him, the knife was going to come down into Deputy Fay's neck because the male wanted to stab him and believed a knife wound to the side of the neck is a fatal wound. Deputy Fay stated he was thinking that he was not going to let the male stab him in the neck and kill him. Deputy Fay fired his weapon twice, so the male could not get any closer, aiming for his center mass (torso area).

After the shooting, Deputy Fay said the male continued towards them and eventually went to the ground between two of the patrol vehicles. Deputy Fay and other deputies gave the male commands, but he was not complying. Deputy Fay did not know where the knife was. Deputy Fay transitioned to his Taser and two other deputies joined him to approach the male on the ground.

Deputy Fay said Sgt. Thiemann came up and kicked the male in the shoulder, causing the male to fall completely to the ground. Deputy Fay saw a silver bladed knife on the ground by the male's head and told Deputy Wood, who kicked the knife away. Deputies handcuffed the male and rendered aid.

Interview – Deputy Nate Wood

Deputy Wood observed the suspect's vehicle and noticed that it was displaying expired registration. Near Johnson's Corner on the frontage road, he attempted a traffic stop of the vehicle. However, the vehicle ran a stop sign and accelerated at a high rate of speed north on the frontage road towards Hwy 402. Deputy Wood conducted a PIT in the roundabout at Hwy 402, but the vehicle continued south on the frontage road, eventually driving into a field and stopping.

Deputy Wood stopped on the Frontage Rd and started a high risk stop with other deputies. He saw a male sprinting towards other deputies but lost sight of him behind Deputy Fay's vehicle. Deputy Wood said he saw Deputy Fay back up and heard him tell the male to drop the knife. Deputy Wood then heard two gunshots.

Deputy Wood joined other deputies and saw male on the ground between the two patrol vehicles. He noticed a knife on the ground next to the male. The male was moving around and not obeying commands, but was not reaching for the knife. Sgt. Thiemann stepped up to distract male and Deputy Wood then kicked knife away and assisted in handcuffing the male. Deputies rendered medical aid until EMS arrived. Deputy Wood heard the male say something like, "let me go," and took that to mean the male wanted to die.

Interview – Sergeant Josiah Thiemann

Sgt. Thiemann received a call from the Northern Colorado Drug Task Force (NCDTF) about contacting a vehicle. They stated the female occupant was known to carry a firearm and to transport fentanyl. There was also an unknown male in the vehicle with her.

Sgt. Thiemann described being between a quarter to half mile behind Deputy Wood during the initial attempted traffic stop, pursuit, and PIT maneuvers. Sgt. Thiemann observed the suspect vehicle drive south on the frontage road, turn east into the field and come to a final stop. Sgt. Thiemann set up next to Deputy Fay's vehicle to start a high risk stop.

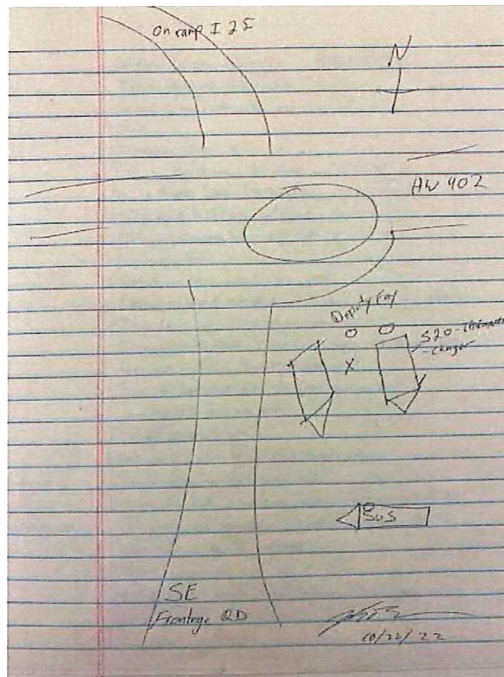


Diagram Drawn by Sgt. Thiemann During Interview

Sgt. Thiemann was armed with his rifle and was at the back of his vehicle when he heard a shot and saw the suspect between his and Deputy Fay's vehicle. He did not hear the suspect say anything, but heard Deputy Fay tell the suspect to drop the knife prior to hearing the shot. Sgt.

Thiemann said he was not in a position to deploy less lethal options given time and distance. Deputy Fay was behind his vehicle in line with Sgt. Thiemann and they started giving the suspect commands.

As Sgt. Thiemann approached the suspect, the suspect's hands were underneath his body and he could not see the knife. The suspect did not comply with commands to show the deputies his hands. Sgt. Thiemann still had safety concerns about the suspect being so close, not listening to commands, and having a knife and/or a pistol. Sgt. Thiemann said if the suspect had a pistol, he could easily shoot them and, if he still had the knife, could have easily cut them based on the close proximity.

Sgt. Thiemann struck the suspect once in the side of the head with his rifle. The suspect's hands went out immediately after the strike and Sgt. Thiemann grabbed his left hand. As Sgt. Thiemann assisted with taking control of the suspect, he saw knife on ground next to the suspect.

Sgt. Thiemann left the suspect to other deputies and focused on clearing the suspect vehicle and getting the female into custody. The female complied with all commands and was taken into custody without incident.

When asked what would have occurred without the uses of force that night, Sgt. Thiemann stated "Deputy Fay would have been stabbed."

Interview – Civilian Ride-Along

On October 21, 2022, Sgt. Thiemann had a family member in his vehicle as a civilian ride-along. The ride-along participated in a voluntary interview describing what occurred that night.

When asked about what happened, the ride-along stated that the "guy decided to run." He described that the suspect vehicle went around the roundabout heading back south on the frontage road away from Hwy 402. The vehicle then jumped off the pavement into a field. Three or four deputies followed the vehicle into the field where it came to a stop.

Once stopped, approximately 10 seconds passed and then the male exited the vehicle and ran "straight towards us" with a knife in his hands, "like a folding knife." The male ran right between the two patrol vehicles. Deputies yelled at the male to stop and then he heard an officer shoot twice. The male "dropped" and tried to get back up. Deputies ran up to him and subdued the suspect. Two deputies rendered medical aid until EMS arrived.

The ride-along said it seemed like a suicide by cop – "I don't know what his intention was when he got there. I think he probably knew he was going to get shot." He believed the suspect knew that they were going to do something to stop him from stabbing them.

Interview – Brittany Garcia

After deputies removed the female passenger from the suspect vehicle, she was identified as Brittany Garcia. She agreed to a voluntary interview describing the events leading to the pursuit and what occurred after the vehicle came to a stop.

She stated that earlier that day, she and Christopher Roldan traveled to Aurora for a few hours and then started to drive back to Fort Collins on I-25. Ms. Garcia said they both smoked “blues” (common name for pills containing fentanyl) before they left for Fort Collins while still in Aurora. As they approached Johnstown, Mr. Roldan saw a police car behind them, and he exited the interstate. The police car followed Mr. Roldan as he left the interstate and turned its overhead lights on. Mr. Roldan said, “Fuck, I can’t stop” and then “floored it.” Mr. Roldan told Ms. Garcia there were more cops as they entered the roundabout. Garcia was scared and “didn’t want to die in the car.” She described that police started “wrecking” them and Mr. Roldan drove and hit the curb. As they drove through the field, the vehicle hit something causing them to stop.

When they stopped, Roldan said, “fuck it, I don’t care if I get killed” or “I don’t care if they fucking kill me, I’m going for it,” jumped out, and ran straight towards the cops. Ms. Garcia heard two shots, but thought they were bean bags or rubber bullets. Ms. Garcia did not know Mr. Roldan to carry weapons, but knew he had a pocketknife that she saw on him earlier in the day. She stated, “I don’t know what grounds they have a reason to shoot, but I thought there had to be weapons involved.” When she was walking back to deputies, Ms. Garcia heard them say there was a knife by Mr. Roldan’s back.

Interview – Civilian Bystander

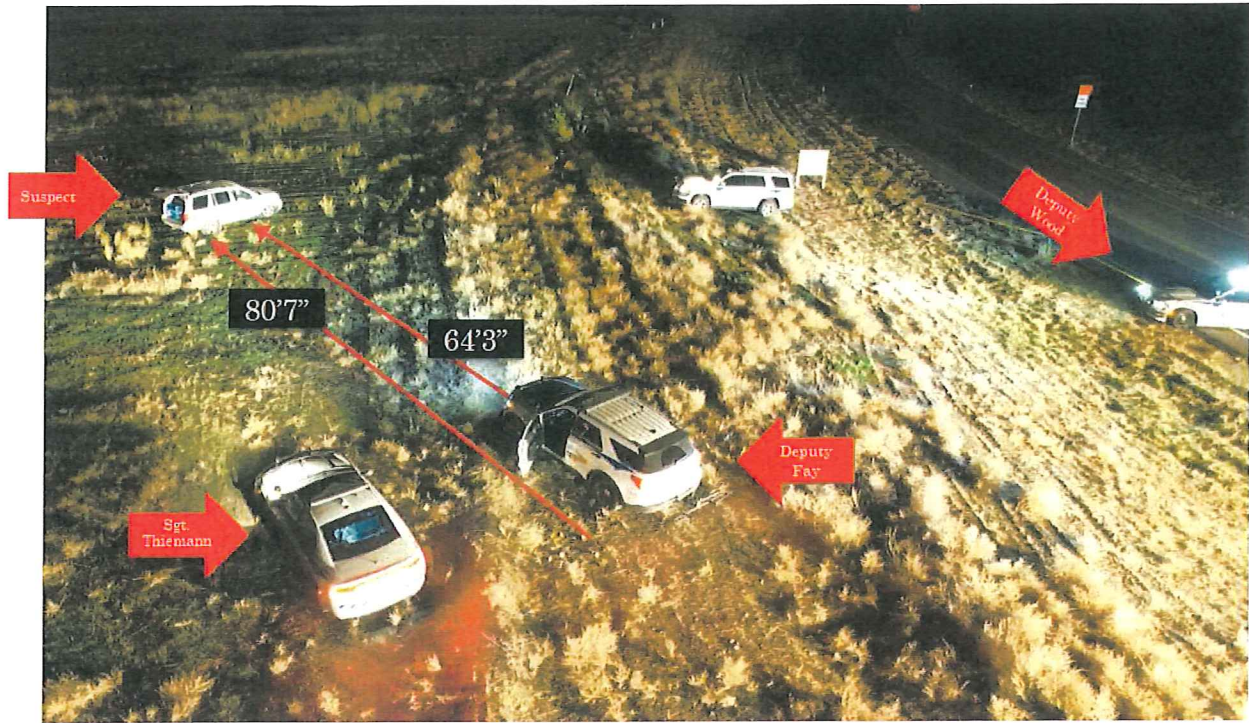
On October 21, 2022, when the pursuit ended, a civilian bystander was driving a vehicle southbound on the frontage road. The driver, participated in a voluntary interview regarding what she observed.

The bystander was driving home from an Eagles game. As she approached the roundabout at Hwy 402, she saw two patrol vehicles around the entrance with solid lights on. She saw a vehicle driving at her at a high rate of speed with police behind it. She pulled off to the side of the road and saw the pursuit end in a field east of the frontage road.

She saw a male get out of the driver’s door and walk towards police. The man had his hand sticking straight up with something in his hand. The male did not attempt to slow or stop and was yelling something. She could hear officers yelling at the male to drop the weapon. The male continued toward the officers and then she heard officers discharge their weapons.

Evidence collection/processing

CIRT Investigators processed the scene where the pursuit ended and the suspect’s vehicle. Overall, measurements at the scene established that Deputy Fay’s patrol vehicle and the suspect’s vehicle were 64 ft 3 inches apart (approximately 20 yards) when they came to rest.



Drone Image with Measurements

As investigators processed the scene, they discovered a silver-colored knife at the location where the suspect fell to the ground. The knife measured approximately 7 ½ inches.



Knife Located on Scene

Information from medical staff and the Coroner

On December 16, 2022, the Larimer County Coroner's Office issued its Autopsy Report for this case. The report found that Christopher Roldan died of a gunshot wound to the abdomen. The pathologist found a gunshot wound penetrating Mr. Roldan's abdomen and evidence of medical intervention including attempts to surgically repair the small intestine, right iliac vein, and a pelvic bone defect. The examination of the head did not reveal anything of note. Toxicology found methamphetamine and fentanyl in the bloodstream.

Review of Body Worn Camera Footage¹

The following review of body worn camera footage notes relevant portions only and does not attempt to narrate the entirety of the videos. Portions of the incident were captured on multiple different cameras and are not always repeated in this summary. All deputies that responded activated their body worn cameras, however, not necessarily at the time that the incident began.

1. A review of Deputy Steven Fay's relevant body worn camera footage shows:
 - At 10:14:37 PM: Deputy Fay's body worn camera turns as he is standing behind the cover of his vehicle's drive door. The suspect is already outside of his vehicle running at deputies with his right hand raised to head level. In addition, there are multiple fully marked patrol vehicles in the video with activated red and blue light bars and take down lights.
 - At 10:14:38 PM: Deputy Fay yells "Get on the ground" and "drop the knife" multiple times as he retreats the entire length of his patrol vehicle. The suspect continues to run at the deputy with his right arm raised to level of his head.
 - At 10:14:43 PM: The suspect reaches the front quarter panel of Deputy Fay's vehicle with his arm still raised. Deputy Fay fires his weapon while still retreating from the suspect. The suspect falls to the ground.
 - At 10:14:47 PM: Multiple deputies are heard yelling at the suspect to stay on the ground as they approach him. As the camera turns to the other deputies on scene, all of them are in full Larimer County Sheriff's uniforms with badges and patches identifying their agency.
 - At 10:14:52 PM: Deputies continue to issue commands including for the suspect to place his hands out to the side.
 - At 10:15:02 PM: The suspect ignores deputies' commands, rolls over and begins to get up. Sgt. Theimann can be seen delivering a strike with the barrel of his gun.
 - At 10:15:08 PM: Deputies continue to give commands to the suspect to get his hands to the side and stay down. Deputy Fay and another deputy gain control of the suspect and place him in handcuffs.
 - At 10:15:36 PM: A deputy sees a knife on the ground near the suspect's head and kicks it away. They ask the suspect where he is hit and roll him over to assess his injuries.

¹ The body worn cameras are not placed at deputies' eye level and do not always depict what the deputy sees, especially here, when deputies are in their vehicle, when their bodies are facing the ground, or when lights "white out" the camera's perspective. Additionally, their own body and firearms can obstruct view of the camera, such as Sgt. Thiemann's rifle as it is held in a ready position. Evidence here shows any obstructions were unintentional.

- At 10:16:15 PM: Deputy Fay and another deputy begin rendering medical aid to the suspect.
- At 10:16:37 PM: Deputies can be heard giving commands to the female passenger in the suspect's vehicle.
- At 10:21:14 PM: Deputies continue providing medical aid while they secure the scene for emergency medical services. As the deputies work to keep the suspect awake, the suspect states "let me go, let me go, let me go", "I want to go right now" and "I want to die please."
- At 22:21:54 PM: Deputy Fay is relieved and another deputy steps in to assist in rendering aid to the suspect.

2. A review of Sergeant Josiah Thiemann's relevant body worn camera footage shows:

- At 10:14:18 PM: Sgt. Thiemann's body worn camera is activated but no audio is captured². The camera captures his vehicle's steering wheel and other areas within the vehicle.
- At 10:14:32 PM: Sgt. Thiemann exits his vehicle and goes around to the rear. Two other deputies have the suspect at gun point and the suspect is already on the ground.
- At 10:14:43 PM: The suspect is observed on the ground but still moving.
- At 10:14:47 PM: Sgt. Thiemann's body worn camera begins collecting audio. Immediately, he can be heard telling the suspect, "hands out to the side" and "stay down."
- 10:14:51 PM: The suspect rolls over on to his hands and knees. Sgt. Thiemann continues to yell, "stay down." The suspect appears to be attempting to get up when Sgt. Thiemann delivers a strike with his rifle. The suspect falls onto his back and Sgt. Thiemann grabs the suspect's hand while continuing to issue commands. Other deputies come in and take control of the suspect.
- 10:15:05 PM: Sgt. Thiemann's attention moves to the female still in the suspect's vehicle.
- 10:15:13 PM: Sgt. Thiemann tells the female passenger, "do not move."
- 10:15:30 PM: The audio picks up a deputy pointing out the knife. Other deputies are talking with the suspect and working to assess his injuries.
- 10:16:26 PM: Sgt. Thiemann tells the female passenger that she is under arrest and to exit the vehicle.
- 10:16:35 PM: The passenger door of the vehicle opens, and the female passenger exits the vehicle. She complies with deputies' commands.
- 10:17:25 PM: The passenger is handcuffed, escorted, and placed in the back of a patrol vehicle.
- 10:19:59 PM: Sgt. Thiemann and other deputies approach the suspect's vehicle and make sure no one else is in the vehicle.
- 10:20:34 PM: Sgt. Thiemann walks back to the location of the suspect. At this point, the camera captures what would have been the suspect's perspective as he ran at deputies. There are multiple fully marked patrol vehicles with red and blue

² Some body worn cameras continuously record without audio to create a 30-second buffer. When the deputies activate their camera, the buffer is retained but without audio, and the video is added to the beginning of the recording.

overhead lights activated. White “take down” lights are on and facing at the camera.

3. A review of Deputy Nate Wood’s relevant body worn camera footage shows:
 - At 10:21:01 PM: Deputy Wood activates his body worn camera. The camera captures him and other deputies rendering medical aid to the suspect.
 - At 20:29:02 PM: The suspect is loaded into an ambulance.

VI. CRIMINAL CHARGES THAT WOULD HAVE BEEN BROUGHT AGAINST ROLDAN

Had Christopher Roldan survived, the evidence derived from the CIRT investigation would have led to the following charges being filed against him as a result of his conduct:

1. C.R.S. §18-9-116.5, Vehicular Eluding, a class 5 felony: A person who, while operating a motor vehicle, knowingly eludes or attempts to elude a peace officer also operating a motor vehicle, and who knows or reasonably should know that he or she is being pursued by said peace officer, and who operates his or her vehicle in a reckless manner, commits vehicular eluding.
2. C.R.S. §18-3-206, Felony Menacing, a class 5 felony: A person who, by any threat or physical action, knowingly places or attempts to place another person in fear of imminent serious bodily injury if committed by the use of a deadly weapon commits felony menacing.
3. C.R.S. §18-3-208, Reckless Endangerment, a class 2 misdemeanor: A person who recklessly engages in conduct that creates a substantial risk of serious bodily injury to another person commits reckless endangerment.

Had Christopher Roldan survived, he would also have been investigated for:

1. C.R.S. §18-3-202, First Degree Assault – Threaten Peace Officer, a class 3 felony crime of violence: A person with intent to cause serious bodily injury upon the person of a peace officer, threatened with a deadly weapon a peace officer engaged in the performance of his duties, and the person knew, or reasonably should have known, that the victim was a peace officer acting in the performance of his duties commits first degree assault – threaten peace officer.
2. C.R.S. §18-3-102, 18-3-101, Criminal Attempt to commit Murder in the First Degree, a class 2 felony crime of violence: A person who, acting after deliberation and with the intent to cause the death of another person, takes a substantial step toward causing the death of that person or another person, commits Criminal Attempt to commit Murder in the First Degree.

VII. CONCLUSIONS

The CIRT investigation comported with both the letter and the spirit of C.R.S. §16-2.5-301. The investigation was thorough, objective, and well-resourced. Finally, the investigation yielded ample evidence from which factual and legal conclusions could be reached.

Deputy Fay and Sgt. Thiemann were the only officers to use force. Their body worn cameras were active and they each participated in an extensive voluntary interview. They appeared candid and genuine in their responses and did not evade questioning in any manner. The CIRT followed up on all questions.

In applying the law to the facts in this incident we must ask the following questions:

1. Did Deputy Fay and Sgt. Thiemann reasonably believe that nonviolent means would be ineffective in response to Christopher Roldan's actions?
2. Because Deputy Fay used deadly force, did he identify himself as a peace officer and give a clear verbal warning of his intent to use his firearm, with sufficient time for the warning to be observed, and if not, is he exempted from having given that warning because it would have unduly placed him or his fellow officers at risk of injury or would have created a risk of death or injury to other persons?
3. Did Deputy Fay, Sgt. Thiemann and fellow deputies ensure that assistance and medical aid were rendered to Christopher Roldan as soon as was practicable?
4. Did Deputy Fay or fellow deputies ensure that any identified relatives or next of kin of Christopher Roldan were notified as soon as practicable?

Did Deputy Fay and Sgt. Thiemann have an objectively reasonable belief that nonviolent means, or a lesser degree of physical force, would be ineffective in response to Mr. Roldan's actions when they used physical force, including the deadly physical force used by Deputy Fay? Further, did Deputy Fay have objectively reasonable grounds to believe, and actually believe, that he or another person was in imminent danger of being killed or of receiving serious bodily injury?

When answering these questions, it is important to recognize how quickly this incident escalated because of Mr. Roldan's actions. Once the vehicles came to rest after the pursuit, there were approximately 20 yards between Deputy Fay and Mr. Roldan's vehicle. Without warning, and directly ignoring commands, Mr. Roldan exited and came around the back of his vehicle with his arm at head level in a stabbing position. He closed the distance between the vehicles in a matter of just a few seconds.

To give more time and distance, Deputy Fay retreated the length of his vehicle, but Mr. Roldan closed the gap to within a few yards, faster than Deputy Fay could safely retreat. Deputy Fay yelled "Get on the ground!" and "Drop the knife!" and still Mr. Roldan rapidly approached with his hand in an attack position. Deputy Fay was in full uniform, and clearly articulated the threat

presented by the knife and knew that his life was in danger if Mr. Roldan reached him. As such, it is clear that Deputy Fay not only had an objectively reasonable belief of the threat posed, but also had objectively reasonable grounds to use deadly physical force in this incident.

In short, Deputy Fay fired his weapon only when faced with an individual charging him with a knife at close range. Deputy Fay was in immediate danger of serious bodily injury or death from Mr. Roldan's actions. There were no other reasonable alternatives to the use of deadly force. The scene is located in an open field at night. Deputy Fay had already tried to create time and distance by backing up, and there was nowhere else to go safely. An objective review of the situation captured in the video from Deputy Fay's body worn camera shows a highly dangerous and dynamic situation.

Even after shots were fired, Mr. Roldan presented a real and ongoing threat to law enforcement. Sgt. Theimann arrived and assisted with taking Mr. Roldan into custody. Mr. Roldan ignored repeated commands to show his hands. Mr. Roldan even rolled over and began to stand up. At this point, Sgt. Theimann and Deputy Fay were within arms distance of Mr. Roldan. The knife was unaccounted for, and there was still the fear of a firearm from the initial dispatch. Out of fear for Deputy Fay and himself, Sgt Theimann struck Mr. Roldan in the head with his rifle. This use of force was justified by the ongoing threat and the facts as known to him at that time. The Coroner examined Mr. Roldan's head for injuries and did not find any indication that the force used by Sgt. Theimann contributed in any way to Mr. Roldan's death. As such, we can conclude that Sgt. Theimann's use of force was not deadly force.

Deputy Fay was exempted from giving the verbal warning because it would have unduly placed him or his fellow officers at risk of injury or would have created a risk of death or injury to other persons.

Deputy Fay had to make a split-second decision. Mr. Roldan made a sudden and unprovoked decision to charge at deputies in an open field at night. By the time the decision was made to fire, there was no room for error or delay. The life of Deputy Fay and the members of his team laid in the balance. Despite this, deputies gave repeated verbal commands to "get on the ground" and "drop the knife" which Mr. Roldan ignored. While those warnings did not meet the exact text of verbal warning outlined by statute, there was time for little else. Therefore, the absence of those specific warnings was justified in this case.

Did Deputy Fay, Sgt. Thiemann and fellow deputies ensured that assistance and medical aid were rendered to Christopher Roldan as soon as was practicable in consideration of their safety.

All members of law enforcement on scene immediately rendered aid when it was safe to do so once Mr. Roldan was finally taken into custody and the scene secured. The team moved quickly to assess his injuries, retrieve first aid supplies, render aid, and request medical professionals respond to the scene. Their aid continued until Mr. Roldan was loaded into the ambulance.

Investigating officers ensured that identified relatives or next of kin of Christopher Roldan were notified of his injuries as soon as practicable.

Mr. Roland's relatives were notified promptly by CIRT investigators. Detectives and a victim's advocate was able to reach Mr. Roldan's father by phone. They explained what had occurred and offered him resources if needed.

Final Conclusions

Therefore, there will be no criminal charges filed as a result of this incident. Mr. Roldan is deceased and cannot face charges for his actions. Deputy Fay and Sgt. Thiemann, the only officers to use force, acted justifiably under the law and will not be charged.

I thank the entire Critical Incident Response Team for their professionalism, hard work, and diligence in seeing this investigation through until all relevant questions were answered.

Gordon P. McLaughlin



District Attorney
Eighth Judicial District

Date: 12.19.22