

Clifford E. Riedel
District Attorney

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

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



1st ASSISTANT DISTRICT ATTORNEY
Mitchell T. Murray

2nd ASSISTANT DISTRICT ATTORNEY
Emily A. Humphrey

CHIEF DEPUTY DISTRICT ATTORNEYS
Katharine J. Ellison
Andrew J. Lewis
Daniel M. McDonald

April 13, 2015

Chief Luke Hecker
Loveland Police Services
810 East 10th Street
Loveland, CO 80537

Sheriff Justin Smith
Larimer County Sheriff's Office
2501 Midpoint Drive
Fort Collins, CO 80525

Re: Opinion Concerning LCSO #15-2465 and LPD #15-2483

Dear Chief Hecker and Sheriff Smith:

The criminal investigation surrounding the April 3, 2015, death of Christopher Sterling Bush has been completed and submitted to my office for an opinion. As District Attorney, I am required to determine whether any person committed criminal law violations during this incident. The scope of this review is criminal in nature and necessarily limited by Colorado Statutes to determine whether any criminal charge is legally prosecutable and provable beyond a reasonable doubt. My review also includes determining if the degree of force used by Officers Henry Stuckey and Benjamin DeLima was justified under pertinent Colorado statutes.

In addition to having a representative from my office respond to the scene and assist in the interviews with the involved officers, our investigation has included a review of the reports, photos, and videos taken of the scene, dispatch and communication records, witness interviews, ballistics, and findings made by the Larimer County Coroner's Office. Larimer County's Critical Incident Protocol was in place and followed during this investigation.

In determining whether the degree of force used by Detective Stuckey and Officer DeLima was legally justifiable, my review is based on whether the following Colorado statutes involving the use of force were violated.

Section 18-1-704 of the Colorado Revised Statutes provides:

- (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.

Section 18-1-707 of the Colorado Revised Statutes provides:

(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 affect an arrest...

On April 3, 2015, officers with the Loveland Police Department went to 418 SE 8th Street, Unit #C7, Loveland, Colorado. That address is in unincorporated Larimer County. Officers went to that address to contact a Mr. Christopher Bush based upon probable cause to believe that he had committed the criminal offense of sexual assault on a child.

At the time of the attempted contact, Loveland police also possessed information that Mr. Bush had recently undergone a breakup with his fiancé, was homeless and living out of a truck, and had been informed that his employment would be terminated effective on April 10, 2015. Additionally, it was known that Mr. Bush owned several firearms. Therefore, it was decided to attempt to make contact with Mr. Bush at his place of employment so that he would have less availability to the firearms believed to be in his vehicle.

Officers contacted Mr. Bush's employer by telephone and requested permission to contact Mr. Bush at work. Permission having been granted, officers proceeded to the SE 8th Street address. Detective Henry Stuckey and Officer Benjamin DeLima made contact with Mr. Bush inside the business. At the time of the contact Detective Stuckey was dressed in plain clothes and Officer DeLima was dressed in his departmental uniform. Officers requested that Mr. Bush step outside so that they could discuss a matter with him. Mr. Bush agreed and walked out of the business with the officers. As they were exiting, Detective Stuckey removed a Leatherman knife from the belt of Mr. Bush and handed it to Officer DeLima. Detective Stuckey asked Mr. Bush if he had any weapons on his person. Mr. Bush did not respond to that question but instead asked what was going on. Detective Stuckey advised Mr. Bush of the sexual allegations that had been made against him by a young female. Mr. Bush began to breathe heavily and appeared on the verge of panic. Detective Stuckey asked Mr. Bush to relax and to sit down. Mr. Bush continued to breathe heavily and asked that the officers summon an ambulance. Officer DeLima did in fact request an ambulance. Mr. Bush then stated he wanted to sit down on a bench that was at the southeast corner of the building. Detective Stuckey informed him that that would be fine.

Officer DeLima was concerned that Mr. Bush had not answered the question about whether he was armed and had not been patted down for weapons. Officer DeLima followed as Mr. Bush and Detective Stuckey walked side by side towards the southeast corner of the building. When Mr. Bush rounded the corner of the building he began to walk very quickly. Officer DeLima told Mr. Bush to "slow down, slow down." Detective Stuckey grabbed Mr. Bush's left arm with his right hand as Mr. Bush began to break into a run. Mr. Bush spun towards Detective Stuckey whereupon Detective Stuckey observed a gun in Mr. Bush's right hand. Detective Stuckey yelled "gun, gun" to alert Officer DeLima. Officer DeLima, upon hearing Detective Stuckey

yell “gun, gun”, grabbed Mr. Bush around the neck and took him to the ground. Upon impact with the ground, Officer DeLima ended up on his back and he had lost physical control of Mr. Bush. Officer DeLima observed that Mr. Bush was pointing the handgun directly at him as Mr. Bush was attempting to stand up. According to Officer DeLima, “I thought I was dead.” Due to the positioning of Officer DeLima, he was unable to draw his own weapon. Therefore he physically reengaged Mr. Bush before he could stand up and attempted to gain control of Mr. Bush’s gun. Detective Stuckey, who had un-holstered his weapon, saw Officer DeLima on top of Mr. Bush struggling for Mr. Bush’s gun. Officer DeLima was able to get one of his hands on the barrel of Mr. Bush’s gun and push the barrel away from him. Mr. Bush then pulled the weapon, towards his own face. Officer DeLima was able to push the gun away from Mr. Bush’s face at that point in time. Detective Stuckey realized that he might hit Officer DeLima if he fired his weapon and re-holstered his weapon so that he could use both hands to assist Officer DeLima. Officer DeLima realized he was losing control over Mr. Bush’s gun and therefore, threw his chest over Mr. Bush in the hope that his ballistic chest plate would protect him if Mr. Bush fired his weapon. Officer DeLima heard a “pop” and initially believed that either he or Detective Stuckey had been shot. Mr. Bush ceased struggling and Officer DeLima then realized that Mr. Bush had succeeded in shooting himself.

A review of the physical evidence conclusively shows that Mr. Bush was shot with a bullet fired from his own gun. Mr. Bush’s gun was a Springfield Armory XD .45 caliber compact and was loaded with Hornady .45 caliber ammunition that had red plastic plugs.



Only one fired shell casing was recovered from the scene and it was still in the chamber of Mr. Bush’s gun. Neither Detective Stuckey nor Officer DeLima fired their weapons. The coroner recovered a .45 caliber bullet, with its red plastic plug, during the autopsy of Mr. Bush. According to the ballistics report from the Larimer County Sheriff’s Office, this recovered bullet could not have been fired by either Detective Stuckey’s weapon or Officer DeLima’s weapon. The rifling on the bullet was inconsistent with the weapons carried by the officers but was consistent with Mr. Bush’s gun. A witness to the last seconds of the struggle with Mr. Bush stated that they believed that Detective Stuckey may have fired his weapon. The ballistics

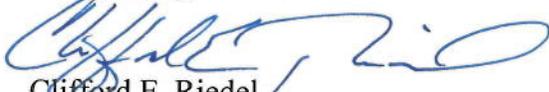
report, the autopsy findings, and a physical inspection of Detective Stuckey's weapon conclusively demonstrate that the only weapon fired was the one which Mr. Bush brandished at the officers.

The Larimer County Coroner's Office has ruled Mr. Bush's death a suicide caused by a single gunshot wound to the head.

Based upon the totality of the evidence, I find that Mr. Bush committed the only criminal offenses during this incident. Had he survived his self-inflicted wound, sufficient evidence existed to charge him with Unlawful Sexual Assault on a Child, a Class 4 Felony and Attempted First Degree Murder of a Police Officer, a Class 2 Felony.

Detective Stuckey and Officer DeLima acted with reasonable force to affect the arrest of Mr. Bush and to protect themselves, and each other, from being shot by Mr. Bush. The evidence demonstrates that the officers acted courageously and professionally.

Respectfully,



Clifford E. Riedel
District Attorney