



DATE: July 23, 2020

TO: Colorado Springs City Council

FROM: City Attorney's Office

SUBJECT: *Estate of De'Von Bailey, et al. v. City of Colorado Springs, et al.*
Case No. 20-cv-01600-WJM-KMT

This memorandum is to apprise you of the facts alleged in the above-referenced case as you consider the claims made against the involved officers.

NATURE OF THE CASE

Plaintiffs, the Estate of De'Von Bailey and R.B., a minor, filed an action in the United States District Court for the District of Colorado against Officers Alan Van't Land and Blake Evenson asserting claims for excessive force, violation of the Equal Protection Clause of the Fourteenth Amendment, and Wrongful Death. Plaintiffs also allege the City of Colorado Springs has an unlawful custom of using excessive force, and has failed to train its officers regarding the use of deadly force.

The complaint alleges that Mr. Bailey, along with another individual, was contacted in a residential neighborhood by the officers after a report of an armed robbery. As Officer Evenson approached to conduct a pat-down, Mr. Bailey turned and ran away. As he ran, Mr. Bailey reached for his waistband with both hands. According to the complaint, the officers shouted orders for Mr. Bailey to put his hands up at least three times. The officers then discharged their weapons and struck Mr. Bailey. The complaint alleges that Mr. Bailey was found with a handgun in the pocket of his shorts.

Plaintiffs seek compensatory and consequential damages, economic losses, punitive damages, attorney's fees and pre- and post-judgment interest.

RECOMMENDATION

It is recommended that City Council approve City representation for the named officers as required by the Colorado Governmental Immunity Act and the Liability of Peace Officers Act. The officers were acting in the course and scope of their employment and in good faith during the incident. As usual, it is recommended that the City reserve the right not to pay any award of punitive damages.