



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

April 29, 2019

Chief Troy Davenport  
Pueblo Police Department  
Pueblo Municipal Center  
200 S. Main Street  
Pueblo, CO 81003

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

Re: District Attorney CIT Decision Letter  
Officer Involved Incident on May 19, 2018  
Location: 32381 Acoma Place in Pueblo County, Colorado  
Deceased: Santiago Valencia, AKA Santiago Evans-Valencia, DOB 07/25/81  
Officers Involved: Deputy Byron Franklin, Deputy Anthony DeHerrera

Dear Chief Davenport and Sheriff Taylor:

The 10<sup>th</sup> Judicial District Critical Incident Team (CIT) was activated on May 19<sup>th</sup>, 2018, to investigate an Officer Involved Incident which resulted in injury to Santiago Valencia (DOB 07/25/1981). The Pueblo Police Department (PPD) was designated as the lead investigative agency and other CIT participants included the Colorado State Patrol (CSP), Pueblo County Sheriff's Office (PCSO), and the 10<sup>th</sup> Judicial District Attorney's Office (DA). After the investigation, the CIT prepared and submitted an executive summary and its investigative reports and materials to the District Attorney's Office for review. Those materials were reviewed, and this is the District Attorney's Decision Letter pursuant to CIT protocol.



## **Overview of the Incident**

At approximately 9:07AM on May 19, 2018, Pueblo County Sheriff deputies were dispatched on a service call regarding a suspicious vehicle. The reporting party, Cathi Robbe, indicated there was a car parked in the area of 32<sup>nd</sup> & 3/4<sup>th</sup> Lane and Acoma Place with its doors and trunk open with no one around it.

At approximately 9:08AM, Deputy Anthony DeHerrera arrived at the area and located the vehicle in question. He did not have a cover partner with him. He noticed a male putting items into the trunk of the vehicle. At this point he contacted the male. A female was also on scene, initially inside the residence. He had dispatch run clearances. They were Natasha Aragon (10/08/1987), and Santiago Evans-Valencia (07/25/81).

At approximately 9:11AM, dispatch informed Deputy DeHerrera that Santiago Evans-Valencia had multiple felony warrants for his arrest. Deputy DeHerrera did not relay this information to Evans-Valencia.

At approximately 9:14AM, Deputy Byron Franklin arrived on scene to assist Deputy DeHerrera in taking Evans-Valencia into custody. The male and female were sitting on the porch in front of the house; Deputy DeHerrera was standing near them. It was at this time that Deputy DeHerrera told Evans-Valencia that he had open warrants for his arrest. Evans-Valencia was asked to stand up off the porch. He complied initially, but after taking a few steps reaches into his waistband and pulls out a pink semiautomatic handgun. He aims it first at Deputy Franklin who had just stepped into the yard, then turns toward Deputy DeHerrera, then back towards Deputy Franklin.

Deputy Franklin draws his duty handgun and fires several rounds. Deputy DeHerrera also draws and fires his service firearm. Santiago Evans-Valencia was hit multiple times, including a wound to his head. He dropped his handgun as he collapsed onto the ground.

Deputy DeHerrera quickly checked Evans-Valencia for a pulse, and deputies alerted the communications center shots were fired and requested an ambulance. Deputy Franklin kept the female secure on the ground until additional deputies could arrive.

Deputy DeHerrera and Deputy Franklin remained at the location while other deputies cleared the house and began securing the scene. The Critical Incident Team began its investigation at approximately 10:00AM that morning.

## **Interview: Deputy Anthony DeHerrera**

Deputy DeHerrera was interviewed by CIT detectives at the Pueblo Police Department on May 23, 2018. He was interviewed in the presence of his attorney and advised pursuant to *Garrity*. The interview was captured on video and audio.

Deputy DeHerrera said he was parked near 96<sup>th</sup> and Baxter at approximately 9AM. He was assisting with the child exchange civil standby procedures which occur at this time and this location each Saturday morning. He was in a marked PCSO unit and wearing his normal duty

uniform, which includes an embroidered badge on the outside. He had never to his knowledge dealt with this address before, nor the male or female that he would meet during this incident.

Deputy DeHerrera indicated he saw the call pop up on the computer screen related to a suspicious vehicle. It said there was a report of a vehicle parked in the roadway with its doors and trunk open. He said he let dispatch know he would head that way because he was already near the area of the vehicle.

Upon arrival, Deputy DeHerrera did locate the vehicle. He said immediately he saw a Hispanic male at the trunk of the car. He makes contact with him and asks "what's going on?" The male told him that he was moving some stuff into the house for a friend of his named Danny Espinoza. Deputy DeHerrera asks the male if he (Deputy DeHerrera) can lower the trunk of the vehicle so that he can see the license plate. The male told him "yeah, fine," and allowed Deputy DeHerrera to do so.

Deputy DeHerrera reads the plate to dispatch, and then notices the door to the house the car is parked in front of is open. He asks the male if anyone is in the home. The male tells him that his girlfriend is inside. Deputy DeHerrera asks the male to call her out, and he does so. The female from inside the house comes out onto the porch. Deputy DeHerrera asks for the male's ID and he gives him his ID and insurance card. Deputy DeHerrera then asks the male to accompany him to the porch.

During his interview, Deputy DeHerrera continued by saying that the male and himself walked into the fenced yard. Inside the yard are two trash cans with an old cupboard stacked on top of them. The male voluntarily takes a knife out of his pocket and sets it on the cupboard. Deputy DeHerrera and the male continue the brief walk to the porch. The male volunteers to Deputy DeHerrera that the plates on the car aren't going to match the car because he just bought it and hasn't switched it over. Deputy DeHerrera tells him "okay," and then asks the female on the porch her name.

She said she didn't have any ID, but her name is Anastasia Aragon, and that she also goes by Natasha. Deputy DeHerrera runs them through the communication center and he is informed the male (Santiago Valencia AKA Santiago Evans-Valencia) is wanted. Deputy DeHerrera said dispatch did not say for what or why he was wanted.

Because he knew a cover deputy would be arriving at some point, Deputy DeHerrera said he was making small talk with the two- discussing the car, how much it costs, etc. Deputy DeHerrera indicated he was waiting for his cover deputy to arrive before he told the male about the warrant, and before attempting to make an arrest.

Deputy DeHerrera said at a few points the male tried putting his hands in his front pockets, but Deputy DeHerrera told him "for your safety and mine, so I don't think you're reaching for something, keep your hands where I can see them."

Deputy DeHerrera asks them if they're burglarizing the place, and the male tells him that they're moving stuff in for Danny Espinoza. Deputy DeHerrera asks for a phone number so he can try to confirm that, and the male starts to get up, saying "yeah, the number is in the house, I'll go get

it.” Deputy DeHerrera tells him “no, we’ll get it later. I need you to stay out here.” The male sits back down next to the female and they make additional small talk.

Deputy DeHerrera said they continued to make small talk, as he asks them if they were dating and things of that nature. At this time Deputy Franklin arrives. As Deputy Franklin is walking into the fenced in part of the yard, Deputy DeHerrera asks the male to stand up and walk towards the officer over there. Deputy DeHerrera tells the male for the first time that they’re going to have to take him in on his warrant. The male starts walking on the sidewalk, then steps off it. Deputy DeHerrera says he thought the male was going to try to run away, but he (the male) suddenly turned back and had a handgun in his hand. He had the gun pointed at Deputy Franklin, then switched to Deputy DeHerrera. Deputy DeHerrera draws his duty gun as the male aimed his handgun back to Deputy Franklin. During his interview Deputy DeHerrera then said both deputies shot the suspect.

The male went down to the ground, and the deputies stayed back initially to see if he was going to move, as the gun was laying right next to him. It was a pink semi-automatic. Deputy DeHerrera estimates the male Santiago Evans-Valencia was seven feet from himself when this happened.

Deputy DeHerrera said he turned toward the female and told her to get down on the ground. The deputies asked each other if they were okay, and then Deputy DeHerrera went to check the male on the ground. He saw a bullet wound in the man’s head, but he was breathing. He told dispatch this, and then went back to where the female was located. Deputies were told not to attempt to clear the house until additional officers arrived, however Deputy DeHerrera had already checked the residence. There were no other parties at the address found.

Deputy DeHerrera estimated he was at the scene for approximately 5 minutes before Deputy Franklin arrived. He also said he did not have his body worn camera (BWC) recording during any of this. He indicated he thought it was on and recording the entire time, but it wasn’t until later when a supervisor told him “go ahead now and shut your cameras off” that he looked down and saw that it had not been activated.

Deputy DeHerrera said that during the initial contact the male had been compliant and did not show any signs of trouble. He did not appear under the influence of anything and was acting completely normal.

Deputy DeHerrera said he did not remember the male saying anything as he (the male) was pointing his gun at the deputies. He also said he thought the male’s intention with the handgun was to kill them. He said he felt like himself or Byron was about to get shot. Deputy Herrera said he did not remember how many times he shot, but later was told he shot four times based on the ammo left in the gun.

Deputy DeHerrera said he went to check on the male on the ground, told him “hang in there,” and Byron called the ambulance. He said he estimated it was five to ten minutes before additional people arrived.

### **Interview: Deputy Byron Franklin**

Deputy Franklin was interviewed by CIT detectives at the Pueblo Police Department on May 23, 2018. He was advised pursuant to *Garrity*.

Deputy Franklin began his interview by saying that on May 19, 2018 he and Deputy DeHerrera were sent to a call involving a suspicious vehicle. Deputy DeHerrera was at the location and had made contact with two people. Deputy Franklin was in a separate vehicle and arrived later. When he arrived he saw the two people sitting on the porch and Deputy DeHerrera standing near them.

Deputy Franklin did not know yet the male had a warrant. He said he heard Deputy DeHerrera tell the male to stand up and walk toward the gate (where the marked patrol vehicles were located). Deputy Franklin had walked inside the fenced area, he saw the male stand up, take a deep breath, and then pull out the pink colored gun.

The male pointed the gun at Deputy Franklin, then pointed it at Deputy DeHerrera. Deputy Franklin said he thought the male was going to fire at Deputy DeHerrera, and then at himself. The male pointed the gun back to Deputy Franklin, but at this time Deputy Franklin said he had drawn his own service firearm and began firing.

Deputy Franklin said when the male produced the pink gun initially he had pulled it out of his waistband. Deputy Franklin said during the encounter he could not tell if the male had his finger on the trigger of the pink handgun. Deputy Franklin estimated the male was seven feet away when the shooting occurred. He thinks he fired four shots.

Deputy Franklin said he was dressed in his standard patrol uniform including all patches, and badge. He arrived in marked PCSO vehicle. Deputy Franklin said he does not remember ever being at this house before.

**Note: Deputy DeHerrera's BWC was not active during this incident. His patrol unit does not have any recording unit equipment, so there is no footage of any kind from Deputy DeHerrera.**

### **Summary of Deputy Franklin's BWC**

In the footage, Deputy Franklin can be seen driving his patrol vehicle to the location. He parks behind Deputy DeHerrera's marked patrol car, which is itself parked behind the initial suspicious vehicle which still has the trunk and doors open. Deputy DeHerrera's car has its red and blue lights flashing. The encounter takes place during daylight hours and the film quality appears to be very high; it is easy to see specific details in the scene.

A male and a female are seen sitting on the porch of a house, with Deputy DeHerrera standing near them. The house has a short chain link fence surrounding the small yard. As Deputy

Franklin gets near to the open gate, the viewer can hear laughing coming from the porch area where the male, female, and Deputy DeHerrera are.

Deputy Franklin appears to be walking at a normal pace as he makes his way to the gate. Once he reaches the gate, Deputy DeHerrera can be seen talking to the male and pointing towards his patrol car. The viewer cannot hear what he is saying to the male.

Deputy Franklin takes a few steps inside the yard along the sidewalk leading from the gate to the house. To his left the viewer can see two oil drum style garbage cans right off the sidewalk, with what appears to be a part of an entertainment center, or cabinet laying across the top of it. The top of the furniture appears to be approximately mid-chest height to Deputy Franklin. On the top of the furniture the viewer can clearly see a medium sized folding pocket in the folded position.

The female remains seated on the porch with her legs crossed, the male calmly stands up. Deputy DeHerrera can be seen gesturing with his left hand towards the patrol car again.

The male is wearing a baggy black shirt. He steps off the porch at a normal pace, and as he takes his second step he begins to move his right hand toward his waistband on his right side. As he takes his third step he begins to rotate his body so that he will be facing the area between the two deputies. Deputy DeHerrera is a few feet behind the male with his hands clearly visible at his sides. Deputy DeHerrera is not reaching for any weapon at this time. Then the male takes another step and completely exposes a pink handgun he has pulled out from his waistband. He then points the gun directly at Deputy Franklin. Deputy DeHerrera is behind the male, but because he (the male) stepped off the sidewalk the three parties are now in a triangular pattern. Deputy DeHerrera can still be seen with his hands at his sides and he has not reached for his own weapon.

The male steps backward, braces his right leg behind him, places his left leg forward, bends his knees slightly. He has a pink handgun in his right hand, his finger can be seen on the trigger, he has his right arm fully extended, and is using his left hand and arm, which is bent at the elbow, to support the gun. He is in the traditional three point shooting stance (often called the Weaver stance) and has a two handed grip on the firearm. The male says "back the fuck up" as he's moving the gun from Deputy Franklin toward Deputy DeHerrera.

The male then steps back to get behind the oil drum trashcans and furniture piece. At this point Deputy DeHerrera can be seen reaching with his right hand, presumably to his own firearm. The male points the gun back at Deputy Franklin. Deputy Franklin's hands can be seen holding his own firearm. The male is still holding his gun with two hands, and has it pointed directly at Deputy Franklin. The male is behind the oil drums and furniture, which come up to him approximately mid-chest. The male collapses and shots can be heard.

Blood can be seen on his face and his gun lands near his body. Deputy DeHerrera can be seen holding his gun with both hands to the right of Deputy Franklin. Deputy DeHerrera turns to the female still on the porch and tells her to get down.

Deputy Franklin tells radio that shots were fired and the viewer can hear dispatch request an ambulance. The two deputies ask each other if they're hit, they indicate they aren't. Deputy

DeHerrera goes to check on the male on the ground. He can be heard saying “hang in there, man.” He then indicates the male was shot directly in the head to Deputy Franklin.

The female continues to lay on the ground face down. She can be heard crying.

The elapsed time from when the male took his first step off the porch to when the first shot can be heard is approximately 4 seconds. The male pulled his gun out in less than one second, and pointed it at both officers less than a second after that.

Other deputies arrive approximately eight minutes later. In that eight-minute span, Deputy Franklin maintains his location, talks to dispatch, and keeps the scene secure. The female is not allowed to get up, and Deputy Franklin barely moves.

Deputy DeHerrera went in the house to determine if other people were present. No one was found.

The remainder of the BWC footage shows Deputy Franklin’s movements as the investigation begins.

### **Summary of Interview with Natasha Aragon**

Natasha Aragon was interviewed on May 19, 2018 at approximately 11:20AM. Pueblo Police Department detective Glen Fillmore conducted the interview along with PCSO Detective Melissa Rohrich. Natasha told detectives she had only met Valencia the nite before the incident happened, and she only knows him by the nickname “Scrappy.” She thinks his first name is Santiago.

She said she lives at the Roadway Inn with a friend, and that the previous nite Scrappy had come to the room and needed a place to stay. Scrappy told her he was going to Juarez, Mexico and whoever took him could keep his car and drive it back to Pueblo. Natasha told detectives she wanted to get the car, so she agreed.

She said that earlier this morning (the day of both the incident and the interview) Scrappy asked her to go to Wal-Mart with him. After that, they went to the house of a person named Daniel Espinoza. She said Daniel was a mutual friend of her and Scrappy.

When they got to the house she and Scrappy began moving things from the car into the house. She said she was inside and Scrappy was outside when officers arrived. She said she did not know Scrappy had a gun, nor that he had warrants.

She said Scrappy wanted to leave for Mexico today. Natasha told detectives that when the second deputy arrived they told Scrappy he had a warrant and it looked as if he was going to walk to the police cars, but then pulled out a gun. She said he started walking, but then went faster as if he was trying to gain distance between himself and the deputies. She said he then pulled the gun out and turned toward the deputies. She said she saw the deputies draw their guns after Scrappy pointed his at them. She said she heard three or four shots, and that she knew the deputies fired their guns. She was unsure if Scrappy fired his gun or not.

Natasha said Scrappy was very paranoid, and that he uses meth. She said he did not seem under the influence of anything at this time. She said it seemed like he was crashing or coming down from being high earlier. She said she knew he was on parole, but did not know he had warrants. She said it seemed like he pulled the gun and pointed it at the deputies as if it would help him get away.

### **Summary of the Decedent's Autopsy Report**

The report indicates Santiago Valencia was pronounced dead on May 19, 2018 at 12:45PM. The autopsy was performed on the afternoon of May 22, 2018.

He had multiple gunshot wounds on his body, which the pathologist determined to be the cause of death. The toxicology report indicates he had 909 ng/ml of methamphetamine in his blood, and 191 ng/ml of amphetamine in his blood.

### **Summary of Colorado Division of Adult Parole Officer Brook Hathaway's Report**

Santiago Evans-Valencia, AKA Santiago Valencia, CDOC #91936, is a parolee assigned to intensive supervision under CPO Hathaway. Hathaway authored a report indicating that on May 17, 2018, at approximately 20:56 the parolee cut off his electronic ankle monitor.

The on-call CPOs conducted a residence visit in an attempt to locate Santiago Valencia. They found the cut ankle monitor, but did not locate the parolee.

CPO Hathaway's report indicates that he became aware of an incident in Colorado Springs that occurred on May 18, 2018. Details were not known to CPO Hathaway as to any specifics, but according to his access to CCIC/NCIC, Colorado Springs Police Department was awaiting approval of a warrant.

CPO Hathaway said that at approximately 09:21AM on May 18, 2018, parolee Santiago Valencia contacted him via telephone. CPO Hathaway told Valencia that he needed to turn himself in to authorities. CPO Hathaway asked Valencia if he were in possession of a firearm or illegal drugs. Valencia would not answer either question.

Valencia called CPO Hathaway on that same day at approximately 10:37AM. He was told he needed to turn himself in to local authorities. Valencia called again that afternoon at 15:20 and 15:55. CPO Hathaway continued to tell him that he needed to turn himself in peacefully. The parolee Valencia said he needed to get his personal effects in order prior to his custody.

That was the final contact CPO Hathaway had with Valencia.



### **Additional information later obtained from Colorado Data Access**

On May 18<sup>th</sup>, 2018, the day before the officer involved shooting occurred, the Honorable Judge Rotolo signed an arrest warrant for Santiago Evans-Valencia. The 4<sup>th</sup> Judicial District filed charges on this suspect alleging a top charge of Assault in the First Degree, causing serious bodily injury with a deadly weapon. Court records indicate the date of offense on this was May 17<sup>th</sup>, 2018.

The officer involved shooting that is the subject of this investigation took place on May 19<sup>th</sup>, 2018.

### **Officer Involved Processing**

Each officer involved in the shooting was processed by a CIT detective in the ID/CSI lab at the Pueblo Police Department. They were inspected with an Alternate-Light Source (ALS) for trace evidence on their uniforms and then photographed. Their duty weapons were inspected, photographed, and then downloaded. A count of the live rounds remaining indicated a total of twelve shots have been fired by the deputies. Deputy Franklin fired eight rounds, Deputy DeHerrera fired four.

Both deputies' duty weapons and additional magazines were processed. The live cartridges remaining in their duty weapons plus those in the additional magazines they carried were counted. Both deputies fired their duty weapons during this incident. The following results are from the processing of the officers.

Deputy Franklin used a Smith & Wesson MP 9MM; the magazine titled in the photos as number 1 was the initial magazine. It contained 9 live rounds. The magazine titled as number 2 contained 17 live rounds. There was also a third magazine, labeled as "mag from gun," which contained 17 live rounds, plus one from the guns' chamber. Deputy Franklin stated that he had conducted a tactical reload after the shooting.

Deputy DeHerrera used a Smith & Wesson MP 9MM; the magazine which was removed contained 13 live rounds, and one in the chamber. Magazine number 1 from his pouch contained 17 live rounds. Magazine 2 from his pouch contained 17 live rounds. Deputy DeHerrera did not conduct a tactical reload.

### **Scene Processing**

On May 19<sup>th</sup>, 2018, PPD detectives were assigned to the scene for processing. They took photographs, and videotaped the location and the area surrounding it. The scene was outside a house on the northwest corner of Acoma Place and 32 3/4<sup>th</sup> Lane. There were two PCSO vehicles parked on the dirt road in front of the house. The body of a male was lying in the front yard with obvious gunshot wounds, and a pink Taurus pistol was lying on the ground near his right hand.

Captain Lyons from the Colorado State Patrol assigned a trooper to diagram the scene. Northstar Drone service took aerial video and photographs of the scene.

Several teams of investigators and deputies searched the surrounding area for bullet strikes, but none were found.

Once a search warrant was obtained, investigators entered the fenced property and began searching for items of evidentiary value. All twelve shell casings from the two deputies were located in the front yard. Eight were to the east of the male, and four were to the north near the front porch. The yard was photographed and video-recorded before anything was collected.

Samples were collected from the body with a standard CBI GSR collection kit. The position of the body, the location of his gun, and the locations of shell casings were documented.

The interior of the house was searched. The purse belonging to the female was found, some cell phones, and a large black trash bag full of men's and women's clothing. It was unclear if the items belonged to the two non-law enforcement subjects of this incident. The interior of the house was photographed and video-recorded.

The Taurus pistol found next to the male body was inspected. The magazine contained five live rounds, and there was not a round in the chamber. PPD Detectives collected samples of three different blood stains at the scene.

After placards were placed and photographs were taken, evidence was placed in the PPD Crime Scene van and secured, and then transported to the Pueblo Police Department for further secure storage.

Two days later, on May 21<sup>st</sup> PPD detectives returned to the scene. They asked the resident of the home, David Espinoza, if he would allow them to use a metal detector along the exterior fenced area of the property to look for bullets and/or bullet fragments. He agreed, but nothing was found.

PPD detectives examined the pink Taurus handgun and took photographs of it. The purse of Natasha Aragon was also examined, and the officers' weapons were examined and photographed.

On May 24<sup>th</sup>, the Ford Taurus vehicle was processed. The vehicle was searched, photographed, and no evidence was removed from it.

### **Legal Guidelines**

A person is justified in using physical force upon another person in order to defend himself or a third person from what he reasonably believes to be the use or imminent use of unlawful physical force by that other person. Furthermore, he may use a degree of force which he reasonably believes to be necessary for that purpose. §18-1-704(1), C.R.S.

A person is justified in using deadly physical force upon another person in order to defend himself or a third person if he reasonably believes a lesser degree of force is inadequate and he has reasonable grounds to believe, and does so believe, that he or another person is in imminent danger of being killed or receiving great bodily injury. §18-1-704(2)(a), C.R.S.

In evaluating whether a person is 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 evaluated whether officers used excessive force under the Fourth and Fourteenth Amendments by approaching the issue of reasonableness from the perspective of a reasonable officer at the scene, rather than with the 20/20 vision of hindsight. Plumhoff v. Rickard, 143 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 . . .” Further, the Court took into account that police officers are often forced to make split-second judgments about the amount of force necessary in a particular situation – in circumstances that are tense, uncertain, and rapidly evolving.

## **Conclusion**

The two deputies involved in this incident were attempting to arrest a wanted person. Deputy DeHerrera had spent a number of minutes with the man, Santiago Valencia (AKA Santiago Evans-Valencia), and indicated he had been cooperative and compliant. When the second deputy arrived on scene, Deputy DeHerrera told Valencia they were going to have to arrest him.

Valencia initially stands up as if to comply, but after taking an initial step off the porch towards the PCSO vehicles, he suddenly pulls out a handgun. He points it at Deputy Franklin, then moves it towards Deputy DeHerrera. He can be seen in BWC footage holding the gun with his finger on the trigger, using a two handed grip, and in the three point shooting stance. At this point in the sequence, neither deputy has a weapon drawn. Deputy DeHerrera can be seen with both his hands open and to his sides.

Valencia takes a step to get behind the oil drums and furniture piece to use it as cover, and then points the gun back towards Deputy Franklin. Both deputies were in fear for their safety, and drew their service firearms, killing Valencia.

The deputies were not aware of it, but Valencia was a parolee that had cut off his ankle monitor two days before this; had been involved in a first degree assault involving a deadly weapon and serious bodily injury the nite before; and had told the female on scene that he was going to Juarez, Mexico, presumably to never come back.

Valencia's actions as described by each deputy, as described by Natasha Aragon, and as seen on high quality video show that he was acting intentionally. He was the initial aggressor by pulling his gun and pointing it directly at each officer. He was less than ten feet from them when he did this.

It is my conclusion based on the circumstances that the deputies were justified by the Self-Defense and Defense of Others provisions of the laws of the State of Colorado in using the actions they employed to defend themselves and each other from what they reasonably believed to be the imminent use of unlawful deadly force by Santiago Valencia, and they reasonably believed that a lesser degree of force would be inadequate. They had reasonable ground to believe, and did believe, that they were in imminent danger of being killed or receiving great bodily injury. The reactions of each deputy in this circumstance were based on their own observations and perceptions, and their actions were reasonable.

Given the facts and circumstances of the situation and the governing law, criminal charges against the officers would not be appropriate, and therefore no criminal charges will be filed against the officers.

Dated this 29<sup>th</sup> day of April, 2019



\_\_\_\_\_  
J.E. Chostner  
District Attorney