



September 6, 2024

RE: August 20, 2024, officer-involved shooting near Wheatridge Court and WCR 18 (Hwy. 402), Loveland, Colorado. LPD (lead agency) case #24-6443, FCPS case #24-11458, LCSO case #24-7914.

Dear Sheriff Feyen,

Pursuant to §16-2.5-301 and §20-1-114, C.R.S., and the 8th Judicial District Critical Incident Protocol, the District Attorney's Office reviewed the August 20, 2024, shooting of Emily Louise Minugh, which occurred near Wheatridge Court and W. County Rd. 18 in Loveland, CO. This legally mandated review is to determine whether Larimer County Sheriff's Office personnel (specifically, Deputy Steve Smyth and Deputy Austin Kinney) violated any Colorado criminal statutes with respect to the shooting.

I. EXECUTIVE SUMMARY

Applying the law to the facts of this incident, as described in greater detail below, I conclude Deputies Smyth and Kinney were legally justified in their use of physical force to defend themselves and each other from the threat posed by Emily Minugh on August 20, 2024. Because I have concluded that the deputies were justified in their use of physical force, no criminal charges will be filed. As there is an open criminal case filed against Ms. Minugh*, this report will necessarily be limited.

II. THE STATUTORY FRAMEWORK FOR OFFICER INVOLVED SHOOTING INVESTIGATIONS AND REVIEW

C.R.S. § 16-2.5-301 governs investigations into peace officer-involved shooting investigations. It provides, in relevant part:

Each police department, sheriff's office, and district attorney within the state shall develop protocols for participating in a multi-agency team, which shall include at least one other police department or sheriff's office, or the Colorado bureau of investigation, in conducting any investigation, evaluation, and review of an incident involving the discharge of a firearm by a peace officer that resulted in injury or death. The law enforcement agencies participating need not be from the same judicial district.

The investigation into this shooting incident was conducted by a multi-agency team consisting of personnel from agencies within the jurisdiction who are members of the district's Critical Incident Response Team (CIRT). Specifically, the Loveland Police Department was the lead agency, and

it was aided by other agencies, including Fort Collins Police Services, the Larimer County Sheriff's Office, and the District Attorney's Office.

C.R.S. § 20-1-114 provides:

The district attorney shall, if no criminal charges are filed following the completion of an investigation pursuant to section 16-2.5-301, C.R.S., release a report and publicly disclose the report explaining the district attorney's findings, including the basis for the decision not to charge the officer with any criminal conduct. The district attorney shall post the written report on its website or, if it does not have a website, make it publicly available upon request.

This document constitutes a report of the District Attorney's findings and includes the basis of the decision not to charge the involved peace officers with any criminal conduct.

As the defendant has been criminally charged* with multiple crimes, including Assault in the First Degree (F3), Menacing (F5), Vehicular Eluding (F5), and DUI (M), the District Attorney must abide by Colorado's ethical rules to protect the integrity of the criminal case and rights of the defendant. Specifically, Rule 3.8. (Special Responsibilities of a Prosecutor) provides in relevant part:

The prosecutor in a criminal case shall:

(f) except for statements that are necessary to inform the public of the nature and extent of the prosecutor's action and that serve a legitimate law enforcement purpose, refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused unless such comments are permitted under Rule 3.6(b) or 3.6(c) and exercise reasonable care to prevent investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.6 or this Rule.

Therefore, the details in this report will be curtailed to comply with the letter and spirit of the ethical rules, and to protect the integrity of the ongoing case, while providing sufficient information to satisfy C.R.S. §§ 16-2.5-301 and 20-1-114.

**All charges against Emily Minugh are merely allegations and she is presumed innocent of all charges filed against her unless and until proven guilty beyond a reasonable doubt.*

III. MATERIALS REVIEWED

I have been provided materials produced during the CIRT investigation into the shooting of Emily Minugh. The agencies and case numbers were Loveland Police Department (lead agency) LP24-6443; Fort Collins Police – FC23-15796; Larimer Sheriff's Office – 24-7914.

The information I have considered includes:

- Relevant body worn camera footage of the involved peace officers.
- Reports/summaries of the CIRT investigators.
- Recorded interviews of Deputies Smyth and Kinney.
- Recorded and/or otherwise documented interviews of other witnesses (police and lay witnesses).
- Photographic and video evidence, including but not limited to comprehensive scene documentation.
- Physical evidence (*e.g.*, firearms, ballistics, items recovered from scene, etc.).
- Medical evidence, including limited information about the injuries sustained by Ms. Minugh.
- Familial background evidence.

IV. APPLICABLE LAW

The District Attorney’s review of this event is guided by the Colorado statutes pertaining to the use of force by peace officers, including self-defense. Deputies Smyth and Kinney and all other persons referred to as “deputies” or “officers” in this letter are “peace officers” per statute. *See* §16-2.5-101-103, C.R.S.

By using their service weapons and causing injury to Ms. Minugh, the deputies’ conduct implicates Colorado’s peace officer use of force and self-defense statutes.

Colorado’s relevant use of force statutes and legal definitions:

§18-1-901(3)(d), C.R.S. “Deadly physical force” means force, the intended, natural, and probable consequence of which is to produce death, and which does, in fact, produce death.

§ 18-1-707, C.R.S. (Use of force by peace officers—definitions), states in relevant part:

- (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 person.
- (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.

§ 18-1-704, C.R.S., Colorado’s general self-defense statute, states in relevant part:

[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.

Under Colorado law, a person acts legally to defend themselves or others when both a “reasonable belief and actual belief” exist on behalf of the actor. *See Sanchez v. People*, 820 P.2d 1103, 1108 (Colo. 1991). The law requires the fact finder to “weigh all relevant circumstances to determine whether a person asserting the defense of self-defense has acted as a reasonable person would act in similar circumstances.” *Id.*

V. SUMMARY OF LEGAL STANDARD AS APPLIED TO THIS EVENT

Distilling the legal authority down to an applicable standard to apply to this event, we must determine:

- 1) Whether Deputy Smyth and Deputy Kinney reasonably believed that the use of physical force – and degree of force employed - was necessary to defend themselves or others from what they reasonably believed to be the imminent, or continued, use of physical force by Emily Minugh?

Additionally, the law requires us to ask:

- 2) Whether nonviolent means would have been ineffective in preventing an imminent threat of injury to Deputy Smyth or Deputy Kinney or another person in this situation?
- 3) Whether the deputies used only a degree of force consistent with the minimization of injury to others?
- 4) Whether Deputy Smyth and Deputy Kinney identified themselves as peace officers and gave a clear verbal warning of their intent to use their firearms, with sufficient time for the warning to be observed, and if not, are they exempted from having given that warning because it: a) would have unduly placed either of them or their fellow officers at risk of injury, or b) would have created a risk of death or injury to other persons?
- 5) Whether Deputy Smyth and Deputy Kinney or their fellow officers ensured that assistance and medical aid were rendered to Ms. Minugh as soon as was practicable after the shooting?
- 6) Whether Deputy Smyth and Deputy Kinney or other officers ensured that Ms. Minugh’s identified relatives or next of kin were notified as soon as practicable?

VI. SUMMARY OF RELEVANT FACTS *Because there is a pending criminal case against Ms. Minugh, the following summary will include various sources of information without specific attribution to the person (or other source) of the information. The facts set forth in this section are corroborated or otherwise undisputable based on the evidence presented*

unless otherwise noted. All references to Ms. Minugh's conduct remain merely allegations and she retains her presumption of innocence unless and until proven guilty.

The following factual summary is derived from multiple sources. As discussed above, the facts herein are intentionally limited to those which are – or will soon be - available in the public record and which have also been corroborated by the review of additional evidence gathered in the CIRT investigation. Additional facts are contained herein, but only as needed to meet statutory requirements.

On August 20th, 2024, at approximately 01:36 a.m., Larimer County Sheriff's Deputy Steve Smyth initiated a traffic stop on a 2007 Honda Accord sedan, license plate BPS700 while the vehicle was driving westbound on Colorado State Highway 402 near Interstate 25, in Loveland, Colorado. The driver, later identified as Emily Louise Minugh, was confirmed to have a revoked driver's license due to alcohol-related offense(s). Minugh also had an active warrant for her arrest for failing to appear on a recently charged Driving Under the Influence, court case number 24T893 (DUI date of offense: July 4, 2024; FTA: July 18, 2024. The DUI charge is also only an allegation and Minugh is presumed innocent unless and until proven guilty beyond a reasonable doubt, however it is a fact that the case was charged and there was a valid warrant). Minugh was the driver and sole occupant of the Honda sedan.

Almost immediately upon Deputy Smyth initiating the traffic stop by activating his lights, Minugh accelerated and failed to yield to the deputy's vehicle, which had both lights and sirens activated. Minugh eluded the deputy's vehicle westbound at speeds exceeding 120mph. Deputy Kinney responded from north of Hwy 402 to assist after hearing the call aired on the radio. Kinney drove south on St. Louis Ave and turned west onto Hwy 402 and parked on the right (north) side of the westbound lane of traffic (there is no shoulder at that location) with his lights activated. Minugh did not slow, and instead drove into the eastbound lane of traffic, continuing at excessive speeds. Minugh ran red lights and consistently drove in a reckless manner on the two-lane highway (one traffic lane in each direction) with what appeared to be a willful disregard for the safety of persons or property. Various estimates and speed reconstruction along Hwy 402 estimated the vehicle's speeds in excess of 100mph, and as high as a 115mph "constant minimum speed" between S. Boise Ave. and S. Lincoln Ave. At the intersection of Hwy 402 and U.S. Hwy 287, Minugh drove over a spike strip (*aka* "stop stick") deflation devices that were deployed by a third deputy without attempting to slow down. The spikes caused serious damage to the sedan's tires, but Minugh continued eluding westbound through the City of Loveland at excessive speeds. Minugh continued west at dangerous speeds even after WCR 18 changed from asphalt to unpaved hard-pack dirt just west of Scenic Valley Drive (at approximately 6400 WCR 18). Minugh lost control of her vehicle, and the sedan crashed into a fence and some mailboxes at the intersection of Wheatridge Ct. and WCR 18 in Loveland.

Once Minugh's vehicle came to rest, Deputy Kinney pushed his patrol car against the right side of Minugh's vehicle and Smyth did the same on the left rear bumper of the sedan. This tactic, referred to as "pinching" the vehicle, was intended to keep Minugh's vehicle pinned in without giving her any space to accelerate backwards and attempt to further elude the deputies. Such an action by Minugh at this time could have potentially injured or killed the deputies, as they were both vulnerable and within a few feet of Minugh's vehicle.

Almost immediately after the crash and being pinned by the deputies, Minugh opened the driver's side door, and started to swing her legs out of the driver's side door area as if to stand up. While doing so, she began to turn to her left towards Deputy Smyth and Deputy Kinney, and it was immediately apparent she had a firearm in her right hand near chest height. Deputy Smyth was out of his vehicle with his gun drawn and focused on Minugh and was less than 10 feet from her. Deputy Kinney was also outside of his patrol car and further back from Minugh than Smyth. Both deputies were in full peace officer uniforms including visible badges and other obvious police insignia. Both deputies shouted commands to Minugh immediately upon getting out of their vehicles.

Immediately upon seeing the firearm both deputies yelled "gun," and both fired rounds towards Minugh who was still partially within the vehicle. While Smyth had a better and closer view of Minugh's actions and her handgun given his perspective, it is clear from the evidence (including the body worn camera footage and the commands shouted by Kinney) that Kinney also saw the handgun as Minugh emerged from the vehicle. Minugh was struck several times. Once they confirmed it was safe to approach her deputies rendered first aid to Minugh and she was transported by ambulance to the Medical Center of the Rockies. Minugh's handgun was found on the ground just outside her vehicle near the passenger door on the driver's side. A deputy rode along with Minugh on the way to the hospital and later told CIRT investigators he detected the strong odor of alcohol coming from Minugh's person. Minugh's blood was tested, and the alcohol results were more than four times the presumptive legal limit for impairment. Minugh made other statements in the ambulance that were relevant to her mental state at the time of the incident.

Per protocol, the CIRT was immediately activated and responded to investigate the shooting. Minugh's family members were interviewed and provided information regarding Minugh's medical condition and mental state, which was relevant to her behavior at the time of the incident. Minugh's son advised that the handgun she possessed during the incident, a black and silver, 9mm, Smith & Wesson, was his and that she had stolen it from him.

VII. MEDIA - RECORDINGS

1) Body worn camera footage – Deputy Steven Smyth.

Deputy Smyth activated his body worn camera (BWC) in accordance with Larimer County Sheriff policy and Colorado law. The footage is visually and audibly clear, although visibility of the event is slightly compromised because of the dust/particulate matter swirling in the air from the vehicles coming to hard stops on a dirt road. Additionally, given Smyth's position behind his opened driver's door and the location of his BWC on his chest, there is some visual obstruction in the footage. Nonetheless, Smyth's BWC captures and records his entire interaction with Ms. Minugh - and her vehicle - after the vehicles come to rest, and based on the entirety of the investigation a relatively complete picture of the encounter is provided.

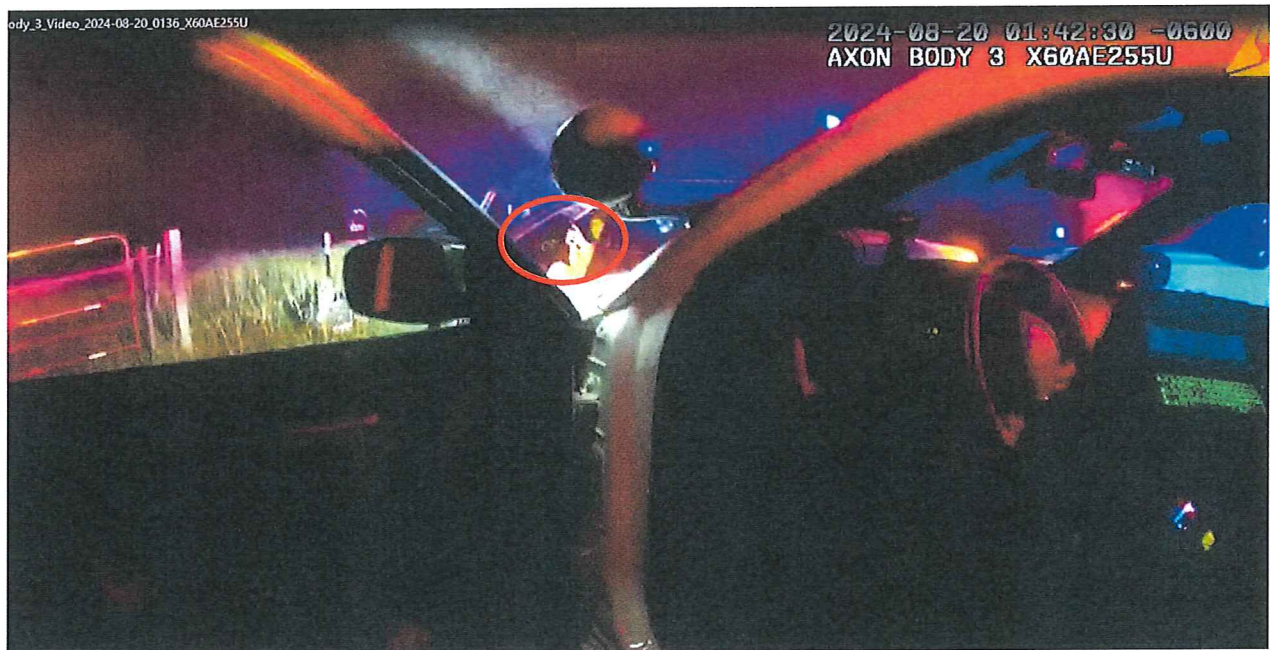
Using the timestamps from the media player for ease of reference, Deputy Smyth turned his car to a stop, blocking Minugh's vehicle, at 6:50 into the footage. Within one second,

Smyth opened his door and began to emerge from his vehicle. Deputy Kinney had already parked his car against Minugh's to the right of Smyth and is heard yelling commands which on Smyth's BWC are indecipherable but which we know is him yelling "get your hands up, get your hands up" from a review of Deputy Kinney's BWC.



(View of both patrol vehicles pinning in Minugh's vehicle)

Within two seconds (6:52), Smyth saw the gun in Minugh's hands and yelled, "drop the gun," as Minugh seemed to kick the driver's door open further to rise from the car. Smyth immediately fired several rounds toward Minugh. After the first volley of shots (approximately 6:55), Smyth called out "shots fired" twice and kept his firearm trained on Minugh as he closed his car door and backed up for more cover from his vehicle.



(View from Deputy Smyth's driver's door. Minugh in her vehicle turning toward Smyth with gun in her hand)

After the initial shots, Minugh's door closed slightly and then bounced open several times from 6:56 through approximately 7:01. It appears that she physically pushed the door open - likely with her left leg - drawing out the threat that she would continue to engage the deputies. At 6:59, Smyth again yelled, "drop the gun," as the door opened and Minugh was still upright in her seat. When she didn't comply, Smyth fired three more rounds. Minugh's door closes partially at 7:03. At 7:05, Smyth yelled to Kinney, "he's still got it," then, apparently after seeing the gun fall to the ground, yelled, "he dropped it, he dropped it." No further shots were fired by Smyth or Kinney.

After Minugh dropped her firearm, Smyth gave several commands for her to "get on the ground" and "get out of the car," but she remained inside the vehicle moving around in the front seat without acknowledging the deputy. Smyth can be heard talking to Kinney while Minugh is still in the front seat with the door open advising him that Minugh had dropped the gun on the ground, but he wasn't sure whether she possessed another gun. Deputies Smyth and Kinney both made announcements to get Minugh to exit the car so they could approach and tend to her safely. She failed to respond and stayed in the vehicle.

Finally, at 9:25, Smyth was able to approach the vehicle after he saw both of Minugh's hands and determined it was now safer to approach. At 9:47, Minugh was pulled from the car and the deputies began to administer medical aid.

2) Body worn camera footage – Deputy Austin Kinney.

Deputy Kinney activated his body worn camera in accordance with Larimer County Sheriff policy and Colorado law.

Kinney's footage is clear, but his view is more obstructed given his perspective (i.e. behind and just to the left of Minugh's car).



(View from Deputy Kinney's driver's door toward Minugh's vehicle)

Kinney's BWC footage begins with the deputy already out of his vehicle and yelling, "get your hands up, get your hands up" with his firearm trained on Minugh's vehicle through his open driver's door. Three seconds into the recording, Kinney yells "put the gun down" and fires multiple times concurrent with Smyth's volley of shots. He then announces "shots fired" twice over the radio. When he heard Smyth say, "drop the gun," Kinney also yelled "drop the gun" two more times. Kinney did not fire any additional rounds after his initial volley. The rest of the footage is consistent with Smyth's footage documented above.

VIII. RELEVANT WITNESS INTERVIEWS

1) Deputy Steven Smyth.

Deputy Smyth was interviewed by CIRT investigators about the events that took place on August 20th. Pursuant to CIRT protocol, Smyth did not watch his body worn camera footage before interviewing later in the morning. His version of events was clear, appeared credible and was supported by other evidence from the investigation, including his and Kinney's BWC footage.

Deputy Smyth described Minugh's driving as dangerous and concerning given the speeds at which she was driving and not yielding to the police lights and sirens. While he indicated there was no apparent traffic or bystanders given the hour, he recognized that any crash at the speeds at which Minugh was driving would likely have been catastrophic. Deputy Smyth indicated that based on his training and experience with eluding incidents one of two things were likely to happen when Minugh opened the door as quickly as she did after crashing: she would either flee or she would confront the deputies.

It is clear from Smyth's interview that he perceived a deadly threat in Minugh pushing open the door and immediately turning to get out with a gun visible in her right hand. It is also clear from Smyth's statements (supported by the BWC footage) that he believed Minugh could have fired a deadly shot immediately given her very close proximity to him, as well as the changing angle of her firearm as she turned to her left and toward him.

After his initial volley of shots did not cause Minugh to comply, including not dropping her handgun, Smyth still feared for his life and safety given how close she was and the relative ease with which she could have opened fire. After she pushed the door open again and did not comply with commands, Smith fired additional rounds, stopping when he confirmed Minugh had dropped her gun on the ground.

2) Deputy Austin Kinney.

Deputy Kinney was interviewed by CIRT investigators about the events that took place on August 20th. Pursuant to CIRT protocol, Kinney did not watch his body worn camera footage before interviewing two days after the event. His version of events was clear, appeared credible and was supported by other evidence from the investigation, including his and Smyth's BWC footage.

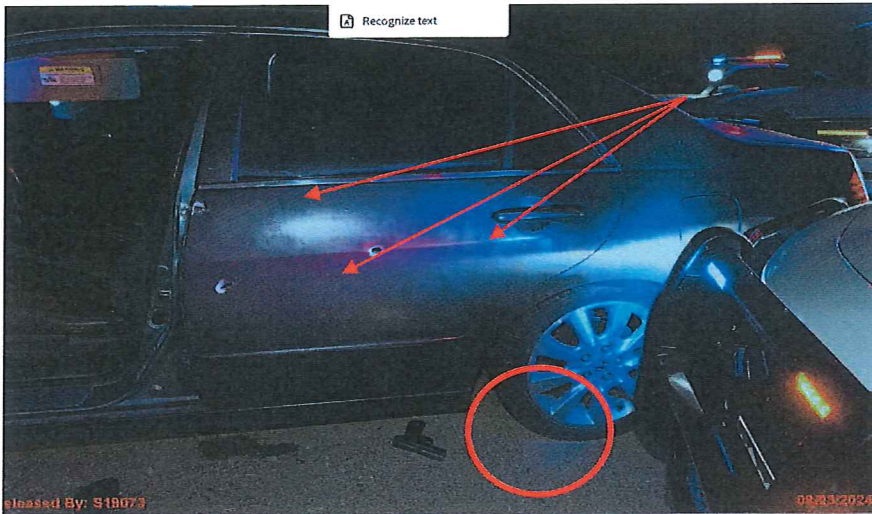
Kinney's observations and concerns with Minugh's driving were similar to Smyth's. The main distinction between the two deputies was who they were acting to protect. While both deputies feared Minugh could cause death or serious bodily injury, Kinney's position (safer than Smyth's) and the proximity of Minugh to Smyth, caused his main concern to be that Minugh would shoot and kill his fellow deputy. Kinney saw the gun and heard Smyth's statements about the gun, and he fired to protect Smyth who was within just a few feet of Minugh. Kinney said that he did not fire any rounds after his initial volley because he could no longer perceive the threat (i.e. he no longer saw the gun from his viewpoint).

IX. ADDITIONAL EVIDENCE

1) Weapons evidence:

- a. Smyth's firearm. Deputy Smyth's firearm was a 9mm Staccato P. The firearm contained a 20-round magazine with an additional round chambered. When examined, there were seven (7) unspent rounds in the magazine and one (1) in the chamber. The physical (crime scene) and recorded (media) evidence supports Deputy Smyth having fired 13 rounds total with an initial volley of 10 rounds, then an additional three (3) rounds.
- b. Kinney's firearm. Deputy Kinney's firearm was a 9mm Springfield Prodigy. The firearm contained a 20-round magazine with an additional round chambered. When examined, the magazine had 14 unspent rounds in the magazine and one (1) in the chamber. The physical (crime scene) and recorded (media) evidence supports Deputy Kinney having fired six (6) rounds total with only one volley of shots.
- c. Minugh's firearm was found on the ground near the driver's side passenger door. It was a Smith & Wesson SD9- 9mm handgun. The firearm had no rounds in the chamber but was loaded with a magazine with 9 live rounds. An additional 38 rounds were in a backpack in Minugh's vehicle on the front passenger floorboard. Minugh did not appear to fire any rounds during the incident.

2) Other documentary evidence:



(View of driver's side of Minugh's vehicle. Bullet holes are visible in the passenger door. Minugh's gun is visible near the driver's side passenger door.)



(Close up of Minugh's firearm on the ground.)



(Minugh's front left tire. Initial damage caused by tire deflation devices was exacerbated by continued driving at excessive speeds.)



(Daylight aerial view of the patrol vehicles and Minugh's vehicle. Yellow placards denote many of the shell casings found on scene 19 shell casings were found.)

3) Medical evidence:

- a. Ms. Minugh was hit by multiple rounds. There is limited medical evidence to consider at the time of this report, but it is clear that Minugh was hit by multiple bullets and/or bullet fragments which caused serious bodily injury. Ms. Minugh was treated, and has since been released, by the hospital and is now in-custody at the Larimer County Detention Center.

4) Other evidence.

- a. There is additional corroborative evidence relevant to the mental state and medical condition of Ms. Minugh, but those facts will not be shared in this report to ensure the integrity of the criminal case and to protect Ms. Minugh's rights.

X. CONCLUSION

The CIRT investigation in this case conformed to the letter and the spirit of §16-2.5-301, C.R.S. The investigation was thorough, objective, and all necessary materials were provided in a timely manner. Finally, the investigation yielded ample evidence from which factual and legal conclusions could be reached.

Deputies Smyth and Kinney cooperated with the CIRT investigation and provided voluntary interviews. They both appeared genuine in their responses and the independent evidence supported both of their versions of the events.

As stated above, in applying the law to the facts in this incident we must ask the following questions:

1. Did the deputies reasonably believe that the use of physical force – and degree of force employed - was necessary to defend themselves or others from what they reasonably believed to be the imminent, or continued, use of physical force by Emily Minugh?
2. Would nonviolent means have been ineffective in preventing an imminent threat of injury to the deputies or any other person in this situation?
3. Did the deputies use only a degree of force consistent with the minimization of injury to others?
4. Did the deputies identify themselves as peace officers and give a clear verbal warning of their intent to use his firearm, with sufficient time for the warning to be observed, and if not, are they exempted from having given that warning because it: a) would have unduly placed them - or either one of them - at risk of injury, or b) would have created a risk of death or injury to other persons?
5. Did either deputy or their fellow officers ensure that assistance and medical aid were rendered to Ms. Minugh as soon as was practicable after the shooting?

6. Did either deputy or other officers ensure that Ms. Minugh identified relatives or next of kin were notified as soon as practicable?

To avoid redundancy, questions 1, 2, and 3 will be addressed together. Subsequently, questions 4, 5, and 6 will be addressed independently.

(Questions 1, 2, and 3) Both Deputy Smyth and Deputy Kinney had a reasonable belief that using their firearms was necessary, and that nonviolent means would have been ineffective in preventing an imminent threat of injury to Deputy Smyth, and/or Deputy Kinney. Further, there was no lesser degree of force that was reasonable under the circumstances.

Considering the totality of the circumstances facing both deputies, it was reasonable for them to shoot at Minugh, and it is evident that nonviolent means would have been ineffective in preventing the threat she posed. Further, given the threat that Ms. Minugh posed to the deputies while emerging from her vehicle after a high-speed pursuit while holding a handgun, there was no lesser degree of force they could have used that was consistent with the minimization of injury to themselves or others.

Deputy Smyth found himself within a few feet of a quickly emerging Minugh who held a handgun that could have been fired within a split-second and at close proximity with a direct line of sight to the Deputy. There is no question he was in fear of being shot and killed and the evidence supports his belief as reasonable. The second set of rounds fired by Deputy Smyth were separated in time, but in the face of similar threats. Minugh's driver's side door can be clearly seen kicked back open at least one time and Deputy Smyth is heard again commanding her to drop the gun and alerting Deputy Kinney that she's "still got it," referring to her firearm. Similarly, Deputy Kinney reasonably perceived Minugh's actions as immediately placing Deputy Smyth's life in danger, thus his firing at Minugh was also legally justified. While Kinney's first thought was for his fellow deputy, objectively, his life was also in imminent danger given how quickly Minugh could have turned the gun the few degrees necessary to shoot him. Thus, Kinney was warranted in firing his weapon to protect himself as well as his fellow deputy. After Smyth announces the gun has been dropped, no further shots are fired.

(Question 4) Both deputies were exempted from giving the verbal warning because it may have unduly placed them at risk of injury or death.

The evidence supports Ms. Minugh's determination to either shoot - or draw fire from - the deputies. Given the second or less in which they had to act, it was reasonable to assume that Ms. Minugh intended to fire her weapon at Smyth, and potentially at Kinney as well. Deputy Kinney did yell, "put your hands up, put your hands up, put the gun down," and Deputy Smyth yelled, "drop the gun," clear commands with which Ms. Minugh disregarded. However, to give additional use of force warnings contemplated by the statute or wait for any response could have cost either or both deputies their lives. There was simply no time, and the totality of the circumstances would not allow for the deputies to wait before firing rounds to protect themselves. Thus, I find they are legally exempted from giving the formal verbal warnings set forth in the statute and did provide warnings to the extent they were able.

(Question 5) The deputies or their fellow officers ensured that assistance and medical aid were rendered to Minugh as soon as was practicable.

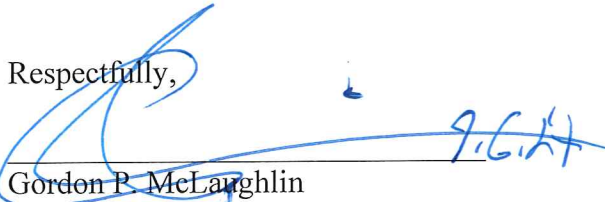
After Minugh was shot, she remained non-compliant for a short period (whether intentional or because of her injuries), thus preventing the deputies from immediately tending to her medical needs. Whether it was because she was unable, or unwilling, to comply with the deputies' commands does not affect the legal determination, as the deputies were entitled to ensure their own safety before attempting lifesaving efforts. The delay of the rendering of medical assistance until the threat was minimized was both brief and reasonable, and therefore legal, under the circumstances.

(Question 6) Investigating peace officers ensured that any identified relatives or next of kin of Minugh were notified of her injuries and status as soon as practicable.

The CIRT investigators spoke to Minugh's family members, including her parents and son, as soon as was practicable. Her family members were apprised of her condition, and they were asked background questions about Ms. Minugh as part of the investigation.

The totality of the evidence presented through the CIRT investigation reveals that both the actual and perceived circumstances Deputy Smyth and Deputy Kinney faced on August 20, 2024, justified their actions in discharging their firearms and causing injury to Ms. Minugh. As a result, I find that no charges can or will be brought against either deputy for the shooting of Emily Minugh.

Respectfully,



Gordon P. McLaughlin
District Attorney
8th Judicial District Attorney's Office