



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

February 14, 2020

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 April 27, 2019**

**Location: 1207 Bohmen Avenue in Pueblo County, Colorado**

**Deceased: Daniel Gurule, DOB 07/07/87**

**Officers Involved: Corporal Chad Garcia, Officer Marcus Juliano, Officer Stephen Biggs,  
Officer Gabriel Maldonado, Officer Brandon Beauvais, Corporal Jason Smith, Officer Justis  
Shipp, Officer Nicolas Sappleton**

Dear Chief Davenport and Sheriff Taylor:

The 10<sup>th</sup> Judicial District Critical Incident Team (CIT) was activated on April 27, 2019, to investigate an Officer Involved Incident which resulted in the death of Daniel Gurule (DOB 07/07/1987). The Pueblo County Sheriff's Office (PCSO) was designated as the lead investigative agency and other CIT participants included the Colorado State Patrol (CSP), Pueblo County Coroner, Pueblo Police Department (PPD), 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 Incident**

At approximately 4:34 am on April 27, 2019 at the request of Pueblo Police Chief Troy Davenport the members of the 10th Judicial Critical Incident Team (CIT) were activated to assist with the

investigation of an Officer Involved Shooting (OIS) involving eight (8) Pueblo Police Department (PPD) Officers.

On Friday, April 26, 2019 at approximately 7:14 pm, PPD Officer Aaron Sanders conducted a traffic stop involving a white in color Ford Ranger bearing CO license plate 966UFZ in the area of the 1200 block of Lake Ave. Officer Sanders contacted the driver, later identified as Daniel Gurule, as a result of him speeding, going 45 MPH in a 30 MPH zone. Additionally, the vehicle registration was expired. During the initial contact, Gurule indicated that he did not have a driver's license or ID. He was unable to provide current proof of insurance. Gurule gave Officer Sanders his name information, which included his name, date of birth and the last four digits of his social security number. Officer Sanders returned to his patrol vehicle to provide that information to dispatch.

Upon conducting a warrants check, Officer Sanders discovered that Gurule had an outstanding misdemeanor traffic warrant for a previous traffic violation. Officer Sanders re-contacted Gurule to advise him of the warrant and described Gurule as acting "strange" and that he appeared to be very "agitated". Officer Sanders asked Gurule to turn off his vehicle and step out. Gurule placed his vehicle in drive and started to drive off. Officer Sanders attempted to stop Gurule from fleeing by grabbing ahold of him through the car door window. Gurule proceeded to drive away, Officer Sanders did not fall to the ground during the incident, however he was dragged alongside the vehicle for a time. After a short distance, Officer Sanders let go of Gurule as he fled the scene at a high rate of speed.

Officer Sanders attempted to contact Gurule at 1509 E 21<sup>st</sup>, which is the address listed to the license plate on the Ford Ranger that he was driving. The vehicle was registered to Gurule's mother, Peggy Lopez. The residence on 21st street is the home of Gurule's parents.

After Gurule fled from Officer Sanders, Sgt. Michael Sincerbox, who had previous dealing with Gurule, knew he was living with his new girlfriend Alvera Mayoral at a residence located either on Egan or Bohmen. Sgt. Sincerbox drove around that area and the white Ford Ranger Gurule was driving was parked at 1207 Bohmen Avenue. Sgt. Sincerbox went to the front door of the residence and observed the keys to the residence and the Ford Ranger hanging from the deadbolt on the front door.

Sgt. Sincerbox did not get a response from anyone in the residence and he was not sure if Gurule was inside the residence. Additional PPD officers arrived on scene and a perimeter was set up around the residence and verbal commands for Gurule to come out of the residence were started. Acting Captain Sgt. Rich Reyes activated PPD SWAT Team to responded to the scene for a barricaded subject.

Prior to the arrival of SWAT, Alvera was contacted at work and she responded to the scene to aid in contacting Gurule via text messaging. Text communication was established between Alvera and Gurule, who confirmed via text that his was inside the Bohmen Avenue residence. At approximately 9:26 p.m. Gurule, through Alvera, requested that Sgt. Sincerbox text him. Sgt. Sincerbox sent text messages back and forth to Gurule about him coming out of the residence

peacefully. The last text message from Gurule was at 11:09 pm. During the initial text messages, it was learned that Gurule was armed with a handgun.

The PPD SWAT team arrived on scene and began tactical techniques in conjunction with a search warrant for the residence that was signed by Judge David Lobato. The front door to the residence was breached as well as multiple windows to allow for chemical agents to be introduced to the residence. A robot was deployed into the residence via the front door by the SWAT team to establish verbal communications with Gurule. The communications with Gurule continued for several hours and at times Gurule stated he would come out after he smoked a cigarette. Officers observed Gurule holding a handgun on the robot's camera.

Gurule failed to exit the residence and was observed by PPD officers to be moving around the residence throughout the evening. PPD officers continued to give verbal commands for Gurule to exit the residence, but he continued to refuse all commands to come out.

Negotiations with Gurule continued, as did less lethal attempts to get him to exit the house. SWAT officers deployed additional chemical agents into the house as well as a stronger grenade. Gurule exited the residence at approximately 3:18 am holding the handgun in his right hand and pressing it against the right side of his head. As Gurule was standing on the porch, SWAT officers approached the porch from the south side fired a less-lethal projectile at Gurule in an attempt to get him to drop the gun. After being struck by the less-lethal projectile, Gurule lowered the handgun from his head and, using two hands, pointed the muzzle directly at the small team of SWAT officers located on the one-four corner of the house. Based off Gurule's actions, eight PPD officers discharged their firearms.

The following are the eight PPD officers who fired their weapon during this incident:

- Chad Garcia
- Marcus Juliano
- Stephen Biggs
- Gabriel Maldonado
- Brandon Beauvais
- Jason Smith
- Nicholas Sappleton
- Justice Shipp

The incident scene was immediately secured to protect evidence. All PPD officers were assigned a gate keeper per CIT protocol and they were all transported to PPD to be processed.

## **Autopsy**

The autopsy on the body of Daniel Gurule was conducted on April 28, 2019 at St. Mary Corwin in Pueblo, Colorado. The autopsy was conducted by forensic pathologist Daniel Lingamfelter. Daniel Lingamfelter concluded that the cause of death was multiple gun shot wounds. The bullets collectively perforated the upper cervical spine/spinal cord, heart, lungs, liver, bowel and mesentery, brachiocephalic trunk, stomach, and the diaphragm.

The forensic pathologist noted the evidence of injury related to gunshot wounds in each area of the body of Gurule. The gunshot wounds included the following:

- I. Gunshot wound of the face (#1) with an entrance wound on the upper left cheek and an exit wound on the left side of the neck, perforating the skin subcutaneous tissues, and musculature of the left side of the face and left side of the neck. The direction of the bullet was downward, right to left, and slightly front to back.
- II. Gunshot wound of the right shoulder (#2) with an entrance wound on the superposterior right shoulder and an exit wound on the anteromedial right shoulder and an additional partial exit wound approximately on the medial right clavical. Bullet perforated the skin, subcutaneous tissues, and musculature of the superior right shoulder, exited through the anteromedial right shoulder, and re-entered the upper lateral right neck to perforate the skin, subcutaneous tissues, and musculature, and perforated and pulverized the upper cervical spine and spinal cord. The direction of the bullet was back to front, right to left, and slightly upward.
- III. Tangential gunshot wound of the face (#3) with an entrance wound on the posterior lower right cheek. The bullet perforated the skin and subcutaneous tissues of the posterior lower right cheek. The direction of the bullet was indeterminate.
- IV. Gunshot wound of the face (#4) with an entrance wound on the right cheek and an exit wound on the lateral right chin, immediately inferoanterior to the entrance wound. The bullet perforated the skin, subcutaneous tissues, and musculature before exiting. The direction of the bullet was back to front and slightly downward.
- V. Gunshot wound of the left shoulder (#5) with an entrance wound on the superanterior left shoulder and an exit wound on the posterolateral left shoulder. The bullet perforated the skin, subcutaneous tissues, and musculature of the superior left shoulder before exiting. The direction of the bullet was front to back, slightly right to left, and slightly downward.
- VI. Graze gunshot wound of the upper left back. The bullet perforated the skin, subcutaneous tissues, and musculature of the upper left back. The direction of the bullet is indeterminate.
- VII. Gunshot wound of the lateral right shoulder with an entrance wound on the lateral right shoulder and an exit wound on the medial upper right arm. The bullet perforated the skin, subcutaneous tissues, and musculature of the right shoulder, the proximal right humerus, and exited through the medial upper right arm before reentering the body through the anterior right axillary region to perforate the skin, subcutaneous tissues, and to penetrate the musculature of the right axilla. The direction of the bullet was right to left.
- VIII. Seven gunshot wounds of the torso (#8-#14) with entrance wounds involving the anterior right chest, lateral right chest, and the abdomen and an exit wound on the lateral right torso. The bullets collectively perforated the heart, lungs, liver, brachiocephalic trunk, bowel and mesentery, stomach, and the diaphragm. The direction of the bullets for gunshot wound #8-#13 is front to back, right to left, and upward; direction of the bullet for gunshot wound #14 was left to right, upward, and front to back.
- IX. Gunshot wound of the hip (#15) with an entrance wound on the anterior left hip and no exit wound. The bullet perforated the skin, subcutaneous tissues, left bony

pelvis, and penetrated the subcutaneous tissues and musculature of the left buttock. The direction of the bullet was front to back and slightly left to right.

- X. Gunshot wound of the upper right arm (#16) with an entrance wound on the posterior upper right arm and two partial exit wounds on the posterior upper right arm. The bullet perforated the skin, subcutaneous tissues, and musculature, and fractures the underlying humerus/olecranon before exiting. The direction of the bullet was downward and slightly left to right.
- XI. Two gunshot wound of the right forearm (#17-#18) with entrance wounds on the proximal dorsolateral right forearm and a gaping, collective gunshot exit wound centered within the right antecubital fossa. The bullet perforated the skin, subcutaneous tissues, and musculature, and the radius/ulna before exiting. The direction of the bullets was back to front and slightly right to left.
- XII. Gunshot wound of the right forearm (#19) with an entrance wound on the dorsal right forearm and an exit wound on the lateral right forearm. The bullet perforated the skin, subcutaneous tissues, musculature, and radius/ulna before exiting. The direction of the bullet was upward, slightly left to right, and slightly back to front.
- XIII. Gunshot wound of the left hand (#20) with an entrance wound overlying the knuckle of the left middle finger and a gaping partial exit wounds on the dorsal and ventral left wrist. The bullet perforated the skin, subcutaneous tissues, musculature, and underlying bones before exiting. The direction of the bullet was distal to proximal.
- XIV. Gunshot wound of the right middle finger (#21) that went through the tip of the right middle finger. The bullet pulverized the skin, subcutaneous tissues, musculature, and distal phalanx. The direction of the bullet was indeterminate.
- XV. Gunshot wound of the left leg (#22) with an entrance wound on the posterolateral left thigh and two partial exit wounds on the medial left thigh. The bullet perforated the skin, subcutaneous tissues, and musculature of the left thigh before exiting. The direction of the bullet was left to right and slightly back to front.
- XVI. Gunshot wound of the right leg. (#23) with an entrance wound immediately above the anterior right knee and an exit wound on the medial right thigh. The bullet perforated the skin, subcutaneous tissues, and musculature to the right thigh and fractures the underlying femur before exiting. The direction of the bullet was right to left, slightly upward, and slightly front to back.
- XVII. Gunshot wound of the right leg. (#24) with an entrance wound on the superlateral right shin and an exit wound on the super medial right shin. The bullet perforated the skin, subcutaneous tissues, and musculature of the upper right shin and fractures the underlying tibia before exiting. The direction of the bullet was left to right and downward.
- XVIII. Extensive gunshot wound aggregate of the right hip, right buttock, and lateral right thigh (#25). There were approximately 45 irregular to round, predominantly ricochet defects covering the right hip, right buttock, and lateral right thigh. The defects varied from superficially penetrating the skin to perforating the skin, subcutaneous tissues, musculature, and penetrating the underlying pelvis. There were no exit wounds present. The direction of the bullets/fragments was right to left.

The forensic pathologist noted for each wound listed above a “distant range of gunfire” or “no evidence of close or contact range gunfire” with “no muzzle imprint, soot, or stippling.” The toxicology performed on the blood of Gurule revealed an elevated blood ethanol level (197 mg/dL).

#### **Report: Interview with Alvera Mayoral**

On April 27, 2019 at approximately 5:40 a.m., Pueblo County Sheriff’s Office Detective J.C. Williams and Pueblo Police Department Detective Sean Davis interviewed Alvera Mayoral. Alvera Mayoral was the girlfriend of the deceased, Daniel Gurule.

Mayoral reported that she had received a phone call from Daniel Gurule and that he had indicated that he had been stopped by the police and that he intended to drive off if he had a chance because he did not want to go back to jail. Gurule called Mayoral back after he had fled from police. He indicated that he had returned home and had hidden his truck so that police would not find him.

Several times during the interview with Alvera Mayoral, she indicated that she could not believe that Gurule would not come out of the house knowing that he only had a misdemeanor warrant. She also stated that there was a handgun in the residence, she believed it was a 9 mm. She also reported that Gurule had a severe drinking problem and had been suicidal recently. She believed that Gurule just didn’t want to go back to jail.

Ms. Mayoral gave the detectives consent to search the cell phone that she had used to communicate with Daniel Gurule before and during the incident. Ms. Mayoral cell phone was downloaded.

#### **Report: Interview with Officer Aaron Sanders**

On April 27, 2019 at approximately 6:15 a.m., Pueblo County Sheriff’s Office Detective J.C. Williams and Pueblo Police Department Detective Sean Davis interviewed Officer Aaron Sanders of the Pueblo Police Department.

Officer Sanders explained that in the evening on April 26, 2019, he attempted to pull over a white in color Ford Ranger that was speeding in the area of Northern and Palmer. The vehicle seemed hesitant to stop but eventually pulled over in the 1200 block of Lake Avenue.

Officer Sanders contacted the driver of the Ford Ranger. The driver told Officer Sanders that he did not have his driver’s license or an ID. He also did not have current proof of insurance and his vehicle registration was out of date. Officer Sanders described the driver as argumentative and reported that the driver did not want to provide his name to Officer Sanders. The driver did eventually provide his name, date of birth, and the last four digits of his social security number. The driver identified himself as Daniel Gurule.

Using the identifying information, Officer Sanders learned that Gurule had an outstanding misdemeanor traffic warrant for his arrest. Officer Sanders called for backup at this time. Officer Sanders re-contacted Gurule who was “acting strange” and “appeared agitated.” Officer Sanders informed Gurule that he had an outstanding warrant and that he needed to turn off the vehicle and

step out. At that time, Gurule put the vehicle into gear and began to accelerate. Officer Sanders attempted to grab Gurule, but Gurule started to drive off. Officer Sanders retained his grip on Gurule and ran alongside the vehicle trying to detain him. The vehicle was not slowing down so Officer Sanders let go of Gurule and Gurule drove off at a high rate of speed.

Officer Sanders attempted to pursue Gurule in his patrol vehicle, but lost sight of him. Officer Sanders responded to the address associated with Gurule's license plate. The homeowner was Gurule's mother, Peggy Lopez. Officer Sanders was not able to gather any information about where Gurule could be located.

Later in the evening, Officer Sanders learned that Sergeant Sincerbox had located the white Ford Ranger at 1207 Bohmen Avenue. Officer Sanders did not respond to the Bohmen Avenue address.

### **Report: Interview with Sergeant Michael Sincerbox**

On April 27, 2019, Pueblo County Sheriff's Office Detectives Melissa Rohrich and Jose Medina interviewed Sergeant Michael Sincerbox. Sergeant Sincerbox was on scene during the incident involving Daniel Gurule but did not fire his weapon.

On April 26, 2019, Sergeant Sincerbox heard Officer Sanders' radio traffic regarding his traffic stop. He heard Officer Sanders request back up and heard Officer Sanders air that the vehicle had driven away nearly dragging him. Sergeant Sincerbox did not respond to the scene of the traffic stop but did look up the address associated with the fleeing vehicle and learned that it was associated with Peggy Lopez. At that time, Sergeant Sincerbox did not know the identity of the driver who had fled.

While officers were responding to addresses associated with the vehicle, Sergeant Sincerbox scrolled through the information about the incident and learned that the driver was Daniel Gurule. Sergeant Sincerbox had previous dealings with Daniel Gurule. In 2009, Gurule had been identified as a suicidal party on 2 occasions. During one of those occasions, Gurule had been taken into custody after a 6 hour standoff with law enforcement.

Three weeks before April 26<sup>th</sup>, 2019, Sergeant Sincerbox had contact with Gurule regarding an unrelated report of a suspicious vehicle. During this recent interaction, Sergeant Sincerbox had had a good rapport with Gurule. During this interaction, Sergeant Sincerbox learned the general area where Gurule had been living. Sergeant Sincerbox responded to that area on April 26, 2019 and located a white in color Ford Ranger parked at 1207 Bohmen Avenue. The truck at this address matched the description given by Officer Sanders and the license plate was the same as the one on the vehicle stopped by Officer Sanders.

Sergeant Sincerbox approached the residence and saw that the keys to the house and the Ford Ranger were still in the deadbolt. He knocked on the door and the windows and called out to Gurule, asking him to come out and talk. He received no response. Sergeant Sincerbox did not immediately air his location when he found the truck on Bohmen Avenue because he believed he had a better chance of getting Gurule to cooperate if he could speak to him alone. After 5-10 minutes of not getting a response from Gurule, Sergeant Sincerbox aired his location.

Other police officers arrived at the scene and a perimeter was set up around the house. Based on his interaction with Gurule three weeks earlier, Sergeant Sincerbox knew that Gurule's girlfriend Alvera Mayoral worked in the industrial park near the airport. Sergeant Sincerbox had dispatch call her and patch him through. Mayoral left work and came to the scene at Bohmen Avenue where she attempted to call and text Gurule. Mayoral attempted contact with Gurule for several hours. Eventually, Gurule told Mayoral to have Sergeant Sincerbox contact him. Sergeant Sincerbox explained to Gurule that the SWAT Team was going to be called and that police were going to get a warrant for the house. Gurule pleaded with Sergeant Sincerbox to have the SWAT Team stand down, but Gurule would not come out of the house. Gurule went back and forth, stating he would not come out of the house and then saying he would come out after he smoked a cigarette. Gurule stopped texting Sergeant Sincerbox at 11:09 PM on April 26, 2019.

Sergeant Sincerbox told Alvera Mayoral she could leave the scene and he texted her an update on the situation at 12:31 AM on April 27, 2019. The SWAT Team had arrived and Sergeant Sincerbox remained on scene in case he had anymore contact with Gurule. The SWAT Team deployed the SWAT robot at this time. Sergeant Sincerbox was no longer on duty when the robot was deployed, but he agreed to stay and attempt to speak with Gurule through the robot.

Gurule and Sergeant Sincerbox spoke through the robot for about an hour. During this time, Sergeant Sincerbox had a visual on Gurule through the camera attached to the robot. Sergeant Sincerbox saw that Gurule was holding a gun. At one point, Gurule indicated that he was speaking to Alvera Mayoral on the phone. Mayoral responded back to the scene at 1207 Bohmen Avenue and allowed Sergeant Sincerbox to speak with Gurule on her cell phone. Sergeant Sincerbox urged Gurule not to worry about "the gun charge" and to surrender. Sergeant Sincerbox reported that Gurule's main concern during the conversations that night was not going back to jail and the potential new charges he would face for running away from Officer Sanders. Sergeant Sincerbox stepped away from the situation to speak to Mayoral. It was during this time that the shooting occurred. Sergeant Sincerbox did not fire his weapon.

### **Interview: Corporal Chad Garcia**

Corporal Chad Garcia was interviewed by CIT detectives at the Pueblo Police Department on May 2, 2019. He was interviewed in the presence of his attorney and advised pursuant to *Garrity*. The interview was captured on video and audio.

The night of the incident, Corporal Garcia was wearing his SWAT uniform and was carrying a 9 mm Glock 17 handgun with 17 rounds in the magazine and 1 in the chamber. Corporal Garcia was called out as a member of the SWAT Team the night of the incident.

On April 26, 2019, Corporal Garcia received a SWAT call-out for a barricaded person. Corporal Garcia responded to the Pueblo Police Department and drove the SWAT "ambulance" to the scene because he is the "explosive breacher" on the team and they use the "ambulance" to transport the explosives. After responding, Corporal Garcia learned that the person in the house had been involved in a traffic stop earlier in the day where officers learned that he had a traffic warrant and



he had ran into an officer while trying to drive away from the scene. Corporal Garcia did not know Daniel Gurule prior to this incident.

Corporal Garcia met with Sergeant Anderson when he arrived on scene and Sergeant Anderson instructed him to prepare an explosive breach for the front door. Corporal Garcia prepared the explosive breach and set the charge on the front door of the residence. Corporal Garcia had two other officers with him as he approached the front door to place the charge. He then backed up away from the house. Once back at the one-four corner of the house, Corporal Garcia checked the charge to make sure it was still hanging on the door and then he awaited the "initiate command" from either of the SWAT Sergeants or Captain Bodemer. After receiving the command, Corporal Garcia successfully breached the front door of the residence. The breach allowed SWAT to have a visual inside the residence. After the breach, Corporal Garcia stood by while commands were given to Gurule over the PA system.

Next, a plan to deploy gas into the residence was put in place to try and get Gurule to come out of the house. Corporal Garcia was holding the shield while his team approached the residence from the one-four corner of the house and deployed gas inside the residence. After deploying the gas, Corporal Garcia's team responded back to the one-four corner of the house to wait for the gas to take effect. Corporal Garcia heard coughing coming from inside the residence. After this deployment, Corporal Garcia stood back while more announcements were made over the PA asking Gurule to come outside. Gurule did not exit the residence.

Next, Corporal Garcia retrieved the SWAT robot. The robot has several different features, including cameras and a speaker, that can be used to communicate with a suspect. Corporal Garcia was once again behind the shield with the team that approached the residence and deployed the robot inside before returning to the one-four corner of the house.

Once inside, Corporal Garcia began to drive the robot through the residence trying to locate Gurule. Through the camera attached to the robot, Corporal Garcia was able to see a living room, a couch, and two doors that he believed led into bedrooms. Both doors were open. Corporal Garcia heard an officer air over the radio that they believed they had seen Gurule move through the living room into one of those two bedrooms. Corporal Garcia drove the robot back to those doors and observed that one of them was now closed. This led him to believe that Gurule had gone into that room. Corporal Garcia attempted to open the door with the robot but was unsuccessful. He decided to park the robot in front of the door and use the attached camera to monitor Gurule. Announcements were continuing to be made over the PA system at this time.

At one-point, Corporal Garcia was able to see Gurule exit the bedroom on the robot's camera. Gurule sat down on the ground right in front of the SWAT robot. Corporal Garcia was able to see that Gurule had a gun in his hand. He informed Sergeant Anderson of this. Corporal Garcia attempted to communicate with Gurule through the speaker attached to the robot. Corporal Garcia told Gurule who he was and asked him to come out. Corporal Garcia told Gurule that they wanted a peaceful resolution and didn't want anyone to get hurt. Corporal Garcia did have some trouble understanding what Gurule was saying over the robot, but he does remember Gurule stating several times that he wanted to talk to his girlfriend. Corporal Garcia informed Gurule that he would arrange for Gurule to talk to his girlfriend if he came out peacefully. At this time Gurule asked to

talk to Sergeant Sincerbox. Corporal Garcia said it seemed as though hours passed while Sergeant Sincerbox spoke with Gurule.

Gurule had moved into the first bedroom of the house and Corporal Garcia indicated that he could still see the pistol by his side. The SWAT Team decided to deploy a stinger ball into the house just into the front door of the house. Corporal Garcia, Officer Juliano, and Officer Biggs deployed the stinger ball into the house and again returned to the one-four corner of the house. Daniel Gurule began to come out the front door of the house. Corporal Garcia was holding the shield at this time, as well as his firearm, and could see that Gurule had a pistol in his hand pointed at his own head. He saw Gurule look around and heard officers say that a less lethal round should be deployed. Corporal Garcia saw the less lethal round strike Gurule in the right shoulder/ bicep area. Corporal Garcia was approximately 20 feet away from the house at that time.

Gurule then looked to the one-four corner where Corporal Garcia was stationed. After being struck with the less lethal round, Corporal Garcia observed Gurule turn and point the gun at him, as well as Officers Juliano and Biggs, who were shoulder to shoulder with him on that side of the house. He was in fear for all their lives. Corporal Garcia began to shoot his firearm and continued to shoot until the suspect dropped the gun and fell onto the porch. Officers held their position after the shooting and then Corporal Garcia handed the shield to Sergeant Anderson so he could perform a tactical reload of his weapon. Corporal Garcia approached the porch to make sure the threat was gone and saw the suspect slumped over on the porch, unmoving. Corporal Garcia was then transported to the Pueblo Police Department with his gate keeper.

### **Interview: Officer Stephen Biggs**

Officer Stephen Biggs was interviewed by CIT detectives at the Pueblo Police Department on May 2, 2019. He was interviewed in the presence of his attorney and advised pursuant to *Garrity*. The interview was captured on video and audio.

The night of the incident, Officer Biggs was wearing his patrol uniform and was carrying an M & P AR 15. Officer Biggs is a member of the SWAT Team, but he originally responded while he was on patrol and stayed on scene after the SWAT Team was called.

Officer Biggs was working patrol on April 26, 2019 when he heard that officers were dealing with a barricaded suspect in the 1200 block of Bohmen Avenue. Officer Biggs responded to that location. Initially, Officer Biggs parked his vehicle on Mesa Avenue, however, another officer later moved his vehicle to the front of 1207 Bohmen Avenue because they needed more light. When Officer Biggs arrived on scene, he was directed to the one-four corner of the house and Sergeant Reyes told him to bring his rifle. There were three other officers on the one-four of the house at that time. Officer Biggs heard officers making announcements over the PA system to Gurule commanding him to exit the residence, but he did not exit. These announcements continued for a while before the decision was made to call in the SWAT Team. Officer Biggs remained on scene after SWAT was called in. The SWAT Team arrived and Corporal Chad Garcia and Officer Marcus Juliano joined Officer Biggs on the one-four corner of the house.

Officer Biggs remained at the one-four corner of the house for the majority of the night. He and his team approached the residence several times to deploy gas into the house. Officer Biggs was

not a part of the team that deployed the SWAT robot into the house and other than glancing at the camera, he did not look at the SWAT robot camera footage from inside the residence. Officers told Officer Biggs that they could see the suspect inside the house and that he appeared to have a gun resting in his lap.

After hours on scene, Daniel Gurule finally exited the residence. At this time, Officer Biggs was still on the one-four corner of the house. He was approximately 20 feet away from the house. Officer Biggs was to the left of Corporal Garcia, who had the shield. Officer Biggs saw Gurule exit the house with a gun in his right hand, pointed at his own head. Officer Biggs knelt down with his rifle when Gurule exited the house. Officer Biggs heard a command for someone to fire a less lethal round. Officer Biggs heard the less lethal round fired and saw it impact Gurule in the chest. After the impact, Gurule immediately turned and pointed the handgun at Officer Biggs and his team. Officer Biggs described the suspect as having an "aggressive stance" at that time. Officer Biggs believes the suspect could see and hear them. Officer Biggs shot the suspect with his rifle.

Officer Biggs does not know if Gurule fired the gun or not, but he believes that he could have. When Gurule pointed the gun at him, Officer Biggs was scared for his life and the lives of his fellow officers. Officer Biggs thought that Daniel Gurule's name sounded familiar but does not believe he had ever interacted with him before this incident.

#### **Interview: Officer Marcus Juliano**

Officer Juliano was interviewed by CIT detectives at the Pueblo Police Department on May 2, 2019. He was interviewed in the presence of his attorney and advised pursuant to *Garrity*. The interview was captured on video and audio.

The night of the incident, Officer Juliano was wearing his patrol uniform and was carrying a 40 Caliber Glock 22 handgun with a nine round magazine loaded with Department issued ammunition. Officer Juliano was on patrol when he originally heard the radio dispatch regarding Daniel Gurule eluding Officer Aaron Sanders. While on patrol he responded to the Bohmen Avenue address Daniel Gurule's vehicle was located there. Officer Juliano is a member of the SWAT Team and stayed on scene with SWAT the night of the incident after they were called out. He remained in his patrol uniform during this time. Officer Juliano did not know Daniel Gurule prior to this incident.

When Officer Juliano first arrived at the Bohmen Avenue address, officers spent several hours trying to communicate with Gurule, who was inside the residence. Officers were able to get in touch with Gurule's girlfriend who had talked to Gurule and told officers that Gurule was in the Bohmen Avenue residence and that he had a handgun in the residence. Officer Juliano had a recruit pull up a patrol car and light up the front of the residence with the spotlight. Officers spent several hours commanding Gurule to come out of the residence with his hands up and they could guarantee his safety. Gurule did not come out of the house. The SWAT Team was then activated.

When SWAT arrived, Officer Juliano set up on the four-one corner of the house with Officers Biggs and Garcia. Officer Juliano indicated that the officers continued to give Gurule commands to come out of the house. Officers explosively breached the front door of the residence but Gurule

still did not come out of the house. At this time the SWAT team began deploying gas into the residence. Officer Juliano responded up to the front door of the residence several times to deploy gas canisters into the residence in an attempt to dislodge Gurule. These attempts were unsuccessful.

Then, the SWAT Team deployed the robot into the residence. Through the video camera on the robot, Officer Juliano saw Gurule come out of a bedroom with a handgun in his right hand. Officers attempted to talk to Gurule through the robot for an extended period of time. Gurule was saying things about officers needing to get away from the windows. Officer Juliano feared Gurule had an eye on someone and might shoot through the window.

Officers deployed more gas into the house, and it appeared to have no effect on Gurule. The SWAT Team made the decision to deploy a stinger ball grenade into the house to try and get Gurule to come out. Officers Juliano, Biggs, and Garcia deployed the stinger ball grenade while other SWAT officers deployed more gas into the house. At this point, Gurule exited the house and was holding a gun to his own head. Gurule was standing on the front porch. Officer Juliano began yelling at Gurule that it didn't need to end like this and to drop the weapon. Then, Gurule looked over in Officer Juliano's direction. Officer Juliano heard a bang and saw Gurule turn and drop the gun from his head and point it in the direction of Officer Juliano's team. Officer Juliano believes that Officer Juno fired a less lethal round that hit Gurule before Gurule turned his gun towards Officer Juliano's team.

Officer Juliano heard several gunshots and felt "stuff" flying over his head and hitting him in the top of the forehead. Officer Juliano thought that Gurule was shooting at him. He was worried for Officers Biggs and Garcia. Officer Juliano drew his weapon as Sergeant Anderson was trying to pull him back. Officer Juliano saw Gurule and fired his weapon. Officer Juliano was approximately 10 yards away from Gurule at the time of the shooting. Officer Juliano had no doubt that Gurule was pointing the gun at him.

#### **Interview: Officer Gabriel Maldonado**

Officer Maldonado was interviewed by CIT detectives at the Pueblo Police Department on May 2, 2019. He was interviewed in the presence of his attorney and advised pursuant to *Garrity*. The interview was captured on video and audio.

The night of the incident, Officer Maldonado was wearing his SWAT uniform and was carrying an AR-15 with either 27 or 28 rounds of department issued ammunition. Officer Maldonado was called out as a member of the SWAT Team the night of the incident.

Officer Maldonado got the SWAT call out on April 26, 2019 at about 2217 hours. Officer Maldonado traveled to the location of call out on Bohmen Avenue with Corporal Smith in the MRAP vehicle. When Officer Maldonado arrived on scene, he checked in with Sergeants Bodemer and Anderson and was directed to report to the one-two corner of the house. Officer Maldonado began trying to establish safety priorities. Officer Maldonado set up more secure cover behind vehicles and assessed what areas he would be covering. Officer Maldonado was to cover the number one window on the two side of the house.

Officer Maldonado was on scene while announcements were being made to try and get Gurule to come out of the house and when the SWAT Team explosively breached the front door. Eventually, the SWAT Team made the decision to deploy gas into the house. Officer Maldonado provided cover to Officer Beauvais and Sergeant Furbush on the first round of gas deployment. Gurule did not exit the house after the first round of gas deployment, although Officer Maldonado heard coughing coming from inside the house. After the first round of deployment, Officer Maldonado and Officer Beauvais shot ferret rounds into the house.

At this time, Officer Maldonado was able to see into the house because the curtains had fallen down. Officer Maldonado and Sergeant Furbush deployed more gas into the house. They also attempted to introduce gas through the basement. The SWAT Team continued to wait for Gurule to exit the house after these deployments. At this point, a long amount of time had passed, and the SWAT Team decided to send in the SWAT robot. Officer Maldonado was not sure how much time had passed but knew that SWAT officers were attempting contact with Gurule through the robot.

At one point, Captain Bodemer informed Officer Maldonado that Gurule was going to smoke a cigarette and exit the house. The officers continued to wait, but Gurule did not exit the home. Officer Maldonado believes that Gurule went further back into the house as Officer Maldonado could see the top of his head through the window.

At this time, SWAT decided to introduce more gas into the house, as well as a stinger ball. Officer Maldonado observed Gurule walk through the house and out the front door of the house after this final deployment.

When Officer Maldonado saw Gurule come out of the house, he observed a gun in Gurule's hand aimed at his own head. Gurule began to visually scan the area. Officer Maldonado heard someone order that a less lethal round be used. Officer Maldonado saw Gurule get hit with the less lethal round on the shoulder. Gurule flinched and then moved the gun from his own head and pointed it towards one of the SWAT Teams. Officer Maldonado believed that Gurule was going to shoot at SWAT officers and fired his weapon at Gurule. Officer Maldonado stopped firing his weapon as Gurule began to fall. At this time, Officer Maldonado was not sure if Gurule had fired his weapon or if any officers were hurt.

#### **Interview: Officer Brandon Beauvais**

Officer Beauvais was interviewed by CIT detectives at the Pueblo Police Department on May 2, 2019. He was interviewed in the presence of his attorney and advised pursuant to *Garrity*. The interview was captured on video and audio.

The night of the incident, Officer Beauvais was wearing his SWAT uniform and was carrying a 45 Caliber Kimber handgun with a ten round magazine loaded with Department issued hollow point ammunition. Officer Beauvais was called out as a member of the SWAT Team the night of the incident.

Officer Beauvais stated during his interview that he received a call out for a SWAT deployment around 10:15 PM on April 26, 2019. The call out was regarding a barricaded suspect in the 1200 block of Bohmen Avenue. Officer Beauvais informed dispatch that he was going to respond, and he got more information from them about the situation. He learned that the incident had started with a traffic stop with Daniel Gurule. Gurule had eluded and hurt the officer while he was driving away. Officers had contacted Daniel Gurule at a residence on Bohmen Avenue and Gurule was possibly armed inside the residence. Officer Beauvais did not know Daniel Gurule prior to this incident.

Officer Beauvais indicated that after getting his SWAT equipment on he checked in and was assigned to the front entry team just north of the residence. A short time later he was moved from that location to the front side of house behind a parked patrol case just south of the SWAT MRAP. Officer Beauvais stated that during this time, the SWAT Team was doing their normal call outs letting Gurule know that he needed to come out with his hands up and they can insure his safety. These call outs were made for several hours and Gurule failed to come out of the residence.

Officer Beauvais stated that there were several tactical plans in place to draw Gurule out of the house safely. Officer Beauvais worked with Sergeant Furbush on gas deployments. On the number two side of the house, they breached a few windows and entered gas through those windows. On what Officer Beauvais believes to be the second deployment, while he was getting ready to breach the number three window midway up the house, he observed a male party standing at the window. Officer Beauvais could see part of the male's left arm from his position about three feet from the window. Officer Beauvais tucked back at this point and asked Sergeant Furbush if he should still breach the window and enter the gas. They carried out the gas deployment. Before he breached the window, Officer Beauvais did not observe the male party by the window again. They introduced gas into the room where the male had been seen. According to Officer Beauvais, two or three hours went by and Gurule was still refusing to come out and surrender. Verbal announcements were ongoing during this time.

Officer Beauvais stated that he and Officer Maldonado were positioned at the back end of a patrol vehicle just south of the Mine-Resistant Ambush Protected vehicle (MRAP) and, through the number one way to enter the house, they could see a male who appeared to be sitting down. They could just see his head on the bottom right part of the window. At this time, Gurule had been engaging in communication with the SWAT robot for some time but was still refusing to come out and surrender peacefully. Officer Beauvais indicated that the plan was to deploy more gas into that room with a simultaneous gas deployment from the front team that was just next to the porch.

Officer Beauvais states that he was instructed to deploy two ferret rounds into the upper part of the window while the front team initiated a hand tossed gas into the front living room area, close to where Gurule was sitting. Officer Beauvais stated that he only got one round off into the window after they initiated hand tossed gas and that Gurule came out the front door quickly with a "really bright silver gun to his head."

Officer Beauvais stated that he could immediately see Gurule scanning around looking from his far right all the way to his far left. To Officer Beauvais, it appeared that Gurule was scouting out where officers were placed and how many there were. Officer Beauvais indicated that someone

got a spotlight on Gurule's face quickly, so Officer Beauvais does not think Gurule saw where all of the officers were placed, at least to the front of him and to his right, or the south part of the property. Announcements were still being made at this time. Officer Beauvais stated that he heard radio traffic about something to do with a less lethal. They were getting the less lethal ready as Gurule had the gun to his own head. At this time Officer Beauvais indicated that he still had the gas gun in his hand, but when Gurule came out and had the gun to his own head, Officer Beauvais immediately put the gas gun in his left hand and drew his handgun with his right hand. He held the gas gun out in his left hand hoping that a patrol officer standing nearby would grab it, he indicated that it felt like it took forever, but that finally he thinks Sergeant Furbush took the gas gun. Officer Maldonado was next to Officer Beauvais. A less lethal round was deployed to try and disarm Gurule. Officer Beauvais states that there were a lot of people in sight of the porch. Within an hour or two of the SWAT Team's setup earlier in the evening there were 20 to 30 people standing by the northeast corner of the property and that the neighbor directly across the street from the target house was continuously harassing law enforcement about what they were doing and telling them to stay off his property and that this neighbor was in direct line of fire to the front porch, or very close to it. Officer Beauvais states that those were the things going through his head when Gurule came out on the front porch.

The less lethal round was deployed, and Officer Beauvais saw Gurule drop the gun down from his head, turn towards officers that were next to the front porch, and immediately go into a shooting stance. Officer Beauvais described the look on Gurule's face as "pure evil" and that it looked like Gurule was going to cause harm to the officers. Officer Beauvais immediately fired his sidearm when he saw Gurule go into a shooting stance. He believes he fired three rounds and that other officers were engaged in shooting Gurule as well. He stopped firing when Gurule fell to the porch. Officer Beauvais indicated that it happened so fast that he thought Gurule may have gotten a round off, but that he doesn't know if he did or not. Officer Beauvais indicated that he was around 30 feet away from Gurule at the time of the shooting.

Officer Beauvais stated that there was no doubt in his mind that Gurule was trying to kill or harm the officers that were next to the porch.

### **Interview: Corporal Jason Smith**

Corporal Smith was interviewed by CIT detectives at the Pueblo Police Department on May 2, 2019. He was interviewed in the presence of his attorney and advised pursuant to *Garrity*. The interview was captured on video and audio.

The night of the incident, Corporal Smith was wearing his SWAT uniform and was carrying a Gold Buck 64 grain firearm with a thirty round magazine loaded with Department issued ammunition. Corporal Smith was working as a member of the SWAT Team the night of the incident.

Corporal Smith indicated that he received a "Level 2" SWAT call out on April 26, 2019 at around 10:30 PM. The meet-up location was at Mesa and Bohmen Avenue. Corporal Smith describes a "Level 2" call out as a situation where the SWAT Team is meeting at the scene and not briefing at the station. He indicated that he was not given much information about the situation in the original

call out. When Corporal Smith arrived on scene, he learned that Daniel Gurule had been involved in a traffic stop with patrol and had possibly dragged an officer. Officers had located him at the call-out location and were trying to get Gurule to come out of the house. Gurule refused to come out of the residence so the SWAT Team was called in.

Corporal Smith stopped at the station to get his gear and pick up the MRAP before going to the target location. Corporal Smith drove the MRAP to the scene and parked it in front of the residence. Corporal Smith was stationed in the turret of the MRAP as an "over watch." He had his rifle. He indicated that after several hours of trying to call Gurule out of the house and Gurule not responding, the SWAT Team deployed gas into the house. The SWAT robot was also deployed into the residence and officers did have some communication with Gurule through the robot, but Gurule still wouldn't come out of the house. After several more hours of trying to communicate with Gurule through the robot, SWAT deployed more gas into the house, as well as a stinger ball.

Corporal Smith's position in the turret of the MRAP looked straight in the front door of the house. Corporal Smith saw Gurule stand up and walk out of the house with a pistol to the right side of his own head. Corporal Smith heard Gurule say "Stop that – stop that." Corporal Smith thought that was "weird" but took it to mean that Gurule was worried about the SWAT Team deploying the ferrets into the residence and breaking the windows. Corporal Smith saw Gurule look around after exiting the residence. Corporal Smith believed he was looking around to see where the officers and the SWAT Team were located.

Corporal Smith heard someone say, "hit him with the less lethal." Someone shot Gurule with a less lethal round that hit Gurule in the right shoulder. As soon as Gurule was hit with the less lethal round, Gurule took the gun away from his own head and pointed it straight at the SWAT entry team that was on the side of the house. At that point, Corporal Smith believed that Gurule was going to harm the entry team and Corporal Smith fired his rifle. Corporal Smith indicates that he was 15-20 yards away from Gurule at the time of the incident.

### **Interview: Officer Justis Shipp**

Officer Shipp was interviewed by CIT detectives at the Pueblo Police Department on May 2, 2019. He was interviewed in the presence of his attorney and advised pursuant to *Garrity*. The interview was captured on video and audio.

The night of the incident, Officer Shipp was wearing his patrol uniform and was carrying a 9-millimeter Glock 17 handgun with a seventeen round magazine loaded with Department issued ammunition. He was working as a patrol officer the night of the incident.

Officer Shipp indicated that he was not present at the traffic stop with Daniel Gurule prior to this incident. He indicated that he did not know Gurule prior to this incident. Officer Shipp responded to the 1207 Bohmen Avenue address when Sergeant Sincerbox indicated that he had located the vehicle involved in the stop at that address. Officer Shipp believes that it was late seven o'clock, early eight o'clock when he arrived, but wasn't sure of the exact time. Officer Shipp assigned himself to the call as an available unit. When he arrived at the address he was at the southeast corner. From his position on the southeast corner of the house, Officer Shipp could see the two



windows on the side of the house and the front porch. Eventually, Officer Shipp was moved back to one of the patrol vehicles on the street. The patrol vehicle was the furthest south vehicle. Officer Shipp moved further down the street while gas was being deployed into the residence. Once the gas was ineffective, he moved back to his position behind the patrol vehicle. SWAT was on scene and was deploying more tactics to get Gurule to come out of the house.

Daniel Gurule did exit the residence with a pistol to his own head and he looked around the scene. Officer Shipp indicated that he felt that Gurule looked right at him when he exited the house and Officer Shipp felt like he was in Gurule's line of fire. At this point, Officer Shipp drew his weapon. Officer Shipp heard that a less lethal round should be deployed, but he can't recall if that was over the radio or out loud. Once the less lethal round was deployed, Gurule reacted and pointed his gun to where the SWAT stack was on the north side of the house. Officer Shipp fired two to three rounds at that time. Officer Shipp estimated that he was 45 feet away from Gurule at the time of the shooting.

Officer Shipp stated that he was in fear for the lives of his fellow officers.

#### **Interview: Officer Nicolas Sappleton**

Officer Sappleton was interviewed by CIT detectives at the Pueblo Police Department on May 2, 2019. He was interviewed in the presence of his attorney and advised pursuant to *Garrity*. The interview was captured on video and audio.

The night of the incident, Officer Sappleton was wearing his patrol uniform and was carrying a 9-millimeter Glock 17 handgun with a seventeen-round magazine. He was working as a patrol officer the night of the incident.

Officer Sappleton stated that he arrived for his shift on April 26, 2019. He was working Watch 4 and was getting dressed for his shift when he was advised by Sergeant Reyes that additional patrols were needed at 1207 Bohmen Avenue. Officer Sappleton's PTO volunteered them to go to the Bohmen address after roll call.

When Officer Sappleton arrived on scene, he came up Bohmen Avenue going north and let Sergeant Reyes know he was there. Sergeant Reyes told him to "standby." One of the step-up sergeants (Officer Sappleton was not sure of his name) told Officer Sappleton what was going on at the scene. The step-up sergeant told Officer Sappleton that Daniel Gurule had tried to run over Officer Sanders and that officers had chased Gurule, lost him, and found him again at the Bohmen address. Officer Sappleton was told that officers had spoken with Gurule's girlfriend who had advised them that Gurule had had a gun on him earlier in the day. Officer Sappleton did not know Gurule prior to this incident.

Officer Sappleton indicated that they waited on scene for about 30 minutes and the SWAT MRAP arrived on scene. Officer Sappleton took over making announcements on the PA. He wrote the exact wording of the announcement in his notebook and read it to detectives during his interview on May 2, 2019. The announcement was: "Daniel Gurule, occupants of 1207 Bohmen, exit the

residence immediately. Come to the front door with your hands up and do it now.” He believes he read it over the PA over 50 times.

Sergeant Furbush let Officer Sappleton know that SWAT was going to blow the doors. Officer Sappleton continued to make announcements while the explosives were planted on the door so that Gurule would not hear the SWAT Team’s movements. Officer Sappleton continued to make announcements while SWAT blew the door and after. Thirty minutes later Officer Sappleton was informed by Sergeant Furbush that SWAT was going to deploy gas. Officer Sappleton continued to make announcements but had to put the microphone down and back up after the gas was deployed because he did not have a gas mask. He remained away from the microphone doing security for about 30-45 minutes while the gas cleared. Officer Sappleton returned to making announcements for another 30-45 minutes until Sergeant Furbush informed him they were going to deploy more gas. Officer Sappleton rolled up the patrol car window and stayed in the car making announcements until he was informed that they were sending the SWAT robot into the residence.

Officer Sappleton stopped making announcements while the SWAT robot communicated with Gurule. Officer Sappleton indicated that went on for 2 to 3 hours. At one-point Sergeant Furbush told Officer Sappleton that Gurule was going to smoke a cigarette and then come out. Another hour and a half passed, and Gurule did not come out of the residence. Officer Sappleton was standing next to Officer Shipp at that time. Sergeant Furbush explained to Officers Sappleton and Shipp that the SWAT Team was going to throw a stinkball grenade and shoot gas through the windows and that Shipp and Sappleton should stay on that side of the house in case Gurule came out and tried to bolt. Officer Sappleton’s PTO had walked away at that time and Sappleton watched as SWAT threw the grenade and threw cannisters through the window.

After that, Gurule came out of the residence with a gun in his hand and pointed it at his own head. Officer Sappleton drew his gun and could clearly see Gurule through the sight vision. He could not see any SWAT officers in his sights. Officer Sappleton indicated Gurule came out of the house, looked around, took a step back and the less lethal round went off. Gurule lowered his arm and pointed the gun at SWAT officers. Officer Sappleton thought Gurule was going to shoot SWAT officers. Officer Sappleton fired a shot. Gurule fell behind a wall and Officer Sappleton lost sight of him. After the shooting, Officer Sappleton’s PTO approached him to ask if he had shot and Officer Sappleton wasn’t sure he had until he saw his shell casing on the ground. Officer Sappleton was on the scene for five hours. At the time of the shooting he estimated that he was 30-45 feet away from Gurule.

Officer Sappleton indicated that he was in fear for the lives of his fellow officers. He thought that Gurule would shoot or kill them. Officer Sappleton was not wearing his body worn camera during this incident. He said that he was informed that officers do not have their body worn cameras on during SWAT call outs because they do not want to reveal SWAT tactics.

### **Scene Investigation**

On April 27, 2019, at approximately 4:00 AM, Detective David Butterfield, of the Pueblo County Sheriff’s Office, responded to the Pueblo Police Department in response to an officer involved shooting. After assisting Detective Bethany Solano, of the Pueblo County Sheriff’s Office, in

processing the involved officers, Detective Butterfield responded to 1207 Bohmen Avenue. Detective Butterfield photographed the scene and collected spent casings and a live cartridge from the scene.

Those included:

- 25 - .223 caliber spent shell casings
- 3 - .45 caliber spent shell casings
- 17 – 9mm spent shell casings
- 1 – 9mm live cartridge

Detective Butterfield swabbed and collected multiple possible blood stains, all believed to be from Daniel Gurule.

A search warrant was obtained for the residence and a search was conducted around the body of Daniel Gurule. Detective Butterfield located a .380 Bryco handgun below Gurule's right leg. The weapon was made safe and no live cartridges were located in the magazine of the weapon. One round was located in the chamber of the gun. No other evidence was located around Gurule's body and he was removed from the scene.

Several projectiles were located around the front and rear of the house. Due to the amount of CS/CN gas released into the house during the stand off with SWAT, the interior of the house was vented, and Detective Butterfield returned on April 28, 2019 at around 8 AM to photograph the interior of the house. Several CS/CN gas cannisters were collected from inside the residence. The only other evidence collected from the residence were projectiles from the southeast bedroom and the living room.

### **Neighborhood Canvas on April 27, 2019**

On April 27, 2019, Detective Ryan Landreth and Detective Josh Ragan conducted a canvas of the neighborhood around 1207 Bohmen Avenue. The detectives spoke with Ashley Muehlbaner, who resides at 1210 Bohmen Avenue. Ms. Muehlbaner reported that she saw police vehicles outside 1207 Bohmen Avenue around 8:29 PM on April 26, 2019. She indicated that she heard police officers using a loudspeaker announcing, "Pueblo PD" and "we don't want to hurt you" more than 500 times that night. At around 3:19 AM on April 27, 2019, she heard, but did not see, multiple gun shots. Ms. Muehlbaner reported that she had taken pictures and video on her cell phone of what occurred at 1207 Bohmen Avenue on April 26, 2019. She provided a thumb drive to law enforcement. The thumb drive did not have any videos on it, but it did have several photos of the suspect house and law enforcements officers on scene.

Detective Ragan reported that he spoke with Mary Medina, who resides at 1212 Bohmen Avenue. She reported hearing police officers command the suspect to come out of the house, as well as an explosion on the evening of the 26<sup>th</sup>. Several hours later, she reported seeing a man exit 1207 Bohmen Avenue, raising his right hand. She heard 2 gunshots, followed by more than 10 gunshots. The male then collapsed. She indicated that she recorded the incident and streamed it on "Facebook Live" and that she was willing to provide the video if it was still on her Facebook account.

During the neighborhood canvas, multiple neighbors reported hearing police officers commanding the suspect come out over the loudspeaker, booms, and explosions. The detectives got no response from the residents of multiple houses in the neighborhood.

Detective Samuel Wolfe and Sergeant John Romo were also a part of the team conducting the neighborhood canvas. The residents that they spoke to reported hearing police officers commanding the suspect to come out of the house over the loudspeaker, explosions, and gunshots. Several neighbors reported being told to go back inside their homes by police officers. The detectives got no response from the residents of multiple houses in the neighborhood.

### **Officer Involved Processing**

On Saturday, April 27, 2019, Detective Bethany Solano responded to the Pueblo Police Department on a report of an officer involved shooting. Detective Solano was tasked with processing the officers involved. The officers were processed separately. The processing consisted of taking overall photographs of the officers, checking their persons with an alternate light system for any biological evidence, and processing their duty weapons. Each weapon was downloaded on a piece of parchment paper and photographs were taken of each weapon and the rounds.

The results of her processing for each officer are listed below:

Officer Gabriel Maldonado – FNH FN-15 .223 Rifle – 4 magazines – 108 live cartridges out of a possible 112

Officer Justis Shipp – Glock 17 9mm – 3 magazines – 49 live cartridges out of a possible 51

Officer Nicolas Sappleton – Glock 17 9mm – 3 magazines – 51 live cartridges out of a possible 52

Officer Chad Garcia – Glock 17 9 mm – 2 magazines – 22 live cartridges out of a possible 35

Officer Marcus Juliano – Glock 22 40 caliber – 3 magazines – 50 live cartridges out of a possible 52

Officer Stephen Biggs – M & P 15 – 2 magazines – 31 live cartridges out of a possible 40

Officer Jason Smith – BCM model BCM4 .223 – 3 magazines – 77 live cartridges out of a possible 90

Officer Brandon Beauvais – Kimber .45 – 3 cartridges – 26 live cartridges out of a possible 29

### **Body Worn Camera: Officer Aaron Sanders**

On April 26, 2019 Officer Aaron Sanders was wearing his body worn camera when he conducted a traffic stop involving a white in color Ford Ranger in the 1200 block of Lake Ave. The body worn

camera shows Officer Sanders contacting the driver of the Ford Ranger, later identified as Daniel Gurule and informing him that he was speeding, going 45 MPH in a 30 MPH zone. In the body worn camera video, Gurule initially denies that he was traveling that fast. Officer Sanders also informs Gurule that the vehicle registration was expired. During the initial contact, Daniel Gurule indicates that he does not have a driver's license or ID. He was also unable to provide current proof of insurance. Gurule can be seen giving Officer Sanders his name information, which included his name, date of birth and the last four digits of his social security number. Officer Sanders returns to his patrol vehicle to provide that information to dispatch.

While Officer Sanders is in his patrol vehicle, police dispatch can be heard informing Officer Sanders that Gurule has an outstanding traffic warrant for his arrest and that Gurule's driver's license is revoked. During this time, Officer Hunter Lewis can be seen standing next to Officer Sanders' vehicle. Officer Sanders can be heard saying "he's kinda got a little bit of an attitude on him too." Officer Sanders then begins filling out a traffic ticket for Daniel Gurule, as well as a notice regarding his revoked driver's license.

Officer Sanders returns to Gurule's vehicle and asks Gurule to turn off the vehicle. Gurule asks "are you serious?" and puts the car into gear. Officer Sanders opens the car door and reaches in as Gurule drives away. Officer Sanders can be heard informing dispatch that the vehicle had just ran from him and almost drug him under the car. Officer Sanders gets back in his patrol vehicle and begins pursuing Gurule's vehicle. The body worn camera continues with Officer Sanders' subsequent investigation into Daniel Gurule's whereabouts.

### **Dash Camera: Officer Stephen Biggs**

The dash camera that is on the vehicle of Officer Stephen Biggs shows the most relevant depiction of the events of April 27, 2019, when officers shot Daniel Gurule. The camera shows the front of the house at 1207 Bohmen Avenue.

At 3:18 AM, SWAT officers can be seen approaching the front door from the one-four corner of the house and throwing something into the residence. SWAT officers then retreat. Several small booms and flashes of light follow. Daniel Gurule can be seen exiting the residence within seconds. Daniel Gurule has a gun in his right hand, pointed at his own head. Gurule looks around the area before a spotlight is shone on him.

From the one-four corner of the house, officers can be heard shouting at Gurule to drop the gun. An officer can be heard saying "hit him with the less lethal" followed by another boom. Gurule visibly reacts to being struck by the less lethal round, his right arm jerks back slightly. Gurule pulls the gun down from his own head and turns towards the one-four corner of the house. Gurule points the gun, using both hands at the one-four corner of the house. Gun fire erupts from various locations on the camera and Gurule falls onto the porch. Officers maintain their positions and do not immediately approach the house.

## **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 Officers involved in this shooting incident were trying to arrest a suspect who had fled from an officer during a traffic stop and had an outstanding traffic warrant for his arrest. The suspect was inside the residence at Bohmen venue refusing to come out for over six hours. Alvera Mayoral informed officers that there was a gun inside the house and Daniel Gurule mentioned having a gun inside the house through his text messages. Officers were able to confirm that Gurule had a gun when they saw him holding it on the SWAT robot camera. The SWAT Team engaged in an hour's long stand-off with Gurule during which they used numerous non-lethal methods to try and get Gurule to exit the residence and surrender. Announcements commanding Gurule to exit the house were ongoing during the stand-off, as was communication with Gurule. Sergeant Sincerbox repeatedly asked Gurule to surrender. CN/CS gas and a stinger ball grenade were also used to try and force Gurule out of the house. When Daniel Gurule finally exited the residence with a gun pointed at his head, law enforcement continued to try and gain his safe surrender by firing a less lethal round at him. It was only when Gurule brought the gun down from his own head and, using two hands, pointed it at the SWAT officers located at the one-four corner of the house that the eight officers involved in this incident began to fire their weapons. The statements of the officers are confirmed by a review of the dashboard camera that captured the actual shooting in its entirety.

It is my conclusion based on the circumstances that the officers 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 physical and deadly force by Daniel Gurule, 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. Each officer reacted independently to the rapidly evolving situation. The reactions of each officer in these circumstances 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.

Dated this 14<sup>th</sup> day of February.

A handwritten signature in dark ink, appearing to read "J.E. Chostner", is written over a horizontal line.

J.E. Chostner  
District Attorney