

DANIEL P. RUBINSTEIN
DISTRICT ATTORNEY



TWENTY-FIRST JUDICIAL DISTRICT ATTORNEY'S OFFICE

Mesa County Justice Center ~ P.O. Box 20,000 - Dept. 5031 Grand Junction, CO 81502-5031 (970) 244-1730

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Charles Rojo
Lead Detective
Grand Junction Police Department
555 Ute Ave., Grand Junction, CO 81501

This letter is notification to the Critical Incident Response Team (CIRT), and the involved deputies, David Furnace, Marshall Langston and Brandon Worley of the decision not to file charges against him in the matter of the use of force on October 20, 2023. As will be detailed below in the findings of fact and conclusions of law, charges against the deputies are not appropriate, as they were acting in defense of themselves and others. Mr. Ray Cox (DOB 5/11/67) has been charged with three counts of first-degree assault on a peace officer for threatening an officer with a deadly weapon, one count of second-degree assault and one count of criminal mischief.

On October 20, 2023, the 21st Judicial District Critical Incident Response Team was activated at the request of the Mesa County Sheriff's Office to investigate an officer involved shooting, which occurred on the same date at approximately 2139 hours outside of 516 31 ½ Road #34, Grand Junction, CO. The Grand Junction Police Department (GJPD), Fruita Police Department (FPD), Grand Junction Fire Department (GJFD) and the 21st Judicial District Attorney's Office were represented during this CIRT investigation. From the GJPD, Detective Charles Rojo was assigned as the case agent, and Detective Bryce Raber as a co-case agent for this investigation.

The following are my findings of fact, and conclusions of law:

FINDINGS OF FACT

On 10/20/23 Deputy Furnace responded to 516 31 ½ Rd. #34 in an attempt to arrest Ray Cox for an active arrest warrant. Mr. Cox had an active felony arrest warrant for criminal mischief, menacing and harassment. Prior to going to the residence, Deputy Furnace had

spoken with Deputy Huisjen, who is on the mental health co-responder program, and Deputy Furnace learned that Mr. Cox's mental state was declining.¹ Deputies Worley and Langston came with Deputy Furnace to assist. All deputies were wearing marked patrol uniforms with clear law enforcement markings and driving marked patrol vehicles.

Deputy Furnace knocked on Mr. Cox's door and heard Mr. Cox ask who it was. All three deputies heard Mr. Cox say he was going to shoot through the door. Deputy Furnace knocked on the door again advising he was with the Mesa County Sheriff's Office. Mr. Cox advised he had a gun and was going to start shooting through the door. Deputy Worley advised over the radio that Mr. Cox said he was going to shoot through the door and other deputies began to respond. On Deputy Furnace's body worn camera (BWC) at 21:51:14, Deputy Furnace can be seen opening Mr. Cox's screen door and knocking a couple of times. Mr. Cox can be heard saying he has a gun and asking if they have a warrant. Deputy Furnace yells that it's the Mesa County Sheriff's Office. Mr. Cox says he is going to shoot through the door. Deputy Furnace tells him not to shoot and again says it is the Sheriff's Office. Deputies then back away and to the northwest, and Mr. Cox continues to yell. Deputies take cover near a truck to the west. Deputy Furnace retreats to pull his vehicle closer.

On Deputy Langston's BWC, at 21:54:51, Mr. Cox appears from the corner of his trailer and throws a hammer toward Deputies Langston and Worley, striking the Ford Ranger, and causing more than \$1,000 in damage to the Ford Ranger. Mr. Cox then retreats into his trailer. Deputy Worley then airs on the radio that Mr. Cox threw a hammer at the deputies. At this point, on Deputy Furnace's BWC, he can be seen returning with his patrol vehicle and getting his patrol rifle. The deputies then move to the northeast corner of Mr. Cox's trailer. At 21:55:06, roughly 15 seconds after Deputy Furnace gets his patrol rifle, Mr. Cox appears from his door and tries to throw a hatchet which hits the door jamb of his porch.

On Deputy Langston's camera, Mr. Cox can be seen retrieving the axe after hitting the door jam. On Deputy Furnace's camera and Deputy Langston's camera, Mr. Cox can be heard yelling for the deputies to shoot him, while throwing the hatchet. Ten seconds later, at 21:55:16, Mr. Cox is seen on Deputy Furnace and Deputy Worley's camera retrieving the hatchet and throwing it again, at which point all three deputies fired at him.

A total of 10 shots were fired. One round hit Mr. Cox in the head, which came out his face. Mr. Cox then retreated back into the house, and then crawled back to front porch approximately 3 minutes later asking for help. Paramedics arrived to give Mr. Cox medical attention; Mr. Cox was uncooperative and had to be restrained in order to receive the medical attention.

Evidence Gathered at the Scene

The hammer which was thrown and hit the patrol vehicle was collected. It was approximately 14 inches long, and was thrown approximately 47 feet at the deputies, striking the vehicle.

¹ As of the drafting of this letter declining charges against the deputies, Mr. Cox has been found incompetent to stand trial for his charges in this matter.



Additionally, the hatchet was collected. It was also approximately 14 inches long and was thrown, in the second attempt, approximately 61 feet towards the deputies.



Ten cartridge casings were collected in the street where the deputies fired their weapons; these included four rifle cartridge casings and six 9mm cartridge casings. Round

counts from the deputy's handguns and rifle were consistent with cartridge casings found on scene. Speaking with medical staff, it appeared Mr. Cox was hit one time in the head. Mr. Cox received medical attention and was later taken to the Mesa County Jail.

Still shots from the BWC





Interviews with the Deputies

Detectives Raber and Rojo interviewed Deputies Furnace, Langston, and Worley, separately, in the presence of their attorney. All deputies advised they went to Mr. Cox's home to arrest him for his active warrant. All deputies advised they were wearing marked deputy uniforms and driving marked deputy patrol vehicles.

Deputy Furnace

Deputy Furnace advised he learned Mr. Cox had an active arrest warrant from Deputy Huisjen. Deputy Huisjen works for the Co-Responder Unit and knew Mr. Cox's mental state was declining. Deputy Huisjen believed the best way to offer Mr. Cox assistance would be in the jail after Mr. Cox was taken into custody. Deputy Furnace advised that he opened Mr. Cox screen door, knocked on the door, and announced it was the Mesa County Sheriff's Office, he heard Mr. Cox advise he had a gun and was going to shoot through the screen door. The deputies then moved away from the door and Deputy Furnace retrieved his patrol vehicle and patrol rifle. Deputy Furnace reported that did not witness the hammer get thrown toward Deputies Worley and Langston.

Deputy Furnace advised that he heard Mr. Cox ask if the deputies were ready to die and thought he heard muffled gun shots from inside Mr. Cox's trailer. Deputy Furnace advised that he saw Mr. Cox throw a tool with a metallic head and handle at the deputies. Deputy Furnace said he saw Mr. Cox bend down and thought Mr. Cox was going to throw something else toward the deputies. This is when Deputy Furnace thought his life, the other deputies' lives, or the lives of surrounding citizens were in imminent danger of serious bodily injury or death. At this point, Deputy Furnace fired his duty rifle at Mr. Cox until Mr. Cox retreated into his trailer. Deputy Furnace advised he was scared, his heart was racing, and he was fearful his life, or other bystanders may have been hurt. Shortly after, Mr. Cox was taken into custody and received medical attention.

Deputy Worley

Deputy Worley advised that they responded to Mr. Cox's trailer in an attempt to arrest Mr. Cox for his active arrest warrant. After knocking on the door, Deputy Worley heard Mr. Cox say he was going to shoot through the walls and ask if they were ready to die. The deputies retreated to a truck to the west of Mr. Cox's trailer when Deputy Worley heard the door of Mr. Cox trailer open. Mr. Cox came out of his trailer with a hammer and threw the hammer toward Deputy Worley and the other deputies. Deputy Worley reported that he heard the hammer strike the truck, but he did not know if the hammer struck any other deputies. He advised that Mr. Cox then went back in his trailer and the deputies moved to have a better vantage of the front door. Mr. Cox appeared in the doorway and had something else in his hand Deputy Worley thought may be another hammer. Mr. Cox threw this tool toward Deputy Worley and the other deputies. Deputy Worley advised he was in fear for his life, Mr. Cox's behavior was escalating, and he did not know if the object struck one of the other deputies. When Mr. Cox threw the tool, he was exposed in the door and Deputy Worley fired his duty handgun at Mr. Cox; he believed one time. Deputy Worley thought he saw Mr. Cox fall to the ground and heard Deputy Furnace firing his weapon. Mr. Cox crawled to the door of his trailer and was taken into custody and given medical attention.

Deputy Langston

Deputy Langston advised he was going with Deputies Worley and Furnace in an attempt to place Mr. Cox in custody for his warrant. When Deputy Langston approached Mr. Cox's trailer, he heard Deputy Furnace knock and announce they were with the Mesa County Sheriff's Department. Deputy Langston heard Mr. Cox advise he had a gun and was going to shoot through the door. Deputy Langston moved with the other deputies while Deputy Furnace retrieved his patrol vehicle. Mr. Cox appeared and threw a crowbar or a large metallic object at them, this object impacted a nearby truck.

Deputy Langston and the other deputies moved to the east and Deputy Langston observed a bright yellow hatchet fly out of the door and strike the ground near them. Deputy Langston could see Mr. Cox on the front porch and chose to discharge his firearm at Mr. Cox. Deputy Langston believed he fired two to three times at Mr. Cox because Deputy Langston was afraid Mr. Cox was going to retrieve another weapon or produce the firearm he threatened to use. Deputy Langston advised this was the first time he was threatened with a gun, and he was afraid. Deputy Langston was afraid for his life and the people around him; he did not want his partners to get shot. Deputy Langston advised Mr. Cox was taken into custody shortly after and received medical attention.

APPLICATION OF THE LAW

Colorado law permits deadly physical force to be used if a person reasonably believes that a lesser degree of force is inadequate, and the actor has reasonable grounds to believe, and does believe, that he or another person is in imminent danger of being killed or receiving great bodily injury. C.R.S. § 18-1-704(2). Here, deadly physical force was not applied, as Mr. Cox survived, but it was attempted, thus the analysis is the same and it's attempted use must be justified in the same manner.

In Colorado, deadly physical force used in defense of yourself or others has two equally important components. The first is a subjective component requiring that the actors himself, here Deputies Furnace, Worley and Langston, actually believed that they or another deputy was in imminent danger of death or great bodily injury, and that deadly force or an

attempt at deadly force was required. The second component is an objective component; that the actor's actual belief was also a reasonable belief.

Subjective belief of Deputy Furnace

According to his interview, Deputy Furnace subjectively believed that Mr. Cox was throwing deadly weapons at himself and other deputies and that they were in imminent danger of being killed or receiving great bodily injury. Deputy Furnace was aware of the declining mental state of Mr. Cox, due to his conversation with co-responder Deputy Huisjen. He personally heard Mr. Cox threaten that he was armed and intended to shoot the deputies, and again heard Mr. Cox reference that they would have to shoot him, while observing Mr. Cox throw a hatchet at himself and the other deputies.

Deputy Furnace advised he was scared, his heart was racing, and he was fearful his life, or other bystanders may have been hurt.

Subjective belief of Deputy Worley

Deputy Worley reported that he also heard Mr. Cox say he was going to shoot through the walls and ask if they were ready to die. He witnessed Mr. Cox come out of his trailer with a hammer and throw the hammer toward him and the other deputies. Deputy Worley reported that he heard the hammer strike the truck, but he did not know if the hammer struck any other deputies. He witnessed Mr. Cox appear in the doorway with something else in his hand, which Deputy Worley thought may be another hammer. He reported that he then saw Mr. Cox throw this tool toward him and the other deputies. He reported that he did not know if the tool struck the other deputies and advised he was in fear for his life, that Mr. Cox's behavior was escalating, and that he did not know if the object struck one of the other deputies.

Subjective belief of Deputy Langston

Deputy Langston reported that he also heard Mr. Cox advise he had a gun and was going to shoot through the door. He reported that Mr. Cox appeared and threw a crowbar or a large metallic object at them, this object impacted a nearby truck. He reported that he observed a bright yellow hatchet fly out of the door and strike the ground near them, and was concerned that Mr. Cox was going to retreat back into the house and retrieve another weapon to be used on them. Deputy Langston advised this was the first time he was threatened with a gun, and he was afraid. Deputy Langston reported he was afraid for his life and the people around him; he did not want his partners to get shot.

Objective reasonableness of the belief

Turning now to the objective reasonableness of this belief, it is readily apparent that any jury would conclude that a reasonable person, in these deputies' situation would believe that the deputies and any nearby citizens were in imminent danger of being killed by or receiving great bodily injury from Mr. Cox in this situation.

At the time that this occurred, the deputies were there to arrest Mr. Cox on a warrant for charges which included threatening serious bodily injury to others. They were advised he

had a declining mental condition. Immediately upon knocking on the door, he repeatedly, and in various forms, threatened to shoot the deputies, told them that he had weapons, and told them that he intended to put them in a position where they would have to shoot him

On three separate occasions, two of which were successful, he threw deadly weapons at the deputies. On one of those occasions the weapon he threw caused significant damage to a vehicle, and it was certainly reasonable to believe that, had it hit one of the deputies, it would have caused death or great bodily injury.

It is also appropriate to consider whether the deputies individually reached the same conclusion as each other. Here, all three deputies appeared to hear and observe the same or similar communications from Mr. Cox, and all three deputies described their own concerns and conclusions about the situation and their needed response, simultaneously. All three deputies concluded that attempting deadly force was the necessary and appropriate response simultaneously.

In summary, following deputies reporting to Mr. Cox address to arrest him on charges, including a charge of threatening others with serious bodily injury, Mr. Cox threatened deputies who were in uniform, had identified themselves as sheriff deputies. He did so by telling them he had a gun and would shoot through the door, and asking them if they were ready to die. Following the deputies retreating to their vehicle, Mr. Cox made repeated efforts to assault them with deadly weapons while telling them to shoot him. Simultaneously, all three deputies reasonably concluded that attempting deadly force to stop Mr. Cox from being a threat to them was. Accordingly, it is not appropriate to file charges against the deputies. As previously referenced, Mr. Cox has been charged in this incident.

Respectfully,

/s/ Daniel P. Rubinstein

Daniel P. Rubinstein
District Attorney