



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

July 5, 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 March 24, 2016  
Deceased: Joel Anthony Gonzales, DOB: 01/03/68  
Location: 2621 8<sup>th</sup> Avenue, Pueblo, Colorado  
Pueblo Police Officers involved:  
Dassity Miller  
Hunter Lewis

Dear Chief Velez and Sheriff Taylor:

This investigation involved a shooting incident on March 24, 2016, which resulted in the death of Joel Anthony 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 CIT investigation included the Pueblo Police Department, Colorado Bureau of Investigation, and District Attorney Investigators. After investigation, the CIT prepared and submitted an Executive Summary of the Investigation, together with the investigative reports and materials, to the District Attorney for review. Those materials were reviewed and this is the District Attorney's Decision Letter pursuant to the CIT protocol.

**Overview of the Incident**

On March 24, 2016, at approximately 4:31 AM, Pueblo police officers were dispatched to 2621 8<sup>th</sup> Avenue in Pueblo, Colorado, on a reported family disturbance. In route officers were notified that the male, Joel Gonzales was in the upstairs area of the residence causing a disturbance. The

reporting party, Patricia Quintana (Joel's sister) stated Joel had a history of mental illness and was seeing things and punching holes in walls. She did not know if he had weapons.

Officers Dassity Miller and Hunter Lewis arrived at the front door of the residence and knocked and after a few minutes a female opened the door. As the officers started to enter the residence they heard a male voice saying "officer I'm armed, I'm armed". Then officers saw the male, later determined to be Joel Gonzales, standing in the living room of the residence holding a large knife in his left hand and a handgun in his right hand. The officers gave loud, repetitive, verbal orders to him to drop his weapons, but he refused and began advancing toward them. He then got down on his hands and knees and continued advancing toward the officers. He neared the front door where the officers were yelling commands from just outside the door, when he made a sudden move, raising the handgun in the direction of the officers. The officers fired their weapons and Gonzales was shot. Gonzales was transported to Parkview Hospital and while in the hospital he was pronounced dead.

An autopsy was performed by Dr. Michael Burson. Dr. Burson's autopsy report related that Mr. Gonzales had a gunshot wound to the top left side of his skull and another gunshot wound to the left side of his chest. The autopsy report contained toxicology lab reports in which a urine screen showed positive for amphetamine and a blood analysis showed positive for amphetamine and methamphetamine. Dr. Burson's opinion as to the cause of death was multiple gunshot wounds. Dr. Burson also offered the opinion that methamphetamine intoxication may have contributed to the events leading up to the decedent's erratic behavior.

The investigation determined that Officer Dassity Miller fired two shots. It was determined that Officer Hunter Miller fired one shot.

The incident was recorded on the body worn cameras of Officers Miller and Lewis. The events shown on the videos are consistent with the statements of witnesses.

### **Interview with Patricia Quintana**

Patricia Quintana was the reporting party that called 911 regarding the situation with Joel Gonzales. Patricia was interviewed and provided the following information. She lives at the residence at 2621 8<sup>th</sup> Avenue in Pueblo with her mother Josephine Lucero, her sister Dolores Atencio, and her brother Paul Gonzales. They are all disabled and she is their caretaker. Another brother, Joel Gonzales, who was homeless in Denver, came back to Pueblo to try to get off illegal drugs and had been staying with them for the past two months. Joel has been diagnosed with schizophrenia, and has been off his medications for the past three weeks. He has had severe mental issues since he was young. Joel has been progressively getting worse and the three days immediately prior to the incident were really bad. For example, Joel had not been sleeping and had been walking around the house saying he was seeing and hearing people in the house and outside. He had also been "banging" on stuff in the house and moving furniture around the last three nights.

Patricia said that the night of the incident about 3:00 a.m. she heard Joel "banging" on stuff again. Because of the noise, no one was able to sleep, and she started thinking maybe the cops could get him some help. She came up from her bedroom downstairs and while going through

the kitchen to the living room she noticed that the drawer, where the kitchen knives are kept, was open. Based on her observations, she assumed that Joel had a knife. Joel had been talking about suicide the past few days and because of his erratic behavior she was at the point of being afraid for the rest of the family. She could hear him going from bedroom to bedroom and was afraid he was going to harm himself or someone else, so she decided to call the police.

When police arrived, Patricia opened the front door and saw two uniformed officers on the porch. They shined their flashlights on Joel who was in the living room. This is when she saw that Joel had a knife in his hand and also what she thought was a "BB gun that looks like a real gun". (This was later determined to be a black Hi-Point .380 caliber handgun). She heard the police say to please drop it. Joel responded that he was sorry, but that he couldn't. Patricia said that the police kept telling him to drop the weapons, but Joel told the police please forgive him, but he couldn't drop it. She said the officers never entered the house, but that Joel started to walk toward the officers and then went to his knees. At this point Patricia said Joel still had the knife and gun in his hand and she went behind the wall. The officers kept telling Joel to drop the gun and they would get him some help. Then she heard "three pops".

Patricia was asked what she thought Joel's intentions were during this incident and she stated that his intent was to do this so he could die. He recently told her he was so sick, but, in different words, indicated he didn't have the courage to kill himself. He told her that he wished someone would kill him.

#### **Interview with Josephine Lucero**

Josephine Lucero is Joel Gonzales's mother. She reported that Joel has mental issues and is schizophrenic, manic depressive with paranoia, and bipolar. Joel had been escalating for the past few days until today when "he kinda went off the rail". He hadn't let them sleep since Monday (March 21<sup>st</sup>). He said he was seeing people outside that wanted to get him. He was locking doors, closing windows, checking under beds, moving furniture against windows, slamming doors, and other things. He said that "you know, they're gonna get me but I'm gonna get them first". She saw him at one point with a knife and what she thought was a BB gun. She said to Pat (Patricia Quintana), her daughter "what are we gonna do?," "he's really bad today", "you got to call the police". When the police arrived she heard them ask him about ten times to put the gun down. Joel told the police he couldn't. Josephine said "put it down, Joel" and he wouldn't listen to her either. So, she said he got to his knees and crawled to the door and I guess that's when they shot him.

#### **Interview with Paul Gonzales and Dolores Atencio**

Paul Gonzales is Joel's brother. He told police that everybody went to bed, except Joel who started walking around. He came into Paul's room and he could see something shiny in his hand – it was either a gun or a knife. Joel was running back and forth saying there's somebody outside and mom said there's nobody outside and he started hitting the wall and knocked a hole in it. Later that night he could hear "them" saying "put the gun down, put the gun down". At that time Paul was lying in bed and then he "heard the shots".

Dolores Atencio is Joel's sister. She told police that Joel had been acting strange and paranoid for about a week. On several occasions Joel had told her people were outside watching him. During the night of the shooting Joel had been acting strange and moving furniture in the house

because he saw it rocking. Dolores was awakened during the night by Joel screaming and her mother arguing with Joel. She went back to sleep and was again awakened, this time by two gunshots. She walked out of her bedroom and was directed by officers to stay in the kitchen.

### **Interview with Dassity Miller**

Dispatch was calling for officers to respond to 2621 8<sup>th</sup> Avenue on a disturbance and Officer Dassity Miller responded. On her way to the address she heard the dispatcher say that the sister was the reporting party about her brother who had a history of mental illness and was punching holes in the wall. Officer Miller was the first to pull up to the scene and Officer Lewis Hunter pulled up behind her. Hunter was knocking on the front door and after a few minutes a lady (the reporting party) opened the door. As the two officers started to enter they heard a voice say "I'm armed". Then Officer Miller saw a man in the house about 15 to 20 feet away. She had her weapon drawn and she yelled directions "Show me your hands, show me your hands". From his side he pulled his hands up and she saw he had a black handgun in his right hand and a large butcher knife in his left hand. She started telling him "Drop your gun, drop your gun, drop your knife, like drop the weapons, do it now". The man responded something to the effect of "I can't do this". The man kept moving closer to Officer Miller and as he neared her he dropped to his knees with the gun and knife still in his hands. Then he made a fast motion up and she heard shots – she didn't remember who shot first. At the time Officer Miller stated she felt in fear of being shot, or stabbed, or if the man wasn't stopped he would kill the lady that called the police.

She looked at the man and it looked like he had been shot one or two times, but he still had the gun in his hand and she was still in fear that he would use it so she entered the house and kicked the gun out of his hand. Officer Miller was dressed in full police uniform with her badge and duty belt.

### **Interview with Hunter Lewis**

Officer Hunter Lewis also responded to the dispatch to 2621 8<sup>th</sup> Avenue on a disturbance. He and Officer Miller went to the front door and knocked. A lady opened the door and identified herself as the reporting person. She gave permission for the officers to enter and as they were entering Officer Lewis heard a male voice say "Officer, I'm armed". Both officers drew their firearms and gave commands, including to show his hands. His hands were by his side, but finally showed his hands and he brandished a black handgun in his right hand and a butcher knife in his left hand. They repeatedly gave commands, and pleaded with him, to drop the gun, but he kept moving toward them. The man was making huffing noises, like he was hyperventilating, and moving methodically toward them. When he got about ten feet from them the officers started backing out of the house to draw him out of the house for the protection of others in the house. At that point Officer Lewis saw what he described as a many mile stare on the man's face as if he was looking right through him. He thought this could go bad really quickly, because the man was still not responding to any of the commands the officers were giving. Even though the officers were now on the porch and the steps the man suddenly bucked up from his crawling position giving the appearance he was going to stab or shoot them. That's when he shot. Officer Lewis thought the man was going to shoot them.

Officer Lewis was wearing his dark blue police uniform with his badge, his gun, and all his gear.

### **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).

It is my conclusion that based on the circumstances that Officer Dassity Miller and Officer Hunter Lewis were experiencing and observing, they were justified by the provisions of the Colorado Statutes of Self-Defense and 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 Joel Anthony Gonzales and 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. Given the facts in this situation and the governing law, criminal charges against the officers would be inappropriate, and therefore, no criminal charges will be filed.



J. E. Chostner  
District Attorney