



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

May 30, 2013

Chief Luis Velez
Pueblo Police Department
Pueblo Municipal Justice Center
200 S. Main Street
Pueblo, CO 81003

Re: Decision Letter
Officer involved incident concerning Detective James Olonia on January 1, 2013
Deceased: Christopher Tavares (Date of Birth: 03-02-91)

Dear Chief Velez:

The Investigative Summary Report prepared by the Critical Incident Team relating to the referenced incident was submitted to my Office. I have reviewed the Report and the detailed investigative reports submitted with it. This letter contains my decision in accordance with the Critical Incident Team Protocol.

1. The Incident

The events leading up to the fatal shooting began January 1, 2013, at approximately 2:55 a.m. Pueblo Police officers responded to a complaint of gunshots being fired in the 700 block of W. 10th Street. As Officer Slattery approached the scene, he engaged one of three vehicles leaving the area. The driver appeared to be attempting to elude him and it crashed. The male occupants exited the vehicle and ran in different directions. Officer Slattery observed one individual had a pistol in his hand and began pursuit. The individual, later identified as Christopher Tavares, fired three or four shots in the direction of Slattery which struck the windshield of the officer's fully marked patrol car. During the pursuit, Officer Slattery lost sight of the individual and Slattery reversed his vehicle. At this time, Tavares appeared and "opened up" on him, firing two or three more rounds into the vehicle at point blank range. The gunfire shattered the driver's side window of the patrol vehicle and Officer Slattery was hit in the shoulder by a bullet fired by Tavares. Tavares then jumped across the hood of the patrol vehicle and fired two or three additional rounds at him as he ran away. Slattery returned fire, but no rounds struck Tavares.

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Tavares appeared at the 7-11 convenience store at the intersection of North Elizabeth and Highway 50 West about 3:46 a.m. He told the clerk he was wounded and needed help. The clerk provided him with some medical supplies from a first-aid kit and he went into a restroom to treat himself. The clerk saw bleeding from a large laceration on his right arm. Shortly afterward, Tavares left the store northbound across the front of the store. The clerk reported that he acted like he was in a hurry and nervous about whatever happened.

Detective James Olonia was responding to investigate the Slattery shooting when he saw a man underneath the Interstate I-25 bridge on Highway 50. The man, later identified as Tavares, was standing on the apron screaming "someone help me." At first, Detective Olonia thought the man was drunk, but then the man started jumping around, waving his arms and screaming, and his demeanor seemed very different from a man who might be merely drunk. Detective Olonia thought he should stop to investigate and he activated the lights on his unmarked police car and the man started running toward a drainage ditch. Detective Olonia asked for cover, but there was no traffic on his radio. The man jumped head first over a fence and Detective Olonia aired that the man was headed toward La Casita. Detective Olonia did not feel safe following him into the drainage basin so he headed north and parked perpendicular to the west side of the drainage basin. Detective Olonia exited his police vehicle and waited for the man to emerge. The man crawled out on all fours and Detective Olonia ran to where he was and, with gun drawn, told the man to please stop. The man, now standing, turned to face Detective Olonia and his hand went straight down to his waistband, came out, and then went back down again, all the while Detective Olonia was yelling for him to show his hands. The man was tugging on something as if to draw a gun. The man's hands started coming out again, and Detective Olonia said he was scared the man was pulling a gun. Detective Olonia started shooting. The man did not go down immediately and Detective Olonia was afraid he missed, so he shot more rounds. Finally, the man fell. Detective Olonia fired a total of nine rounds. The man was later declared dead. He was identified as Christopher Tavares.

A gun was found in the drainage ditch. It was a black Springfield XD40 (.40 caliber) semi-automatic pistol. It was learned the gun had been stolen in a burglary in Colorado Springs and was linked to the shooting of Officer Slattery. A friend of Tavares acknowledged that Tavares owned a big black gun and that it was a .40 caliber XDM. He knew that when Tavares had the gun he carried it under his shirt in his waistband.

Tavares tested positive for cannabinoid and had a blood alcohol level of 0.111 g/dl. Detective Olonia stated that in his years as a police officer, he had never seen a man act like that with such a stare and a refusal to respond to a command to show his hands.

2. The Investigation

The investigation was conducted in accordance with the Critical Incident Team criteria. The Pueblo County Sheriff's Office was designated the lead investigative agency. The Pueblo Police Department provided personnel and resource assistance; the Colorado State Patrol participated by measuring, mapping and diagramming the incident scene; and agents from the Colorado Bureau of Investigation assisted the Pueblo County Sheriff's Office in the investigation.

3. Conclusion

Detective Olonia, while responding to a shooting, saw a man on Highway 50 under the I-25 bridge acting strangely and screaming "someone help me." Detective Olonia stopped to investigate and the man fled. When the man was confronted and requested and commanded to show his hands, the man refused and put his hands in his waistband and started tugging. As the man's hands started coming out of his waistband, Detective Olonia started firing out of fear for his life.

The suspect placed Detective Olonia in a life threatening situation and he had reason to believe Christopher Tavares intended to, and was capable of, causing him death or serious bodily injury.

It is my conclusion that Officer James Olonia was justified in using the action he employed to defend himself from what he reasonably believed to be the use or imminent use of deadly physical force by Christopher Tavares, and he reasonably believed a lesser degree of force would be inadequate. C.R.S. 18-1-704. Based on this conclusion, no criminal charges are appropriate and none will be filed.

Sincerely,



J.E. Chostner
District Attorney

pc: Sheriff Kirk Taylor, Pueblo County Sheriff's Office
Captain Brian Lyons, Colorado State Patrol
Mark Micciche, Colorado Bureau of Investigations