



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

December 19, 2016

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 June 22, 2016
Deceased: Skyler Robert Mark Manzanares, DOB: 11/21/88
Location: 1823 East Routt Avenue, Pueblo, Colorado
Police Officers involved:
David Mattarocci
Jose Medina

Dear Chief Velez and Sheriff Taylor:

This investigation involved a shooting incident on June 22, 2016, which resulted in injuries to Skyler Manzanares. The Critical Incident Team (CIT) met and selected the Pueblo County Sheriff's Office to be the lead investigative agency. Other participants in the CIT investigation included the Pueblo Police Department, and the Colorado Bureau of Investigation. After the investigation was completed, the CIT prepared and submitted an Executive Summary of the Investigation, together with the investigative reports and materials, to the District Attorney for review. This is the District Attorney's Decision Letter based on those materials and the CIT protocol.

Overview of the incident

On June 22, 2016, at approximately 1:00 AM, the Critical Incident Team (CIT) was requested to respond to 1823 East Routt Avenue in Pueblo, Colorado, to investigate an officer involved shooting that occurred in the backyard of the residence at that location. Three Pueblo Police Officers were involved in the situation: David Mattarocci; Jose Medina; and, Brian Laut. The

officers responded to this location concerning a Crime Stoppers tip reporting that Skyler Manzanares had an outstanding arrest warrant and that he was at 1823 East Routt. Officer Laut went to the back of the residence where he saw Skyler Manzanares holding a cordless drill. By radio he informed Officers Mattarocci and Medina, who had arrived at the front of the residence, that Manzanares was in the backyard. Laut believed Manzanares was about to run so he took out his Taser as Medina and Mattarocci were giving Manzanares verbal commands, including to drop the drill. Manzanares turned toward Laut, pulled up his shirt, and grabbed a black handgun from the front of his waistband. Laut yelled "gun, gun". After stepping behind a fence he heard 8 to 10 gunshots.

Officers Mattarocci and Medina had come to the back of the residence after Laut's radio contact. Mattarocci recognized Manzanares and he called his name "Skyler". They gave verbal commands for about 16 seconds for Manzanares to drop the drill, show his hands, and get on the ground. Manzanares disregarded the commands, and instead, turned toward Mattarocci and Medina, raising a handgun toward them, and they fired shots. Several shots hit Manzanares, but he has survived.

Interview with Officer Brian Laut

Officer Brian Laut told interviewers that he is a Pueblo Police officer who was assigned to patrol duties on June 22, 2016. At approximately 1:00 AM, Officer Laut said he responded to 1823 E. Routt Ave. on a Crime Stopper's tip that Skyler Manzanares was at that residence and that there was an outstanding arrest warrant for him. Laut went to the back of the residence via the alley to the west. Officers Medina and Mattarocci had gone to the front door of the residence. As he approached the backyard he observed a male who he recognized as Skyler Manzanares.

Laut told Medina and Mattarocci over the radio that Manzanares was in the backyard. Manzanares was walking near a swimming pool with a drill in his right hand. Medina and Mattarocci made their way to the backyard and started to approach Manzanares. Manzanares glanced toward the alley as if he was going to run from the officers. Laut initially had his firearm in his hands, but it looked like Manzanares was going to run towards the alley so he holstered his firearm and took out his Taser. Laut heard one of the officers say something like "Skyler, police department".

Manzanares turned toward Laut, pulled up his shirt, and grabbed a black handgun from the front of his waistband. Laut was positive it was a black, semi-auto handgun. Laut explained he did not have time to put his Taser in the holster and draw his handgun, so he fired the Taser at Manzanares. Laut stated he was unsure if the Taser probes hit Manzanares, but he yelled "gun, gun." Laut went behind a tall wooden fence for cover. Immediately after he stepped back behind the fence, he heard 8 to 10 gunshots. He looked and saw Manzanares was on the ground and had been shot. Laut stated the three officers walked to the suspect and immediately called medical support.

Laut stated he was 10 to 15 feet away from Manzanares when he fired his Taser and he was positive Manzanares had the gun in his hand when he fired.

Interview with Officer Jose Medina

Officer Jose Medina told interviewers that he was on routine patrol for the Pueblo Police Department when he received a message from Officer Laut to meet concerning a Crime Stoppers tip that Skyler Manzanares had an outstanding arrest warrant. He was wearing his full Pueblo Police Department uniform, including a police badge and his duty gear. When they met he was informed that Manzanares had two \$50,000 warrants and that he was at 1823 E. Routt. Medina located photographs of Manzanares in the police system to learn what he looked like. Medina and Officer Mattarocci went to the front of the residence and Officer Laut went to the back.

As Medina approached the front of the house, Laut called by radio that there was a male with a backpack in the back yard arguing with a female and this might be our guy. Medina and Mattarocci headed toward the back yard and he saw a man with a backpack walking toward the female with a cordless drill in his hand. Medina “lit him up” with his flashlight and realized this was the person in the photographs of Manzanares. Medina pointed his gun at Manzanares and ordered him several times to get on the ground. Manzanares started backtracking and Medina thought he was getting ready to run. Laut started giving verbal commands for Manzanares to show his hands, and then, Medina heard a Taser deploy. Manzanares did a 360-degree spin and when he came back around Medina saw a gun about knee height and he said “the barrel kinda flags me and Mattarocci. I felt there was a threat. I – I was in fear for my own life and for my fellow officers and I fired”. Manzanares went down and Mattarocci got Manzanares’s gun and tossed it off to the side. When asked to explain what he meant when he said he had flagged them he said that Manzanares’s body was beginning to spin the gun, and the barrel was beginning to come across him and Officer Mattarocci.

Medina was asked why he felt the need to draw his handgun when he first saw Manzanares. He responded that Manzanares was known to have weapons – that he became aware that a couple of days earlier that Manzanares had menaced someone; that Manzanares was known to be a runner and he thought that by pulling his gun he would show that he was serious and that Manzanares might comply with his orders; and, it was a safety thing.

Medina was asked what he thought would have happened if he had not fired. He said that he thought they would have gambled with their lives, and possibly been shot. He didn’t know Manzanares’s intention, but he knew he was a dangerous person; that he was a criminal and he has a gun now and it’s in his hand and it was pointed toward him. He knew that Manzanares was not complying and the Taser had been deployed. The situation went from a guy not complying to a guy that was not complying with a gun in his hand, and it was a scary moment. He said that he positively identified the object in Manzanares’s hand that was coming up as a gun.

Interview with Officer David Mattarocci

Officer David Mattarocci told interviewers that he was at the Pueblo Police Department roll call on June 20, 2016, when he learned of a Crime Stoppers tip about Skyler Manzanares being at 1823 East Routt Ave and was wanted by the police. On June 22nd he asked Officer Laut to go with him, and Laut asked Officer Medina to go also. He was wearing a standard police department uniform, including Pueblo Police Department patches and a badge.

Their plan was for Laut to post up in the alley and for Medina and Mattarocci to approach the front door. Once there, Laut informed them that there was a male, who might be the suspect, in

the back yard arguing with a female. Mattarocci walked around the north side of the house and toward the back yard when Mattarocci saw a male resembling the photo of Manzanares. Mattarocci yelled "Skyler" and the male looked at the officers. They walked toward Manzanares who was holding a drill in his hand. Medina commanded Manzanares to show his hands and Mattarocci commanded him to drop the drill as they continued to walk toward him. Manzanares began to put the drill on the ground, but he turned his back toward Mattarocci and Medina while he was putting the drill down. Mattarocci saw Manzanares' hands go toward his front waist area. Mattarocci believed Medina again commanded Manzanares to show his hands and Laut yelled what he believed was "gun". He then heard a Taser go off and Manzanares turned back toward them and Mattarocci saw a black, semi-automatic handgun. At that time Mattarocci felt in fear for the life and safety of himself and Medina. He drew his gun and began to fire on Manzanares along with Medina who was standing to his left. He believed he fired five to six rounds. Manzanares dropped to the ground lying on his right side with his gun about a foot directly in front of him.

Mattarocci said he was taught at the Pueblo Police Academy that there are three factors needed to justify deadly force; namely, ability, opportunity, and jeopardy. In analyzing the situation Mattarocci believed that Manzanares had the ability to use the weapon he controlled on the officers; Manzanares had the opportunity to use the weapon that he had turned toward the officers; and, Mattarocci felt the safety and the lives of himself and Medina were in jeopardy at that time based on the circumstances.

Interviewers asked Mattarocci what he thought might have happened if they had not fired. He stated that "If I did not fire I believe Skyler had intentions to use the weapon. Honest, being that he attempted to hide pulling it out from us and that he was turning towards us with the weapon in hand, I believe if we did not fire upon Mr. Manzanares first he would have attempted to use the weapon on us".

Interview with Jamie Burner

Investigators interviewed Jamie Burner who has been the girlfriend of Skyler Manzanares for the last three years. She said she lives with her parents at 1823 E. Routt and she was in the back yard when the incident happened. She said Skyler is homeless, but he will come to her house once in a while. He came to her house about 11:00 PM on June 21st on his bicycle. He left and came back about midnight. He asked for a cordless drill to use to work on his bike and she loaned him one. They were arguing about something. At some time, she saw two police officers come from the side of her house and she immediately stepped back and toward the side of her house.

Jamie said the cops said Skyler's name and heard Skyler say something like "it's a drill". She could see the cops, but she couldn't see Manzanares. She said the back yard was well lit, but there were some obstacles between her and where Manzanares was talking with the cops. All of a sudden she heard gunshots and then saw Manzanares on the ground.

She said that Manzanares had recently made a comment that he did not want to go to jail. She also said that Manzanares carried a black handgun with him.

Interview with Glen Burner and Bessie Hart

Glen Burner and Bessie Hart reside at 1823 E. Routt. Glen is Jamie Burner's father and Bessie is her mother. Both were inside the house when the incident happened and didn't see what happened, but both heard screaming. Ms. Hart also heard police saying "stop, get down".

Statement from Ryan Robinson

Sheriff deputy Justin Shrewsbury was transporting inmate Ryan Robinson from the Judicial building to the main facility on June 22, 2016 at about 9:50 pm. Robinson was talking about an officer involved shooting that happened the night before. He said that his friend Skyler Manzanares had said that he wanted to go out by getting shot by the cops, and that a call was going to be placed to Crime Stoppers. Robinson said that he had just left the house before anything happened.

Interview with Skyler Manzanares

Skyler Manzanares was interviewed in Denver Health Hospital on July 17, 2016. At first Manzanares said all he remembered about the night of the shooting was that he was on the run from a halfway house, and it was like a blur, and he just started remembering recovering in the hospital. As the interview went on he said he remembered being at the house with Jamie, his girlfriend, and helping her do something in the yard, and that's when the cops came and shot him. But then he also said that he remembered waking up at the hospital, but did not remember getting shot or any of the incident.

Later in the interview, Manzanares thought he remembered helping Jamie build something and that he had a drill. He denied wanting to get killed that night. Officers confronted him with the information from the body worn cameras showing that he pulled a gun on the cops from his waistband and he said that he did not remember that.

An officer asked Manzanares if he remembered who he got the gun from, or how he got the gun, and he said "ya I do". He said he got the gun from a person, but he did not remember if that person told him where he got the gun from.

Suspect's firearm

The handgun used by Manzanares was a .40 Caliber Smith and Wesson Model CSP046. The magazine in the handgun contained 10 live rounds and there was no round in the chamber. A check revealed that the handgun had been stolen in a burglary in 2015.

Suspect's injuries

Manzanares suffered four gunshot wounds in his right leg: one in the knee, and three below the knee. He received one gunshot wound in the left leg; one in the right arm; one in the left arm; and one in the abdomen. It is not known if the wounds were entry or exit wounds, or a combination of both.

Body Camera Videos

All three officers at the scene had activated their body worn cameras. A review of all three videos shows the event occurring consistently with the statements of the officers. There is nothing shown in the videos that would discount or contradict the accounts given by the officers. A summary of what is shown on the videos is that officers called his name “Skyler” and told him to show, and put up, his hands; to drop the drill; and, to get on the ground. These verbal commands were repeated over a 16 second time span. Manzanares ignored the commands and turned his back toward Mattarocci and Medina and put the drill on the ground. Officer Laut deployed his Taser and shouted “gun, gun, gun” and about the same time Manzanares was making a quick turn toward Mattarocci and Medina, and as he did so he was raising a black handgun toward them, and the officers fired shots at Manzanares.

Firearms

Officer Medina was carrying a Glock, Model 17, 9mm caliber handgun. CIT investigators determined that he fired 9 rounds. Officer Mattarocci was carrying a S&W, Model SW40VE, .40 caliber hand gun. CIT investigators determined that he fired 7 rounds.

The handgun used by Skyler Manzanares was lying a few feet from his body. It was a .40 caliber Smith and Wesson handgun. The magazine contained 10 live rounds. There was no round in the chamber. A check of NCIC and CCIC revealed that it had been stolen in a burglary in Pueblo County in 2015.

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

Deadly physical force may be used only if a person reasonably believes a lesser degree of force is inadequate and the actor has reasonable ground to believe and does believe that he or another person is in imminent danger of being killed or of receiving great bodily injury. § 18-1-704(2)(a), C.R.S.

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 (1964). The United Supreme Court reviewed a situation to determine whether officers used excessive force under the Fourth and Fourteenth Amendments. 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 circumstances that are tense, uncertain and rapidly evolving.

Conclusion

It is my conclusion that based on these circumstances that Officers David Mattarocci and Jose Medina were justified by the laws of the State of Colorado defining 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 Skyler Manzanares; 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 was in imminent danger of being killed or receiving great bodily injury. Therefore, the actions of the Officers were justified under the law, and are not criminal. Given this situation, criminal charges would not be appropriate, and therefore, no criminal charges will be filed.

Dated this 19TH day of December, 2016



J. E. Chostner
District Attorney

Pc: Colorado Bureau of Investigation