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Ron Thomas
Chief of Police
Denver Police Department
1331 Cherokee Street
Denver, CO 80204

RE: Investigation of the shooting death of Chaz Theodore Gallegos (dob 6-7-89) which occurred on July 15, 2022, at 329 East 51st Avenue, Unit B, Denver, Colorado; Denver Police Department General Offense 22-359660.

Dear Chief Thomas,

Our office has reviewed the officer involved shooting that occurred on July 15, 2022 at 329 East 51st Ave, in Denver, Colorado. This began as a domestic violence assault in progress inside that residence. After much effort by several DPD officers to achieve a non-violent ending to the assault, Officer Matthew Colby (Badge #16063) fired one shot to save the life of the female who was being assaulted with a knife. I am writing to inform you that I find that the force used by Officer Colby was legally justified, and that no criminal charges will be filed.

Summary of Facts

Officers were dispatched to 329 East 51st Avenue, Unit B, at approximately 11:49 a.m. on Friday July 15, 2022, in response to a report of a domestic violence assault in progress. The father of the female resident at that location called 911 after he and his wife received two calls from their daughter asking for help and one from their grandson who was present in the residence at the time of the call. The report was that Chaz Theodore Gallegos was assaulting the female resident and was not allowing her to get away from him when she tried to leave her residence. It was reported that he was wielding a knife.

When officers arrived at the parking area in front of the residence, the female's parents were there. While the officers spoke to them to confirm the information reported, the female called on the phone. She confirmed to the officers that Gallegos had a knife, had locked the door and was blocking her from leaving. The call was abruptly ended. A short while later, Officer Cindy Gomez (Badge #00079) could hear crying and multiple loud screams from inside the residence.

Officers Cindy Gomez and Christopher Wolfe (Badge # 19126) climbed the exterior stairway to the second floor of the building to approach the front door. It was locked. They announced they were police officers and banged on the door. They received no response but heard continued

frantic screaming from the female inside. They decided to breach the door due to the urgency of the situation. Officer Amanda Grodman (Badge #17005) joined them near the door. Officer Wolfe began kicking the front door multiple times near the lock, trying to break it open. Officer Anthony Montoya (Badge #00132) soon arrived and provided relief in efforts to force open the door. Officer Wolfe then resumed kicking until finally the door was forced open at 12:10 p.m.

Immediately after the door was opened, Gallegos yelled, "I'm going to kill her. Shut the door." He repeated this many times during the ensuing minutes. The four officers took positions just outside the open doorway. In front of them, slightly to their left, they could see a stairway leading downstairs. About halfway down the stairs, they saw the female on the steps facing them. They could see that she was bleeding. She was being forcibly held from behind by Gallegos, who was immediately behind her. The female was being held in a sitting position, with her feet higher on the stairs than her torso. Her back was being held against the front of Gallegos' body. She was holding the handrail which was above her head. Gallegos was holding her from behind with both of his arms around her. He held her so that her body was between the officers and himself. Officers noted that Gallegos moved his head to keep it behind hers. Later, when the officers were interviewed, they each stated that they felt that he was using her as a human shield. In his right hand, Gallegos held a knife near the female's throat. The female was bloody and there was blood on the stairway wall and handrail.

All four officers were armed with handguns, and Officer Grodman had a Taser which she held in case an opportunity arose where less-than-lethal force could be used. The officers immediately and repeatedly urged Gallegos to "let her go", "drop the knife", etc. Officer Cindy Gomez became the main voice speaking to Gallegos from the front doorway, repeatedly trying to convince him to "let us help you", "let her go", "think about your kids", "don't do this", "please", "don't make it any worse", etc. Gallegos continued holding the knife to the female and repeated that he was going to kill her. After about a minute at the doorway, officers requested on the radio that an officer with a rifle come to the front door to assist. Gallegos made demands for the police to shut the door and come to the garage. He said he was going to take the female to the garage, and they could meet her there. The officers told him that they could not shut the door. Gallegos demanded that they put their guns down.

Officer Matthew Colby, who was in a position behind the residence, got his rifle from his police vehicle. His rifle is a Smith & Wesson MP 15, 5.56 rifle. He joined the officers in the doorway and traded positions with other officers so he could be at the front facing Gallegos. Sgt. Ryan Bloodworth (Badge #00108) arrived at the doorway. Officer John Allred (Badge #16022) also arrived with his rifle.

Sgt. Bloodworth tried to convince Gallegos: "It hasn't gone too far yet, okay. Let her come up to us." Gallegos tried to negotiate that if they closed the door and came to the garage, he would let the police in through the garage and they could save the female from there. Sgt. Bloodworth replied that he would send an officer to the back but, no, they would not shut the door.

It was apparent to the officers that the female had already been cut or stabbed or both. Blood was on her face, throat, chest, arms, clothing, and on the steps, stairway wall and handrail.

Bleeding wounds were visible on her neck. It was also apparent to the officers that she was getting weaker and losing consciousness. They saw her eyes rolling, and the pale coloring in her face concerned them. They feared that she may bleed to death if they did not intervene to save her soon.

The efforts at de-escalation by the officers from the doorway and Officer Gomez's repeated pleading with Gallegos had gone on for more than six minutes. Then, Gallegos began pulling the female further down the stairs. He said he was taking her to the garage. Officers told him "Don't do that." "Put her down." "Don't take her to the garage." The officers then advanced forward into the residence and took positions above the stairway. It was 12:16:31 p.m.

Officer Colby walked straight forward, to the right of the stairway, and took a position next to a railing above the stairs that had the closest vantage point to Gallegos from above him. He was about five to seven feet away from Gallegos, looking down toward him. Officer Colby knelt and aimed his rifle to his left at Gallegos. He aimed at the top of Gallegos' head.

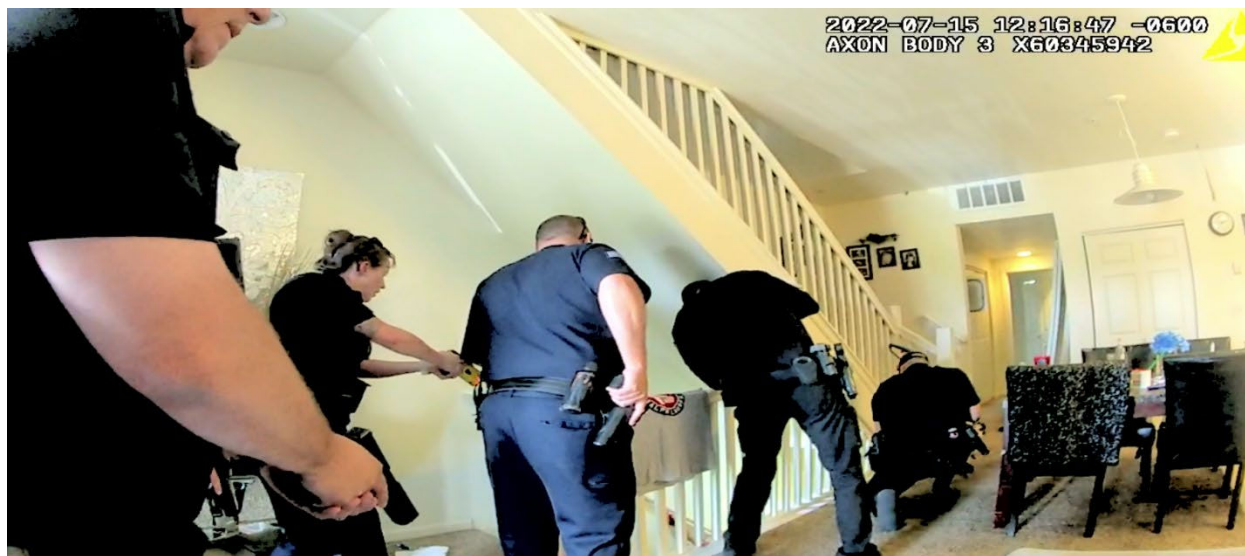


Figure 1. View from Office Cindy Gomez's body worn camera. Officer Colby is kneeling.

Officer Colby ensured that he was on target with the assistance of a "red dot optic device" on his rifle. He pulled the trigger one time. This gunshot was fired at 12:17 p.m.

Gallegos was struck by the gunshot and immediately lost his grip of the knife and of the female. He fell down the stairs. The female held on to the handrail.

Officer Gomez and Officer Grodman immediately went to aid the female and assisted her up the stairs and out of the residence. Other officers checked on Gallegos. He had no pulse and was lifeless. Ambulances were requested emergently. Upon arrival, members of the emergency medical crew gave assistance to the female and transported her to a hospital. Paramedics with the second ambulance confirmed that Gallegos was deceased.

The victim suffered "serious bodily injury" from what was described briefly as a "carotid injury". She had six stab wounds to her neck and multiple cuts to her hands and arm. She

suffered damage to her vocal cord. She also had a fractured jaw and nose. She received medical attention and underwent surgery for her wounds.

The seven officers who were present inside the residence at the time of the shooting were separated, per protocol, their body worn cameras were taken, and they were interviewed by investigators at DPD Headquarters later that afternoon.

Crime Scene

DPD Crime Scene Unit personnel responded to the residence after the shooting. In the stairwell to the basement, blood was observed along both walls and on several of the carpeted steps. A penetrating defect (bullet hole) was observed to the west wall of the stairwell. Gallegos was at the bottom of the stairs in a prone position with a gunshot wound to his head and blood underneath his head. A wooden handled knife was observed under this right leg. In the pockets of the blue jeans worn by Gallegos the investigators found a pill bottle with pills of suspected fentanyl, and a piece of foil and a rolled-up dollar bill, each containing suspected fentanyl.

On the main level, one spent cartridge case was observed in the dining area on the floor near where Officer Colby kneeled.

The bloody knife held by Gallegos was placed into the DPD property bureau. It had a 3.5-inch blade.



Figure 2. The knife used by Gallegos

Officers' Statements

These interviews were voluntary and were recorded. The seven officers' recollections of the events that occurred were consistent. Their statements are supported by the recordings from body worn cameras that were reviewed later by investigators. Below are portions of the interviews of Officer Gomez and Officer Colby.

Officer Cindy Gomez

Officer Gomez was interviewed at DPD Headquarters at 3:52 p.m. She described her efforts to convince Gallegos to let the female go and her observations before the shot was fired:

We [the officers] are all in the doorway. He's standing down in the stairs with her, in front of them. They're both covered in blood. ... He's using her as a shield. He has a knife to her neck.

He's yelling ... "Don't make me fucking kill her. Close the door". And I'm like, "No, we can't back out. Think about what you're doing". So, the entire time I'm trying to keep him occupied. He's using her as a shield. He's got a knife to her neck. He's like, Nope, Nope, "I'm going to fucking kill her. I'm going to kill her. I'm going to kill her. I'm going to kill her."

I'm yelling, you know, "Stop please. Don't do this. Think about what you're doing. Your kids are outside. This is the mother of your kids. Don't do this". I'm going back and forth with him. Trying to keep him from doing this.

She's bleeding. I could see one [wound] on the neck she's covered in blood. We don't know where else she's bleeding.

The guys [officers] are standing in the door... He's yelling, "No. Back out. Back out." I'm yelling, "Don't do this". "Don't make us do this. Just put down the knife. Let her go. Put down the knife, let her go. Let us get her help. You know, because she's bleeding already, you know, just, just let us get her help". So, I'm pleading with him. And, you know, it's back and forth, back and forth. I'm telling him, "Just let her go. Let her go".

We can't tell how bad she's bleeding. So, I don't know if she's losing consciousness, but she's going like this [Officer Gomez demonstrates by rocking her head from side to side]. So, at that point, all I hear is one shot. They move around and I hear one shot.

After the shot was fired, Officer Gomez assisted the victim until paramedics arrived:

He goes... because the way that the stairs are, he falls. I don't even see that he falls. I'm just watching. I'm looking at her. And I immediately dive in, and I go to get her because she's hanging on, it's a stair, a narrow staircase.

So, I'm trying to get her out of there so that they could move in. And so, I'm trying to get her. So, I immediately grab her ... and I can't lift her. And she's, she's talking ... I could see she's bleeding from her neck and there's blood coming out the other side too ... and then [Officer Grodman] comes down, Amanda comes down, and she's trying to help me. So, we get her, lift her, and she's like, "He broke my leg. I can't walk."

... We're just trying to get her out of the staircase. So, we get her moved up and I immediately, you know, we move her to the front porch and wait for paramedics. And then I got my hands on both her wounds [demonstrates both sides of her neck], trying to stop the blood.... She's starting to pass out. I'm like, "Just stay with us. Stay with us". And I have my hands on her neck to try to stop the blood. But she's bleeding from her hands. I noticed she's got wounds here [pointing to hand] and she does have other wounds, I don't know how many here [pointing to her right

shoulder] or if they were on the neck or what. So, it looks like she was cut like right here and right here [both sides of neck].

... So, I had my hands trying to stop the blood. Like I said, she was covered in blood. So, we didn't know if she was hit in her stomach or not. I'm trying to look, but she can't tell me. She's going in and out. So, I'm just trying to keep her awake enough to get the paramedics there.

Officer Matthew Colby

In Officer Colby's interview with investigators on the afternoon of July 15, 2022, he described the moments leading to his decision to fire his rifle.

[From the right side of the doorway to the residence] what I could see was the suspect holding a female, kind of partially down the staircase. He was hiding, hiding behind her, with a knife around her neck. I also saw blood on the wall to the down staircase and I saw blood on her as well. When he saw me, he immediately ducked behind the girl - like trying to hide himself behind her, because I think he saw my rifle.

... I wanted to find a better position. So, I told another officer I wanted to switch spots with him. So, I went over to that left side of the door, thinking I could get a better angle on the suspect if I needed to.

The suspect made a comment to me about putting my sights off of him and he would let the girl go. I instructed him that I wasn't going to do that. Somebody patted me to let Cindy Gomez continue talking, so I stopped talking.

I saw her, the female, kind of her eyes were rolling around a little bit. She didn't seem like she was going to stay conscious much longer. The sergeant made a comment about doing something, you know, we need to do something. Then the suspect started dragging her down the staircase a little bit. And I think he made the comment like, "Just let me go down to the garage and I'll let you guys—I'll let her go". As he started pulling her down, I made entry into the apartment to take a different angle and went right up to the arm rails or guard rails to the staircase where I could get a better vantage point on him.

He continued to keep the knife around her neck. And her eyes started rolling back in her head. So, he presented me with a shot, and I took a shot.

When he was asked what he thought would happen if he did not take that shot, Officer Colby answered, "I thought she was going to die. I thought he was going to pull her down into the garage".

Autopsy

Assistant Medical Examiner, Sterling McClaren, M.D., forensic pathologist, later performed an autopsy on Gallegos' body and found that the bullet struck Gallegos "near the vertex of the head" (crown) and caused his death. He also had six non-life-threatening incised wounds to his left forearm.

Legal Analysis

Criminal liability is established only if it is proved beyond a reasonable doubt that all of the elements of an offense defined by a statute have been committed and it is proved that the offense was committed without legal justification as set forth in Colorado statutes.

Justification to use deadly physical force to save the life of another person is set forth in two Colorado statutes, C.R.S § 18-1-704 and C.R.S. § 18-1-707 (4.5).

C.R.S. § 18-1-704 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.
- (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 ground to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving great bodily injury;

C.R.S. §18-1-707 describes the justifications for a peace officer's use of physical force:

- (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.
- (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.

These justifications are “affirmative defenses.” This means that a person accused of a crime for using force does not need to prove that he or she was justified in using the force. Instead, the prosecution must prove, beyond a reasonable doubt to a unanimous jury, that the force was not justified. Accordingly, I must consider whether there is enough evidence of criminal conduct that a jury would find, beyond a reasonable doubt, that Officer Colby acted without lawful justification.

Conclusion

Mr. Gallegos held a knife to the female’s throat as he forcibly held her from behind and used her as a human shield, apparently hoping that would deter the officers from acting to save her. He ignored all police commands and announced: “I’m going to kill her”. He had already cut and injured her badly. My judgment is that the officers were justified in fearing that Gallegos would kill or seriously injure the female with the knife at any moment. The officers also saw signs that the female was suffering from blood loss and might be at risk of bleeding to death if they delayed any longer. They were in police uniforms and clearly identifiable as police officers. Mr. Gallegos appeared to understand that they were police officers. Although they did not state that they were going to use lethal force, several of them had their guns drawn and a reasonable inference could be drawn that they were in a position to use them if Mr. Gallegos did not obey their commands.

The officers attempted to de-escalate the situation and reason with Mr. Gallegos. I commend their extensive efforts to do so in a highly charged atmosphere. Mr. Gallegos would not release the female nor would he put down the knife he was holding to her throat despite repeated orders to do so. The female had already been injured by his use of the knife as evidenced by injuries to her neck and the blood. It was reasonable for the officers to conclude that the female’s life was in imminent danger at the time the deadly force was used by Officer Colby. Deadly force appeared to be the only alternative to save her life. No less-than-lethal weapon was suitable to be used in this situation. One extremely accurate shot by Officer Colby most likely saved the female’s life or prevented further serious injury. No other officers fired. It is my conclusion that the use of force was legally justified pursuant to Colorado law, and that a jury would so find. Therefore, no criminal charges will be filed against any involved officer as a result of this incident. This letter will be posted to the Denver District Attorney website.

I note the courage, commitment, training and skill of these Denver police officers in a very challenging situation.

Sincerely,

Beth McCann
Denver District Attorney

cc: Armando Saldate, Director of Public Safety; Deputy Chief Barb Archer; Division Chief Joe Montoya; Commander Matt Clark; Commander Layla DeStaffany; Lieutenant Joe Bell; Sergeant Scott Murphy; Sergeant Scott Hagan; Sergeant Tony Lopez, Jr.; Detective Jami Sisneros; Detective Ernest Sandoval; Officer Matthew Colby; John Davis, Esq., Attorney for Officer Colby; Denver City Attorney Kerry Tipper; Interim Director of the Office of Independent Monitor Gregg Crittenden.