



**OFFICE OF THE DISTRICT ATTORNEY
TENTH JUDICIAL DISTRICT, COLORADO
J.E. CHOSTNER
District Attorney**

September 21, 2018

Chief Troy Davenport
Pueblo Police Department
Pueblo Municipal Center
200 S. Main Street
Pueblo, CO 81003

Sheriff Kirk Taylor
909 Court Street
Pueblo County Sheriff's Office
Pueblo, CO 81003

Re: District Attorney CIT Decision Letter
Officer Involved Incident on January 22, 2018
Location: East Alleyway entrance between 12th and 13th on Craig St
Deceased: Joe Frank Delira-Alires
Officers Involved: Michael Bellamy, Thomas DeCesaro, Nicholas Liles, Bernadette Lambert, Jonathan McCluskey, Eufracio Ortiz, Randell Ramos, and Alan Wilson

Dear Chief Davenport and Sheriff Taylor:

The 10th Judicial District Critical Incident Team (CIT) was activated on January 22, 2018, to investigate an Officer Involved Incident which resulted in the death of Joe Delira-Alires (DOB 06/28/1982). The Pueblo County Sheriff's Office (PCSO) was designated as the lead investigative agency and other CIT participants included the Colorado State Patrol (CSP), Colorado Bureau of Investigation (CBI), Pueblo County Coroner, Pueblo Police Department (PPD), and the 10th Judicial District Attorney's Office (DA). After the investigation, the CIT prepared and submitted an executive summary and its investigative reports and materials to the District Attorney's Office for review. Those materials were reviewed and this is the District Attorney's Decision Letter pursuant to CIT protocol.



Overview of the Incident

At approximately 7:00 p.m. on January 22, 2018, Pueblo Police Officers were dispatched to 2602 E. 9th Street regarding a domestic disturbance. While Officers were in route, the PPD communication center aired information that a female located at the residence stated a male was shooting a firearm outside her house and he had made threats to hurt people inside the residence. The female was later identified as Isabel Iturralde (DOB: 05/08/1986) and the male was later identified as Joe Delira-Alires.

When officers arrived on scene, they staged their vehicles at the intersection of E. 8th Street and Amarillo. As the officers were donning their tactical ballistic vests, they heard approximately eight to ten shots coming from the backyard of 2602 E. 9th Street. Officers Samuel Hock, Ronald Nash, Eufracio Ortiz, and Jordan Roberts took cover near their police vehicles. Officer Nash believed the suspect, later identified as Delira-Alires, was shooting at the officers as they were staged and donning their vests.

While the shots were being fired, Officer Hock went over the hood of his patrol car seeking cover. At that time, he felt a burning sensation in his right arm and believed he had been struck by a bullet. After the shots were heard Officer Hock yelled he was hit (meaning he was struck by a bullet) to the other officers on scene. Officer Hock fell to the ground and kept repeating "I'm hit, I'm hit." Officer Nash aired over the radio, "Shots fired, shots fired, officer down." Officer Nash approached Officer Hock to begin to check him for injuries. After checking Officer Hock for injuries Officer Nash determined Officer Hock did not have any injuries.

While the officers were still staged behind their police vehicles, PPD communications center aired information over the police radio that the male suspect's vehicle is described as a gray Explorer with metallic paint. After the airing of the suspect vehicle description an Explorer matching the description turned onto Amarillo off of E. 9th Street, heading towards the officers' location where they were staged. As the vehicle approached the staging area it came to a complete stop and the driver rolled down the front passenger side window. The officers shifted their positions to the other side of their patrol cars for cover. The vehicle then drove off at a high rate of speed south on Amarillo. PPD officers then began to pursue the vehicle.

While officers pursued the suspect vehicle, Officer Nash along with fellow PPD officers Cpl. Gravatt, Cpl. Rhodes, Officer Romero, and Officer DeCesaro went to check on the occupants at 2602 E. 9th Street. They contacted Isabel Iturralde, who informed them nobody at the residence was hurt, but they were all pretty shaken up. Officers checked the house to make sure nobody was injured and learned from Isabel that she and Delira-Alires had gotten into an argument about him moving his items out of the house.

According to Isabel, Delira-Alires was on heroin and he was threatening to kill everyone in the house if she didn't let him in. When she locked the doors he then turned off the power to the house from outside and then tried to get in through a window, which she slammed shut in order to prevent him from gaining entry. Isabel then ran from the room and heard eight to ten gunshots, at which time she called 911.

PPD Officers continued the pursuit of the Explorer driven by Delira-Alires as he turned off Amarillo and headed westbound on 4th Street. Delira-Alires turned north on Elizabeth off of 4th Street, driving against the flow of traffic, and then turned onto W. 15th Street heading east. Delira-Alires then turned southbound onto Craig Street off of 15th Street and then turned onto W. 11th Street heading back west. Delira-Alires next turned north on Conley and then turned onto W. 13th Street heading east. In the 800 block of W. 13th Street his vehicle was brought to a stop from a Pursuit Intervention Technique (P.I.T.) maneuver (ramming) by Sgt. David Woods.

Delira-Alires then exited his vehicle with a handgun in his right hand and ran east on 13th Street with multiple officers pursuing him on foot. Delira-Alires ran south onto Craig towards the entrance to the alleyway between 12th and 13th when two initial shots can be heard from the audio on body worn camera. As officers continued to pursue Delira-Alires on foot, he stopped at the entrance of the alleyway. Officers indicated that Delira-Alires then turned toward the pursuing officers and began firing at the officers as they converged on his position. Several officers returned fire at that time. Officers stated during their interviews that Delira-Alires was observed on the ground in a seated position firing at the officers while they were returning fire.

At the conclusion of the shots being fired, officers on scene quickly located the gun they believed was used by Delira-Alires in a yard off the alleyway entrance. Once the scene was safe officers called for medical personnel to respond as they began performing CPR on Delira-Alires. The life-saving measures performed on Delira-Alires at the scene were to no avail, and Delira-Alires was pronounced dead at the scene.

All of the officers involved in the shooting incident were wearing PPD uniforms which were clearly marked to indicate they were police officers. All of the police vehicles involved in the pursuit were clearly marked as PPD vehicles.

Autopsy

The autopsy on the body of Delira-Alires was conducted on January 24, 2018 at the McKee Medical Center in Loveland, Colorado. The autopsy was performed by Forensic Pathologist Dr. Michael Burson. Dr. Burson concluded that the cause of death was multiple gunshot wounds, which were sustained during a standoff with law enforcement.

The forensic pathologist noted the evidence of injury related to gunshot wounds in each area of the body of Delira-Alires. In the head and neck there was a single graze wound beneath the chin. No vital structures were injured.

In the torso there were approximately thirteen gunshot wound defects involving the anterior and posterior torso. These projectiles caused fatal injuries involving the right lung, liver, right kidney, mesentery and soft tissues. These injuries also included multiple rib fractures and marked internal hemorrhaging. Nine projectiles were recovered from the right lung, the right chest, the right axilla, the right kidney, the mesentery, and the right abdomen. The majority of the projectiles travelled from the decedent's right to left and back to front.

In the pelvis there were approximately eleven gunshot wound defects involving the anterior and posterior pelvic regions. These projectiles caused severs soft tissue and vascular injuries, and multiple fractures of the pelvis. Three projectiles were recovered from the right pelvis, the left hip, and the left pelvis. The majority of the projectiles travelled from the decedent's right to left and back to front.

In the extremities there were approximately eight gunshot wound defects involving the upper and lower extremities. These projectiles caused multiple long bone fractures and associated soft tissue hemorrhage. Four projectiles were recovered from the right and left knees and from the right arm. The overall trajectory of these projectiles was difficult to ascertain, however, they appeared to mostly be from the decedent's right to left and back to front.

The toxicology performed on the blood of Delira-Alires revealed acute methamphetamine intoxication at the time of death. There were 79 ng/mL of amphetamine, and 620 ng/mL of methamphetamine found.

Interview: Officer Thomas DeCesaro

Officer DeCesaro was interviewed by CIT detectives at the Pueblo Police Department on January 29, 2018. He was interviewed in the presence of his attorney and advised pursuant to *Garrity*.

Officer DeCesaro said he was on another call in the Belmont area when he heard the original call on E. 9th Street go out, and then he heard shots fired at that location. He heard the suspect was fleeing so he started to drive his patrol unit in that direction. He put his tactical vest on and monitored the radio. He heard officers say they were chasing the vehicle because the driver shot at officers.

Officer DeCesaro was westbound on W. 13th Street and was near Craig when he observed an officer take the vehicle out and he saw the suspect get out of his vehicle and run by him on foot. Officer DeCesaro saw the suspect had a firearm in his hand. Officer DeCesaro exited his vehicle and gave chase while giving the suspect verbal commands to "Stop, Police." The suspect ran south on Craig and then turned into the alley on the east side of the street. Officer DeCesaro observed the suspect slow down as he entered the alleyway. The suspect raised his right arm up towards his head. Officer DeCesaro fired several rounds at that time but was not aware if any of them hit the suspect. At that time, Officer DeCesaro heard a more distant gunshot but he was not aware if the suspect got a shot off or if another officer shot.

At that time the suspect was on the ground, and as Officer DeCesaro approached the suspect got into a ground fighting stance. The suspect then began shooting at Officer DeCesaro and other officers who had arrived in the area. Officer DeCesaro returned fire and he believed he emptied a magazine. He and Officer Bellamy then began saying "cease fire, cease fire." Officer DeCesaro then heard another round of shots go off and he thought they came from his right, so he yelled "cease fire" again. After fire ceased, the officers approached the suspect and put him in custody.

During his interview Officer DeCesaro was asked to explain the ground fighting stance he described the suspect taking. Officer DeCesaro said the suspect was on the ground with his back on the ground. The suspect's knees were slightly bent and he had the gun between his legs pointing at and shooting at Officer DeCesaro and the other officers. While the suspect was on the ground shooting, Officer DeCesaro could see the muzzle flashes coming from the suspect's gun and stated he was feeling the impact of the shots being fired.

Interview: Officer Nicholas Lile

Officer Lile was interviewed by CIT detectives at the Pueblo Police Department on January 29, 2018. He was interviewed in the presence of his attorney and advised pursuant to *Garrity*.

Officer Lile said he was on another call on Abriendo when he heard the call from East 9th Street go out, and then he heard Officer Nash say "shots fired." Officer Lile then switched to that channel and ran code three, or 'lights and sirens,' towards the original call. Officer Lile caught up to the pursuit around East 4th Street and Kingston, and began to follow the suspect vehicle with other officers. They went downtown and then into the lower west side of town. The suspect then cut across a parking lot and then drove

eastbound on West 13th Street. The suspect vehicle was then “pitted” by another officer and the suspect fled on foot.

Officer Lile stated he ran after the suspect and Officer DeCesaro was in front of him. As Officer Lile reached Craig and rounded the corner to run southbound, he heard shots being fired. Officer Lile stated he believed the suspect fired at Officer DeCesaro and Officer DeCesaro returned fire. Officer Lile knew Officer DeCesaro was taking fire, so he knew he had to get up to where Officer DeCesaro was. Officer Lile could tell Officer DeCesaro was taking fire by the way he was maneuvering and getting into a defensive position. Once he got up to where they were, Officer Lile could see the suspect on the ground and he could see the muzzle flash from the suspect’s gun as the suspect was firing at them. Officer Lile fired five or six rounds and then felt the velocity of a bullet go by his side. Officer Lile said that caused him to stop, check that he was not hit, and re-position so he would not get shot in that spot. Officer Lile moved to the left for cover and then fired more times until the suspect stopped firing at him. Officer Lile then reloaded his gun and did not drop his magazine.

After Officer Lile reloaded his gun he did not fire again. Officer Lile indicated that up until that point, during the entire fight and the time that he was firing, that in his mind it was only himself and Officer DeCesaro engaging the suspect. It was not until Officer Lile stepped back to reload that he realized the other officers were there with them as well. Officer Lile stated that he thought that was why he retained his magazine, because it was then that he realized he was okay, and that he could take the time to reload and go back to cover.

Once the suspect was in custody, several officers began CPR. Officer Lile was tasked to watch over the gun the suspect had. After being relieved of that task Officer Lile was brought back to the police station.

Officer Lile stated he heard the suspect fired at officers earlier and from the suspect’s actions during the pursuit, Officer Lile knew the suspect was determined and it was likely going to end badly. Officer Lile indicated that during the pursuit of the suspect he “knew it was getting bad” and that the suspect “had no regard for anybody’s life” based on his actions. Officer Lile also stated he saw something silver in the suspect’s right hand as he ran on foot.

Interview: Officer Michael Bellamy

Officer Bellamy was interviewed by CIT detectives at the Pueblo Police Department on January 29, 2018. He was interviewed in the presence of his attorney and advised pursuant to *Garrity*.

Officer Bellamy stated he was on a call on Abriendo and as he was handling that call, he heard dispatch air the call regarding an ex-boyfriend at a house on the east side of town shooting rounds in the air. Officer Bellamy heard other officers arrive on that call and then air “shots fired” and an officer hit. Officer Bellamy left the call he was on and headed towards the call on the east side. He heard they were following a grey Explorer, and thought they met up with the suspect at East 4th Street and Portland, and began following the pursuit. At East 4th and Hudson, an officer used spike sticks. The suspect vehicle hit the spike sticks, but the two lead police vehicles also hit them, so Officer Bellamy and Officer Lile became the number 1 and number 2 vehicles in the pursuit.

Officer Bellamy followed the suspect, who turned north bound on Elizabeth Street, where he was going the wrong way on the one-way street. The suspect continued to drive erratically and disregarded all traffic laws, “putting other citizens at harm.” Around West 13th Street and Blake Street the suspect was blocked in, and the suspect jumped out of the vehicle and ran. Officer Bellamy jumped out of his own

vehicle and began pursuing the suspect on foot. Officer Bellamy caught up to Officer DeCesaro near West 13th Street, where the suspect was running south bound on Craig and turned east bound in the alley.

Officer Bellamy began hearing shots being fired and he saw Officer DeCesaro slow down and duck. When Officer Bellamy ran up to where Officer DeCesaro was, he saw the suspect on the ground. Officer Bellamy did not know if DeCesaro shot at the suspect or if the suspect shot at DeCesaro. Officer Bellamy indicated as he was running and got up closer to where Officer DeCesaro was he started hearing the gunfire. Then Officer Bellamy saw Officer DeCesaro slow down and duck and then start returning fire. Officer Bellamy did know the suspect had a gun and believed he shot at officers on the East Side prior to the pursuit, so Officer Bellamy began shooting at the suspect as well.

Officer Bellamy then saw the suspect toss a gun over a fence and Bellamy began yelling "cease fire, cease fire." Officer Bellamy indicated that at the time he began yelling "cease fire" he did not know there were that many officers on the line. After the suspect tossed the gun, the suspect tucked his hands back in towards his body and Officer Lambert opened fire again. Officer Bellamy then approached the suspect, put handcuffs on him, and made sure he did not have any more weapons on him. Officers located the gun near the shed and Officer Bellamy told other officers to check the area to make sure everyone was ok.

Officer Bellamy said the suspect was lying with his head to the east and his feet to the west. The suspect was looking back towards them and everyone started shooting. Officer Bellamy saw the suspect use his right hand to toss the gun over the fence. Officer Bellamy could not see any muzzle flash when he heard the shots, but he saw something silver in the suspect's hand as a patrol car's headlights shined on the suspect as he ran in the alley.

Interview: Officer Alan Wilson

Officer Wilson was interviewed by CIT detectives at the Pueblo Police Department on January 29, 2018. He was interviewed in the presence of his attorney and advised pursuant to *Garrity*.

Officer Wilson said he was on a call for a custody dispute on the south side of town when the call went out on the east side. He was heading north when he heard someone yell on the radio that shots were fired. He heard the vehicle description and direction of the pursuit. Officer Wilson pulled to the side of the road at Erie and East 4th Street and the pursuit passed him. He heard them go up Elizabeth the wrong way so he went north on Greenwood. The vehicle then turned west bound and created more distance between him and the pursuit.

Officer Wilson heard radio traffic indicating they were near West 13th Street and Craig, so he drove that way. Officer Wilson remembered hearing officers say they were pursuing the suspect because he shot at officers, so that heightened his alertness. When Officer Wilson got to West 13th Street and Craig he saw the suspect vehicle slide out and the suspect ran by him with officers in pursuit. Officer Wilson heard two rounds fired and then heard several shots being fired as he approached the other officers. He heard other officers yelling "drop the gun" as he approached. When he was in position, Officer Wilson fired approximately twelve rounds at the suspect. Once all officers stopped shooting, they approached the suspect and put him in custody. Officer Wilson then began doing chest compressions on the suspect. He and officer Lambert took turns doing chest compressions.

Officer Wilson was unsure who fired the first two shots but he believed they came from the suspect shooting at officers. Officer Wilson could not see the gun in the suspect's hands but he heard other officers saying "drop the gun" so he believed the suspect still had the gun.

Interview: Sergeant Randell Ramos

Sergeant Ramos was interviewed by CIT detectives at the Pueblo Police Department on January 30, 2018. He was interviewed in the presence of his attorney and advised pursuant to *Garrity*.

Sergeant Ramos said he heard the call on East 9th Street and was also aware of the call on Abriendo. He called Sergeant Woods and they determined Sergeant Ramos would go to Abriendo and Sergeant Woods would go to East 9th. The Abriendo call did not need any further action and that is when he heard the "shots fired" aired on East 9th. Sergeant Ramos saw the pursuit coming westbound on East 4th Street and he blocked Erie.

Sergeant Ramos said the suspect went the wrong way on a street and he stayed in the area of the pursuit but was not actively involved in the pursuit. He was at Craig and West 13th Street when he saw the suspect run in front of his car. The suspect ran into the alley and Sergeant Ramos turned his car into the alley. As he was exiting his car, Sergeant Ramos heard one shot and saw the suspect go down. Sergeant Ramos said the suspect came up firing and he could see the muzzle flashes. Sergeant Ramos drew his weapon and began firing at the suspect.

Everyone then began yelling "cease fire" and they were still trying to see the suspect's hands. Sergeant Ramos asked Officer Lambert for her flashlight and she threw him the light. Sergeant Ramos said Officer Lambert yelled the suspect threw the gun so he shined the light in the yard and found the gun the suspect threw.

Sergeant Ramos was not sure if the suspect was on his back shooting at them or if the suspect was on his side and shooting over his shoulder at them. Sergeant Ramos saw numerous muzzle flashes coming from the suspect.

Interview: Officer Eufracio "JJ" Ortiz

Officer Ortiz was interviewed by CIT detectives at the Pueblo Police Department on January 30, 2018. He was interviewed in the presence of his attorney and advised pursuant to *Garrity*.

Officer Ortiz was dispatched to the East 9th Street address on a domestic dispute. It was reported that the reporting party was barricaded in the house and her ex-boyfriend was shooting rounds in the air. Officer Ortiz and other officers were staging in the area of East 8th and Amarillo and got their active shooter vests on. Officer Ortiz was getting his patrol shotgun out of the car when he heard eight to nine rounds being fired and they took cover. Officer Ortiz said Officer Hock thought he had been hit so Officer Ortiz checked him and he did not see any wounds. A short time later they saw the suspect vehicle coming up Amarillo towards them. The vehicle took off and another officer tried to stop the car. The pursuit began, and Officer Ortiz tried to catch up to the pursuit.

Officer Ortiz drove west on 4th Street. At West 13th Street and Blake he helped block the road and the suspect went through an alley. Officer Ortiz saw the suspect vehicle get pitted. He got out and ran, and when he got to 13th Street and Craig, Officer Ortiz heard two rounds being fired. He saw officers in the alley and he ran to them. Officer Ortiz heard them firing rounds and saw Officers Lile and DeCesaro retreating, so he knew they were exchanging fire with the suspect. Officer Ortiz approached and saw the suspect laying on his left side. Officer Ortiz couldn't see the suspect's hands but the suspect was moving around so he fired four rounds and then the "cease fire" was called. Officer Ortiz said they approached the suspect and put him in custody.

Officer Ortiz was asked if he thought the shots fired on East 9th Street were fired at officers and he said yes.

Interview: Officer Jonathan McCluskey

Officer McCluskey was interviewed by CIT detectives at the Pueblo Police Department on January 30, 2018. He was interviewed in the presence of his attorney and advised pursuant to *Garrity*.

Officer McCluskey had just cleared a call on the far north end of town when he heard Officer Nash radio that they were being shot at. Officer McCluskey started heading that way when he heard officers radio that they thought one of the officers was shot. He kept going to where the pursuit was headed and was west bound on West 13th Street when he saw the suspect vehicle get pitted. The vehicle spun out behind him and he tried to reverse, looked in his mirror, and saw the suspect run on foot. Officer McCluskey got out and checked the suspect vehicle for more occupants.

Officer McCluskey gave chase with other officers and saw them turn south on Craig. He heard a couple gunshots and heard an officer say something to the effect of, "he's shooting at us." Officer McCluskey got to the alley and the suspect was down, and Officer McCluskey believed he fired two or three rounds at the suspect at that point. There was a pause and Officer McCluskey saw the suspect move his right hand towards his midsection, so he fired a few more rounds because he thought the suspect could have pulled the gun again. Officer McCluskey heard "cease fire" and then they approached the suspect. Officers saw the gun on the other side of a fence and secured the suspect. Officer McCluskey then went back and secured his and other vehicles.

Interview: Officer Bernadette Lambert

Officer Lambert was interviewed by CIT detectives at the Pueblo Police Department on January 30, 2018. He was interviewed in the presence of his attorney and advised pursuant to *Garrity*.

Officer Lambert stated she was on the way to the police station around 6:00 pm. She heard Officer Nash air there were shots fired on the call on the east side. Officer Lambert headed that way and heard them air the suspect vehicle description. She headed in the general direction of the pursuit.

Once they were on the west side, Officer Lambert saw the suspect vehicle going north bound on Elizabeth, which is the wrong direction. She fell into the chase and was the third car in the pursuit. The suspect ended up at West 13th Street and Officer Lambert cut down the alley at the Star Grocery. At Craig Street she turned to go north on Craig and she saw the suspect run in front of her vehicle. At that time Officer Lambert saw the suspect had a gun in his right hand. She said she thought the gun was silver.

Officer Lambert pulled her gun out, and as the suspect ran by she got out of her car without putting it in park. Officer Lambert saw the suspect standing and she saw muzzle flashes so she knew he was shooting at the officers. Officer Lambert then saw other officers running up, and she began shooting at the suspect as he was shooting at her and other officers. Officer Lambert indicated that when she began shooting the suspect he was standing up and firing at officers. The suspect then fell to the ground and continued to shoot at officers after he fell.

Officer Lambert shot until her gun was empty and then she ejected that magazine and inserted another because she could see the suspect was still shooting at Officers. At that time Officer Lambert repositioned herself on the other side of Sergeant Ramos's vehicle and she saw the suspect throw the gun over the fence and then reach under his body. Officer Lambert believed the suspect may have had another gun in his waistband. She said she fired a couple more shots and then heard other officers say "cease fire." Officer Lambert said officers approached and located the gun over the fence, then she and Officer Wilson took turns giving the suspect chest compressions.

Report: Officer Samuel Hock

Officer Hock completed a report concerning this event. His report included the following information.

Officer Hock was dispatched to 2602 East 9th Street to assist on a "man with a weapon" call. Upon arrival, Officer Hock parked his patrol car on Amarillo and East 8th Street with Officer Nash. As other officers arrived they staged in an area where they believed their movements would be concealed from the house. During this time officers talked about a plan to approach the house while they put on their tactical or active shooter vests.

As officers were preparing with their shotguns and an AR15, they started to receive gunfire from the direction of the dispatched address. Officer Hock immediately ran backwards, jumping over the hood of his patrol car for cover. He heard approximately seven to nine rounds fired in a consistent rate of fire, north of their location.

As Officer Hock went over the hood of his patrol car, he landed hard on his right side, at which time he felt a burning sensation in his arm and believed he had been shot. He informed Officer Nash, who aired "officer down." Officer Ortiz aided him and shined a flashlight on his arm looking for blood. While Officer Ortiz was searching his arm, Officer Hock continued to provide cover with his handgun in the direction of the gunfire. Officer Ortiz then informed Officer Hock there was no blood and he was not hit.

A silver SUV then started to approach their location from the north, traveling at a high rate of speed. Officer Nash stated that was the male they were looking for and the male who was shooting at police. Officer Nash also stated the SUV matched the description of the vehicle the reporting party had given to dispatch.

Officer Nash's report indicates that he believed this vehicle was the suspect vehicle because it matched the description of the suspect vehicle provided by PPD dispatch. Officer Nash's report also indicates that he observed this vehicle approaching their location at a high rate of speed and revving the engine loudly as it approached their location. Officer Nash's report further indicates that when this vehicle reached their police vehicles it came to a complete stop and rolled down the window before it once again took off at a high rate of speed.

Officers started moving in the opposite direction of the SUV, using their patrol cars for cover. As the SUV was parallel with the patrol cars, the SUV stopped for a brief second, at which time Officer Hock thought the male driver was going to open fire. Officer Hock could see Officer Medved approaching their location from the west through the suspect's driver side window. The male suspect driving the SUV then continued past their patrol cars driving south on Amarillo towards East 4th Street. Officer Hock ran to the driver seat of his patrol vehicle and turned around to follow in the pursuit.

As officer Hock arrived in the area where the suspect vehicle had been stopped, he could hear an officer air that the suspect had bailed out of the vehicle and was running at West 13th Street and Grand Avenue towards an alley. Officer Hock parked his vehicle at the end of West 13th Street and Conley behind other units, and could not hear his radio at that time due to several patrol cars being parked at that location with their sirens still going. Officer Hock heard several shots fired and ran to the area where he heard them.

Officer Hock then saw a Hispanic male laying on the ground and two officers giving him CPR. Officer Hock realized the officers who were involved in the officer involved shooting were the ones administering CPR, so he took over chest compressions. Officer Hock observed several gunshot wounds on the male and did not feel a pulse. AMR then arrived on scene and took over.

Report: Sergeant David Woods

Sergeant Woods completed a report concerning this event. His report included the following information.

Sergeant Woods was responding to the area of East 8th Street and Amarillo on a domestic with weapons call. The officers on scene called out they had been shot at by a male in a silver SUV with a handgun and a pursuit began.

Sergeant Woods was following the pursuit on the radio as he drove north on Santa Fe and then west on 13th Street. As he approached 13th Street and Craig, he could see the suspect vehicle turn east on 13th Street with officers in pursuit. None of the police vehicles had been able to get close enough to attempt a PIT maneuver. The block was void of any foot traffic and had minimal parked vehicles. As the suspect had already shot at officers and was headed back towards an area of higher foot traffic and vehicle traffic, Sergeant Woods believed the suspect posed an imminent and substantial risk to the public.

As the suspect vehicle passed Sergeant Woods going the opposite direction, he rammed it just in front of the rear driver's side tire. The suspect vehicle spun out as Sergeant Woods drove up onto the curb to prevent being hit by any of the other police vehicles. When Sergeant Woods exited his car, officers had already chased the suspect east on 13th Street and south on West. Sergeant Woods heard several gunshots from that area. He then secured the suspect vehicle as well as multiple police vehicles that were on the block.

Witness Interview: Isabel Iturralde

Isabel Iturralde was the reporting party in the initial call. She was interviewed by PPD Detective Glen Fillmore and PCSO Detective Victor Herrera at the Pueblo Police Department at 8:44 pm on January 22, 2018.

Isabel started by saying she called the police because the suspect started acting weird and being crazy. She stated she normally just leaves him alone when he acts that way, but he was acting weird and yelling at her kids. She stated the suspect had not done that before and she could not deal with him anymore.

Isabel said that when the suspect was sober she had nothing bad to say about him, but then he started using drugs again around the middle of October. Isabel indicated the first time the suspect got high since he got out of prison he pulled a gun on her. After that she told him he had to go, but he would not move out. Since then the suspect would periodically come by to remove his things from the house and the yard. She said that some days he would be cool and that some days she would not even step outside because

she was afraid he would pull a gun on her and shoot her. Isabel indicated that the suspect always had a gun on him.

Isabel referenced an incident the night before, in which she told the suspect he had to get all of his things out from her garage. Isabel indicated the suspect went crazy and shot off a round. She indicated that for the past week the suspect had shot his gun off almost every day while he was at her house. Isabel said she had not called police before this night because she knows how he is, and that is what made her leave her home the night before.

Isabel said that tonight her 8-year-old daughter was outside playing while she was working on her car. Isabel heard a gunshot, so she told her daughter to come over by her and then to get into the house. As her daughter was walking to the house she thought she must have tripped over an extension cord and it shut off the lights to the garage. Isabel said she heard the suspect yell "what the fuck are you doing." She then told her daughter to run into the house. Isabel did not say anything to the suspect at that time and continued to work on her car. The suspect then came walking up to where Isabel was and asked her "what the fuck did you just do." Isabel and the suspect then got into a verbal argument about gas for the cars, and the suspect eventually pointed his gun at his head and said "I just want to shoot myself."

Isabel said the suspect was acting really crazy, so she walked into the house and locked all the doors. She said the suspect then went to the back door to try to get in, and when he found it locked he turned the power off to the house by pulling the breaker. Isabel said it was then totally dark in the house, so they could not see anything. She said the suspect kicked in the back door but could not get it to open, and about ten seconds later she heard a gunshot. That is when she called 911. After that she heard a bunch more gunshots and then she could hear him drive off.

Isabel said the 911 dispatcher told her the police were chasing the suspect, so she told the dispatcher they needed to let her know if they were not able to catch him. She told the dispatcher that she believed if he was not caught he would come back to the house knowing she was the one who called the police and that he would kill her.

Isabel was asked when she heard the gunshots before the suspect left if she could tell who was shooting. She said she is sure it was just the suspect shooting because all of the gunshots sounded as if they were coming from where the suspect was standing outside her house.

Isabel indicated throughout the time since she ended their relationship she was always afraid to call the police because if the suspect was arrested and then got out of jail he would come back and kill her.

Follow Up Report: Detective Neal Robinson

PCSO Detective Neal Robinson interviewed all of the PPD Officers from the officer involved shooting. In addition, Detective Robinson followed up on several pieces of evidence.

Detective Robinson met with Parole Officer Michael Bensko from the Colorado Department of Corrections. Officer Bensko was the listed parole officer for the suspect. Officer Bensko stated since the suspect's release from prison, he had not completed any programs pursuant to his release and he had not met his agreement with parole.

Detective Robinson also conducted a history search for the suspect. Detective Robinson noted that during a records search of the Pueblo Police Department records, he was able to determine the suspect was "flagged." This means that officers should be aware of certain characteristics of the person they are

dealing with. The suspect was flagged as being “assaultive” or having had a physical altercation with law enforcement in the past.

Officer Involved Processing

Each officer involved in the shooting was processed by PCSO Detective Butterfield and PPD Detective Thomas. Each officer was brought separately to the CSI/ID office in the Pueblo Police Department. Full body photos were taken of each officer, including their backs, arms, and duty belt placement. Once photos were completed they were processed using a Gun Shit Residue (GSR) Kit.

Each officer was brought into a dark room where an Alternative Light Source (ALS) could be used to examine their clothing. With this process a bright white light is passed over their clothing and hands. The ALS is used in an attempt to search for any biological (blood) evidence. Each officer was searched using the ALS, and none appeared to have any biological evidence on them.

Detective Butterfield then asked each officer he had in the lab to place their duty weapon on a piece of parchment paper below their name. The weapons were photographed as is before they were made “safe.” This was done by removing the magazine in the weapon and the live cartridge in the chamber of the weapon. The live cartridges and magazines were placed with the weapon. The extra magazines officers had on their person were removed and placed with the other items. All live cartridges were then removed out of the magazines separately in order to count how many live cartridges each officer had left. The results of this processing were:

Sgt. Ramos – Glock 17 9mm – 3 magazines – 38 live cartridges out of a possible 52

Officer Bellamy – Glock 22 .40 Cal. – 3 magazines – 30 live cartridges out of a possible 46

Officer Lambert – Glock 17 9mm – 1 magazine – 13 live cartridges out of a possible 52

Officer DeCesaro – Glock 22 .40 Cal. – 3 magazines – 45 live cartridges out of a possible 61

Officer McCluskey – Glock 22 .40 Cal. – 3 magazines – 41 live cartridges out of a possible 46

Officer Lile – Smith & Wesson M&P 2.0 9mm – 3 magazines – 34 live cartridges out of a possible 52

Officer Wilson – Smith & Wesson M&P 9mm – 3 magazines – 40 live cartridges out of a possible 52

Officer Ortiz – Glock 17 9mm – 3 magazines – 47 live cartridges out of a possible 52

Scene Processing: East Alleyway Entrance between 12th Street and 13th Street on Craig Street

PPD Detective Jesick and PCSO Detective Sergeant Allan Brooks responded to the scene after a briefing at the Police Department. They took digital photographs and video of both scenes. Upon arrival at the scene on West 13th Street and Craig, they observed the area to be taped off with yellow crime scene tape. There were several PPD and PCSO patrol cars parked in the area restricting access to the scene. Sgt. Brooks video recorded from West 13th Street at the 800 block to the alley way between West 12th and West 13th Street on Craig, which is where the decedent was laying on the ground.

While video recording, Sgt. Brooks observed several PPD cars in the street and one which appeared it had been involved in an accident. Sgt. Brooks observed a blue and white Ford Explorer which also appeared

to have been involved in a traffic accident. Several spent shell casings were located on Craig Street between West 12th and West 13th Streets. Several spent shell casings were located at the entrance to the alley where the decedent was laying. A black in color semi-automatic pistol was observed in the fenced backyard of 727 West 12th Street. The fence was chain linked and easily seen from the alley. A hypodermic needle and spent shell casings were located near the decedent's location.

Once the video recording was completed and the photos had been taken, the decedent's body was removed by the Pueblo County Coroner's Officer Transport Service.

On Tuesday January 23, 2018, at 7:00 am, detectives met back at the scene to start processing the scene in the daylight. PCSO deputies remained at the scene to hold scene security until the scene processing was complete.

While beginning to process the scene, PCSO Detective David Butterfield was informed a fully marked PPD patrol vehicle (Unit 350) had made contact with the suspect's vehicle. That collision happened approximately 100 feet from the intersection of West 13th Street and Blake Street. Contact was made with Unit 350's driver's side front fender and the driver's side passenger door and driver's side rear quarter panel on the Explorer. It appeared that during this collision the Explorer was travelling east bound down 13th Street and Unit 350 was travelling west bound on the same street. It appeared that after the collision the Explorer spun 180 degrees facing west bound and came to a rest. It looked as though the Explorer moved slightly forward where it came to a rest.

All vehicles involved were still located on scene and photographed where they were. Photographs were taken of the inside of the vehicles, minus the Explorer, which was towed to the PCSO evidence garage to be processed at a later date. Once the vehicles were processed and photographed they were all taken to the Police Department. There was no evidence noted or collected from the PPD vehicles involved except for Unit 350 which collided with the Explorer. There were several pieces of plastic which appeared to have originally come from the Explorer located underneath Unit 350 once it was moved. Those pieces were collected and transported back to the PCSO secured lab for processing.

Once all vehicles were processed a scene search began from where the shooting took place between 12th and 13th Streets on Craig and down the east alleyway where the decedent's body was located the night before. Photographs were taken of the area and a grid search was completed. During the search of the roadway numerous spent shell casings and fragments from projectiles were located. All spent shell casings located on the roadway were associated with the PPD firearms, either 9mm FC or 40 cal. Federal. Numerous spent shell casings and projectile fragments were located on the east sidewalk.

Once all those items were identified by PPD evidence markers a search of the alley was conducted. During the search of the alleyway seven spent shell casings were located that were not the same as the PPD officers' casings. Six of the spent shell casings were Tulammo 9mm and one was a Para 9mm. Also located was one live cartridge of the same Tulammo brand. All spent shell casings and the live cartridge were located approximately three feet from where the suspect was pronounced deceased.

Located just over a chain link fence in the back of the residence at 727 12th Street was a black Taurus 709 9mm semi-automatic handgun. The handgun was located approximately five feet from where the decedent's body was located. The Taurus did not have any live cartridges located in the handgun as the slide was locked in the rear position. This usually occurs when a semi-automatic handgun is discharged until there are no more live cartridges in the gun, or by manually pulling the slide of a firearm back while locking it in the rear position.

When continuing the search of the alleyway multiple projectile holes were located primarily in the south fences, garages, and residences. While searching the backyard of the residence where the firearm was located multiple projectiles were located in a shed. All projectiles were photographed and designated where they were located by PCSO placards and then collected by PPD detectives. The projectiles were then packaged and turned over to Detective Butterfield and transported to the PCSO secured evidence processing laboratory. The only other item located in the alleyway close to where the decedent's body was located that was not involved with a discharge of firearms was a syringe that appeared to be empty. The syringe was also collected and dropped into evidence.

Measurements of the scene were completed by the Colorado State Patrol, a FARO Scan was completed by CBI, and aerial photography and video was completed by Northstar Drone Services. Once all the evidence was marked, measured, and photographed, it was determined the scene would be held until after the forensic autopsy was completed.

Scene Processing: 2602 East 9th Street

On January 23, 2018, PPD Detective Gene Reno assisted PPD Detective LeRay in executing a search warrant at 2602 East 9th Street. On arrival the area east of the residence had been marked with caution tape. Corporal Pixler was standing by to make sure that no one entered the area.

Detective Reno took digital photos of the exterior of the residence, yard area, and interior shop. Detective LeRay ran clearances on the vehicles and items in the yard. There were several vehicles that had the hood up as though they were being worked on.

There were seven orange markers in the driveway east of the residence that patrol officers had used to mark the location of the spent shell casings located there. While searching the area Corporal Pixler located an additional spent shell casing on the ground, and Detective LeRay located an additional spent shell casing on the dash of a pickup truck that was parked in the yard. All nine of the spent shell casings were 9mm Tulammo, which was the same brand located at the scene on Craig. They were all photographed, collected, and tagged into evidence.

Vehicle Search

On January 24, 2018, a search warrant for the 2001 blue Ford Explorer was granted and executed. The vehicle looked to have primarily been painted blue and white, with spray paint covering the majority of the vehicle. It appeared that the suspect could have possibly been living out of the vehicle as it was extremely dirty with several pieces and bags of clothing. A small mattress was also recovered after the clothing and random items were removed.

While searching the front driver side, front passenger side, and center console of the vehicle several live Tulammo cartridges were located. These cartridges matched the spent shell casings located at the scenes. A box of the same ammunition was also recovered with 27 live cartridges still inside.

A cell phone was recovered from the center console and collected. There was also an almost full bottle of Gabapentin pills with the name on the bottle scratched off. Gabapentin is primarily used for the mentally ill and by persons suffering from seizures. There were also several forms from Health Solutions located in the vehicle that did not have any names associated with them.

Photographs of the interior and exterior of the vehicle were taken before it was re-sealed and transported to the Pueblo West evidence lot.

Colorado Bureau of Investigations Testing

On May 14, 2018, PCSO Detective David Butterfield received a report from CBI. This report contained findings based on the testing of the gun (Taurus 9mm) found over the fence in the backyard of the residence that officers believed was the gun the suspect threw during the shooting incident.

CBI item numbers:

Item 12: Handgun – Taurus 9mm

Item 13: Magazine only to Taurus 9mm

Item 16: DNA card collected from suspect at autopsy

Item 12.1: Swabs of Taurus pistol

Item 13.1: Swabs of Taurus magazine

Item 16.1: Blood card

DNA analysis was conducted on items 12.1, 13.1, and 16.1 at the GlobalFiler loci.

The DNA profile developed from the swabs of the Taurus pistol (Item 12.1) indicates a mixture of four contributors. Due to the number of contributors, this mixture is not suitable for comparisons.

The partial DNA profile developed from the swabs of the Taurus magazine (Item 13.1) indicates a mixture of three contributors. The majority of this mixture matches the DNA profile developed from the suspect (Joe Frank Delira-Alires) (Item 16.1). The probability of selecting an unrelated individual at random from the population having a DNA profile matching the major component of this mixture at the D3S1358, vWA, D8S1179, D2S441, D19S433, TH01, FGA, D22S1045, D5S818, D10S1248, and D1S1656 loci is approximately 1 in 3.8 quadrillion. Due to the limited amount of interpretable genetic information, the minor component of this mixture is not suitable for comparisons.

The report is signed by Caitlin Rogers, who is a forensic scientist with CBI in Pueblo, CO.

Legal Guidelines

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. Furthermore, he may use a degree of force which he reasonably believes to be necessary for that purpose. §18-1-704(1), C.R.S.

A person is justified in using deadly physical force upon another person in order to defend himself or a third person if he reasonably believes a lesser degree of force is inadequate and he has reasonable grounds to believe, and does so believe, that he or another person is in imminent danger of being killed or receiving great bodily injury. §18-1-704(2)(a), C.R.S.

In evaluating whether a person is justified by self-defense, the person is entitled to act on appearances. People v. La Voie, 395 P.2d 1001 (Colo. 1964). The United States Supreme Court evaluated whether officers used excessive force under the Fourth and Fourteenth Amendments by approaching the issue of

reasonableness from the perspective of a reasonable officer at the scene, rather than with the 20/20 vision of hindsight. Plumhoff v. Rickard, 143 S. Ct. 2012 (2014). In that case officers fired a total of 15 shots at a suspect in a fleeing car that was determined to constitute a grave public safety risk. In its ruling the Court said “. . . It stands to reason that, if police officers are justified in firing at a suspect in order to end a severe threat to public safety, the officers need not stop shooting until the threat has ended . . .” Further, the Court took into account that police officers are often forced to make split-second judgments about the amount of force necessary in a particular situation – in circumstances that are tense, uncertain, and rapidly evolving.

Conclusion

The Officers involved in this shooting incident were trying to arrest a suspect that had been trying to break into his ex-girlfriend's home and firing his gun. The suspect was firing shots at that location that officers believed were directed at them. The suspect then engaged police in a vehicle chase across town, in which he violated numerous traffic laws that put the public at risk, including going the wrong way down a one-way street. Based on the suspect's behavior up to that point, officers determined they needed to stop the vehicle and were forced to engage the vehicle using a PIT maneuver in order to get the suspect to stop. Once his vehicle was disabled, the suspect fled on foot through a residential neighborhood while still carrying his gun in his hand. When officers caught up to the suspect he began firing at officers.

It is my conclusion based on the circumstances that the officers were justified by the Self-Defense and Defense of Others provisions of the laws of the State of Colorado in using the actions they employed to defend themselves and each other from what they reasonably believed to be the imminent use of unlawful physical and deadly force by Joe Delira-Alires, and they reasonably believed that a lesser degree of force would be inadequate. They had reasonable ground to believe, and did believe, that they were in imminent danger of being killed or receiving great bodily injury. Each officer reacted independently to the rapidly evolving situation. The reactions of each officer in these circumstances were based on their own observations and perceptions, and their actions were reasonable.

Given the facts and circumstances of the situation and the governing law, criminal charges against the officers would not be appropriate, and therefore no criminal charges will be filed.

Dated this 21st day of September 2018



J.E. Chostner
District Attorney