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December 24, 2019

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

Re: Opinion concerning— LPD # 19-10045, EPPD # 19-1546, FCPS # 19-17699,
CSUPD # 19-1764, WPD # 19-21989 and LCSO # 19-10380.

Dear Sheriff Smith:

The criminal investigation surrounding the November 24, 2019 shooting of Edward “Ned” Daniel Seguin has been completed and submitted to my office for an opinion. As the District Attorney for the Eighth Judicial District, 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 provable beyond a reasonable doubt. My review also includes determining if the degree of force used by Deputy Mitch McGuinnis was justified under pertinent Colorado statutes.

Larimer County’s Critical Incident Protocol was in place and followed during this investigation. The investigation was conducted by the Critical Incident Response Team (“CIRT”) for the Eighth Judicial District. The Loveland Police Department led the CIRT team during this incident. Members of the CIRT team included personnel from the Loveland Police Department, Fort Collins Police Services, Estes Park Police Department, Colorado State University Police Department, Windsor Police Department, Larimer County Sheriff’s Department, and District Attorney’s Office for the Eighth Judicial District. I have reviewed all reports, photos, videos, dispatch and communication records, witness interviews, and ballistics in this case.

In determining whether the degree of force used by Deputy McGuinnis was legally justifiable, my review is based on whether the following Colorado statute involving the use of force was 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.

The following is a summary of the facts in this case as established by the above sources of information:

On November 23, 2019, at approximately 11:57 p.m., the Larimer County Sheriff's Department responded to 1121 Griffith Court, Estes Park, Colorado, on a report from a neighbor that Edward Seguin was outside in his yard with a flashlight. The neighbor reported that Mr. Seguin was agitated and yelling that someone was stealing his property. Deputy Richard Garland, assisted by two Estes Park police officers, contacted Mr. Seguin at his residence. Deputy Garland indicated that Mr. Seguin appeared to be having mental health issues, seeing people who were not there and stating that people were unlawfully on his property. Deputy Garland found no evidence that anyone was on Mr. Seguin's property. Mr. Seguin's wife, Joelle Peterson, was present in the residence. Ms. Peterson was housebound due to some recent surgery and needed crutches to move about the residence. Deputy Garland noted that a male family friend, Jon Johnson, was also present and Mr. Johnson said he would stay with Mr. Seguin in an attempt to calm him down.

Approximately two hours later, on November 24, 2019, at 2:03 a.m., Joelle Peterson made a 911 call indicating that Mr. Seguin was "out of his mind" and looking for guns. Ms. Peterson also stated that Mr. Seguin was "coming for her and [she was] scared." Ms. Peterson told 911 dispatchers that Mr. Johnson was on his way back to Ms. Peterson's residence. Three Larimer County deputies were immediately dispatched to Mr. Seguin's address. However, due to staffing, none of the deputies responding were in the Estes Park area, and all three deputies would have to drive up the canyon from Loveland.

Six minutes later, at 2:09 a.m., Ms. Peterson advised 911 dispatchers that Mr. Seguin was armed with a rifle and was pointing the rifle out the front door of the residence. Ms. Peterson stated she did not feel safe and that she was unable to exit the home. Ms. Peterson also stated that she had hidden a handgun to prevent Mr. Seguin from obtaining it. The deputies, responding up the canyon, were updated as to the events unfolding at the Seguin/Peterson residence. Two Estes Park police officers set up a staging area a short distance from 1121 Griffith Court and were awaiting the arrival of the three sheriff's deputies.

At 2:21 a.m., Ms. Peterson advised 911 dispatchers that Mr. Seguin was now firing shots inside the residence. The 911 dispatchers were able to hear gunshots over the phone. Dispatchers also received information originating with Mr. Johnson, that Mr. Seguin had snorted a line of methamphetamine prior to Mr. Seguin beginning to hallucinate. Ms. Peterson also advised that only she and Mr. Seguin were in the residence; however, Mr. Seguin believed that there were unknown people in the house.

At approximately 2:29 a.m., Ms. Peterson advised 911 dispatchers that Mr. Seguin was still firing off shots and screaming inside the residence. Ms. Peterson stated that she was scared and was barricading herself in a bathroom, along with the family dog. Ms. Peterson said that she was

stuck in the bedroom, and Mr. Seguin was firing a gun right outside of her door.

At 2:34 a.m., Ms. Peterson reported that Mr. Seguin had a rifle and an entire can of ammunition. According to Ms. Peterson, the defendant believed that “people [were] trying to rush him and he [was] going to take them all out.”

At 2:35 a.m., 911 dispatchers heard Mr. Seguin in the background yelling at people who he thought were trying to break in. Dispatchers also heard another gunshot. At this point, Ms. Peterson disconnected from 911. Within seconds, 911 dispatchers re-established phone contact with Ms. Peterson and 911 dispatchers heard additional gunshots. Ms. Peterson told the 911 dispatchers that Mr. Seguin was loading the gun again.

At 2:40 a.m. the Larimer County deputies met up with the Estes Park police officers at the staging area and formulated a plan of approach the residence. Since the suspect was reported to be firing a rifle, the deputies’ approach to the residence would place them in a lethal zone of fire from Mr. Seguin.

At 2:44 a.m., Larimer County Sheriff Deputies Mitch McGuinnis, Adam Hersey, and Chris Gilliland, and Estes Park Police Officer Chad Edwards began their approach to Mr. Seguin’s residence. Deputy McGuinnis, Deputy Hersey and Officer Edwards were walking on the driver’s side of a Larimer County police vehicle, which was being driven by Deputy Gilliland. The police vehicle was used as ballistic cover for the officers’ approach. Additionally, a ballistic shield was temporarily placed in the passenger seat of the vehicle because the passenger side of the vehicle was facing the residence.

As the officers approached the residence, Deputy Gilliland activated the red and blue emergency lights on the vehicle to convey to Mr. Seguin that the people approaching the residence were sheriff’s deputies and not the intruders he was imagining. It should be noted, this action highlighted the officers’ location and placed them at increased risk of rifle fire from Mr. Seguin. However, Mr. Johnson had informed the officers that this tactic might alert Mr. Seguin that the authorities were there to assist him against the imaginary intruders.

The deputies could hear additional gunshots from the residence as they approached. The 911 dispatchers advised the deputies that Ms. Peterson was going to move from the rear of the residence, where she had been barricaded, towards the front door. The goal was for Ms. Peterson to reach the front door where the deputies could assist her in fleeing the residence. When Deputy McGuinnis was approximately twenty yards from the residence, he observed the profile of Mr. Seguin raise up a long gun, which was pointed towards the inside of the residence directly in line with the path of travel of Ms. Peterson. Deputy McGuinnis yelled: “Drop the gun!” Upon receiving no response, Deputy McGuinnis fired his patrol rifle five times in rapid succession. The suspect fell from view and the deputies and Officer Edwards rushed into the residence to assist Ms. Peterson and to secure Mr. Seguin. Upon entry, Ms. Peterson was yelling that Mr. Seguin had been shot and for the deputies to stop firing. Body camera video from Officer Edwards clearly shows that none of the officers fired their weapons once they entered the residence, despite the fact Mr. Seguin approached the officers with a rifle in his hands. Mr. Seguin dropped the rifle, and obeyed orders to drop to the floor. Mr. Seguin was handcuffed,

and the deputies immediately began rendering first aid for a gunshot wound to Mr. Seguin's upper left arm and an injury of unknown origin to his chest. Mr. Seguin was transported to the hospital for treatment and later released.

In addition to the rifle that Mr. Seguin was holding when the officers entered the residence, CIRT investigators located multiple weapons in the home, including a 12-gauge shotgun which was laying on the floor in an office area just off the living room. CIRT investigators documented seventeen spent 12-gauge shotgun casings strewn around the home and gunshot damage in walls and doors throughout the residence.


Weapons inspections, witness statements, and ballistic evidence at the scene confirm that Deputy McGuinnis was the only officer who fired a weapon.

On November 25, 2019, CIRT investigators interviewed Mr. Seguin. Mr. Seguin admitted that he had ingested methamphetamine and the drug made him "lose his mind" and turned him into a "psycho." Mr. Seguin admitted he saw the deputies red and blue police lights but denied hearing any commands prior to the officers entering the residence. Officer Edwards' bodycam video clearly documents the deputies giving loud verbal commands both outside and inside the residence. Mr. Seguin told CIRT investigators that he was heavily hallucinating and fired his shotgun at "Indians" who were attempting to break into a storage container on his property. Mr. Seguin also stated: "This is how fucked up I was. When they toted me off, I was all, I remember saying what I said. 'I got 5 or 6 of them, make sure you guys get the next two or three. Don't leave them there. They'll come back to get her.' Yeah, I've never...that stuff is bad news guys, bad news. I just can't believe how toxic strong it is. Just one little bit, and it turned me into a paranoid delusion."

Based upon the totality of the evidence, I find that Mr. Seguin committed the only criminal offenses during this incident. He has since been charged in case number 2019CR2941 with one count of Menacing with a Deadly Weapon, a Class 5 felony; and eight counts of Possession of a Weapon by a Previous Offender, Class 6 felonies. Mr. Seguin is presumed innocent of all charges until and unless the People can prove those charges beyond a reasonable doubt in a court of law.

I further find the non-lethal force used by Deputy McGuinnis was justified pursuant to section 18-1-704, C.R.S. Deputy McGuinnis had every reason to believe that Mr. Seguin was taking aim at Ms. Peterson as she was attempting to flee the residence. Deputy McGuinnis, and his fellow officers, placed their lives at risk by approaching an individual who was apparently hallucinating and actively shooting a firearm. The actions of the 911 dispatchers, the deputies, and Officer Edwards were heroic. I find that the degree of force used by Deputy McGuinnis was legally justified.

Respectfully,


Clifford E. Riedel
District Attorney