



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

November 16, 2016

Captain Brian Lyons  
Pueblo Troop Office  
902 Erie Avenue  
Pueblo, CO 81001

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

Agent Jodi Wright  
Colorado Bureau of Investigations, Pueblo  
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Chief Luis Velez  
Pueblo Police Department  
Pueblo Municipal Justice Center  
200 S. Main Street  
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Re: District Attorney CIT Decision Letter  
Officer involved shooting on March 10, 2016  
Deceased: German Anchando-Gonzales, DOB: 11/02/92  
Location: I-25 MM 74 / 8950 S I-25  
Colorado State Patrol Officers involved:  
Edward Henriquez  
Justin Richards

Dear Captain Lyons, Sheriff Taylor, and Agent Wright:

This investigation involved a shooting incident on March 10, 2016, in which two Colorado State Troopers fired at a vehicle that German Anchando-Gonzales had stolen. The shooting resulted in the death of Mr. Gonzales. The Critical Incident Team (CIT) met and selected the Pueblo County

Sheriff's Office to be the lead investigative agency. Other participants in the investigation included the Colorado Bureau of Investigation (CBI), the Pueblo Police Department, and the District Attorney's Office. The CIT compiled investigative reports and submitted them to the District Attorney for review and for the issuance of a Decision Letter regarding the incident.

### **Overview of the incident**

Colorado State Trooper Richards stopped a Camaro for a speeding violation on highway I-25 at mile marker 74 (Colorado City exit on the east side) about 5:20 pm on March 10, 2016. To the east of the stop was Obie's restaurant and a convenience store with a fuel station. Other Troopers arrived at the scene. The driver gave false identification. There was a female passenger who had some minor injuries and she was determined to be a runaway from the Department of Youth Corrections. During the stop she was found to possess a small amount of methamphetamine and a meth pipe. Troopers suspected they might have been involved in sex trafficking. The car was searched and the individuals were questioned. The driver claimed he did not speak English, so a Spanish speaking officer was requested and Trooper Henriquez responded to translate.

About 8:17 pm the Troopers decided to take the driver/suspect to the Pueblo county jail to get his fingerprints to determine his true identity. Upon hearing this, the suspect started running east through the gas pumps and around the south side of the Corner convenience store. Trooper Henriquez started running after him yelling for him to stop. The suspect ran to a pickup truck with attached flatbed trailer, jumped in the cab, revved the engine, and drove off turning to the left as he proceeded. The operator of the truck had been under the trailer in front of a trailer tire when he heard Trooper Henriquez yelling; he was able to get from underneath the trailer just before the suspect drove off with his truck. The truck was headed toward Trooper Richards who had just come around the north side of the convenience store. During the incident Trooper Henriquez, who was generally in locations on the driver's side of the truck, fired toward the suspect, firing a total of 16 rounds. Trooper Richards dropped his Taser and drew his handgun. At some point the truck struck the east side of the convenience store and then was put in reverse with tires spinning. It went a few feet before coming to a stop. During the incident, Trooper Richards was generally in locations in front of or toward the passenger side of the truck. He fired 5 rounds toward the suspect.

It was ultimately determined that the suspect was German Anchando Gonzales, DOB 11/02/92, and he died from gunshot wounds. He received three gunshots as a result of the incident. An autopsy determined that one shot was a "through and through" wound to the head, front to back, left to right, and upward, involving the brain. The bullet that caused this wound was not recovered at the autopsy. Another shot was to the left shoulder, with the wound path right to left, and downward. A deformed bullet was recovered and the Colorado of Investigations (CBI) determined that it was fired from the gun of Trooper Henriquez. Another gunshot wound was to the left upper arm, back to front, and downward. A deformed bullet was recovered and the CBI determined it was fired from the gun of Trooper Richards. The forensic pathologist expressed the opinion that the cause of death was due to multiple gunshot wounds.

### **Interview with Nathan Dunn**

Nathan Dunn was interviewed by Sheriff Deputy Victor Herrera after the incident on March 10, 2016 and provided a handwritten statement at 8:58 p.m. A short time later that evening he was

interviewed by Sgt. Ronald Thurston from the Sheriff's Office and he drew a diagram showing the location and movement of the officers and his truck during the incident.

Mr. Dunn said he was driving north on I-25 from Clovis, New Mexico, in a 2011 Dodge Ram 3500 utility bed work truck pulling an 18-foot flatbed trailer. He had property and tools worth about \$20,500 in the vehicle. He noticed that his trailer lights were flickering and that he was getting low on fuel. He pulled off the interstate at the Corner Store where he re-fueled. He then parked next to the north-south curb east of the building to work on his trailer lights. He left the truck running with the lights on so he could test the wiring to find the problem. He was sitting on the ground in front of the trailer wheels on the driver's side with his legs under the trailer with his head bent over looking under the trailer when he heard his truck door slam. As he looked toward his door, he heard an officer yelling at him to get up and get back. He quickly moved back trying to get up, and before he got up all the way up, the truck started moving. He started backing up and as he was doing so the Trooper was yelling at the person in the truck to stop. The Trooper yelled at the person in his truck multiple times and it looked like the person in the truck cranked the wheel to the left. There were other Troopers coming around the building, but he did not see them until he was moving back toward the building. He was about 10 feet from the trooper, but the trooper was closer to the cab of his truck near the door. As he was moving back he believed he saw two troopers by the trash dumpster. He said it looked like the "dude" that took his truck was aiming toward the troopers like he was going to "ram" them as he was trying to get out of there. It looked like his truck was "hauling ass to get out of there, he was doing a burnout". It looked like the guy in the truck was cranking the steering wheel left toward the troopers and he was "hauling ass". All he could hear was the trooper near him yelling "stop" at the guy in his truck multiple times.

Dunn related that he saw the wheels to his truck turn left and the guy took off full throttle in the truck, and was accelerating toward the other two troopers standing near the trash dumpster, the other trooper (the one that had told him to get up) started firing at the driver 3 or 4 times. The vehicle had probably been driven 10 feet when the trooper fired. He said the truck lags right off the start, but he could tell he was trying to make it go as quick as he could. He explained that when you hit the throttle the vehicle lags for 1 to 2 seconds, before it starts going and then the turbo kicks in. He said the trooper was approaching the vehicle and sidestepping to stay even with the driver's window. The trooper was maybe about 5 to 10 feet from the vehicle. The trooper got close and then backed up some. The trooper had his gun drawn and was sidestepping with the vehicle as it was going. The other two troopers were at the other far end of the dumpster and they were coming toward the south. Dunn said he thought the other two troopers had their weapons pointed at the vehicle and had stopped in their tracks for a second as the vehicle was going toward them. He described the officer who had fired the shots as panicked or super upset.

Dunn said that the truck, accelerating full throttle, hit the building. He said that as the vehicle crashed, the guy in the truck was still full throttle and trying "to do things". Even after the vehicle hit the building he could hear the vehicle tires doing a burn out. That is when the other officer started shooting. He did not know which officer or officers were shooting about the time the truck hit the building and the tires were still burning out. Also, he did not know if the first officer shot again. He estimated that the distance from the front of his truck to where the other 2 officers were at the time the 1<sup>st</sup> officer fired the first shots was 25, or maybe 30 feet. Dunn said his truck could move 30 feet faster than the officers could move 10 feet. When asked about the speed his truck was going, he replied that it's hard to guess the speed, but maybe 10-20 mph and the truck was still accelerating; and, once the turbo kicks in it goes fast.

Dunn said the trooper who told him to get up, "he kind of saved my ass, I could have got my legs ran over". "That dude was totally in the right I feel". "This guy was a threat to me, he stole my vehicle, he was going to run my legs over, the cop saved my ass, he looked like he was turning to go hit the other cops that were by the dumpster and as he turned, the officer that was next to me, that had told me to get up, started firing at my vehicle".

On March 17 Dunn met with Sgt. Thurston and Sheriff Captain Don Leach at the Diamond Shamrock Corner store. They did a videotaped walk through the scene in which Dunn pointed out where the events happened. During the walk through Dunn stated that after he got out from under his truck he saw the trooper with his weapon drawn going toward the truck yelling at the person in his truck. The said the truck was moving and the trooper was moving with the truck. He said the trooper was yelling at the guy in the truck to stop or something like that over and over. The truck started going to the left and accelerating, and the trooper was moving along with the truck with his gun pointed at the truck. He said the truck was accelerating toward where two troopers were standing near the trash dumpster. After the truck had traveled approximately 10 feet going toward the two troopers, the other trooper (the one who had told him to get up) started firing 3 to 4 rounds. After that the guy in his truck accelerated full throttle and hit the building.

Dunn backed up toward the gas pumps and the trooper (that had fired) went toward the southeast corner of the building. Dunn was standing on the west side of the propane tank storage and the trooper was on the east side of the propane storage. Dunn looked at the trooper and asked if he was okay. He responded that he was fine and for Dunn to get into the store. Dunn could still hear the truck like it was trying to go. The trooper leaned around the corner and shot again and at the same time the other troopers also fired, but Dunn could not tell how many shots were fired.

### **Interview with Trooper Eduardo Henriquez**

Trooper Eduardo Henriquez was interviewed by Sheriff's Deputy Anthony Colletti and CBI Agent Scott Vahlbusch. Henriquez had been employed as a trooper for the Colorado State Patrol for two years and was based out of their Trinidad office. He was called by canine units to respond to a traffic stop on Interstate I-25 near Colorado City to assist as a translator for a Spanish speaking male. The driver had been detained near the top of the exit 74 off-ramp of northbound I-25. When he arrived at the scene, other troopers informed him that the male driver had identified himself by a Chihuahua, Mexico, driver's license. He was asked to interview the driver because he had indicated he did not speak English, even though he had responded to some questions that had been asked of the English speaking female passenger. During their conversation the driver said he had met three men who asked him to do them a favor and go from Denver to New Mexico to pick up a vehicle and bring it back to Denver. He said the female passenger was a friend of his and it was through her that he met the three men and they were traveling together in three vehicles. The answers he gave about his identity were suspicious. The female who was being interviewed by other Troopers had drugs in her possession and it was determined that she was a 17-year-old minor who had cut off an ankle monitor and was a fugitive from probation or parole. After a while it was decided that a Trooper would take the female away from that location for questioning and she was removed from the area of the driver.

After the female was removed, Henriquez decided to take the driver to the front of Henriquez's vehicle, which was equipped with a dash camera. Henriquez also had a body mic to pick up sound. Trooper Mark Buneta and another officer were nearby talking about taking the driver in

to run his fingerprints to find out for sure his identity. The driver overheard that conversation and became very nervous. He said, Officer, I'm more than willing to cooperate with you guys; I really want to get this done and over with; once you take me there I'll talk to you and let you know everything I know. Henriquez responded, great, if we find out who you are and there's no charges on you, then we're going to let you go. As Henriquez started to write a note, the driver said "see you" in Spanish and took off running.

He ran toward the store and gas pumps nearby and went around the gas station. Henriquez started running after him yelling stop, police; stop running, police; stop. But the driver kept running to a truck with a trailer attached. He jumped into the cab of the truck. Henriquez was moving toward the truck when he heard a very loud revving sound, like a pedal to the metal sound. At that point Henriquez saw the front left of the vehicle, including the front left yellow turning signal. At that point Henriquez "thought he was gonna run me over". He said that the only thing that went through his head was there's "no way you're gonna out—overrun a vehicle, the only way I can stop the threat from killing me – or from running me over is to take out the driver to disable the vehicle". Henriquez unholstered his weapon, and remembered seeing the driver's silhouette with both hands in the steering wheel ducking down and driving forward. As he saw that the vehicle was approaching him, he "open fired to the dark silhouette aiming center mass to the dark silhouette in the driver's side in the driver's seat". He shot 16 rounds. As the vehicle kept traveling and he was shooting, he "referred to my training of being a moving target as in not to be hit and I start – started sidestepping towards my right as I opened fire and still aiming towards center mass of the driver".

Henriquez was asked if, when he was coming around the corner of the building, he saw any other civilians or troopers as he was running. He responded that he did not; he said that he had "a perfect example of what they taught in the academy, tunnel vision, I had him the whole time until he got in the vehicle. I did not pay attention to my surroundings that good". When asked specifically what his perception was when the suspect got in the vehicle, and he heard it accelerate, and saw it trying to make a U-turn, he responded that "My perception was that he was trying to run me over" and "And the only thing in my head was he's trying to take me out".

When Henriquez was asked where he was when he first started to shoot, he said "...it was almost like a panic mode, I see a vehicle coming my way, I don't remember moving from my original location from when I heard the revving of the vehicle. When I saw that left turn signal coming towards me, that's when I unholstered and I – I aimed at the silhouette on the driver's side".

After Trooper Henriquez ran out of bullets, he took out the empty magazine and put it in his pocket. At that point, the vehicle was in front of him and passed by him. He heard very distinctly "crossfire, get back here", and he started ducking down; reloaded; went back; and saw Trooper Buneta who had his weapon out. By now he was behind the vehicle and trailer. Then Trooper Richards joined him and Buneta in the back and they decided to clear the vehicle. Henriquez went to the passenger side, yelled "show me your hands", and opened the passenger door, and saw Mario, the driver. Richards told him to watch the driver, and Henriquez did so until EMT came.

### **Interview with Trooper Justin Richards**

Trooper Richards is employed by the Colorado State Patrol K-9-unit investigative unit and was based out of Golden and Watkins, Colorado. On March 10, 2016, he was temporarily assigned to

team operations in the Pueblo area, to detect narcotic violations. He clocked a Chevrolet Camaro on highway I-25 at 92 miles per hour in a 75 mph posted highway at about 5:20 pm. He activated his overhead signals and the vehicle exited at the Colorado City exit close to a fuel station, but came to a stop by the on-ramp to northbound I-25. The driver was eventually identified as German Anchando-Gonzales and a female passenger was in the car that was eventually identified as Lyric Jennings, DOB 11/24/98, even though at first she gave a fake name, and later it was learned that she was a runaway from Department of Youth Corrections. The vehicle had a temporary license tag. When asked for documents for the vehicle, driver's license, registration, proof of insurance the female was answering most of the questions. The male provided a driver's license after being asked three times and it was from Chihuahua, Mexico. Richards learned from the conversation that they were traveling with two other vehicles, a silver Chevrolet truck and a red Ford F150, and they were returning from New Mexico. They told Richards the owner of the Camaro they were driving was in the Ford truck. When asked to contact the drivers and ask them to come back, the male contacted them and related that they would not come back.

During the contact it was learned that the temporary tag on the vehicle was fictitious and didn't exist anywhere in the system. Initially dispatch told Richards that the VIN number wasn't in the system. As they continued talking, the female said that the male didn't speak English, but he would sometimes interrupt her when she was answering questions. The female was wearing eyeglasses and looked straight ahead and didn't make eye contact with Richards. The whole situation seemed odd to Trooper Richards so he decided he needed to have someone translate Spanish. After a call for a Spanish interpreter went out, other Troopers began arriving and then Trooper Eduardo Henriquez responded as the Trooper to interpret Spanish.

Other Troopers got the female out of the car to question her. It was learned that she had given a fake name to avoid being arrested because she was a runaway from Department of Youth Corrections. She had a bloody nose and bruises on her arms and after she removed her sunglasses it was seen that she had a black eye. Troopers began to suspect that these people were involved in sex trafficking. She indicated she wanted to talk to the Troopers, but she didn't want the male to hear her. It was decided to take the female to another location for questioning.

Richards explained the situation to Trooper Henriquez. They got the male out of the car and began to question him. He signed a consent to search form for his vehicle and when Richards got his canine out of his vehicle the silver Chevrolet truck immediately took off. A canine search and a hand search was done and a little baggie of suspected methamphetamine and a methamphetamine pipe was found. It was decided to impound the vehicle. From the questioning of the male, it was believed that he was giving a false name, so it was decided to take him into Pueblo County to be fingerprinted. Richards told this to Henriquez, and as he turned to walk away, he heard Henriquez yell "hey, hey, hey" and saw the male running to the gas station and Henriquez running after him. Richards instinctively started running after them. Henriquez and the male were headed toward the right side of the building (south) and Henriquez yelled go to the other side, so Richards pulled out his TASER and headed toward the left (north) side of the building expecting a head-on-head confrontation on the back side of the building.

When Richards rounded the back side of the building he saw a white pickup truck coming directly at him. It sounded like the truck was accelerating rapidly. He threw down his TASER, grabbed his sidearm, and moved out of the way of the truck that he perceived was going to hit him. One of the things Richards distinctly remembered was the trucker yelling "get the mother fucker".

Richards said everything happened almost exactly the same time. He dropped the TASER and grabbed his sidearm because he saw the threat coming directly at him, and he felt that he was trying to "run me over". He believed that the truck was 10 to 15 feet away at that moment. He saw Eduardo (Trooper Henriquez) and he was yelling "alto, alto, alto, stop". Richards was directly in front of the vehicle, running east, or north, away from the threat, when he heard several shots, and saw Trooper Henriquez, located approximately between the A pillar and B pillar of the vehicle, firing shots. Then the vehicle turned and collided with the back side of the building. The first shot that Richards heard was when he was in motion getting out of the way. He said he was directly in front of the vehicle when the first shot was fired. Then it seemed like there was a pause, so he walked up, took cover behind the vehicle, looked to his left and saw Eduardo and Trooper Buneta. He had not noticed previously that Eduardo had been in foot pursuit.

Richards said everything happened very fast. He could not give an exact count of how many shots Henriquez fired, but it sounded like multiple shots. Officers were calling for the driver to show hands, but no hands came out of the window, and after a lull of probably three to four seconds, tires started spinning backwards. At that point Richards felt the driver was trying to escape or cause further harm to somebody else so he started firing to try to stop him from causing any harm to anybody else or from getting away from that scene. Richards said that the vehicle was a four-door pickup truck and Richards fired through the passenger side rear window toward the driver of the vehicle, but he could not see the driver at the time because the windows were tinted. This second set of shots was fired by Richards and he did not know if Henriquez was also firing shots. He stopped firing when the vehicle stopped attempting to go in reverse and the tires stopped. He believed he fired three or four rounds. Then Richards went to the driver's side and Henriquez went to the passenger side to clear the vehicle. As the officers were clearing the vehicle they saw that the driver was breathing, so they called for EMS.

Trooper Richards believed that the truck driver was trying to "run him over" as it came towards him and at that point Trooper Henriquez was firing, or started firing, as that was happening.

### **Interview with Trooper Mark Buneta**

Trooper Mark Buneta was interviewed by Sheriff's Deputy Anthony Colletti and CBI Agent Scott Vahlbusch. Buneta had been employed by the Colorado State Patrol for 24 years and was currently working out of the Pueblo office assigned to the smuggling and trafficking section. On the night of the incident he was called by teammate trooper Sloan and asked to respond to a traffic stop initiated on I-25 at mile post 74. He was told that there was a female that could possibly be a victim of human trafficking and that there was also a male involved in the contact. He arrived where the cars were parked on the on-ramp to I-25. Buneta saw the female with trooper Sloan and the male with trooper Henriquez. Buneta was being briefed by sergeant Pickering, when he saw the male running toward the gas station. Then he saw trooper Henriquez running after the male and then Buneta started running after them. He told a female coming out the front door of the store, who he assumed to be the clerk, to lock the doors and he continued around the south side of the building.

When he got to the back of the building he saw a pickup truck with a trailer attached that was moving and he heard Henriquez say to stop and that's when he saw gunfire. He first saw Henriquez at approximately the B pillar or behind. Buneta described the pillar as the being

between the driver's side and the rear passenger side door. It appeared that Henriquez was moving with the pickup. He first heard gunshots before he got to the back of the building and before he saw Henriquez. He did not know who fired the initial shots, but after he rounded the building he did see trooper Henriquez firing on the pickup as it was moving. The pickup was rapidly accelerating and then it veered to the west and it impacted the building.

When the foot pursuit started, Buneta saw a trooper and sergeant Pickering also running, but toward the north side of the building. He later learned that the trooper was Richards. When Buneta emerged from the south side of the building, he did not see Richards or Pickering. Buneta had his weapon out but he never fired it. After the first series of shots there was a pause after the pickup hit the building. Then then "the tires started kicking up...", there was a lot of smoke, and then, there were a series of other shots. He saw Richards "back behind..." and he could see him engaging in gunfire on the vehicle.

When the foot chase started Buneta was at least 50 feet or more behind Henriquez. He did not see the truck and trailer when he rounded the southwest corner of the building. He first saw the truck and trailer after he rounded the southeast corner of the building.

### **Interview with Sergeant Kelly Pickering**

Sergeant Kelly Pickering was interviewed on March 11, 2016, and again on March 16, 2016, by sheriff's deputy Anthony Colletti and CBI agent Scott Vahlbusch. He was based out of Denver, but he was in the Pueblo area for a K-9 operation. He responded with Trooper Cox to assist Trooper Richard's traffic stop of the Camaro. When he arrived he observed the female sitting in the Camaro with sunglasses on, acting nervous and shaking. Pickering asked her to take her glasses off and he observed she had a black eye and red marks on her forearm like she had been in an altercation. They called for the human trafficking unit and for a Spanish-speaking officer to interview the male driver.

They were getting ready to clear the scene when sergeant Pickering heard a trooper say "he's running". He looked and saw the male about halfway across the parking lot towards the gas pumps. He saw trooper Henriquez probably 75 to 100 feet behind him. Trooper Richards was probably 50 feet behind him. Henriquez was running toward the south of the building and Richards ran to the north side of the building and Pickering started following him. When he was about 100 feet from the back of the building, he heard about 15 or 20 gunshots. He took cover behind a pickup truck that was parked on the north side of the building. When the commotion had ceased, he went around the building and hollered if everyone was okay. He saw movement by the person in the truck. He advised the person to get down, get down. He heard two troopers in the back ordering the suspect to show his hands and stop. When a trooper said everything was okay, Pickering approached and saw trooper Henriquez standing at the driver's door, and had his hand on the person in the driver's seat reassuring him. Pickering asked if he was okay and Henriquez said that he's still breathing. Pickering asked Henriquez what happened back here, and he responded, "he tried to run me over". Pickering said he then went over to Trooper Richards and asked "did you see what happened", and he responded "yeah, he tried to run us over". Sergeant Pickering then secured the troopers weapons. Pickering walked over and talked to this truck driver who was yelling and asked if he had seen anything. He said he had seen the whole thing, so Pickering told him to stay right there until someone came to get his statement.



He thought he heard about 20 shots. It was a volley of rapid fire in “like a fraction of the second” and then there was a very, very, short pause before the second burst of shots.

### **Interview with Samuel Wallis**

Samuel Wallis was interviewed and he also wrote a handwritten statement. Wallis is a truck driver and he stopped at the Diamond Shamrock station to refuel on his way to Albuquerque. He said that he was about to leave the fuel island on the south side of the Diamond Shamrock when he observed a young Hispanic male running quickly towards a white Dodge pick-up which was parked behind the Valero and it appeared another male was airing a tire on the trailer that the truck was pulling. The running male told the male by the trailer to “get the fuck out of the way”, and then he jumped into the driver’s seat of the pick-up truck. He then put the vehicle in gear just as a Colorado state trooper approached the door of the vehicle telling the male to stop.

Wallis said the male did not listen to the trooper and “floored” the truck and he then saw the officer back pedaling telling the male to stop. Then the trooper fired rounds (let him have it) at the fleeing male. The officer’s back was toward the building and he was back pedaling at the time. Wallis didn’t know how many shots the Trooper fired, but he assumed it was 3 or 4.

He said other officers arrived to help the first officer out seconds (two seconds) into the incident. Other officers fired rounds as well, maybe 20 shots before it hit the building. He said the vehicle had travelled about 50 feet crashing into the back wall of the Valero convenience store. He said the troopers stopped shooting and that is when he the male put the vehicle into reverse and tried to “take off” again and the troopers fired shots again (let him have it again). He heard the engine revving and saw smoke.

He was asked if the truck could have been moving toward the other officers when they fired, and he responded, of course it could. He finished his written statement by saying “God bless these officers!!!”

### **Autopsy**

An autopsy was performed on German Gonzales by forensic pathologist Dawn B. Holmes in Douglas County on March 14, 2016. Dr. Holmes expressed the opinion that the cause of death was due to multiple gunshot wounds. She identified three gunshot wounds. Dr. Holmes determined that one shot was a through and through wound to the head, front to back, left to right, and upward, involving the brain. The bullet that caused this wound was not recovered at the autopsy. Another shot was to the left shoulder. The wound course was along a straight path, right to left, and downward. A deformed bullet that caused this wound was recovered. Another gunshot wound was to the left upper arm. The wound course was back to front, along a straight path, and downward. A deformed bullet which caused this wound was recovered.

### **CBI forensic analysis**

Shell casings were collected at the scene. Sixteen shell casings were found in an area which was believed to be to the left of the path of the truck that was fired on. The CBI analyst identified these casings as having been fired in the handgun of Trooper Henriquez. Five shell casings were found in an area which was believed to be to the right of the path of the truck that was fired on. The CBI an identified these casings as having been fired in the handgun of Trooper Richards.

The two projectiles recovered from the body of German Gonzales were submitted to CBI. The CBI analyst identified the bullet from the left upper shoulder as having been fired from the handgun of Trooper Henriquez. The CBI analyst identified the bullet from the left upper arm as having been fired from the handgun of Trooper Richards.

### **Analysis of bullet defects, and trajectories, in the truck**

Police detective Stephen Jesik, with the assistance of other officers documented bullet defects, and analyzed their trajectories, in the stolen Dodge Ram pickup truck that German Gonzales was driving when he was shot. Detective Jesik learned that 16 shell casings had been located near the driver's side of the truck and trailer. An additional 5 shell casings were located behind and to the side of the passenger side of the truck and trailer where they had come to rest near the east side of the convenience store which it had struck. Jesik observed bullet defects to the front windshield and the exterior of the driver and passenger sides of the truck. All four door windows appeared to have been shattered and absent from the truck. He assigned numbers to the individual bullet defects and photographed them. Later trajectory rods and/or centering cones were placed in most of the defects to determine approximate trajectories. Eight bullet defects were in the driver's side and five defects were in the passenger side of the truck.

#### **Exterior driver's side bullet defects**

1. Defect on bottom edge of driver's door window/frame, out to in, back to front 45°, upward 24°. Impacted front windshield.
2. Defect on driver's door window/frame, out to in, back to front 57°, upward 14°. Impacted front windshield.
3. Defect on top edge of driver's door just under window, out to in, back to front 20°, slight downward 3°. Nearly perforated entire door.
4. Defect on top edge of rear driver's door, out to in, back to front 53°, slight downward 7.5°. Part of bullet was still in defect.
5. Defect in rear driver's door, 2" behind #4 defect, out to in, back to front 28°, downward 4°. Perforated exterior of door.
6. Defect was 3-4" farther to rear of truck and about 1" lower of rear driver's side door than defect #5, out to in, back to front 24°, downward 3°. Perforated exterior skin of door.
7. Defect was 2" lower on driver's door than defect #3, out to in, back to front (unable to determine angle).
8. Defect was 2-3 inches below defect #4 on rear driver's side door, out to in, back to front (unable to determine angle).

#### **Exterior passenger side bullet defects**

1. Defect on "C" pillar behind rear passenger door just behind rear seam of door, out to in, back to front 63°, downward 2°. Perforated truck and exited rear driver's door window.
2. Defect was high on "C" pillar about 3" above defect #9, out to in, back to front about 64° and downward about 1°. It perforated "C" pillar and entered cab. Bullet was recovered in seat belt assembly.
3. Defect at top edge of rear passenger door near rear edge of door, out to in, back to front. Because of irregular shape no trajectory rod could be used.
4. Defect over front edge of rear passenger side door in front of window in back panel. Looked like gouging or grazing on slant. Was not able to decide if this was a bullet defect.

5. Defect to bottom edge of front passenger door window frame, in to out, but was traveling driver's side to passenger side. Once laser rod was in place, bullet could have originated from a bullet fired through driver's door window from outside the vehicle. Defect was 90° to plane of door with slight downward trajectory of about 4°.

### **Faro Scan**

The CBI used a FARO scanner to document the scene. This FARO Laser Scanner records the entire scene in 3D and is an advancement over scene sketches. This record can be used for such things as analyzing line of sight, bullet trajectories, and verifying or discounting witness statements. Technician T. Waters from the Colorado State Patrol put the information from the FARO Scan into FARO Reality software to help interpret the data. Faro Reality software can create 3D diagrams and animations of things such as crash scenes.

The animation that was generated show the truck's path from the place where it was stolen to the point where it struck the building and then came to rest. The animation appears to be consistent with witness accounts. Technician Waters, in his report, said that depending on the shooters stance, shooting ability and weapon placement along with vehicle movement and the accepted margin of error for any given trajectory it is possible that the shooter was closer or further from the vehicle on any given trajectory. It is not likely that the shooter was significantly closer or significantly further from the vehicle that shown in the animation for any given trajectory noting the presence of other supporting factors such as shell casing locations (but some shell casings could have been displaced, or moved, prior to the evidence processing). Due to vehicle and Trooper movement during the event and the number of shots fired the order of the shots has not been evaluated and would be extremely difficult if not impossible to accurately quantify.

During the incident the truck crashed into the wall of the convenience store. Based on the damage to the vehicle and the wall Technician Waters estimated an impact speed of 15 MPH when it hit the building.

### **Law applicable to this incident**

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. 1212 (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.

### **Imminent danger**

There were several witnesses who indicated in their statements that several troopers and Nathan Dunn were in danger of being killed or of receiving great bodily injury. Nathan Dunn was the person whose truck was stolen by Gonzales. He said it looked like the "dude" that took his truck was aiming toward the troopers like he was going to "ram" them as he was trying to get out of there. It looked like his truck was "hauling ass to get out of there, he was doing a burnout". It looked like the guy in the truck was cranking the steering wheel left toward the troopers and he was "hauling ass". All he could hear was the trooper near him yelling "stop" at the guy in his truck multiple times. Dunn related that he saw the wheels to his truck turn left and the guy took off full throttle in the truck, and was accelerating toward the other two troopers standing near the trash dumpster, the other trooper (the one that had told him to get up) started firing at the driver 3 or 4 times. Dunn said he thought the other two troopers had their weapons pointed at the vehicle and had stopped in their tracks for a second as the vehicle was going toward them. Dunn also said the trooper who told him to get up, "he kind of saved my ass, I could have got my legs ran over". "That dude was totally in the right I feel". "This guy was a threat to me, he stole my vehicle, he was going to run my legs over, the cop saved my ass". "He looked like he was turning to go hit the other cops that were by the dumpster and as he turned, the officer that was next to me, that had told me to get up, started firing at my vehicle".

Samuel Wallis was a truck driver who had stopped to refuel his truck. He saw a male running toward a white pickup truck and jump into the driver's seat. He then put the vehicle in gear just as a Colorado state trooper approached the door of the vehicle telling the male to stop. Wallis said the male did not listen to the trooper and "floored" the truck and he then saw the officer back pedaling telling the male to stop. Then the trooper fired rounds at the fleeing male. The officer's back was toward the building and he was back pedaling at the time. He saw other officers arrive to help the first officer and they also fired rounds. He was asked if the truck could have been moving toward the other officers when they fired, and he responded, of course it could. He finished his written statement by saying "God bless these officers!!!"

Trooper Eduardo Henriquez told investigators that after the driver jumped in the truck he heard a very loud revving sound, like a pedal to the metal sound. Henriquez then saw the front left of the vehicle, including the front left yellow turning signal. At that point Henriquez thought he was going to run over him. He said that the only thing that went through his head was that there was no way he could outrun a vehicle and the only way he could stop the threat from killing him, or from running over him, was to take out the driver to disable the vehicle. As he saw the vehicle approaching him he opened fire, aiming at the silhouette in the driver's seat. As the vehicle kept traveling he referred to his training, which was to become a moving target to avoid being hit; so he started sidestepping towards his right as he was shooting. He said he was so focused on his target, as they taught at the academy, that he had tunnel vision and did not notice others in the area. He said that his perception was that the driver was trying to run over him and that the only thing in his head was that the driver was trying to take him out. When he was asked when he first started to shoot he said it was almost like a panic mode; He saw a vehicle coming his way and he

didn't remember moving from his original location from when he heard the revving of the vehicle. When he saw that left turn signal coming towards him, that's when he unholstered his weapon and he aimed at the silhouette on the driver's side.

Trooper Justin Richards was present when Gonzales ran toward the south side of the building. Richards pulled his TASER and ran around the north side of the building. When he rounded the building he saw a white pickup truck coming directly at him. It sounded like the truck was accelerating rapidly. He threw down his TASER, grabbed his sidearm, and moved out of the way of the truck, that he perceived was going to hit him. Richards said everything happened almost exactly the same time. He dropped the TASER and grabbed his sidearm because he saw the threat coming directly at him, and he felt that he was trying to "run me over". He believed that the truck was 10 to 15 feet away at that moment. He saw Eduardo (Trooper Henriquez) and he was yelling "alto, alto, alto, stop". Richards was directly in front of the vehicle, running east, or north, away from the threat, when he heard several shots, and saw Trooper Henriquez firing shots. The first shot that Richards heard was when he was in motion getting out of the way. He said he was directly in front of the vehicle when the first shot was fired. Trooper Richards believed that the truck driver was trying to "run him over" as it came towards him and at that point Trooper Henriquez was firing, or started firing, as that was happening. The vehicle then collided with the building and officers approached it calling for the driver to show hands, but no hands came out of the window. After a lull of probably three to four seconds, tires started spinning backwards. At that point Richards felt the driver was trying to escape or cause further harm to somebody else so he started firing to try to stop him from causing any harm to anybody else or from getting away from that scene. Richards said that the vehicle was a four-door pickup truck and Richards fired through the passenger side rear window toward the driver of the vehicle, but he could not see the driver at the time because the windows were tinted.

Trooper Mark Buneta ran behind Trooper Henriquez toward the south side of the building. He first heard gunshots before he got to the back of the building and before he saw Henriquez. He did not know who fired the initial shots, but after he rounded the building he did see Trooper Henriquez firing on the pickup as it was moving. The pickup was rapidly accelerating and then it veered to the west and it impacted the building. After the first series of shots there was a pause after the pickup hit the building. Then then "the tires started kicking up...", there was a lot of smoke, and then, there were a series of other shots. He saw Richards "back behind..." and he could see him engaging in gunfire on the vehicle.

Sergeant Kelly Pickering of the Colorado State Patrol saw the suspect run to the south with Trooper Henriquez following him and when Trooper Richards ran to the north he followed him. When he was about 100 feet from the back of the building, he heard about 20 gunshots. It was a volley of rapid fire in "like a fraction of the second" and then there was a very, very, short pause before the second burst of shots. When the commotion had ceased, he went around the building and hollered if everyone was okay. Pickering asked Henriquez what happened back here, and he responded, "he tried to run me over". Pickering said he then went over to Trooper Richards and asked "did you see what happened", and he responded "yeah, he tried to run us over".

These eyewitness accounts describe imminent danger that Nathan Dunn, Trooper Henriquez, and Trooper Richards were placed in during this short chaotic incident. These three persons each expressed the belief that they were in imminent danger during this incident. There is nothing to dispute that these subjective beliefs were honestly held. Also, the beliefs that they held that they

were in imminent danger appears to be reasonable, both in light of their description of the event by these three individuals, and also by the description of the independent eyewitnesses.

The evaluation of the physical evidence at the scene, such as the trajectory of the bullets into the truck the suspect was driving, or the number of bullets that were fired, does not discount these statements in light of the United States Supreme Court case of Plumhoff v. Rickard, 134 S. Ct. 2012 (2014). The facts in Plumhoff have many similarities to this incident. In Plumhoff the police contacted the suspect in his car and the suspect sped away endangering others. He was finally stopped, after making a quick right turn and making contact with a police cruiser in a parking lot. The suspect put his car in reverse in an attempt to escape, hitting another police cruiser. Police fired 3 shots at into the car, but the suspect reversed into a 180-degree arc and headed for a street forcing a police officer to step to his right to avoid the vehicle. Suspect continued fleeing down the street and officers fired 12 shots toward suspect's car. All the shots were fired during a 10 second period of time during which the suspect never abandoned his attempt to flee. Suspect then lost control of the car and crashed into a building. This incident with Gonzales is similar in that Gonzales sped away in a vehicle endangering several people; he was fired on by an officer, or officers; when his vehicle was stopped he put his vehicle in reverse in an apparent attempt to escape, again endangering officers; and all the shots were fired in a short period of time during which Gonzales was showing no indication of abandoning his dangerous flight.

The Court in Plumhoff, at p. 2020, analyzed the situation from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The Court allowed for the fact that police officers are often forced to make split-second judgments- in circumstances that are tense, uncertain, and rapidly evolving-about the amount of force that is necessary in a particular situation. The court considered whether it was unreasonable for officers to fire a total of 15 shots, and rejected that idea, saying that 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 noted that if lethal force is justified, officers are taught to keep shooting until the threat is over.

## **Conclusion**

The situation the State Troopers encountered was that the suspect they were questioning ran from them; stole a truck and accelerated rapidly away endangering the owner who was partly under the attached trailer; turned the accelerating truck toward the pursuing Trooper and toward another Trooper who was directly in front of the truck; collided with a building, and then, put the truck in reverse, spinning the tires, which demonstrated an intention to continue his reckless and dangerous flight endangering others in the area.

It is my conclusion that based on these circumstances that Trooper Henriquez and Trooper Richards 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 German Anchando-Gonzales, DOB: 11-02-92; 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 was in imminent danger of being killed or receiving great bodily injury. Therefore, the actions of the Troopers 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.



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