



OFFICE OF THE DISTRICT ATTORNEY
TWENTIETH JUDICIAL DISTRICT

Michael T. Dougherty, District Attorney

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Contact: Shannon Carbone
Phone: 303-441-3804
scarbone@bouldercounty.org

Press Release

The investigation and legal analysis into the use of force used by Boulder Police Department Officer Bryan Pedigo has been completed. The District Attorney concluded that Officer Pedigo was legally justified in his use of physical force in response to the actions of John Fleming.

The Critical Incident Team for the 20th Judicial District, also known as the Boulder County Investigation Team (“BCIT”), investigated this case. This multi-agency team is designated to investigate use-of-force incidents in which any law enforcement officer used deadly, or potentially deadly, physical force against a person while acting under the color of official law enforcement duties. This definition and team protocol are broader than that required by state law, which is limited to incidents involving the discharge of a firearm by a peace officer that results in injury or death. The response to, and review of, this incident involving Officer Pedigo is an example of the broader definition and protocol that we use here in Boulder County in that this review and report is not required by statute.

Following this incident, the Boulder Police Department (“BPD”) notified the BCIT. The BCIT responded and investigated this incident. Consistent with protocol, the BPD did not actively participate in the use of force investigation involving Officer Pedigo. The following is a summary of the investigative findings contained in the District Attorney’s public report:

On November 28, 2022, at 9:13 p.m., occupants of a home located on North Broadway and Iris called 911 and reported that they were being held hostage inside the residence, and that the homeowner, identified as John Lee Fleming, was armed with a stick and a knife. They told dispatchers they “were not going to make it out alive.” The male victim further stated that he had been struck on his head with a baton by Fleming while he and his wife tried to retreat to their bedroom and barricade themselves in to call for help.

While BPD officers were responding to the call they received updates from dispatchers that the victims were reporting Fleming as “going crazy,” they believed him to be “dangerous,” and armed with weapons. When officers arrived, they contacted the victims through a side window of the house and noted they looked extremely scared and in fear for their lives. Other BPD officers were attempting to get Fleming to open the front door. When he briefly breached the door of the victims’ bedroom, officers made the decision to immediately make entry into the home out of fear for the

safety of the occupants.

Officer Bryan Pedigo was one of two officers that made entry into the home and immediately came into close contact with Fleming. Officer Pedigo gave commands to Fleming to get on the ground and get his hands out of his pocket. Instead, Fleming turned his back, stepped away and went around the corner with his right hand in his jacket pocket. Officer Pedigo saw that Fleming then turned back, while pulling out a black metal object with a hole in the front of the object and raised it toward him. Believing Fleming was pointing a gun at him, and in fear for his life and fellow officers, Officer Pedigo fired one shot from his service weapon that did not hit or injure Fleming and, instead, hit the wall. Fleming then doused Officer Pedigo with pepper spray. Officer Pedigo yelled for other officers to get out, and they retreated out of the home with Fleming pursuing them outside the home.

Meanwhile, other BPD officers were able to extricate the victims out of the bedroom window. The victims and Officer Pedigo received medical care for their exposure to pepper spray while additional law enforcement officers eventually were able to make contact and arrest Fleming.

Criminal charges are now pending against John Fleming for felony menacing and felony assault charges related to this incident. (Those charges are merely accusations, and he remains presumptively innocent of all the charges against him unless and until a jury finds him guilty beyond a reasonable doubt.)

Based on Officer Pedigo's reasonable belief that Fleming was armed with a gun that was raised and aimed in his direction, causing him to believe that he and others were in imminent danger of death or serious injury from Fleming, it is the District Attorney's conclusion that Officer Pedigo's actions were legally justified and are not subject to criminal prosecution.

District Attorney Michael Dougherty stated, "This scary situation could have ended much worse. I am glad that everyone survived this dangerous encounter. I appreciate the work that went into this investigation because these incidents are important to everyone involved and to our community. That's why our protocol is broader than that required by state law, which is limited to incidents involving the discharge of a firearm by a peace officer that results in injury or death. The review of incidents such as this one is a priority for my office."

The District Attorney's detailed report can be found at <https://bouldercounty.gov/district-attorney/officer-involved-shooting-decision-letters/>. For individuals interested in the process and findings, District Attorney Michael Dougherty will conduct a virtual Town Hall via Microsoft Teams at 2:00 p.m. on Thursday, February 9, 2023. Questions can be submitted in advance via email to boulderda@bouldercounty.org. Community members are, also, able to call into the Town Hall by calling 720-400-7859, Conference ID# 888 592 015# or join the link at: bit.ly/BPDOISTownHall

DA Dougherty conducts a Community Town Hall after every BCIT investigation in our continuing effort to be transparent and accessible, as well as address any questions.