



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

June 15, 2015

Chief Luis Velez
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 Shooting on January 25, 2015

Deceased: Orlando Jude Lopez, aka, Orlando Chism, DOB: 04/17/88

Location: In the prairie northeast of Chelton Lane & Cicada Drive, Pueblo, Colorado

Pueblo Police Officers involved:

Officer Chris Mathews
Officer Rob West
Officer Kim Polk
Officer Bill Doyle
Officer Rick Giconi
Sergeant Dustin Taylor
Sergeant Dan Anderson

Dear Chief Velez and Sheriff Taylor:

This investigation involved a shooting incident involving Pueblo Police Officers which resulted in the death of Orlando Jude Lopez, aka, Orlando Chism, on January 25, 2015. The Critical Incident Team (CIT) met and selected the Pueblo County Sheriff's Office to be the lead investigative agency. Other participants included the Pueblo Police Department, Colorado

Bureau of Investigation, and Colorado State Patrol. Investigative reports were submitted to the District Attorney for review and the issuance on a Decision Letter regarding the incident.

Overview of Incident

On January 25, 2015, Pueblo Police Department received a 911 call about 11:47 AM reporting that a home invasion/burglary was in progress at 1201 East 10th Street in Pueblo. Officers were dispatched with information that there were two suspect Hispanic males who had parked their gold sedan, possibly a Honda on Kingston Avenue. The dispatch information that was aired indicated that the two suspects kicked in the front door of the house and one was seen carrying a firearm. Officer Jeremy Mathews approached, saw a gold colored Honda parked in front of the house, and then, saw a male come out of the house and get in the driver's side of the Honda, and then, a second male came out of the house and he got in the passenger side of the Honda. As the Honda drove away, Officer Mathews began pursuit. At times the pursuit was high speed. Officer Mathews tried "pit" maneuvers to stop the car when he thought it was safe, but was unsuccessful. The suspect vehicle eventually entered Troy Avenue and after sideswiping a car traveling on Troy, it jumped the curb and went into the parking lot of Praise Assembly Church at 2000 Troy Avenue where many people were leaving the church service and going to their cars in the parking lot. The Honda struck a large decorative rock and the vehicle's air bags deployed. The two armed men exited the car and fled on foot. Officers were able to apprehend one of the suspects identified as Roberto Rodriquez-Garcia. He placed his gun on the ground and was arrested.

The other suspect identified as Orlando Jude Lopez, aka, Orlando Chism, DOB: 04/17/88 ran east into the prairie being pursued by officers. He brandished a handgun and pointed it at the officers and ignored repeated police commands to drop his gun. Gunfire was exchanged between the suspect and the officers and as a result the suspect was shot and killed.

Officer Statements

Interview with Officer Jeremy Mathews

Officer Jeremy Mathews stated that he was near Jerry Murphy when he heard dispatch air that a home invasion with weapons was in progress at 1201 East 10th Street in which two males entered the house and that they arrived in a gold car that was parked at the scene. Officer Mathews responded and when he approached the scene he saw a gold colored Honda parked in front of the house, and then, saw a male come out of the house and get in the driver's side of the Honda, and then, a second male came out of the house and get in the passenger side of the Honda. As the Honda drove away, Officer Mathews began pursuit. They ended up on Troy Avenue where Mathews tried a "pit" maneuver, but was unsuccessful. The suspect vehicle accelerated and headed toward the Praise Assembly Church parking lot and he saw it hit something at the bottom in front of the church and it looked like it exploded.

After the suspects exited their car one suspect fled east from the Church parking lot into the prairie. Officer Mathews, who had exited his vehicle, jumped back into his vehicle, and headed east on Constitution Road until it ended and continued in the prairie as far as he could go and stopped at a small hill. He could see the suspect running toward Chelton Lane where there are houses, so Officer Mathews aired "Get cops up at the end of Chelton". Mathews pursued on foot until Sergeant Anderson arrived in his SUV. He got in with Anderson and went as far as they could go in the rough prairie. They got out of the SUV, went up a hill close to Cicada Drive, and Mathews heard someone air "shots fired, shots fired". He saw the suspect stumble and first thought that he may have been tased, but then he kept running northeasterly. As Mathews came out of a ravine he saw the suspect stop, and turn, and point the muzzle of his handgun directly at Mathews and at other officers nearby. In response, Mathews and other officers began firing at the standing suspect. Mathews thought he fired five or six shots. The suspect fell in a curled up position but he still had his hand on his gun. The suspect then raised his gun off the ground and pointed it at where the officers were standing, and Mathews thought it was pointed directly at him. As the suspect's gun came up, Mathews fired at the suspect again. The suspect's gun hit the ground and Mathews said "Guns down or gun out" to let everyone know he didn't have it anymore. Officers Doyle and Giconi handcuffed the suspect and began securing the scene.

Interview with Officer Kim Polk

Officer Polk's shift started a 12:00 noon. As she arrived at the police station she was told to join the police pursuit ensuing from the home invasion at 1201 East 10th. From Troy Avenue she turned east onto Oakshire and then left onto Cicada. There she saw Officer West and he yelled "shots fired" and she could see dirt flying around Officer West and she had the thought that he's dead. At that point she couldn't see the suspect, but she then saw West shooting. She opened her door and stayed behind it for cover and fired four shots. She heard West yell "Cover me, cover me". About the same time she saw the suspect pop up in the prairie. She joined West to advance in the prairie. Sergeant Taylor joined them and then a fourth officer joined them. The suspect continued to fire and she heard a bullet come close to her. She believes she fired four more times while advancing. The suspect went down, but continued to try to fire and get up. He was pushing his torso up but his legs stayed down and he continued to fire. Despite numerous commands during this time from officers, the suspect just kept firing. Finally he stopped. Officers surrounded him and he was handcuffed because they didn't know if he was deceased.

Interview with Officer Rob West

As Officer Rob West arrived at work at the Police Station at about 11:50 AM., he heard dispatch air that there was a home invasion in progress in which two males had kicked down the door, entered the house, and one of the males was armed with a gun. Officer West responded and spotted the suspect car near 3rd and Erie. West, with his lights and sirens on, pursued the car until Officer Groller took over as primary pursuit car at about 10th and Fountain. He got to Troy Avenue and saw the suspect car go over an embankment into Praise Assembly Church parking lot. After the suspects fled on foot, West drove to Cicada Drive where it dead ended at the prairie. As he was getting out of his patrol car he saw the suspect start to come out of a ravine.

The suspect looked back, so West drew his firearm. The suspect saw West and started to run toward the northeast and West saw a gun in his hand. West yelled to him "Get on the ground" three times. He didn't comply and West yelled "Drop the gun, drop the gun" two or three times. The suspect slowed down and looked at West and West thought he was "he was sizing me up". West said he felt an overwhelming fear come over him and was thinking that the guys looking at me and he's sizing me up and he's going to do something. West starts to yell "don't do it" and then sees the suspect start raising his gun, probably as high as his elbow, and pointing it right up at West. West fired, but knows his first shot missed. On his third or fourth shot he heard the suspect scream and then saw him go to the ground to a sitting position. Then the suspect raised his gun and pointed it at his own head, but then he flinched and pointed the gun at West. West realized that he was out in the open, and thought he's a sitting duck, so he started firing at suspect over his shoulder as he ran for cover by his patrol car.

As West neared his patrol car he heard shots behind him, and then heard Officer Kim Polk talking and he realized he wasn't alone. He thought he should get his shotgun because the suspect was only 20 or so yards away from him. He retrieved his shotgun from his patrol car and as he came back around he saw Sergeant Dustin Taylor. Sergeant Taylor was about seven or eight feet ahead of him and he saw Taylor fire a shot. Then West saw the suspect on the ground but he was trying to get up, and was facing Taylor, and West saw that suspect still had a gun, and it appeared to be pointed at Sergeant Taylor. West then saw Sergeant Anderson out of the corner of his eye. West fired a round toward suspect but it appeared to have no effect because the suspect was moving the gun around, and pointing, as if he was looking for somebody. West fired again and then fired a third time directly at suspect's gun. Shortly after that Officer Chad Garcia and Officer Bill Doyle approached suspect and took him into custody.

Interview with Sergeant Dustin Taylor

Sergeant Dustin Taylor was with Sergeant Dan Anderson at the Pueblo Police Department about 11:45 AM when they heard dispatch air that there was a home invasion involving weapons. They responded and Taylor heard dispatch say the suspects were around the area of 1st and Fountain. He saw a gold vehicle come off 2nd Street without stopping and he activated his lights and tried to stop them. He swerved toward them in an attempt to stop them but they swerved around him and continued up Fountain toward 4th street and other cars took up the pursuit. Taylor followed according to dispatch updates and arrived at the dead end of Cicada right after Officer West arrived. He saw clouds of dust go up around West's feet, and then someone yelled "Shots fired". He saw West exchange gunfire with the suspect. Taylor opened his door and ducked for cover. At this point he saw West hunkered behind his car, and as he ran by him to engage the suspect he asked Taylor if he was OK. The suspect pointed his gun at Taylor and Taylor fired his shotgun at suspect. It didn't seem to have any effect so Taylor fired his shotgun until it was empty. He loaded the gun and fired twice and he saw suspect fall. Then he heard a shot from behind him and looked and saw Officers West and Polk. Taylor could hear people saying "He's still got a gun. He's still moving, it's pointed directly at you". Shortly he heard Sergeant Anderson say "Cease fire". Sergeant Taylor kept his shotgun trained on the suspect while Corporal Doyle and Officer Chad Garcia approached suspect and put handcuffs on him.

Interview with Sergeant Dan Anderson

Sergeant Dan Anderson was at the Pueblo Police Department in discussion with Sergeant Dustin Taylor when the call was broadcast that a home invasion was in progress involving two males with handguns that had made entry into a home. While en route Anderson heard Officer Mathews on the air stating that he just pulled up on the home invasion scene and saw a couple of people get in a car and leave the area and that he is in pursuit. As Anderson was arriving near the church he was informed that the two suspects from the pursued car are running east toward the prairies. Anderson drove into the prairie and headed northeasterly and saw a male going up and down hills and an officer running after him. Anderson lost sight of the suspect and Officer Mathews jumped into the back of his car and they drove down a ravine. While at the bottom of the ravine they heard gunshots. Both jumped out of the car and ran up the embankment and saw the suspect on top of a ridge with a handgun in his hand. The suspect had his gun pointed up at the officers in the area. He was told to drop this weapon, but he didn't do so. Because the suspect was raising his weapon toward the officers, Anderson opened fire on the suspect. He knew that Officer Jeremy Mathews was to his left and at some point heard a blast and realized that Officer Bill Doyle was next to him. As the officers were firing the suspect still had his gun. He "kind of" went down to his knees, and down to the ground, but Anderson could see the gun in suspect's hand pointing toward Mathews. When he stopped moving, other officers were yelling that they could still see him raising, or maneuvering the gun, and a couple more shots were fired. When Anderson realized that he was not moving anymore, he ordered a cease fire. Officer Chad Garcia and Officer Bill Doyle went around to the back side of suspect and take him into custody. His gun was on the ground in front of him and Anderson took a few photos.

Interview with Corporal William Doyle

Officer Bill Doyle was at the police station just before noon when he heard the call on the home invasion. He heard Officer Mathews broadcast that he'd seen the suspects and that they had gotten in a car and a pursuit has started. Doyle never caught up to the pursuit, but he eventually heard that the suspects had crashed by the church on Troy Avenue and they were running east. As he arrived Doyle followed Mathews to a parking area north of the church. They got out of their cars and Doyle saw the suspect running northeasterly in the arroyos. As he started running in pursuit, he pointed the suspect out to Mathews and Mathews told him "You take center and I'll go right". As Doyle was pursuing the suspect he estimated the suspect was 30 to 40 yards ahead of him. The suspect looked back at Doyle a couple of times and Doyle yelled for him to stop. He also heard Officer Giconi yell at suspect to stop and someone else was airing that he's going toward those houses.

Interview with Officer Rick Giconi

As Officer Rick Giconi arrived to work at the Pueblo Police Department he saw Sergeant Dan Anderson and Corporal Doyle run out to the building. Anderson told him that there was a home invasion in progress and he needed officers there. He heard that Officer Mathews was in pursuit

on the suspects. Giconi got in his patrol car, activated his lights and sirens, and started responding to the pursuit in progress. When he arrived at Eighth and Norwood he saw the lights from the patrol vehicles that were in pursuit. Later he heard that the suspects were near the Praise Assembly Church parking lot. Giconi turned on Oakshire Lane and took the first dirt road into the prairie. He drove out into the prairie as far as he could go without getting stuck. He saw a male in dark clothing running through the prairie. He got out of his car and yelled at the suspect to "Stop, police". The suspect didn't stop and Giconi began chasing him and gaining ground on him, but then he had a "weird feeling" and "something" told him to slow down, and back off. About that time Giconi saw the suspect reaching in his waistband, and a few moments later he saw something in the suspect's right hand and he aired that the suspect had a gun. Giconi went down in a depression and lost sight of the suspect, but heard "pop, pop, pop" and could hear bullets whizzing by. Giconi wondered if the suspect was ever going to run out of bullets because he kept hearing pops, and then the shooting stopped. He saw Corporal Doyle advancing on the suspect and he thought I'm not going to let him go alone and get shot, so Giconi started advancing. When he was able to see the suspect again he was in a prone position with a gun in his hand pointing it at himself and Sergeant Anderson. Giconi heard more shots fired and could see shots impacting around the suspect and Giconi was screaming at the suspect to drop the gun and show me your hands. He could see that the rounds were not hitting the suspect, but he wasn't responding to Giconi's commands. Giconi was in fear for his life and Anderson's life and he shot and saw a round impact the suspect. The suspect's head lowered and his pistol lowered and he rolled to his left side. Eventually, when they thought it was safe, Officer Garcia and Officer Doyle placed handcuffs on the suspect.

Interview with Officer Tim Torres

Officer Tim Torres assisted in the arrest of Roberto Garcia. In the process of that arrest he heard several gunshots from the prairie. He looked in that direction and saw the suspect running. He then heard several other consecutive gunshots and believed that the suspect was shooting at the officers. He reported that he could see dust flying up near the officers at the exact time of the shots and that is why he was positive that the suspect was shooting at the officers.

Witness Statements

Melody Velasquez. Sheriff's Detective Drake and Police Officer Vahlbusch interviewed Melody Velasquez. She saw police vehicles arrive and she parked in the driveway of Dwayne Velasquez, her brother, at 2437 Chelton to watch. Police officers already had their guns drawn and she could see the suspect standing in the prairie, but she could not see if he had anything in his hands. She could not see the suspect very well because police cars were blocking her view. She heard the officers say "put it down now" and then heard shots fired and saw suspect fall. She estimated she heard 15-20 shots.

Dwayne Velasquez. Sheriff's Detective Drake and Police Officer Vahlbusch interviewed Dwayne Velasquez at 2437 Chelton. He saw a police car with lights on head toward the prairie. He went to the northeast window to watch. He saw a female officer with what he thought was a

taser, but then he heard shots. He saw another officer go to the trunk of the police car, open it up and start shooting. While he was watching he saw the suspect running from the arroyos and reaching into his jacket like he was going for a weapon. He did not see a weapon, but the suspect's actions made him think that he was reaching for a weapon. He said the suspect must have had a weapon because there is a bullet hole in his fence in the back of his residence and the bullet had to have come from the suspect's gun because there were no officers shooting in the direction of his house. He showed the officers the bullet hole in the fence. He estimated he heard about 30 shots. He thought he heard officers say something like "put it down", but the window was closed so he wasn't sure.

Estevan Lucero. Detective Drake and Police Officer Vahlbusch interviewed Estevan Lucero at 2501 Chelton. He said he was in his bedroom and he heard three popping sounds. He opened the back door and saw police vehicles on Cicada and heard sirens. He could see the suspect in the prairie and about six to seven police officers in the prairie. He heard the officers shooting, saw the suspect fall, saw the suspect get back up, pull a gun, shoot four shots back at the officers, then heard the officers shoot more rounds, and then saw the suspect fall. He heard one of the officers yelling "put the gun down". He did not know if the suspect was shooting before he opened his back door.

Michael Peterson. Police Detective Shane Pope interviewed Michael Peterson. He said that after church service he stepped out the north door and saw police cars chasing what looked like a silver Honda on Troy Ave. He saw the Honda go in the air and hit a large boulder next to the church. A male with a dark hoodie exited the passenger side and ran east toward the playground. A second male then exited the driver's side and appeared to be holding a pistol. The second male also ran east toward the prairie and the cops arrived seconds later and pursued them. As he was walking toward the church door he heard approximately 15 to 20 gunshots. Officer Shane also interviewed Michael's wife, Melissa, and her account was substantially the same as his.

Patrice Burks. Police Detective Shane Pope and Scott Vahlbusch interviewed Patrice Burks. She said she was walking out of church by a large boulder and saw a car coming straight for her and her daughters, but the car hit the large rock and its two occupants started running. She believed Orlando was driving. She recognized him from a television news clip and learned his name from the television coverage. She said Orlando ran toward the fields and it looked like he was pulling a gun. She went back into church and heard gunshots.

Elsa Bautista. Sheriff's Detective Gregory Drake interviewed Elsa Bautista. She resides at 2045 Cicada Dr. which is directly south of the shooting location. She looked out her front window and saw seven police cars parked on Cicada Dr. in front of her residence. She saw police officers holding black "rifles" and they were "cross firing" with the suspect who was in the prairie north of the officers. She saw the male suspect, but could not see his firearm because the officer's positions were partially blocking her view of the suspect. She could see the officers firing and heard the suspect firing at the officers. She was able to differentiate the sounds of the officers shooting from the sounds on the gunshots coming from the suspect because they sounded different. She heard officers yelling "get on the ground", "stay there" and "do it now".

Jeannie Garcia. Sheriff's Detective Gregory Drake and Police Detective Scott Vahlbusch interviewed Jeannie Garcia at her residence at 2044 Cicada Dr. She, her boyfriend Paul Garcia, and her children were getting ready to leave and heard three gunshots. She looked through the front door peephole and saw an officer in a one knee kneeling stance, facing the prairie, holding a pistol and yelling at a person. Paul went outside and heard the same officer yelling "put your hands up" and drop the gun". Seconds afterwards other officers were running up from the prairie and yelling at the person in the prairie. Then they heard several other gunshots and the suspect fell to the ground. She went to her kitchen window and then heard another series of gunshots and the suspect fell to the ground. She is nearsighted and did not have her glasses on.

Paul Garcia. Sheriff's Detective Gregory Drake and Police Detective Scott Vahlbusch interviewed Paul Garcia. He said Jeannie told him that there was an officer outside shooting. He walked outside and saw an officer holding a gun. He walked around the side of the house and saw a male standing in the prairie north of the house. He heard the officers yelling at the male "get down" and "drop the gun" as they had their guns pointed at the suspect. An officer directed Paul to get back in the house. More officers were approaching the suspect up the hill and all of the officers started shooting at once. He went back inside and watched from the kitchen window. He said the suspect was about 50 yards away and he could only see him from his knees up because he was not on top of the hill and it was hard to see his hands and arms.

Police Car Camera

Officer Kim Polk had her police car camera activated as she responded to the pursuit of the suspects in the home invasion. As she turned into Cicada Drive it showed Officer West at the end of the street looking into the prairie. West was jumping and moving side to side and firing his handgun and the camera shows a puff of dust exploding from the ground a few feet in front of West (apparently from suspect's gunshot). West appeared to return fire as he turned and ran back to his patrol car. As West was retreating, the suspect is seen running in an arroyo in the prairie.

Body Camera

Officer Jeremy Mathews was the only officer with a body camera recording video and audio. He began pursuit of the suspect vehicle at the scene of the home invasion. He ended up parking his police vehicle in the prairie near the church and began foot pursuit with Corporal Doyle. Another police vehicle is shown arriving and Mathews get in the SUV (with Sergeant Anderson) and the vehicle proceeded as far as it could in the prairie. The camera shows that Mathews exited the SUV and began foot pursuit and someone is heard yelling "Stop, police". Mathews yelled "Get down now, police" and "Drop it". Mathews is seen firing his handgun toward suspect.

Other Evidence

A Hi-Point 9mm, Model CPT, handgun, serial # P1821958 was recovered by the body of Orlando Chism-Lopez. This gun has been stolen by him earlier in the day at the home invasion burglary at 1201 East 10th Street in Pueblo. It was determined by Stephen Oster, Colorado Bureau of Investigation (CBI) Laboratory Agent/Forensic Scientist, that the handgun when recovered from Mr. Lopez contained a 10 round capacity magazine. At the time of its recovery there was one unfired round in the chamber and five unfired rounds in the magazine. Agent Oster determined that one fired 9mm cartridge case found at the scene was fired from this Hi-Point 9mm handgun.

CBI Crime Scene Analyst Erick Bryant, with the assistance from other agents, examined a “bullet hole” pointed out to them in the west side of the fence of Dwayne Velasquez at 2437 Chelton. There was a corresponding defect in the east side of the fence at 2037 Cicada. Using trajectory rods and a laser it showed a trajectory that roughly aligned with the location of the body which was about 135 yards to the north-northeast. The body was also determined to be about 60 yards north of the end of Cicada where it meets the prairie.

The dashboard camera of a police car showed an officer attempting to engage the suspect and a small cloud of dirt/dust is seen coming from the ground in the area of the police officer at which point the officer sought cover. Agent Bryant examined the area where the cloud originated and looked along a line consistent with where the bullet from Lopez may have originated and ricocheted off of the ground. Along this line a defect was observed in the roof tiles of 2044 Cicada Dr. A test was done on the defect which resulted in a positive result for copper.

The Coroner concluded that Orlando Jude Chism-Lopez died as the result of multiple gunshot wounds. Dr. John Carver from the Douglas County Coroner’s office performed the autopsy on Mr. Chism-Lopez. At the autopsy, a .380 caliber magazine containing four live rounds was collected from the right pocket of Mr. Chism-Lopez’s pants. (No .380 cartridge cases were found at the scene of the shooting).

All of the officers involved in the shooting incident were wearing Pueblo Police Department uniforms which were clearly marked to indicate they were police officers. All of the police vehicles involved in the pursuit of Mr. Lopez were clearly marked as Pueblo Police Department vehicles.

The Investigation

The investigation was conducted in accordance with the Critical Incident Team criteria. The officers involved in the shooting incident were Pueblo Police Officers. The Pueblo County Sheriff’s Department was selected to be the lead investigative agency. Other participants were the Colorado Bureau of Investigation and the Colorado State Patrol.

Summary

On January 25, 2015, Pueblo Police Department received a 911 call about 11:47 AM on a home invasion/burglary at 1201 East 10th Street in Pueblo. Officers were dispatched with information there were two Hispanic males who had parked their gold sedan, possibly a Honda, on Kingston Avenue. The dispatch information that was aired indicated that the two suspects kicked in the front door of the house and one was seen carrying a firearm. Officer Jeremy Mathews approached, saw a gold colored Honda parked in front of the house, and then, saw a male come out of the house and get in the driver's side of the Honda, and then, a second male came out of the house and got in the passenger side of the Honda. As the Honda drove away, Officer Mathews began pursuit. The fleeing vehicle was travelling at excessive speeds, driving in a reckless manner and endangering motorists and pedestrians. The driver was evading Officer Mathew's efforts to stop the vehicle. The chase eventually ended up near the Praise Assembly Church in the 2000 block of Troy Ave. On Troy Avenue the car struck another vehicle and then drove over an embankment and crashed into a large boulder in the church parking lot. Both suspects exited the vehicle and started running. Officers apprehended one, identified as Roberto Rodriquez-Garcia, who had a handgun.

The other suspect ran east into the prairie. Officer West got out of his patrol car at the end of Cicada Drive where it meets the prairie. He saw the suspect come out of a ravine and West saw a gun in his hand. West ordered the suspect to get on the ground, but he didn't comply. West yelled commands for him get on the ground and to drop his gun, and again he didn't comply. West got the feeling that the suspect was sizing him up, so West yelled "don't do it", and then the suspect started raising his gun and pointing it at West. The police car camera of Officer Kim Polk shows Officer West firing into the prairie and he is moving and dodging. As West was doing so and returning fire, a puff of dust exploded a few feet in front of him which apparently was a gunshot from suspect. The camera then shows West running back to his patrol car for cover as he is returning fire over his shoulder. Then it shows a person in the prairie dressed in black emerge running out of an arroyo.

Officer Kim Polk turned onto Cicada Drive and saw Officer West and he yelled "shots fired" and she could see dirt flying around West and she had the thought that he's dead. She couldn't see the suspect at that point, but saw West shooting. He yelled "cover me, cover me". About the same time she saw the suspect pop up in the prairie. She joined West to advance in the prairie. Sergeant Taylor joined them and then a fourth officer. The suspect continued to fire and she heard a bullet come close to her. She thinks she fired four more times while advancing. The suspect went down, but continued to try to get up and fire.

Sergeant Dustin Taylor arrived at the dead end of Cicada right after Officer West arrived. He saw clouds of dust go up around West's feet, and then someone yelled "Shots fired". He saw West exchange gunfire with the suspect. Taylor opened his door and ducked for cover. At this point he saw West hunkered behind his car. Taylor ran by West to engage the suspect. The

suspect pointed his gun at Taylor and Taylor fired his shotgun at suspect. It didn't seem to have any effect so Taylor fired his shotgun until it was empty. He loaded other rounds and fired and eventually he saw suspect fall. Then he heard a shot from behind him and looked and saw Officer West and Polk after West had fired his shotgun. Taylor could hear people saying "He's still got a gun. He's still moving, it's pointed directly at you".

When the suspect ran into the prairie Officer Jeremy Mathews started pursuing him on foot. When Sergeant Anderson arrived in his SUV, Mathews got in with Anderson and went as far as they could go in the rough prairie terrain. They dismounted, went up a hill close to Cicada Drive, and he heard someone broadcast "shots fired, shots fired". He saw the suspect stumble and first thought that he may have been tased, but the suspect kept running northeasterly. As Mathews came out of a ravine he saw the suspect stop, and turn, and point the muzzle of his handgun directly at him and at other officers nearby. In response, Mathews and other officers began firing at the standing suspect. Mathews thought he fired five or six shots. The suspect fell in a curled up position but he still had his hand on his gun. The suspect then raised his gun off the ground and pointed it at where the officers were standing, and Mathews thought it was pointed directly at him. As the suspect's gun came up, Mathews fired at the suspect again and the suspect's gun fell to the ground.

Officer Dan Anderson was initially informed that the suspects were running east toward the prairie. Anderson drove into the prairie and saw a male going up and down hills and an officer running after him. Anderson lost sight of the suspect and Officer Mathews jumped into the back of his car and they drove down a ravine. While at the bottom of the ravine they heard gunshots. Both jumped out of the car and ran up the embankment and saw the suspect on top of a ridge with a handgun in his hand. The suspect had his gun pointed up at the officers in the area. He was told to drop the weapon, but he didn't do so. Because the suspect was raising his weapon toward the officers, Anderson started firing at the suspect. Officer Jeremy Mathews was to his left and Officer Bill Doyle was next to him. As the officers were firing the suspect still had his gun. He "kind of" went down to his knees, and down to the ground, but Anderson could see the gun in suspect's hand pointing toward Mathews. When he stopped moving, other officers were yelling that they could still see him raising his gun and a couple more shots were fired. When Anderson realized that he was not moving anymore, he ordered a cease fire.

Officer William Doyle followed Officer Mathews to the north parking lot of the church. He saw the suspect running in the prairie. They started pursuit with Doyle to the left of Mathews. The suspect looked back at Doyle and Doyle yelled for him to stop. He also heard Officer Giconi yell at suspect to stop and someone else was airing that he was going toward those houses. Officer Rick Giconi had driven into the prairie as far as he could go without getting stuck. He saw a male in dark clothing running through the prairie. He got out of his car and yelled at the suspect to "Stop, police". The suspect didn't stop and Giconi chased him. Giconi saw the suspect reaching in his waistband, and a few moments later he saw something in the suspect's right hand and he aired that the suspect was armed. Giconi went down in a depression and lost sight of the suspect and heard "pop, pop, pop" and could hear bullets whizzing by. Giconi wondered if the suspect was ever going to run out of bullets because he kept hearing pops, and then the shooting stopped.

He saw Corporal Doyle advancing on the suspect and he thought I'm not going to let him go alone and get shot, so Giconi started advancing. When he was able to gain sight of the suspect, the suspect was in a prone position with a gun in his hand pointing it at Giconi and Sergeant Anderson. He heard more shots fired and could see shots impacting around the suspect and Giconi was screaming at the suspect to drop the gun and show me your hands. He could see that the rounds were not hitting the suspect, but he wasn't responding to Giconi's commands. Giconi was in fear for his life and Anderson's life and he shot and saw a round impact the suspect. Eventually, when they thought it was safe, Officer Garcia and Officer Doyle placed handcuffs on the suspect.

Numerous citizen witnesses saw portions of the shooting incident. Their accounts of what happened were largely consistent with officer's accounts and none of them contradicted the officers. One of the witnesses pointed out a new bullet hole in his fence and he concluded the bullet had to have come from the suspect's gun because there were no officers shooting in that direction.

Conclusion

Colorado statutes justify the use of deadly physical force by a person in defending himself or another if the person reasonably believes a lesser degree of force is inadequate and the person has reasonable grounds to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving great bodily injury. C.R.S., 18-1-704. In evaluating whether a person was 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 recently reviewed a situation to determine whether officers used excessive force under the Fourth and Fourteenth Amendment. Plumhoff v. Rickard, 134 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..." The Court also said that it analyzed the issue of reasonableness from the perspective of a reasonable officer at the scene, rather than with the 20/20 vision of hindsight. Further, the Court said that it allowed for the fact that police officers are often forced to make split-second judgments about the amount of force that is necessary in a particular situation – in circumstance that are tense, uncertain and rapidly evolving.

It is my conclusion, that based on the circumstances and circumstances of this case, that the officers involved in this shooting incident, when trying to arrest the suspect that had committed a home invasion, were justified by the laws of the State of Colorado regarding Self-Defense and the Defense of Others (C.R.S., 18-1-704) in using the actions they employed to defend themselves and each other from what they reasonably believed to be the use or imminent use of unlawful physical force or deadly physical force by Orlando Jude Lopez, aka, Orlando Chism, DOB: 04/17/92; and that they reasonably believed a lesser degree of force would be inadequate.

They had reasonable grounds to believe, and did believe, that they or another person were in imminent danger of being killed or receiving great bodily injury. Given the facts in this situation the governing State law and case law as interpreted by the United States Supreme Court, there are no criminal charges that would be appropriate regarding any of the officers involved in this matter, and therefore, no criminal charges will be filed.



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