



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

February 17, 2015

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

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

Re: District Attorney CIT Decision Letter
Officer Involved Shooting on November 25, 2014
Location: Outside Loaf 'N Jug, 2119 E. 4th St, Pueblo, CO
Deceased: Jon Patrick Jaquez, DOB: 10/21/88
Officers involved:
Detective Michael Hecht, Pueblo County Sheriff's Office
Detective Michael Sincerbox, Pueblo Police Department

Dear Sheriff Taylor and Chief Velez:

The Colorado Bureau of Investigation (CBI) was designated the lead investigative agency to coordinate the investigation of this incident pursuant to Critical Incident Team protocol. The CBI submitted its investigative report, and the related reports from the Sheriff's Office, the Police Department, and the Autopsy pathologist. This letter contains my decision pursuant to the provisions of the Critical Incident Team Protocol.

Summary of Incident

Officers of the Pueblo Police Department were investigating the life threatening assault of an individual that occurred on November 24, 2014. The investigation developed a suspect by the name of "Hawk". Intelligence information revealed that "Hawk" was Jon Patrick Jaquez, DOB 10/21/88 and was known by the Pueblo County Sheriff's Office as an alleged drug dealer who was known to carry a concealed semiautomatic handgun. Jon Patrick Jaquez (Jaquez) had an

active felony arrest warrant outstanding for a burglary in Pueblo County in September, 2014. Jaquez was also a suspect in a "drive-by" shooting that occurred in Pueblo on November 9, 2014, in which two females suffered gunshot wounds. Based on this information it was decided to plan a joint effort between the Police Department's Narcotics Unit and the Sheriff's Office Narcotics Unit to locate and arrest Jaquez on the outstanding burglary warrant. The plan involved the use of a confidential informant (CI) who had the ability to communicate with Jaquez to arrange a meeting to purchase heroin from Jaquez. Eventually, the CI arranged to meet with Jaquez at the Loaf 'N' Jug at 2119 E. 4th St. It was known that Jaquez planned to drive to the location. The arrest plan was that the CI would park his/her vehicle on the south side of Loaf 'N' Jug and wait for Jaquez to arrive; once Jaquez arrived, the CI would advise Sheriff Detective Michael Hecht (Hecht) by phone; then Task Force Officer Greg Egan (Egan) was to maneuver his undercover SUV behind the Jaquez vehicle to prevent it from leaving; the CI would then run from his/her car as Sheriff and Police officers converged on Jaquez to effect the arrest.

The CI arrived at the Loaf 'N' Jug in a Ford Taurus and parked in a parking space on the south side. The parking space to the immediate right of the Taurus was empty and the space to the right of that was occupied by a Ford SUV. A white vehicle arrived and parked between the Taurus and SUV. Hecht aired that the CI identified Jaquez in the white vehicle at which time Detective Egan parked his undercover Dodge SUV behind Jaquez's vehicle and all undercover narcotics detectives converged on the Jaquez's vehicle.

Detective Hecht, who was in his undercover vehicle directly west of the CI Taurus, ran toward the front hood of Jaquez's vehicle with his .40 caliber semi automatic duty weapon drawn and wearing body armor with "SHERIFF" on the front and back. He assumed a position between the front passenger door of the Taurus and the front driver's side door of Jaquez's vehicle. Detective Sincerbox wearing body armor with "POLICE" on the front and back and with his .45 caliber semiautomatic weapon drawn, approached the rear trunk area of Jaquez's vehicle on foot and took a position at the rear of the Taurus's passenger side rear trunk area.

Detective Hecht trained his handgun on Jaquez, the driver of the white vehicle, and yelled "Sheriff's Department, let me see your hands! Sheriff's Department let me see your hands! Jaquez did not comply with Hecht's repeated commands, but, instead, reached to the ignition and started the vehicle. The vehicle started rolling backwards toward undercover officers who were converging behind the car. While the car was rolling Detective Hecht opened the driver's side door of Jaquez's car with his left hand, and reached into the car while announcing "Sheriff's Department! Shut off the car off! Sheriff's Department! Shut off the car!" Detective Hecht observed Jaquez's hand near his waist band and yelled "Sheriff's Department! I will shoot you! Turn the car off!" As the vehicle was moving backward it hit Task Force Officer Egan's SUV. Disregarding Hecht's repeated commands, Jaquez moved his right hand from the steering wheel to the center console gear shift lever and manipulated the lever at the same time the vehicle engine began revving. Hecht continued to yell "Shut the car off! I will shoot you!" Jaquez made eye contact with Hecht and continued to ignore Hecht's commands. The car that Jaquez was driving lurched forward resulting in Hecht's left arm being trapped between the front driver's compartment and front driver's door. In response to the situation Hecht fired six to seven shots into the chest of Jaquez. The car was moving toward Detective Wolfe in front of the car and angling toward the Taurus. Hecht was between the Taurus and Jaquez's car. In this situation, Hecht aimed his handgun toward Jaquez's head and attempted to fire again, but his weapon malfunctioned. Hecht forcibly freed himself from the driver's side door and began to clear his

weapon when he heard gunshots. Detective Sincerbox had fired three or four rounds into the rear driver's side passenger window in the direction of the driver of the white vehicle. After these shots the vehicle ceased moving, but the engine continued to rev.

Jaquez's vehicle came to rest after crashing into the air pump machine against the side of the Loaf 'N' Jug. The front bumper was dislodged from the vehicle. Medical personnel responded and found Jaquez seated in the driver's seat of the white vehicle. He was unconscious and not breathing. While medical personnel were removing Jaquez from the white vehicle, a .380 semiautomatic handgun fell from Jaquez's person onto the parking lot pavement. It was loaded with one live round in the chamber and additional five additional rounds in the magazine. Jaquez was declared dead at the scene.

Interview with Detective Michael Hecht

Detective Hecht of the Pueblo County Sheriff's Office was interviewed by CBI Agent Pat Crouch on December 1, 2014. At the time of the incident Hecht was a Detective in the Pueblo County Sheriff's Office and was a member of the Sheriff's SWAT team and was a Task Force Officer (TFO) with the U.S. Marshalls Office Colorado Violent Offender Task Force. The following is a summary of Detective Hecht's statements during that interview.

In October, 2014, Detective Michael Sincerbox, a police officer with the Pueblo Police Department, called Hecht and informed him the Police were investigating Jon Jaquez, a/k/a, Hawk, who lived in Pueblo West, and asked Hecht if the Sheriff's department was working on any crimes associated with Jaquez. Hecht then learned that the Sheriff's Deputies had responded to a call at Jaquez's residence in Pueblo West on "Elbow Drive". A stolen motorcycle was found there and one of the residents, who said that Jon Jaquez was his roommate, agreed to an interview. He said that Jaquez was involved in obtaining large amounts of methamphetamine from Denver and bringing it to Pueblo for distribution. Hecht called Sincerbox with that information and was told that a Confidential Informant working with the Police had been unable to purchase narcotics from Jaquez because Jaquez owed "the Pisces" in Denver \$10,000. Pisces was described as a Mexican National who is linked to a drug cartel organization. Hecht informed Sincerbox that the Sheriff may have an Informant that can purchase from Jaquez.

Sheriff's Deputies interviewed Jaquez's roommate and he agreed to be a Confidential Informant (CI). He informed the deputies that Jaquez was involved in stolen motorcycles and cars and that Jaquez had a lot of guns in his house, including a Mossberg shotgun and silver .380 semiautomatic pistol. The CI later gave information that Jaquez had four stolen motorcycles at his house, and investigation proved that to be true. Sheriff's deputies surveilled the house and learned that an SUV parked in the driveway was stolen. A patrol unit responded and recovered the stolen SUV and a stolen trailer. The CI told deputies that Jaquez told him he was happy with the way that he handled the Sheriff's Deputies during the vehicle and trailer recovery because it kept him from going to jail because he was wanted on an arrest warrant. Jaquez also told him that if he ever killed anybody he would have him help him get rid of the body because Jaquez could trust him. The CI also told the deputies that Jaquez always carried a silver handgun with him and he believed that may be a .380 semi-automatic pistol.

In mid November, 2014, Detective Hecht began an investigation of a drive-by shooting at the residence of Jumberto Pacheco, a/k/a "JR" in Pueblo. Two females were hit by gunfire during

the shooting. Hecht contacted an incarcerated CI in jail (no relationship with the other CI). The CI told Hecht that Jaquez owes the Pisces money because he was recently robbed of money and drugs at his residence. The CI said that Jaquez had a bunch of guns at his house and he described a Mossberg shotgun and a silver handgun in his possession. The CI said that Jaquez is partners with "JR" Jumberto Pacheco and a person by the name of Mallow (Billy Soto) who were purchasing methamphetamine from Jaquez. The business relationship involved stolen motorcycles that "JR" would take to Denver so they could be "chopped".

Hecht spoke to his CI again and he said that Jaquez and JR had a "falling out" and weren't talking. He said that Mallow had stolen a motorcycle from Jaquez and they got into a fight. Sometime later Jaquez ran over Mallow and retrieved the motorcycle.

On November 19th, Hecht received a text from Sincerbox that Jon Jaquez is the person that shot up JR's house in which two females were hit by gunfire.

On November 25, 2014, about 11:00 AM, Hecht was informed by phone from Police Detective Neal Robinson that "Hawk" (Jon Jaquez) was the suspect in the beating assault of Gilbert Sprague at 1040 Cypress and that Sprague was on life support and might not survive the injuries he sustained in the beating. To confirm this information, Hecht contacted his CI for another interview. The CI confirmed that Jaquez uses the street name "Hawk". The CI asked if this had anything to do with Jaquez kicking the shit out of somebody and he was told yes. He said it was because of me basically. An interview to get details from the CI was arranged for 2:30 PM on November 25th.

The CI related that he was supposed to receive a shipment from the Veteran's Administration of prescription Suboxone via UPS on November 21st. The prescription was never received and the CI learned that somebody signed for it. One of the persons present when the prescription was delivered was Gilbert Sprague. The CI told Jaquez that he had to get the prescription back or he would have to go to the cops to get his prescription back. Jaquez said that he would take care of it. On November 24th the CI got a call from Jaquez saying that he had all of his pills and to come over to 1040 Cypress Street. The CI entered the house and Jaquez gave him his pills and told him to go downstairs and look at what we did for you. The CI went downstairs and saw Sprague lying on a couch "beat to a bloody pulp" and was barely breathing. Jaquez said you take care of us and we take care of you.

After receiving the information from the CI about Jaquez's involvement with the beating of Sprague, the Detectives began planning how they could safely arrest Jaquez on his outstanding arrest warrant. The Officers were concerned about community safety because of Jaquez's increase in violence based on their information about: the drive-by shooting at Jumberto's residence in which two females suffered gunshot wounds; running Mallow over with the car; and he beat Gilbert Sprague almost to death over some pills. They believed they needed to get Jaquez off the street to be held accountable before he hurt or killed other people.

A briefing was held at 4:00 PM to discuss and plan safety issues. The Officers thought it best to arrest Jaquez away from his house where he would have access to fewer firearms. It was determined that Jaquez was likely to be a danger and a flight risk and would run when the detectives attempted to arrest him. The CI thought he could lure Jaquez out by calling him to arrange a narcotics purchase.

The CI contacted Jaquez to purchase heroin from him and was directed to meet Jaquez at the Loaf 'N' Jug at 2119 East 4th Street in Pueblo. Hecht then directed Detectives to establish surveillance at that location. He also directed the CI to park on the south side of the store which is a cinder brick wall and is not the entrance to the store (the entrance is on the west side). Detective Hecht planned to use their normal take down procedure of blocking the suspect vehicle in to prevent the vehicle from leaving and removing any individual from the car at gun point. Detective Hecht said his goal was to minimize Jaquez's escape route and isolate him to prevent Jaquez from endangering the patrons of the Loaf 'N' Jug.

The CI parked his vehicle on the south side of the store as directed and shortly a white vehicle (the Honda) with dark tinted windows drove into the parking lot and parked in the space to the immediate right of the CI's Taurus. The space to the immediate right of Jaquez was occupied by another vehicle. The CI informed Hecht by phone that he positively identified the driver of the white vehicle as Jaquez. Hecht then requested Task Force Officer Egan to block the car from the back and Egan responded by driving his vehicle and parking perpendicular behind Jaquez's car. Hecht then instructed the remaining surveillance units to proceed with the arrest of Jaquez.

Hecht exited his unmarked vehicle wearing a black tactical vest marked with the word "SHERIFF" on the front and back. The vest also displayed a chest badge. Hecht walked around the front of the CI's vehicle and pointed his duty weapon at Jaquez and screamed "Sheriff's Department, let me see your hands! Sheriff's Department, let me see your hands!" Hecht then saw Jaquez reach up to the ignition and start the car and the car began to roll backward. There were officers and deputies around the car. Hecht then approached the driver's door and opened it with his left hand and he reached in to pull Jaquez out of the car while simultaneously announcing "Sheriff's Department, shut the car off! Sheriff's Department, shut the car off!" Jaquez had his left hand near his waist and the car stopped, and Hecht kept telling Jaquez "Sheriff's department! I will shoot you! Turn the car off!"

Detective Hecht described how Jaquez's right hand went from the steering wheel to the center console shifter and it moved like a standard shift, but Hecht was sure it was an automatic. Jaquez looked up at Hecht making eye to eye contact and Hecht told Jaquez "Shut the car off! I will shoot you! Shut the car off! I will shoot you!" The car revved up like Jaquez had his foot on the gas and he was moving the shifter from side to side, and the car lurched forward and Detective Hecht got stuck in the door, and he then fired six to seven shots into Jaquez's chest. Hecht said he was going to fire another round because the car was still moving. Hecht looked to his left and Detective Wolfe was standing in front of the car and, in addition to moving forward, Jaquez was turning the car to the left toward the CI car. Hecht was between the two cars and was afraid he was going to be crushed between the two cars and the open door. In response, Hecht was going to shoot Jaquez in the head, so he pulled the trigger and there was a malfunction. He ripped himself out of the car going backward and tried to clear the malfunction when he heard a pop to his left. He saw a window shatter, and he thought he was going to be shot. He leaned over when he heard two more shots. He looked and saw Detective Sincerbox behind Jaquez's car at an angle and he had slow concentrated shots and the car was still moving. By the time he was able to clear his malfunction he assessed the situation and holstered his firearm. When he looked into the car Jaquez was not moving. Jaquez's car was still going full throttle and was against the Loaf 'N' Jug store wall. During the incident Hecht could see a passenger in the back seat and a passenger in the right front seat.

Detective Hecht again described the initial confrontation in which he moved to the driver's side of the vehicle. While standing outside the driver's door, Hecht opened the door to extract Jaquez from the driver's seat but he was unable to get around the driver's door to enter the vehicle to remove Jaquez. Detective Hecht said he is right handed and he was equipped with a sixteen shot (including a round in the chamber) Glock model 35, .40 caliber semiautomatic pistol. Hecht said that when he first fired at Jaquez, his firearm was in his right hand and the range of fire was approximately six to eight inches from Jaquez's chest and he was firing straight down so his bullets wouldn't go through Jaquez and hit someone else in the car. When asked what he thought Jaquez was trying to do when he drove forward, Detective Hecht said that from what he knew about Jaquez, he thought he was going to try and get away regardless who he drove over or killed. Hecht said he was in fear of serious bodily injury or he was going to be crushed to death between the two vehicles and that's why he fired at Jaquez – he had to stop him before Jaquez killed somebody. He never saw a firearm in Jaquez's possession. Hecht sustained minor injuries to his left arm when his arm was caught in the driver's door.

Interview with Detective Michael Sincerbox

CBI Agent Gregg Slater and Pueblo Police Detective Cody Wager interviewed Detective Michael Sincerbox of the Pueblo Police Department on November 25, 2014. Present during the interview was Detective Sincerbox's attorney, John Rice. Detective Sincerbox is a 15 year veteran of the Pueblo Police Department and is presently assigned to the Police Department Narcotics Unit. He has been a firearms instructor for the Police Department for two years. The following is a summary of Detective Sincerbox's statements during that interview.

In October, 2014, Detective Sincerbox received information from a "Confidential Source" (CI) that Jon Jaquez was involved in the distribution of large quantities of narcotics in the Pueblo area; he delivered the narcotics on stolen motorcycles; he was always armed with a gun. Further investigation revealed that Jaquez would steal motorcycles and cars in the Denver area and exchange those items for illegal narcotics or exchange those items to pay off drug debts. In early November, Sincerbox learned that Jaquez was staying at an unspecified address off of "Elbow Drive" in Pueblo West.

Based on the information that Sincerbox had been given on Jon Jaquez's association with Pueblo West, Sincerbox contacted Sheriff Detective Hecht to determine if the Sheriff had an open investigation involving Jaquez or an address on "Elbow Drive". Hecht confirmed that he had an open investigation on a person named "Jon".

In late November Sincerbox met with Hecht about information he had received that Jaquez might have been an accessory in an incident in which a girl was pistol whipped. The name of the suspect was the name of a person that Hecht had learned was an associate of Jaquez in distributing narcotics for Jaquez and the information also included that Jaquez was rumored to carry a gun.

On November 25, 2014, Detective Sincerbox received a call from Police Detective Neal Robinson regarding an assault he was investigating in which "Hawk" was mentioned as a suspect and asked if he knew who "Hawk" was. Sincerbox told Robinson that "Hawk" was Jon Jaquez and advised him to contact Detective Hecht for more information. Later that day Sincerbox was

talking to a "confidential source" about a drive-by shooting in which the "source" reported that Jon Jaquez had confessed to him that he was the shooter in that incident. Later that day Sincerbox got a call from Police Sergeant Mark Thalhamer advising him to meet at the Sheriff's annex for an arrest briefing on plans from members of the Pueblo Police Department, Pueblo County Sheriff's Office, and Alcohol, Tobacco & Firearm Task Force to arrest Jon Jaquez.

After the briefing, Sincerbox responded to a location where it was thought Jaquez might be but later he heard Detective Hecht air that an attempt to arrest Jaquez would be made at the Loaf 'N' Jug at 4th & Troy Avenue. Upon arriving in the area of the Loaf 'N' Jug, Sincerbox parked east of the Loaf 'N' Jug with an unobstructed view of the south parking lot. He observed a white Honda pull into the south parking lot of the Loaf 'N' Jug and park next to the CI's Taurus in the space to east of the Taurus. Hecht aired that the CI confirmed Jaquez was in the Honda and instructed law enforcement to move in for the arrest. Sincerbox saw Detective Egan park his white SUV behind the Honda. Sincerbox then parked behind Egan's SUV.

Detective Sincerbox was dressed in a gray "Harley Davidson" beanie cap, dark blue hoodie, blue jeans, tennis shoes and a tactical ballistic vest with "POLICE" displayed in white lettering on the front and back, two magazine pouches on the front of the tactical ballistic vest, a radio carrier and radio as well as a drop holster on his right hip. Sincerbox got out of his car and with weapon drawn and held in his right hand; he traveled around the front of his car to the rear passenger side quarter panel/tail light area of the CI's car. Other officers were posting in front of the CI's car and the white Honda Civic, including Detective Hecht. Detective Sincerbox was not giving verbal commands, but he heard multiple officers identifying themselves as Police Officers and repeatedly yelling commands "Stop! Show me your hands!"

Even though the white Honda had tinted windows, Sincerbox could see into the passenger compartment and determine that it was occupied by three individuals; one in the driver's seat; one in the front passenger seat; and one in the rear passenger compartment seated in the middle of the rear passenger seat. Due to the window tinting however, he was unable to determine facial features or identify the occupants. As other officers were yelling commands, Sincerbox remained at the rear of the CI vehicle and focused his attention on the driver of the white Honda. He saw someone open the front passenger door and remove the front passenger from the white Honda and begin to place that person into custody.

Detective Sincerbox saw Detective Hecht move from the front of the Honda to a position between the CI's vehicle and the front of the Honda's driver side door. Hecht opened the Honda's driver side door and Sincerbox continued to point his weapon and attention toward the driver of the Honda. The Honda then started to roll backwards with both the driver's door and the front passenger door open. After rolling a couple of feet, the Honda accelerated backward and collided with Detective Egan's vehicle. Sincerbox and several other officers began yelling for the driver of the Honda to "Stop". Detective Egan, who had been positioned behind the Honda jumped out of the way to avoid being hit and crushed between the two vehicles. As the Honda moved backward, Sincerbox moved to a position behind the CI's vehicle to avoid being struck by the Honda. He observed that the Honda hit Detective Egan's vehicle with enough force to cause Egan's vehicle to move a short distance from its original parked position.

After striking Detective Egan's vehicle, the Honda accelerated forward with the front end of the Honda turning to the left toward the passenger side of the CI vehicle. The Honda continued to

accelerate forward, travelling over a parking block, and then onto a curb, across a sidewalk, and colliding into the south side of the Loaf'N'Jug. Sincerbox saw two officers in front of the Honda jump out of the way to avoid being struck by the front end of the Honda. While this was happening, Sincerbox saw Hecht between the CI vehicle and in front of the open driver's door of the Honda. Hecht's left arm was over the top of the driver's door holding it open at the same time the door was being pinched closed. This resulted in Hecht's arm being trapped between the door and the Honda.

As Hecht's arm was trapped in the driver's door while the Honda accelerated forward, Hecht reached over the driver's door with his handgun in his right hand and fired, what Sincerbox estimated to be five to six rounds, into the driver or driver's seat area. After the discharge of the weapon, the Honda accelerated forward again and pushed up against a raised concrete block that secured an air compressor which was located in the area of the front passenger side bumper of the Honda. Several officers and the passenger who had been removed from the Honda were in the area of the concrete block just prior to impact.

Seeing Hecht trapped between the CI vehicle and the Honda and seeing the officers and passenger's in front of the accelerating Honda, and being fearful their lives were in danger, Sincerbox stated he fired three or four rounds at the driver of the Honda through the driver's side rear window. After firing he stopped to reassess the situation, determining that the vehicle was no longer moving, but the engine was still revving at a high RPM. Sincerbox kept his weapon trained on the driver and Hecht freed himself from the Honda.

When asked why he made the decision to shoot at the driver of the Honda, Sincerbox indicated he feared Detective Hecht, other officers, and the passengers removed from the Honda were in jeopardy of being run over by the Honda, based on the observed actions of the driver. Prior to discharging his weapon, he had a clear view of the driver's head and could see the driver's head moving even after Hecht fired at him. He believed the driver was still a threat to harm, injure, or kill other officers and/or the civilian passengers removed from the Honda.

Interviews with other officers

Sheriff Detective Samuel Wolfe was interviewed by CBI Agent Kevin Kobach on November 26th. He related that Detective Hecht was leading the investigation and the plan to arrest Jon Jaquez. The plan was to allow Jaquez to park in a spot at the Loaf 'N' Jug at 2119 E. 4th Street, block him with a police car, and then move in and arrest him. Wolfe said that this method of arresting a suspect is an accepted practice and is frequently employed.

Detective Wolfe parked on the northwest corner of the Loaf 'N' Jug. After the suspect vehicle parked and the driver identified as Jon Jaquez, Wolfe exited his vehicle and ran toward Jaquez's car. He rounded the southwest corner of the building and heard yelling "Police, Sheriff, show me your hands! Wolfe saw Jaquez in the car messing with the gearshift and the car began to rev. Jaquez looked up at Wolfe and the car moved quickly in reverse. Wolfe described the movement as a quick burst of acceleration. The car was revving and it was "screaming when he went backward and it was screaming when he went forward." Detective Egan was near the rear of the vehicle and was nearly hit by Jaquez's car.

Wolfe said he was standing in front of Jaquez's car and was pointing his firearm directly at Jaquez. Wolfe again saw Jaquez "messaging" with his gear shifter and Wolfe was yelling "Sheriff's Office, Sheriff's Office, show me your hands" and during this time Jaquez's car started moving forward and accelerating. When the car was accelerating, the front lifted and Jaquez turned the steering wheel to the left (west). Wolfe moved to his left (east) to avoid being hit, but the passenger side front light/bumper struck Wolfe in the knee. Wolfe reported a small red mark on his knee as a result of being struck by the car. He believed that when he was moving to avoid being hit, his foot was off the ground and that was what prevented him from being seriously injured. He believed that if he had he not moved, the car would have pinned him against the wall of the Loaf 'N' Jug and seriously injured or killed him. When he heard the car revving, he believed Jaquez was coming for him and he had to get out of the way. As the car was moving forward, Detectives Sincerbox, Hecht, Thalhamer, and Lt. Pannunzio were between Jaquez's car and the CI's car to the west. The area between the two cars was "tight quarters".

Wolfe said that the CI's car (to the left of Jaquez) was not all the way to the front of its parking space, leaving some room between the front of his car and the building. Wolfe believed that Jaquez's intent was to drive in front of the CI's car, between it and the building, and escape. Wolfe stated that "he was trying to get away" and that Jaquez would not have stopped for anyone in front of his car. When asked if he believed Jaquez would have run over him, he responded "oh yeah...he would have done anything to get out of there."

Wolfe said it was after he got hit by the car that he heard the first series of gunshots. He observed Hecht by the driver's door of Jaquez. The driver's window was slightly open and Hecht reached into the car in attempts to get the door open and remove Jaquez from the car. He remembered that it looked like Hecht was trapped and had a panicked look on his face. He then heard gunshots. After the first shots, Hecht backed away from the car and was messing with his firearm. He then heard another series of shots and could see that Sincerbox, at the back driver's side, was shooting.

Detective Wolfe stated the car was in motion and revving up during the period when shots were fired. He remembered Sincerbox and Lt. Pannunzio "clearing out" of the area between the two cars when Jaquez's car started to drive forward. Hecht was the only person near the driver's door of the vehicle and he was struggling and panicked trying to get his arms out of the suspect vehicle.

Wolfe said he first heard the other officers yelling when he came around the corner of the building from his car. That's when Wolfe began yelling at Jaquez to show me your hands, stop, stop, and it was during that yelling that the car flew backwards. Detective Hecht was yelling the loudest. It appeared that Jaquez was paying no attention to anyone and it appeared that his focus was on getting the car moving. On the other hand, the front passenger immediately complied with officer demands and put his hands up.

Sheriff Lt. John Pannunzio was interviewed by CBI Agent Pat Crouch on November 28th. After Jon Jaquez arrived at the Loaf 'N' Jug Pannunzio exited his vehicle, which was parked west of the CI vehicle, and walked south and east around the rear of the CI's vehicle toward Jaquez's vehicle with Detective Sincerbox following him. They were yelling, identifying themselves as sheriff deputies and demanding to see his hands. Pannunzio thought Hecht opened the driver's

door of Jaquez's vehicle. When the door was opened Pannunzio could see Jaquez's left hand down by his waist area and his right hand on the gear shift on the floor. They had their weapons drawn because they knew Jaquez carried firearms and he had already beat a person nearly to death. At first Pannunzio thought Jaquez was going to give himself up because the door was open and he had his left hand down near his waist and his right hand appeared to be jiggling the gearshift around as if he was trying to make sure it was in neutral. But then the vehicle back-up lights suddenly came on and the vehicle started going in reverse. Hecht, who was pointing his firearm at Jaquez over the door, was moving with the vehicle demanding Jaquez stop the vehicle. The driver's door was open and Pannunzio and Hecht were yelling at Jaquez to stop.

Pannunzio said he barely escaped from being hit by the vehicle and Sincerbox also moved out of the way of the vehicle. Jaquez's vehicle came to a stop, but Pannunzio didn't know if it was the result of hitting Egan's vehicle. When the car stopped they were yelling at Jaquez to show his hands. Then the vehicle revved up and accelerated faster than Hecht could move. Hecht's arm was inside the car near the door post and Jaquez was turning toward the CI's vehicle parked to the left of him. Pannunzio was yelling at Hecht to get out of the way. Detectives Thalhamer and Wolfe were in front of the car and there was no doubt in Pannunzio's mind that Jaquez would have run over the officers. Hecht was screaming at Jaquez to stop or he was going to shoot him. Pannunzio and Sincerbox were playing catch up with the car. Pannunzio was concerned Hecht was going to trip and fall and get run over by Jaquez. As the car surged forward getting closer to the CI's car he heard five to six shots in rapid succession as Hecht was screaming at Jaquez to stop. Pannunzio and Sincerbox caught up with the left rear quarter panel of the car. Then Sincerbox, who was standing near the left rear side window of the car, fired rapidly two to three shots from an angle through the left rear side window of the two door car at Jaquez. Pannunzio said this all happened in a matter of seconds.

When Jaquez stopped after backing to Egan's vehicle, there was no indication he intended to stop. Jaquez immediately put the car in drive and accelerated forward and there was no doubt in Pannunzio's mind that Jaquez was going to run over Hecht. The car was revved up so high that someone had to get inside the car to shut it off. When medical personnel were removing Jaquez, someone yelled "gun". Pannunzio was told by medical personnel that the gun fell from Jaquez as they were removing him from the car.

Police Detective Mark Thalhamer was interviewed by CBI Agents Pat Crouch and Kevin Koback on November 25th. Detective Thalhamer stated that he parked on the northwest corner of the Loaf 'N' Jug and he approached the corner of the Loaf 'N' Jug he could hear someone yelling "hands, hands, let me see your hands." As he rounded the corner, he observed Jaquez's white vehicle backing up striking the side of Detective Egan's vehicle causing minor damage. Detective Hecht was able to get the driver's door open on Jaquez's vehicle and he was reaching into the car like he was trying to get Jaquez out. Thalhamer approached the driver's side front quarter panel of Jaquez's vehicle. At that point Jaquez began driving forward and turning his car slightly toward the west catching Hecht and Thalhamer between the cars. Thalhamer said that after Jaquez placed the car in gear, he accelerated as fast as he could in the short distance he had and he believed that Jaquez's car may have hit the CI's car. He was concerned that he and Hecht were going to be caught and hit between the cars, and he was in fact brushed by Jaquez's car which caused a slight abrasion on his right leg. Thalhamer had his gun out and he was shining a flashlight into Jaquez's eyes which enabled him to see Jaquez clearly. Thalhamer said that

Jaquez had that look in his eyes that he was going to drive over anybody or anything to get out of there. Thalhamer said it's been a long time since he has seen that look.

When Jaquez's car came to rest, he and Hecht were right up against the CI's car. Thalhamer believed that Jaquez's intent was to escape by driving forward, but he hit an air machine on the side of the building causing the front bumper of his car to come off. As Jaquez revved up the car and drove forward, Thalhamer heard shots. None of the shots were fired until Jaquez started driving forward. Thalhamer didn't see shots to the front of the vehicle, but he saw the shots through the left rear window and he believed that Sincerbox fired those rounds.

Police Detective Neal Robinson was interviewed by CBI Agent Gregg Slater and Pueblo Police Detective Glen Fillmore on November 25th. Detective Robinson said that upon arrival at the Loaf 'N' Jug he jumped out of his car and began running toward the south side of the Loaf 'N' Jug, and then toward the passenger side of Jaquez's car. He could see the passenger side door of Jaquez's car open and could see Task Force Officer Egan was struggling with a male on the hood of Egan's car. He continued toward the open passenger side door of Jaquez's car and removed a passenger from the car. He could see Detective Hecht standing at the driver's side door of Jaquez's car with his gun in his right hand. Robinson could see Jaquez's car rocking back and forth and could hear the engine revving at a high "rpm". As the engine of the car revved and the car was moving back and forth, Robinson heard Hecht yelling, "Stop the car! Stop the car!" followed by "My arm! My arm!" Robinson also heard other officers yelling "Police! Police! Get out of the car!"

After the shots had ceased, Robinson reached into Jaquez's car and removed the keys from the ignition and yelled for someone to call for paramedics.

Interviews with passengers of Jon Jaquez

Ryan Churchfield was interviewed and he stated that he was walking near East High School and a guy he hadn't known very long, named Jon, offered a ride. Jon also went by the name Hawk. He sat in the front passenger seat. A guy sat in the back seat but he didn't know who he was. Jon stopped at the Loaf 'N' Jug and a bunch of guys (cops) rushed and pulled him out of the car. He remembered several of these "guys" outside the car had vests marked with the word "SHERIFF". Churchfield heard them saying to put your hands up and get out of the car. He said he then put his hands up and opened the door and somebody grabbed him and threw him out of the car. He remembered that Hawk tried backing up, but he hit the car behind him. He thought Hawk was trying to get away.

Jelani Shaw was in the rear passenger seat on Jaquez's vehicle. Police attempted interview him, but he refused to make any statements.

Interviews with lay witnesses

Tammy Duboy was a customer at the Loaf 'N' Jug when the shooting incident occurred. She was interviewed on November 25th about her observations. She parked in front (east side) of the Loaf 'N' Jug with her son, Eddie Willits, to get a soda. She said she saw a little white car come

from east 4th Street and it parked next to a maroon car on the south side. She saw the guy in the maroon car open the door and take off running. She then described a “swarm of officers” yelling “get out of the car, get out of the car”. She knew they were officers because several of them had vests on the said “SHERIFF” and it was clearly visible. She got out of her car to go into the store and when she was at the front door she started hearing gunshots, but she didn’t see where they were coming from. She was also hearing a lot of verbal commands such as “turn off the car, turn off the car”. Once she got into the store she couldn’t hear much.

When she came back out of the store she saw a lot of officers around and observed that the white car was pushed up against the maroon car. The white car now had the front bumper off and it looked like it had pushed up against the building like it hit the wall. She said her son, Eddie, was inside the store when this all happened.

Edward Willits was with his mom, Tammy Duboy, and he got out of their car and went inside the Loaf ‘N’ Jug. He noticed a man rushed by and heard a commotion outside, so he rushed out to see what was going on. At the same time his mom was coming toward him telling him to get inside. He started to hear “Sheriff’s Department” “Stop the vehicle, Stop the vehicle”. He saw two officers, one standing next to the red vehicle, and the second officer standing in the back of the vehicle. He heard two shots, like warning shots and he followed his mom inside. In probably a couple of seconds he heard four or five shots ring out. When Willits exited the store the shooting incident was already over.

Autopsy

An autopsy was performed on Jon Jaquez (DOB: 10/21/88), by Michael A. Burson, MD, on November 26, 2014. Dr. Burson determined that the cause of death to be multiple gunshot wounds of the torso. Nine gunshot wounds were found: left chest; midline chest; midline chest; left upper quadrant of the abdomen; left back; left back/shoulder; dorsum of right hand; left arm, and left wrist. Dr. Burson recovered five bullets or bullet fragments during the autopsy; the other four bullets had exited and were not found.

Dr. Burson reported in the toxicology diagnosis section of the autopsy report for Jon Jaquez that the urine screen was positive for amphetamine, opiates, and cannabinoid. The postmortem toxicology showed the presence of amphetamine, methamphetamine, THC, and morphine.

Tangible Evidence

Police Detective Stephen Jesik processed Corporal Michael Sincerbox and Deputy Michael Hecht for evidence on November 25th.

Corporal Sincerbox was wearing black exterior body armor that had patches on the front and back with the word “POLICE” spelled in all capital letters in white. He was equipped with a Springfield Model XD45 .45 caliber black semi-automatic handgun. One cartridge was in the chamber and he had a 13 round magazine which contained nine live cartridges.

Deputy Michael Hecht was wearing black exterior body armor with large white emblem patches on the front and back with the word "SHERIFF" spelled in all capital letters. Also on the front left shoulder was embroidered a circular silver colored Pueblo County Sheriff's badge approximately 3 inches in diameter. Deputy Hecht was equipped with a Glock, Model 35, .40 caliber black, semi-automatic pistol. One round was in the chamber. The magazine in the handgun when the shots were fired had a 15 round capacity and it contained eight live rounds.

Department Policies and Procedures

The Pueblo County Sheriff's Office Policies and Procedural Manual includes a section on the use of deadly physical force. It provides: "Sworn deputies may use deadly force only when the deputy reasonably believes that the action is in defense of human life, including the officer's own life, or in defense of any person in immediate danger of serious bodily injury".

With regard to shooting at a vehicle, the Pueblo County Sheriff's Office Policies and Procedural Manual says that the issue is subject to the Fourth Amendment's "Reasonable" analysis for a seizure and it may be considered a use of force or deadly force as well and decisions should be consistent with the policy of the office governing the use of force, deadly force and seizures (mentioned in previous paragraph).

The Pueblo Police Department Policy Manual contains a section on the use of force and use of force to effect an arrest. It provides that "Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose". The Manual outlines factors that are used to determine the reasonableness of force. Those factors include, but are not limited to:

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of drugs or alcohol.
- (e) Subject's mental state or capacity.
- (f) Proximity of weapons or dangerous improvised devices.
- (g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (h) The availability of other options and their possible effectiveness.
- (i) Seriousness of the suspected offense or reason for contact with the individual.
- (j) Training and experience of the officer.
- (k) Potential for injury to officers, suspects and others.
- (l) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.
- (m) The risk and reasonably foreseeable consequences of escape.
- (n) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (o) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (p) Prior contacts with the subject or awareness of any propensity for violence.

(q) Any other exigent circumstances.

The Police Department Manual also provides: "Use of deadly physical force is justified in the following circumstances: (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury. (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Regarding shooting at a vehicle, the Police Department Manual contains a section that says: "...An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others".

The Investigation

The investigation was conducted in accordance with the Critical Incident Team criteria. One of the shooting officers was a Sheriff's deputy and the other was a Police officer. Based on this situation it was decided that the Colorado Bureau of Investigations (CBI) would be designated the lead investigative agency. Assisting in the investigation were the Pueblo County Sheriff's Office, Pueblo Police Department, Coroner's Office, and the District Attorney's Office.

Conclusion

The Pueblo Police Department was investigating a life threatening assault on a man that occurred on November 24, 2014, and the suspect was identified as Jon Patrick Jaquez, known as "Hawk". The Pueblo County Sheriff had information that Jaquez was a drug dealer who was known to carry a concealed semiautomatic handgun. Jaquez had an active felony arrest warrant for a burglary in Pueblo County. Jaquez was also a suspect in a "drive-by" shooting that occurred in Pueblo on November 9, 2014, in which two females suffered gunshot wounds. Based on this information it was believed that Jaquez was a threat to the safety of the community and that a plan should be developed to arrest him on the outstanding arrest warrant. Because there was information that Jaquez had committed crimes in the city and county, the plan involved a joint effort of the Police Department's Narcotics' unit and the Sheriff's Office Narcotics Unit to locate and arrest Jaquez on the outstanding burglary arrest warrant. A confidential informant (CI) who was able to communicate with Jaquez made arrangements for Jaquez to meet him at the Loaf 'N' Jug at 2119 E. 4th Street ostensibly for the CI to buy heroin from Jaquez.

Pursuant to the plan, when Jaquez arrived at the Loaf 'N' Jug and the CI had identified him to Detective Hecht, the officers moved in for the arrest. Sheriff's Detectives had the word "SHERIFF" conspicuously printed on the front and back of their clothing. The Police Detectives had the word "POLICE" printed on the front and back of their clothing. The officers had handguns drawn and pointing at Jaquez. The officers were yelling various commands such as: "Sheriff's Department, let me see your hands! Sheriff's Department, let me see your hands!"

Sheriff's Department, shut the car off! Sheriff's Department, shut the car off!"; "Sheriff's Department! I will shoot you! Turn the car off!"; "Stop!" Sheriff's Office, Sheriff's Office, show me your hands"; and, "Police! Police! Get out of the car". Detective Hecht was yelling the loudest and he was by the driver's door which was open (Jaquez was in the drivers' seat). The front seat passenger, Ryan Churchfield, saw the persons he identified as officers and heard their commands. His response was to put his hands up and open his door. On the other hand, the response from Jaquez was to ignore the commands and place the car in reverse and back in Task Force Officer Egan's vehicle. His next response was to "rev up" his engine and place the car in a forward gear, accelerate quickly while turning his vehicle to the left toward Detective Hecht and Detective Thalhamer and the CI's car. Jaquez continued forward until he hit the air pump machine and the side of the Loaf 'N' Jug building.

Jaquez' actions caused several officers to scramble in an effort to avoid being struck by his car. Task Force Officer Egan had been positioned behind Jaquez' vehicle, and when Jaquez started accelerating his car backwards, Egan had to jump out of the way to avoid being hit and crushed between his vehicle and Jaquez' car. Lt. Pannunzio was in a position to see with the door open that Jaquez' left hand was by his waist and his right hand on the gear shift on the floor. Suddenly Jaquez' car started in reverse and Detective Hecht, who was pointing his firearm at Jaquez, was moving backward with the vehicle demanding Jaquez stop the vehicle. The driver's door was still open and Pannunzio and Hecht were yelling at Jaquez to stop. Pannunzio barely escaped from being hit by the vehicle. Detective Wolfe was positioned in front of Jaquez' car with his handgun pointing directly at Jaquez, but when Jaquez accelerated forward Wolfe, in an effort to avoid being hit, moved to the east. Despite his efforts to avoid being hit, Wolfe was struck by the passenger side bumper and light, leaving a red mark on his knee. Detective Thalhamer was positioned on the driver's side of Jaquez' vehicle near the front quarter panel and the CI's vehicle was parked next the driver's side of Jaquez' vehicle. When Jaquez accelerated quickly forward veering to the left Thalhamer thought he and Hecht were going to be caught and hit between the cars. In fact, Jaquez' car brushed Thalhamer causing a slight abrasion on his right leg. Detective Hecht had opened the driver's door with his left hand and reached in to pull Jaquez out of the car. During this time Hecht was yelling repeatedly "Sheriff's Department shut the car off" and "Sheriff's Department, I will shoot you. Turn the car off". Jaquez looked up and made eye contact with Hecht while Hecht continued to yell "Shut the car off! I will shoot you!" Then Jaquez car revved up and lurched forward and Detective Hecht got stuck in the door. Detective Robinson heard Hecht yelling "My arm! My arm!" Hecht said he was afraid he was going to be crushed between the two vehicles.

Detective Hecht fired his handgun toward Jaquez' chest at the point after Jaquez had ignored the officers commands and backed his vehicle into Task Force Egan's vehicle and then revved his engine and lurched forward with Hecht being caught in the driver's door. Hecht said he fired six to seven shots, and planned to fire another round because the car was still moving and he was afraid he was going to be crushed between the two cars and the open door and because he saw Detective Wolfe directly in front of the moving car in a position he could be run over. Hecht's gun malfunctioned, however, so he did not fire another shot. He was trying to clear his malfunction when he saw Detective Sincerbox fire at Jaquez.

Detective Sincerbox who had positioned himself near the rear quarter panel/tail light area of the CI's car saw Detective Hecht open Jaquez' drivers door and point his weapon toward Jaquez. Then the Honda started rolling backward with the driver's door and the passenger door open and

then it accelerated backward colliding with Egan's vehicle. He saw Egan jump out of the way to avoid being hit and Sincerbox also moved behind the CI's car to avoid being hit. Sincerbox and other officers were yelling at Jaquez to stop. Then the car accelerated forward turning to the left in the direction of the CI's car. Sincerbox saw two officers in front out of the car. He saw Hecht's left arm over the top of the driver's door holding it open at the same time the door was being pinched closed resulting in Hecht's arm being trapped between the door and the Honda. While the car was moving forward he saw Hecht reach over the car door with his right hand and fire an estimated five or six rounds at Jaquez. After those shots the car accelerated forward again. Sincerbox fired three or four rounds at the driver through the driver's side rear window. The car finally came to rest against a raised concrete block that secured an air compressor. Hecht said he shot because he feared the Detective Hecht and the other officers were in jeopardy of being run over by the Honda. Before discharging his weapon he had a clear view of the driver's head and could see that it was still moving even after Hecht had fired at him. He believed that the driver was still a threat to harm, injure, or kill other officers and/or the civilian passengers removed from the vehicle.

Sheriff's Office Policies and Procedures allow a deputy to use deadly force when the deputy reasonably believes that the action is in defense of human life, including the officer's own life, or in defense of any person in immediate danger of serious bodily injury.

The Police Department Policy Manual provides that an officer may use deadly physical force to protect himself or others from what he reasonably believes would be an imminent threat of death or serious bodily injury. The manual also provides that an officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is a imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. The manual also provides that an officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle. Another section provides that nothing in the section shall be construed to prohibit any officer from using a firearm to stop a suspect from using a vehicle as a deadly weapon.

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 that Detective Hecht and Detective Sincerbox 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 Jon Patrick Jaquez; 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.



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