



## News from the Office of the District Attorney

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FOR IMMEDIATE RELEASE  
February 8, 2010

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### INVESTIGATION INTO OFFICER INVOLVED SHOOTING IN COLORADO SPRINGS ON DECEMBER 18, 2009; DISTRICT ATTORNEY FINDS USE OF DEADLY FORCE BY EL PASO COUNTY SHERIFF'S DEPUTY WAS JUSTIFIED UNDER COLORADO LAW

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The Office of the District Attorney and the Colorado Springs Police Department has completed the investigation of the events of December 18, 2009 at the Wal-Mart parking lot located at 3201 East Platte Avenue in Colorado Springs. An El Paso County Sheriff's Deputy fired his duty weapon at a stolen vehicle driven by Joshua Kenyon. No one was struck or injured.

Any time a law enforcement officer fires his weapon and a person is injured or killed, the Office of the District Attorney conducts an independent investigation. Anytime a law enforcement officer shoots their weapon and no one is injured, the Office of the District Attorney responds and assists in the investigation. The Office of the District Attorney then reviews the incident and determines if any criminal laws were violated by the law enforcement officer shooting his/her weapon.

C.R.S. 18-1-707(2) allows for a peace officer to use deadly force if he reasonably believes that it is necessary to defend himself or a third person from what he reasonably believes to be the imminent use of deadly physical force or to effect an arrest of a person whom he reasonably believes has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon.

In this case because the incident happened in the city limits of Colorado Springs, the investigation was conducted jointly between the Office of the District Attorney and the Colorado Springs Police Department Violent Crimes Unit.

The independent investigation consists of interviewing witnesses, to include the law enforcement officer who fired his weapon. Colorado Springs Police Department Major Crimes Unit conducted the interviews in this case. Physical evidence is carefully examined. Forensic evidence is reviewed. According to Larry Martin, Chief Investigator of the District Attorney's Office, he was able to determine the following facts from this investigation:

On Friday December 18, 2009 at approximately 6:00 p.m. El Paso County Deputies assigned to the Crime Reduction Unit (C.R.U.) were working as two man teams in the vicinity of Platte Avenue inside the Colorado Springs city limits. C.R.U. members Deputy Glenn Boarman and Sgt. Maxwell were attempting to arrest a fugitive with two felony warrants and several misdemeanor warrants, Joshua Kenyon. Investigation revealed he was driving a stolen vehicle and would be at the above mentioned Wal-Mart. Mr. Kenyon and the stolen vehicle were observed in the Wal-Mart parking lot by Deputies.

Mr. Kenyon was attempting to leave the parking lot in this stolen vehicle when Deputy Boarman and Maxwell attempted to stop the vehicle. Both Deputies exited their unmarked patrol vehicle which was parked in the parking lot aisle area near the stolen vehicle being driven by Mr. Kenyon. Both Deputies had El Paso County Sheriff's Office t-shirts that said "Sheriff" down the sleeve, and their uniform badges on chains hanging from their neck. Both Deputies were facing Mr. Kenyon with their weapons drawn and shouted "Sheriff's Office."

Mr. Kenyon then accelerated the stolen vehicle towards the Deputies. Mr. Kenyon stopped immediately upon the shot being fired. Had the vehicle continued forward, Deputy Boarman would have been in the direct path of the vehicle. While Mr. Kenyon accelerated the vehicle towards the Deputies' path, Deputy Boarman fired one shot at the front driver's side windshield of the stolen vehicle driven by Mr. Kenyon. No one was physically injured, but his bullet did strike the windshield. The Deputies were then able to arrest Mr. Kenyon on his outstanding warrants.

That investigation and legal analysis of the above referenced shooting has been completed, and the 4th Judicial District Attorney's Office concludes that under Colorado law, Deputy Boarman was justified in using deadly force against Mr. Kenyon. Chief Deputy District Attorney Diana K. May was assigned to review this matter and make the final conclusions. Ms. May can be contacted at 719-520-6176.



## News from the Office of the District Attorney

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FOR IMMEDIATE RELEASE  
February 11, 2010

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### INVESTIGATION INTO OFFICER INVOLVED SHOOTING IN COLORADO SPRINGS ON DECEMBER 27, 2009; DISTRICT ATTORNEY FINDS USE OF DEADLY FORCE BY COLORADO SPRINGS POLICE OFFICERS WAS JUSTIFIED UNDER COLORADO LAW

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The Office of the District Attorney has completed the investigation of the events of December 27, 2009 in the alley located at 217 E. Pikes Peak Avenue in Colorado Springs. Two Colorado Springs police officers discharged their duty weapons in the alley. One officer fired three times and struck Dominic Kupihea who was wearing a bullet proof vest at the time of the incident. The other officer discharged his weapon one time and no one was struck or injured.

Any time a law enforcement officer fires his weapon and a person is injured or killed, the Office of the District Attorney conducts an independent investigation. The Office of the District Attorney then reviews the incident and determines if any criminal laws were violated by the law enforcement officer shooting his/her weapon. The independent investigation consists of interviewing witnesses, to include the law enforcement officers who fired their weapons. Investigators from the District Attorney's Office conducted the interviews in this case. Physical evidence is carefully examined. Forensic evidence is reviewed.

C.R.S. 18-1-707(2) allows for a peace officer to use deadly force if he reasonably believes that it is necessary to defend himself or a third person from what he reasonably believes to be the imminent use of deadly physical force or to effect an arrest of a person whom he reasonably believes has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon.

On Sunday, December 27, 2009 at approximately 1:30 a.m. Colorado Springs police officers, Puga and Pryor were working routine patrol in the downtown area when they received a call regarding shots fired in the alley between the U.S. Post Office and 13 Pure on E. Pikes Peak Avenue. The officers were together in one patrol car and responded immediately. Both officers heard shots being fired as they approached the alley. Upon arrival, both officers observed Dominic Kupihea in the alley, next to 13 Pure firing a weapon westerly across the alley towards the U.S. Post Office. Both Officers exited their

marked patrol car, identified themselves repeatedly as Colorado Springs Police Officers and ordered Mr. Kupihea to put his weapon down. Both Officers had their weapons drawn and repeatedly ordered Mr. Kupihea to put his weapon down but that order was not obeyed. Both Officers noted that Mr. Kupihea was wearing a bullet proof vest on the outside of his clothing. While still firing his gun, Mr. Kupihea turned slightly towards the officers and as he did so, Officer Puga fired his weapon three times striking him at least once in the bullet proof vest. After being struck, Mr. Kupihea stopped shooting and Officer Puga was then able to apprehend him. Officer Pryor proceeded to the west side of the alley to contact one of the individuals involved in the gunfire exchange with Mr. Kupihea and during that contact, the officer's weapon discharged as it was being holstered. No one was struck or injured by this discharge.

The investigation and legal analysis of the above referenced shooting has been completed, and the 4th Judicial District Attorney's Office concludes that under Colorado law, no criminal laws have been violated by either officer. Officer Puga was justified in using deadly force against Mr. Kupihea and Officer Pryor discharged his weapon inadvertently. Chief Deputy District Attorney Kim L. Kitchen was assigned to review this matter and make the final conclusions. Ms. Kitchen can be contacted at 719-520-6123.