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LODO POLICE SHOOTING

Body cam video released

Denver officers shot armed man but also injured six bystanders

By Elise Schmelzer
The Denver Post

Denver police on Tuesday released video of three officers shooting an armed man and injuring six innocent bystanders outside busy downtown bars — an incident that the city's top prosecutor will use a grand jury to investigate.

The videos for the first time show the July 17 police shooting in its entirety and revealed that the armed man was tossing his gun away when officers opened fire. Denver police officials previously made public still images they selected from the videos but denied public records requests by The Denver Post and other news outlets to release the complete videos.

Denver District Attorney Beth McCann's decision to convene a grand jury means a group of 12 jurors will decide whether the three officers who fired their weapons — Meagan Lieberman, Brandon Ramos and Kenneth Rowland — should be indicted on criminal charges. It is the first time McCann has convened a grand jury to investigate a police shooting, spokeswoman Carolyn Tyler said.

SHOOTING » 6A

COLORADO RIVER



The Colorado River runs out of water after crossing into Mexico on July 6 in Mexicali, Baja California. U.S. officials told Arizona, Nevada and Mexico to find a way to save an extra 7.5% of the river's annual flows. RJ Sangosti, The Denver Post

Feds impose deeper water cuts amid drought, overuse

By Conrad Swanson
The Denver Post

Seven Western states and the 40 million people in them that depend on the Colorado River can't yet agree on how to use less water and on Tuesday federal officials told them to cut even deeper. The river is drying and the states

through which it flows — Arizona, California, Colorado, Nevada, New Mexico, Wyoming and Utah — have been drawing too much water for years, heading toward disaster.

The U.S. Bureau of Reclamation gave the seven states until Monday to voluntarily find a way to save at least 21% of the river's annual flows, threatening to take

over the process and impose its own cuts. But the states didn't meet the deadline and experts worry they're fracturing at a time when they most need to work together.

"They are not singing 'Kumbaya' right now," Kyle Roerink, executive director of the Great Basin Water Network, told The Denver Post. "They're sharpening their

RIVER » 10A

FDA RULING

Hearing aids soon can be sold over the counter

By Christina Jewett
© The New York Times Co.

The Food and Drug Administration decided Tuesday to allow hearing aids to be sold over the counter without a prescription to adults, a long-sought wish of consumers frustrated by expensive exams and devices.

The high cost of hearing aids, which are not covered by basic Medicare, has discouraged millions of Americans from buying the devices. Health experts say untreated hearing loss can contribute to cognitive decline and depression in older people.

Under the FDA's new rule, people with mild to moderate hearing loss should be able to buy hearing aids online and in retail stores as

HEARING » 9A

WYOMING

Trump foe Liz Cheney defeated in primary

By Steve Peoples and Mead Gruver
The Associated Press

CHEYENNE» Wyoming Rep. Liz Cheney, Donald Trump's fiercest Republican adversary in Congress, was defeated in a

GOP primary Tuesday, falling to a rival backed by the former president in a contest that reinforced his grip on the party's base.

The third-term congresswoman and her allies entered the day downbeat about her

prospects, aware that Trump's backing gave Harriet Hageman considerable lift in the state where he won by the largest margin during the 2020 campaign. Cheney was already looking ahead to a political future beyond Capitol Hill that could

include a 2024 presidential run, potentially putting her on another collision course with Trump.

Cheney described her loss as the beginning of a new chapter in her political career as she

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FORMER KENT DENVER TEACHERS

Judge nixes plea deals for couple in submarine spy case

By Julian E. Barnes
© The New York Times Co.

WASHINGTON» A federal judge Tuesday threw out the plea agreements for a Maryland couple who had tried to sell submarine secrets to a foreign country, arguing that the prison time for one of the defendants was less than some low-level drug dealers receive.

The couple, Jonathan and Diana Toebe, originally pleaded guilty in February to charges that they took part in a conspiracy to sell submarine secrets. Their plot had started to unravel almost as soon as they put it in motion, when Brazilian intelligence officials turned over to the FBI a letter the couple had anonymously written in 2020, offering to sell nuclear secrets. The disclosure began a lengthy effort to learn the couple's identity and retrieve the secrets they stole.

Jonathan Toebe taught at Kent Denver, a private prep school in Englewood, from

2005 to 2008, and Diana Toebe taught there from 2005 to 2012, according to a school spokeswoman.

Jonathan Toebe had agreed to a deal that would send him to prison for 12 years, while Diana Toebe agreed to serve three years, which would have likely freed her in two years.

The judge's decision forced the Toeibes to withdraw their pleas, and Judge Gina Groh of U.S. District Court for the Northern District of West Virginia set a trial date for January. Lawyers will now have to see if they can reach a new plea agreement that Groh might accept or continue to trial.

In her comments, Groh suggested that she would only accept a deal within the sentencing guidelines. That is likely to mean that both Jonathan and Diana Toebe would face prison time of more than 15 years. A sentence that long could prompt Diana Toebe to go to trial to see if a jury would acquit her.

The case captivated many. It combined spy book tradecraft the couple tried to use, such as memory cards hidden in peanut butter sandwiches, gum wrappers and Band-Aid boxes, with the strains of suburban life, like frantic searches for babysitters so they could make a dead drop.

But the case also raised questions about why a couple with a comfortable life in a middle-class neighborhood of Annapolis, Md., would risk everything to try to sell secrets to a foreign government. In court, a lawyer for Diana Toebe referred to personal difficulties with which she had to grapple, without elaborating further.

Even as the Tuesday hearing began, Groh expressed skepticism about the plea deals, suggesting that the agreement would let Diana Toebe out of prison far too soon.

Groh said Diana Toebe's crime made her "a felon of the worst kind; that is why

the 36 months troubles me." "There are lower-level drug dealers that go to prison for way longer than 36 months," the judge said.

Prosecutors and defense lawyers argued that the plea deals were fair. In Diana Toebe's case, she would never be able to work as a teacher and would be separated from her children.

"She will be someone who will live the rest of her life with this scarlet letter on her," said Barry P. Beck, a lawyer for Diana Toebe.

Prosecutors noted that Jonathan Toebe, who had

been trained on nuclear propulsion and handling classified data, bore the bulk of the responsibility. But they added that he had cooperated with the Navy's efforts to do a damage assessment, and the information he had passed along was classified only as confidential, not as secret or top secret.

"His post-plea cooperation was substantial, very substantial," said Jarod J. Douglas, an assistant U.S. attorney. "It was critical to a larger assessment of that defendant's conduct, which we may have never known."

The Navy would never have known what his conduct was, and what its scope was, without his cooperation."

But Groh was unconvinced. After a recess, she read from an impact statement submitted by Vice Adm. William Houston of the Navy that outlined the damage the Toeibes had done to the submarine fleet and national security.

"Mr. Toeibe's actions have compromised the integrity of this protected information, thereby undercutting the military advantage afforded by decades of research and development."

SHOOTING

◀FROM 1A

"The public's interest in this particular shooting incident is understandably high," McCann said Tuesday in a news release announcing the investigation. "For the community to trust in the outcome from this incident, it is important that independent members of the community review the facts, evidence and law regarding whether these officers should be criminally charged."

The body camera and surveillance videos show several officers walking north on Larimer Street paralleling the armed man, Jordan Waddy, as he moved through the crowd on the sidewalk. Officers followed Waddy because they saw him punch another man during a fight and believed he had a gun.

As officers followed Waddy, he stepped between two parked cars and onto the street and raised his hands when he saw police.

Waddy turned his back to the officers and walked back between the two cars and onto the sidewalk, the videos show. Waddy then turned to face the officers and grabbed a gun from his clothing as officers yelled "stop" and "get down."

Body camera footage shows Waddy throwing the gun to the ground less than a second before officers opened fire.

"He puts his hands up, he throws the firearm away from himself and is surrendering," said Tyrone Glover, Waddy's civil rights attorney.

Denver police previously said Waddy was holding the gun by the slide on the top when the officers fired. It's not clear if Waddy could have fired the gun while holding it that way, Cmdr. Matt Clark said at a July 20 news conference. He said the officers believed the muzzle of the gun pointed at them as Waddy pulled it out.

Officers Lieberson and Rowland shot a combined five rounds while facing Waddy with the front wall of Larimer Beer Hall behind him. Officer Ramos fired one round from Waddy's right side and a crowd of people is visible behind Waddy in the officer's body camera footage.

"The Department of Safety and Denver Police Department remain concerned about the health and well-being of those who were injured in this incident and will continue to offer support to aid in their healing," the departments said in a joint statement

Tuesday.

Attorneys for three of the bystanders shot by police called the officers' actions extremely reckless.

"These videos are yet another sickening example of Denver Police Officers exercising excessive, lethal force without justification or concern for the safety of innocent bystanders," attorneys at Rathod Moham-edbhai said on behalf of three of the victims. "It is a miracle that more bystanders were not injured and that nobody was killed."

The Denver Police Department was obligated to release the footage under SB-217, the police accountability law passed in 2020 amid mass protests that followed George Floyd's death. The law set deadlines for the mandated release of body camera footage in cases where there is an allegation of police misconduct. In incidents where a criminal case is filed — like the case against Waddy — the law requires agencies to release body camera footage within 21 days of the date the defendant gets an attorney. The defendant then has a chance to object to the release of the footage.

Waddy faces three counts of possession of a weapon by a previous offender and one count of third-degree assault in connection with the incident. Prosecutors declined to file a felony menacing count even though Denver police had arrested Waddy on suspicion of that charge after alleging he had pointed a handgun at officers.

Waddy's attorneys did not object to the release of the videos in his case. Waddy was shot at least six times, including in the back and in the buttocks, Glover said. Waddy was released from the hospital and remains in the Denver jail, Glover said.

The five videos from officers' body cameras lack audio at the beginning because officers did not immediately activate them when they started following Waddy. The body cameras used by Denver police officers are constantly recording video without audio when not activated. The cameras record audio when activated, but the camera retains the 30 seconds of video without audio recorded prior to activation.

Clark, the Denver police commander, previously defended the officers' actions but also acknowledged that the situation could have been handled differently.

Two of the officers believed they had a clear shot without people behind the suspect when they fired, Clark said. A third officer could see a crowd of people

standing behind the suspect, Clark said, and because of that fired only a single round. The entire incident lasted less than five seconds, he said.

The three officers remained on non-patrol assignments Tuesday as the investigation into the shooting continued, Denver police spokesman Doug Schepman said.

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