



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

November 13, 2018

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

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

Re: District Attorney CIT Decision Letter
Officer Involved Incident on March 13, 2018
Location: 1877 Pueblo Boulevard (Regency Shopping Center)
Injured: Matthew Gregg
Officers Involved: Greg Golden and Vincent Nash

Dear Chief Davenport and Sheriff Taylor:

The 10th Judicial District Critical Incident Team (CIT) was activated on March 13, 2018, to investigate an Officer Involved Incident which resulted in injury to Matthew Gregg (DOB 10/29/1982). 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 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.

701 Court Street, First Floor • Pueblo, CO 81003-3077
Telephone 719.583.6030 • FAX 719.583.6666

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Overview of the Incident

On March 13, 2018, at approximately 3:38 am Pueblo Police Officers Vincent Nash and Greg Golden were dispatched to the area of Pueblo Boulevard and Rutgers on a report of an unconscious male party inside of a white vehicle parked at this location. Upon arrival to the area the officers observed members of the Pueblo City Fire Department pointing at a white vehicle that was driving away from them.

Officer Golden pursued the white vehicle as it crossed Pueblo Boulevard and drove west on Red Creek Springs Road. Officer Golden was able to obtain a license plate on the fleeing white vehicle, which he radioed to the PPD Communication Center. PPD Communication Center then aired the white vehicle had been reported stolen from the Colorado Springs Police Department as a result of a carjacking in which the suspect used a knife to take the vehicle. The vehicle is a white 2011 Kia Rio bearing Colorado license plate number 068TAA.

PPD Officers Nash and Golden attempted to stop the suspect vehicle by activating their lights and sirens, but terminated the pursuit due to the fact that the suspect vehicle was not stopping. Both officers disengaged from pursuing the suspect vehicle. Officer Nash returned back to Rutgers and Pueblo Boulevard to talk with the firemen, and Officer Golden continued to drive south on Pueblo Boulevard. While patrolling the area, Officer Golden observed the white vehicle driving through the Regency Shopping Center parking lot. Officer Golden aired that information over the police radio, at which time Officer Nash began to drive to Officer Golden's location. Officer Golden drove west on Northern from Pueblo Boulevard and turned into a second entrance to the shopping center. Officer Golden was able to identify the white vehicle as the suspect vehicle by the spare donut tire on the rear driver's side.

Officer Golden, who was in a Pueblo Police Department (PPD) uniform and driving a fully marked Pueblo Police vehicle, entered the parking lot from the Northern side as the suspect vehicle was attempting to exit the parking lot. The white Kia driven by the suspect then collided with Officer Golden's front bumper on his fully marked patrol vehicle. The suspect immediately put the Kia in reverse and began to drive backwards as Officer Golden continued into the parking lot. The Kia then jumped the curb in front of Starbucks and Officer Golden used the front end of his vehicle to block the Kia in and prevent it from leaving.

Officer Golden exited his patrol vehicle and approached the suspect vehicle from the passenger side of the vehicle. Officer Golden opened the passenger side door of the suspect vehicle and gave commands to the suspect to turn the car off and exit the vehicle. Officer Golden thought the suspect was complying with his commands as he reached for the inside door handle to exit the vehicle.

Once outside the vehicle, the suspect began to run eastbound across the parking lot towards the intersection of Northern and Pueblo Boulevard. Officer Golden ran around the back of the suspect vehicle and started to chase after the suspect as he aired over the police radio that the suspect was now on foot and running away from him.

Officer Golden closed the distance between himself and the suspect to approximately five to six feet when he observed the suspect grabbing or reaching in his jacket. A few seconds after Officer Golden observed the suspect reaching in his jacket, the suspect turned his upper body toward Officer Golden with a handgun in his right hand and fired one shot at Officer Golden.

Officer Golden drew his duty weapon and returned fire. Officer Golden continued pursuing the suspect. At one point Officer Golden lost his footing and fell to the ground. While on the ground, Officer Golden fired three rounds in the suspect's direction as the suspect fired rounds in Officer Golden's direction.

After Officer Golden fired these three rounds at the suspect, the suspect fell to the ground and stopped firing at Officer Golden.

While Officer Golden was on the ground firing at Gregg, Officer Nash arrived on scene from the east side of the bank. Officer Nash was also wearing a PPD uniform and driving a fully marked patrol vehicle. Officer Nash activated the lights on his vehicle as he arrived on scene. As Officer Nash exited his vehicle he observed Officer Golden on the ground, and stated he could see and hear the suspect firing a handgun at Officer Golden. Officer Nash fired four shots at the suspect as Officer Golden was firing his three rounds from his position on the ground. Officer Golden then got up from his position on the ground and both officers took cover behind Officer Nash's marked patrol SUV.

Shortly after taking cover behind the vehicle, Acting Sergeant Officer Gabriel Maldonado arrived on scene. Officer Maldonado retrieved a ballistic shield from his vehicle and all three officers approached the suspect, who was on the ground and not moving. Officers Golden and Maldonado kept cover on the suspect during the approach. Officer Nash took physical control of the suspect, removed his hands from underneath his body, and placed handcuffs on the suspect. Officer Nash then rolled the suspect over and immediately observed a handgun on the ground underneath him. Officer Maldonado kicked the handgun away from the suspect.

After the suspect was secured, Officer Maldonado remained with him until American Medical Response (AMR) arrived on scene. The suspect was then transported to Parkview Medical Center via AMR for medical treatment. PPD Officer Todd Whittemore responded to Parkview with the suspect from the scene. The suspect was identified as Matthew Gregg.

Officers Golden and Nash were transported back to the Pueblo Police Department and the CIT investigation commenced.

Interview: Officer Nash

Officer Nash was interviewed by CIT detectives at the Pueblo Police Department on March 19, 2018. He was interviewed in the presence of his attorney and advised pursuant to *Garrity*.

Officer Nash said he and Officer Golden were originally dispatched to Rutgers and Pueblo Boulevard for an unconscious party in a white sedan. Both Officer Nash and Officer Golden responded to the call from the same area. Officer Golden led the way to that location.

When they arrived, there was a white sedan facing west. As the officers pulled up, the sedan pulled away. City of Pueblo Fire Rescue was on scene and pointed at the vehicle. Officer Golden pulled being the vehicle and aired the license plate. Dispatch confirmed the vehicle was car jacked in Colorado Springs and that a knife was used. Officer Nash said they tried to make a traffic stop on the vehicle, but it failed to yield and the pursuit was terminated.

Officer Nash said Officer Golden was going to see if he could locate the vehicle again while Officer Nash returned to meet with Fire Rescue. Officer Nash was going to speak with Fire Rescue to see if they had any additional information. Officer Nash went back to Rutgers and Pueblo Boulevard. As Officer Nash pulled up, Fire Rescue was leaving, and Officer Golden aired that he located the vehicle in the Regency Shopping Center.

Officer Nash said he then started heading in the direction of the shopping center. Within a short time, Officer Golden aired that he had a runner. Officer Nash was going south on Pueblo Boulevard and turned

West on Northern. Officer Nash entered the first driveway into the shopping center off Northern. Officer Nash turned on his lights and sirens as he entered the shopping center. He drove on the east side of the bank. Officer Nash said as he came around the north side of the bank, he saw Officer Golden chasing a male party on foot. Officer Nash said he saw the male party fall as he was pulling up. Officer Nash then saw and heard the male party shooting as he was laying on his back facing Officer Golden.

Officer Nash said Officer Golden returned fire. Officer Nash put his marked patrol vehicle in park, got out, and stood behind the driver's side door. Officer Nash then aimed his gun at the male party. The male started to run South. Officer Golden was still firing. Officer Nash said he fired four rounds at the male. The male then collapsed on the northwest side of the bank.

Officer Golden started to approach the male, and Officer Nash told him to wait for more officers to arrive. Officer Golden didn't have any cover so Officer Nash pulled his vehicle forward. Officer Golden then moved to the side of Officer Nash's patrol vehicle for cover.

Officer Nash said that Officer Maldonado arrived soon after. Officer Maldonado stood behind a ballistic shield. Officer Golden stood behind Officer Maldonado, and Officer Nash was behind Officer Golden as they approached the suspect. Officer Maldonado and Officer Golden maintained cover, and Officer Nash was told he would go "hands on" (take physical control of the suspect). Officer Nash said he first removed the male's right hand and put it behind his back. The male was then placed into handcuffs. The male was rolled onto his right side. Once this was done, they could see the handgun under the male. Officer Nash said Officer Maldonado kicked the pistol away from the male.

Officer Nash was asked when he saw the suspect shooting at Officer Golden and Officer Golden returning fire if he felt as though Officer Golden's life was "compromised?" Officer Nash said absolutely. Officer Nash was asked whether Officer Nash was in fear for Officer Golden's life when he fired at the suspect and Officer Nash said yes.

Officer Nash was also asked what exactly he saw when he pulled up and parked his marked patrol vehicle. Officer Nash said he could see muzzle flash coming from the suspect as well as hear the shots. The suspect was on the ground on his back facing north toward Officer Golden.

Officer Nash thought the suspect shot between five to eight times. Officer Golden had fallen and was facing the suspect. Officer Nash could clearly see Officer Golden's gun pointing at the suspect. Officer Golden then returned fire at the suspect. The suspect stood up and Officer Nash fired four rounds at the suspect. The suspect then started running south and collapsed.

Officer Nash was asked what he thought when he observed Officer Golden fall to the ground. Officer Nash said he thought Officer Golden may have been shot and there was no cover for him. Officer Nash said he may have had some auditory exclusion because the shots weren't as loud as he thought they would be, but could see the muzzle flashes distinctly from the suspect.

Officer Nash stated the night of the incident he was wearing his patrol uniform, which included a badge, police patches, and a duty belt. Officer Nash stated he did not know the suspect prior to this contact with him.

Interview: Officer Golden

Officer Golden was interviewed by CIT detectives at the Pueblo Police Department on March 19, 2018. He was interviewed in the presence of his attorney and advised pursuant to *Garrity*.

Officer Golden said he and Officer Nash were dispatched to Pueblo Boulevard and Rutgers on an unconscious party. Officer Nash was dispatched as primary and Officer Golden was dispatched as a cover unit. Officer Golden said he was ahead of Officer Nash when they arrived on scene. Officer Golden could see red lights flashing and knew Fire Rescue was already on scene. As Officer Golden was close enough he could see a fire truck and a white four door car. The white car was pulling away and three firemen were chasing it on foot. Officer Golden could see medical supplies on the ground. Officer Golden felt as though the party in the white car had been passed out from heroin or intoxication and didn't want to get in trouble.

Officer Golden said that as the white car pulled away it began to accelerate. The white car went west across Pueblo Boulevard onto Red Creek Springs Road. Officer Golden followed and was able to air the license plate of the white car. Dispatch confirmed the vehicle as stolen out of Colorado Springs. The car was car jacked by a male with a knife. Officer Golden said he wasn't familiar with the streets in the area but the suspect vehicle made an immediate left. They were traveling south when Officer Golden initiated his overhead lights. They followed the suspect vehicle for approximately five to six blocks, then Officer Golden stopped the pursuit at about Pennwood. The suspect vehicle failed to stop. Officer Golden shut off his emergency lights and turned around.

Officer Golden and Officer Nash met up at about Sovereign Circle and Pueblo Boulevard. Officer Golden asked Officer Nash if he spoke with the Fire Department and Officer Nash said he had not. Officer Nash then went to go speak with Fire Rescue. Officer Golden said he then drove south on Pueblo Boulevard. As Officer Golden was driving by the Regency Shopping Center he observed the white suspect vehicle driving through the shopping center. Officer Golden said that he recognized the car because the back driver's side tire was a "donut spare." He noticed the vehicle was heading toward the rear of the shopping center. Officer Golden turned west on Northern. As Officer Golden was turning into the shopping center, the suspect vehicle was attempting to exit the shopping center parking lot.

Officer Golden said the front ends of both vehicles collided. The suspect immediately put his vehicle in reverse. Officer Golden tried to air to Officer Nash he has the vehicle, but there was a busy signal on the radio because Officer Nash was clearing the call. Officer Golden thought the suspect was going to back up and turn around but instead the suspect was staring at Officer Golden as he backed up. The suspect backed up onto the curb in front of Starbucks. Officer Golden was able to position his black and white marked patrol vehicle in front of the suspect vehicle and exited his patrol car.

Officer Golden drew his duty sidearm and opened the passenger door of the suspect vehicle. Officer Golden was screaming at the suspect to shut off the car and get out of the car. Officer Golden said he thought the suspect was going to comply because he started to grab the door handle. Officer Golden thought the male may try to run, but didn't go to the driver's side because he didn't want to lose his view of the suspect. Officer Golden also realize the vehicles weren't pinned very well so he was afraid the suspect may get the vehicle apart and drive away. As soon as the suspect opened the door, Officer Golden moved around the back of the suspect vehicle and the suspect fled on foot.

Officer Golden said he pursued the suspect on foot across the parking lot. Officer Golden was approximately five to six feet away from the suspect when he noticed the suspect doing something with his jacket. Officer Golden said he considered that to be a red flag and knew something was wrong. Officer Golden watched the suspect turn toward him and the suspect was holding a gun. The suspect then fired the gun at Officer Golden. Officer Golden believed he had put his duty weapon back in his holster when he started chasing the suspect, so he had to re-draw. Officer Golden then returned fire. The suspect continued firing at Officer Golden as he returned fire.

Officer Golden said he lost his footing and fell onto his buttocks. The suspect was still standing up at that point and was still shooting at Officer Golden. Officer Golden remembered telling himself to slow down. Officer Golden recalled taking three shots at the suspect from the ground. The suspect was running south toward Walmart, and Officer Golden didn't want him to get there because there were people present at Walmart. Officer Golden said he focused on his shots, and the suspect fell to the ground after Officer Golden fired the three shots from the ground.

Officer Golden said he started approaching the suspect when he heard Officer Nash tell him to get back. Officer Nash then pulled his marked patrol until up to Officer Golden's location, and Officer Golden took cover behind the vehicle.

Officer Golden said Officer Maldonado then pulled up, and had a shield. Officer Maldonado told Officer Golden and Officer Nash to get behind him. Officer Golden was behind Officer Maldonado and Officer Nash was behind Officer Golden as they worked their way up to the suspect. Officer Nash rolled the suspect onto his side and hand cuffed him. At that time, Officer Golden was able to see the gun. Officer Maldonado kicked the gun away and had Officer Golden step away.

Officer Golden then said he remembered when the suspect turned around and shot that he could feel the energy from the muzzle blast blow in his face. Officer Golden remembered thinking, "Am I going to die here? Did I just get shot?" Again, Officer Golden said he remembered the wind in his face from the muzzle blast of the suspect's gun. Officer Golden was unaware Officer Nash was even there until after all shots were fired.

Officer Golden described wearing his duty uniform when the incident occurred, which included a dark navy colored uniform, a badge, shoulder patches, name tag, and duty belt. He described his vehicle as a black and white marked Crown Victoria. Officer Golden did not know who the suspect was prior to this incident. Later in the evening after the incident was the first time Officer Golden heard the suspect's name.

Officer Golden was asked whether he was in fear for his life when the suspect turned and fired his weapon at Officer Golden. Officer Golden responded, "Absolutely, I thought he was going to kill me."

Summary of Officer Golden's Body Worn Camera

On March 13, 2018, at approximately 3:38 am, Pueblo Police Officers are dispatched to a call for service regarding an unconscious male in a vehicle located at Rutgers Avenue and Pueblo Boulevard. Officer Golden arrived in the area and located the vehicle. He informed dispatch of the license plate on the vehicle. Communication officers informed Officer Golden the vehicle was a stolen vehicle, and had been taken in a carjacking out of Colorado Springs. Officer Golden attempted to conduct a traffic stop on the vehicle, but the vehicle failed to stop and Officer Golden did not continue to pursue the suspect vehicle. A short time later, Officer Golden deactivated his lights on his marked patrol unit and began to search the area for the suspect vehicle.

A few minutes later, Officer Golden located the vehicle in front of Starbucks at the Regency shopping center located at 1877 S. Pueblo Boulevard and aired this information. After activating emergency lighting on his marked police vehicle, the suspect vehicle backed up and high centered on a curb in front of Starbucks. Officer Golden got out of his marked patrol unit and approached the suspect vehicle from the passenger side. Officer Golden opened the front passenger door and began to give loud verbal

commands to the suspect to get out of the car. The suspect stated "I'm getting out" and then fled from the driver's side door of the vehicle, running northeast in the parking lot away from Officer Golden.

While Officer Golden pursued the suspect on foot, the suspect turned toward Officer Golden and fired multiple gunshots in Officer Golden's direction. Officer Golden returned fire, and fell to the ground before sitting up and firing multiple shots at the suspect. The suspect dropped to the ground, and Officer Golden then took cover behind responding Officer Nash's patrol vehicle. More responding officers arrived on scene and approached the suspect, who was down on the ground, while taking cover behind a shield. As more officers arrived, Officer Golden was assigned a gatekeeper and discontinued his involvement on the scene.

Summary of Officer Nash's Dash Cam Footage

In the footage, Officer Nash was driving south on Pueblo Boulevard to Northern Avenue. Officer Nash entered the Regency shopping center from Northern Boulevard with his emergency lights on his marked patrol vehicle activated. Officer Nash drove around the east side of US Bank, where Officer Golden and the suspect were exchanging gunshots.

Officer Golden can be observed falling to the ground, before he sits up and continues to shoot at the suspect. Officer Nash also fired at the suspect at the same time. Officer Nash then moved up his patrol vehicle and Officer Nash and Officer Golden took cover until Officer Maldonado arrived with a ballistic shield.

The three officers are then observed approaching the suspect. Pueblo City Fire Department and American Medical Response then arrived on scene along with additional officers, who are observed assisting and securing the scene.

Report: Officer Maldonado

Officer Maldonado was assigned as Acting Sergeant on March 13, 2018. At 3:38 am Officers Nash and Golden were dispatched to the intersection of Rutgers and Pueblo Boulevard on report of an unconscious person. The reporting person stated a male in a white car was at the light and it was unknown if the male was breathing. A second reporting person stated there was a white vehicle with a male driver who was unconscious and had been there for twenty minutes.

Officers Golden and Nash responded to the scene. Officer Maldonado responded to the call, but did not add himself to the call. Officer Maldonado was traveling northbound on Pueblo Boulevard from Northern Avenue. Officer Maldonado was a distance away when he observed Officers Golden and Nash attempting to pull the vehicle over.

Officer Maldonado heard Officer Golden clear the license plate for the suspect vehicle and learned that the suspect vehicle was carjacked in Colorado Springs. As Officer Maldonado attempted to read the call notes for the carjacking, he heard Officer Nash inform dispatch that they were no longer pursuing the vehicle. Officer Maldonado heard Officer Golden air over the radio that the suspect was last seen traveling westbound on Regency from Pennwood.

Officer Maldonado began to canvas the area for the suspect vehicle. During the search for the vehicle, Officer Golden aired over the radio he located the suspect vehicle at Starbucks. Officer Maldonado

responded to the area of Northern and Pueblo Boulevard. During Officer Maldonado's response, Officer Golden stated shots were fired several times. Officer Maldonado entered the shopping center where the Starbucks was located from Pueblo Boulevard on the side closest to the Taco Bell. As he drove through the parking lot, Officer Maldonado observed a patrol car stopped on the north side of the US Bank. As he got closer, Officer Maldonado observed a male lying face down on the west side of the US Bank and Officers Nash and Golden taking cover behind the doors of the patrol car.

As Officer Maldonado got out of his patrol car, Officer Golden told him the suspect had a gun and shot at him. Officer Maldonado acknowledged Officer Golden and got the ballistic shield from his patrol car. Officer Maldonado told Officers Nash and Golden to get behind him, and they all approached the suspect. Once they got close to the suspect Officer Maldonado and Officer Golden provided cover while Officer Nash handcuffed the suspect. Once the suspect was handcuffed, Officer Nash turned him on his side and Officer Maldonado kicked the suspect's handgun to the side and ordered nobody to touch it.

Officer Maldonado requested fire rescue to respond and began to delegate assignments. When fire rescue arrived, they attempted to locate a pulse on the suspect and did not locate one. They connected the suspect to a monitor and learned the suspect was still breathing. Officer Maldonado began to take the handcuffs off of the suspect and at that time he located another handgun in a holster. Officer Maldonado un-holstered the handgun and placed it on the ground. Officer Maldonado then asked Officer Whittemore to watch the suspect while the paramedics provided medical treatment to him. As the suspect was being treated, paramedics located a third handgun on the suspect. Officer Whittemore took the third handgun off the suspect and placed it next to the other handgun that was found.

Once the paramedics prepared the suspect for transport, Officer Maldonado told Officer Whittemore to go with the paramedics. Officer Maldonado checked the suspect's clothing for identification and found a wallet in his right rear pocket. In the wallet was a Colorado Identification Card which had the name and photo of Matthew Gregg (DOB 10/29/1982), who Officer Maldonado recognized from previous cases in the past.

Suspect Interview

On March 20, 2018, CIT Detectives responded to Parkview Medical Center located at 400 W. 16th Street to get an update on the suspect's condition. Detectives were informed the suspect was alert and conscious, but could not move his extremities as he was listed quadriplegic. Detectives made contact with the suspect and asked him if he was comfortable to make a statement or speak to them. The suspect shook his head "no," so detectives thanked him for his time and ended the contact.

On April 24, 2018, CIT Detectives again responded to Parkview Medical Center in an attempt to interview the suspect regarding the incident. Detectives asked the suspect whether he was in any condition to speak to them. The suspect stated he could speak a little bit. When asked whether he was under the influence of any medication which would impair him from communicating with the detectives, the suspect stated "no." The suspect was advised of his rights pursuant to *Miranda*, and indicated he understood his rights and was willing to speak with the detectives.

The suspect stated he didn't remember anything until he woke up after the incident occurred. He stated he remembered the day before the incident. The suspect stated he remembered leaving a friend's house who lived in the county. He stated he bought the white car from a Hispanic male for two hundred dollars. He could not remember the male's name, but claimed he met the male through a female friend who lived

in the projects off of Sprague Avenue in the city of Pueblo. The suspect stated when he bought the vehicle, they told him it needed to be cleaned out because it had a lot of junk in there. He stated he went through a few things but didn't remember what, as he couldn't remember much of that night.

The suspect was asked if the guns found in his possession were his, and he claimed they were not. He stated he got the guns in his possession from the vehicle, but that he intended to sell them. He was asked about the contents found inside the vehicle, which he claimed he had no knowledge of.

The suspect stated he didn't remember much of anything because he was shot in the head/spine area. He was asked if he remembered shooting at police the night of the incident. He stated he was sorry, but he didn't remember anything and only told detectives he was shot. He stated it wasn't until recently he learned he was shot by police. The suspect stated he didn't remember police attempting to make contact with him or following him the night of the incident.

Detectives informed the suspect that it was reported he was passed out at the wheel of the white vehicle at a stop light prior to the shooting. Detectives asked the suspect if he was under the influence of anything that night of the incident, and he claimed he was not.

Summary of Suspect's Medical Records

A court order was issued to obtain all of the suspect's medical records as a result of this incident. When the suspect arrived at Parkview he was observed to have a gunshot wound to the left neck, a gunshot wound to the right lateral thigh, a gunshot wound to the posterior left buttock, and a gunshot wound to the right foot. The suspect was medically deemed a quadriplegic as a result of the injuries he sustained from gunshot wounds. The suspect was discharged on May 23, 2018. He then began to receive medical care at University Park Care Center in Pueblo, Colorado for continued medical treatment and supervision.

Officer Involved Processing

Each officer involved in the shooting was processed separately by a CIT detective in the ID/CSI lab at the Pueblo Police Department. The detective took full body photographs of each officer to show any type of wounds, biological evidence, physical evidence, and placement of their duty gear. A Gun Shot Residue kit was completed on each officer.

Next, each officer was placed in a dark room and a bright white light was illuminated over their person while in uniform. The light is used to identify any biological evidence associated with blood. Neither officer's uniform appeared to have any blood on them. Both officers' gloves were collected due to them wearing them during the incident.

Finally, the officers' duty gear was collected. Pictures were taken of their duty weapons as they were. Then the magazine in each weapon was removed along with the round in chamber, and the slide was locked back. This process makes the weapon "safe." Any additional magazines the officers were carrying were also removed and placed with their duty weapons. All live cartridges were then counted, and photographs were taken.

Both officers advised they keep their magazines topped off, carrying the maximum amount the magazine will allow them to carry. Both officers' duty weapons along with all additional magazines were processed. The live cartridges remaining in their duty weapons plus those in the additional magazines

they carried were counted. Both Officers fired their duty weapons during this incident, and it is unknown whether one or both of the officers hit the suspect. The following results are from the processing of the officers:

Officer Golden: Smith & Wesson MP .40 caliber, 35 live cartridges out of a possible 46

Officer Nash: Glock 22 Gen 4 .40 caliber, 42 live cartridges out of a possible 46

Scene Processing

On Tuesday, March 13, 2018, CIT Detectives responded to the scene at 1877 South Pueblo Boulevard, the Regency Shopping Center. Photographs were taken and evidence placards were put in place for any physical evidence located at the scene.

Fourteen silver .40 caliber Federal spent shell casings were found on scene, which were consistent with both officer's live cartridges. Two brass .40 caliber Aguila spent shell casings were located on scene, along with one brass WIN spent shell casing and one brass Federal spent shell casing.

A black Steyr M40 .40 caliber handgun was located near the US Bank on the ground. The Steyr contained a magazine with 9 brass Aguila .40 caliber live cartridges and one in the chamber. A black and silver Cai Georgia Vermont 9mm handgun was also located on the ground. The Cai Georgia Vermont had a .380 RP live cartridge in the chamber and six .380 live cartridges in the magazine. A black and silver Ruger P95 9mm was also located next to the Cai Georgia Vermont handgun. The Ruger had a 9mm Luger live cartridge in the chamber and eight 9mm Luger live cartridges in the magazine. After clearing the Ruger through PCSO communications, it came back as stolen.

The suspect's clothing with his blood on it, a black double shoulder holster, two knives, and two magazines in an XD gear magazine holder were located on the ground near the US Bank. Each magazine contained 12 FC S&W live cartridges.

In front of Starbucks, a fully marked PPD patrol unit was located in front of the white Kia Rio suspect vehicle that was stolen out of Colorado Springs. It appeared there was a collision between the two vehicles. A projectile was located near the suspect vehicle. The suspect vehicle was towed to the PCSO annex and secured in the evidence bay for processing.

The glass on the window at Starbucks was shattered and a projectile was collected from the upper interior wall just above the front counter. A bullet hole was located in the glass door at 1853 South Pueblo Boulevard, which is an extension of Mary Jane's Glass Haberdasher business. A fragment was located on the inside wall and the projectile/jacket was found in a room directly next to the front entrance on the floor. Another projectile was recovered from the passenger side of a Luv's delivery truck by the door. Another projectile was found in the stucco around the ATM machine at 4040 West Northern Avenue, which is Vectra bank.

All evidence at the scene was photographed, packaged, and placed into the secured evidence processing room at the PCSO annex. Several of the items were sent to CBI for processing.

Vehicle Search

On March 14, 2018, CIT Detectives processed the stolen white Kia Rio involved in this incident. Pictures of the vehicle's exterior and interior were taken prior to processing the vehicle. Once pictures were completed, touch DNA was collected from the driver's side door inside handle, steering wheel, and gear shift knob. Once DNA was collected, a search of the vehicle was conducted.

During the search several firearms, ammunition, electronic devices, and narcotics were located and seized. The firearms located were a Remington 3200 Over Under 12-gauge, a Stevens 320 12-gauge Pump, a Mossberg 20-gauge Pump, and a Ruger Mark II .22 caliber handgun. The Mossberg 20-gauge Pump was listed as stolen out of PPD. The ammunition that was collected from the vehicle is consistent with the ammunition loaded in the magazines possessed by the suspect and the spent shell casings that were collected at the scene.

A small black bag was located near the center console of the vehicle that was believed initially to be a container for ammunition. When the black bag was opened a small scale, several small clear baggies, two clear glass containers (one containing a crystalline substance), two small clear baggies with white paper substances, and another clear plastic bag with the same crystalline substance were located. These items were later weighed and tested as potential narcotics. The crystalline substance tested presumptive positive for methamphetamine, and the paper tabs tested as presumptive positive for LSD. The tests were performed in the PCSO Secured Evidence Lab and were sent to CBI for further testing.

Colorado Bureau of Investigations Testing

On April 6, 2018, CIT Detectives received a report from CBI regarding latent prints. Latent prints are fingerprints that are not readily seen by the naked eye but may be observed or collected through processing. The report stated there are no latent prints suitable for comparison on the following items: the magazine from Cai Georgia Vermont handgun, the magazine from Ruger P95 handgun, the magazine from Steyr handgun, the Steyr M40 handgun, the Cai Georgia Vermont 9mm handgun, and the Ruger P95 9mm handgun.

On July 23, 2018, CIT Detectives received a report from CBI. The report stated that no latent prints suitable for comparison were observed on the live cartridges collected from the suspect's weapons found at the scene.

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 was reported to have been unconscious behind the wheel of a vehicle and fled from officers in that vehicle, which was stolen in a carjacking in Colorado Springs. The suspect ran from an officer in the parking lot of a shopping center, then pulled out a handgun and fired at that officer in the shopping center parking lot. The suspect continued to fire at Officer Golden while attempting to flee from him. While the suspect was firing at Officer Golden, he was running toward a more populated shopping center where more people were likely to be encountered. The Officers reacted to the unlawful use of deadly force by the suspect against Officer Golden by firing at the suspect after he opened fire on Officer Golden. The suspect’s actions were carried out in an intentional manner, and they posed a threat of serious bodily injury or death.

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 Matthew Gregg, 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. 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 against the officers.

Dated this 13th day of November 18



J.E. Chostner
District Attorney