



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

January 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 9, 2019  
Location: 2029 Acero Ave.; behind Don Quixote Apartments  
Deceased: Michael Hensley  
Officers Involved: Jonathan Bell, Julee Burns

Dear Chief Davenport and Sheriff Taylor:

The 10th Judicial District Critical Incident Team (CIT) was activated in the early morning hours on April 10, 2019, to investigate an Officer Involved Shooting (OIS) Incident which resulted in the death of Michael Hensley (DOB 6/9/1990). The Pueblo County Sheriff's Office (PCSO) was designated as the lead investigative agency and other CIT participants included the Colorado State Patrol (CSP), Colorado Bureau of Investigation (CBI), Pueblo Police Department (PPD), and the 10th 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**

On Tuesday April 9, 2019 at approximately 9:35 pm Pueblo Police Department Officer Jonathan Bell made contact in the area of Acero and Kara Ct. with a male individual who was later identified as Michael Hensley. Officer Julee Burns arrived shortly after Officer Bell made contact with Michael. Officer Bell asked Michael for his ID and Michael began rummaging through one of the two bags he was carrying.

Officer Bell then instructed Michael to place his hands on the hood of his patrol car so he could pat him down for weapons. As Michael moved toward the hood of the patrol car as to comply with Officer Bell's request, he took off running around the front of Officer Bell's patrol vehicle, and both Officer Bell and Burns chased after Michael.

Michael ran to the backside of a stucco building (manager's building for the Don Quixote apartments) that was to the north of Officer Bell's patrol vehicle. As Officer Bell came around the corner of the house Michael fired a handgun multiple times toward the officers, striking Officer Bell in both of his legs. Officer Bell returned fire toward Michael with his duty weapon while kneeling on the ground next to the building without any sort of cover or concealment. Officer Burns took cover on the side of the building and eventually circled around behind Officer Bell. Officer Burns was airing information over the radio regarding the shots fired while she approached two sheds that Michael was hiding behind.

Officer Bell's firearm had several malfunctions, and he lowered himself to the ground and continued to fire in Michael's direction while Officer Burns approached the two sheds. Officer Bell was airing information over the radio that he needed help and that he was bleeding very badly. Officer Burns went in between the two sheds in an attempt to locate Michael.

As Officer Burns peered around the corner of the shed she encountered Michael and she fired her duty weapon (Glock 17 9MM SN# BGMK720) three times at Michael. After firing her duty weapon from between the sheds, Officer Burns returned back to the area where Officer Bell was lying on the ground still asking for help.

Officer Burns and Officer Bell were still the only two officers on scene at this point and Officer Burns asked Officer Bell where his tourniquet was. Officer Bell was yelling to shoot him (Michael) in the head. Officer Burns took a couple steps toward Michael who was lying on the ground, illuminated Michael with her flashlight due to the near complete darkness, and she fired one round at Michael. After firing the round at Michael, Officer Burns continued to keep her gun and light pointed toward Michael while she asked Officer Bell where his tourniquet was.

Backup officers began to arrive on scene and Officer Burns yelled at the first arriving officer, Officer Wilson, that she had him (Michael) at gunpoint and Officer Bell needed a tourniquet. Officer Burns stayed focused on covering Michael as she felt he was still a threat and did not know where his gun was. Other arriving officers began immediately attending to Officer Bell. Officer Bell is heard on the body worn camera yelling at Officer Wilson to shoot Michael, but Officer Wilson did not fire his weapon

because Officer Burns still had Michael at gunpoint so that other officers could provide medical treatment to Officer Bell. Officer Burns continued to hold Michael at gunpoint until additional officers arrived to place Michael into custody.

Officer Burns, along with other officers, approached Michael at gunpoint and placed him in handcuffs. Michael's gun was found between Michael and the wooden fence he was lying next to. Michael's gun was rendered safe and moved away from him by the responding officers.

After applying the tourniquet to Officer Bell's leg, several officers carried Officer Bell to the street so that AMR could begin their medical treatment of Officer Bell. Officer Bell was transported from the scene by AMR to Parkview Medical Center to be treated for the five gunshot wounds to both of his legs. Officer Bell was ultimately then flown via Flight For Life to Memorial Hospital in Colorado Springs due to the severity of his injuries. Officer Burns was removed from the scene and taken to the Pueblo Police Department. Michael was pronounced deceased and remained on scene.

The incident scene was immediately secured and evidence such as shell casings, Michael's handgun, and Officer Bell's equipment were left on scene.

#### **Autopsy:**

The autopsy on Michael's body was performed on April 11, 2019 by forensic pathologist Dr. Daniel Lingamfelter at St. Mary Corwin Medical Center in Pueblo, CO. Dr. Lingamfelter concluded that the cause of death was multiple gunshot wounds.

The forensic pathologist noted the evidence of injury related to gunshot wounds in each area of Michael's body. There were eleven gunshot wounds or bullet grazes as well as some abrasions and contusions on Michael's back, chest, and knees noted by Dr. Lingamfelter.

In the head, there was one gunshot wound that entered the left side and exited the right cheek. There was hemorrhaging, and multiple fractures associated with the entry and exit of the bullet through the skull. This is listed as gunshot wound of the head #1 in the autopsy report.

In the left upper neck, there was a bullet entrance wound. The bullet's path of travel was from the left upper neck, through the oral cavity, and exited the right cheek. This is listed as gunshot wound of the neck #2 in the autopsy report.

What's listed in the autopsy as gunshot wound #3 is a gunshot entrance wound on the upper left back that exited on the upper right chest. A deformed, yellow metal-jacketed bullet was recovered from Michael's shirt. The right lung and right hemothorax were collapsed.

In the back, there was another gunshot wound on the upper back immediately left of midline that had an associated exit wound on the anterior right shoulder. There were three bullet fragments recovered from the body tissues in the right shoulder. The autopsy report lists this as gunshot wound of the back #4.

Gunshot wound of the left shoulder #5 was an entrance to the posterior left shoulder. There was no exit wound, and a deformed yellow metal-jacketed bullet was recovered from the tissues in the left chest. The left lung and left hemothorax were collapsed. Also in the left shoulder was gunshot wound #6 with an entrance on the posteroinferior left shoulder. There was no exit wound, and a deformed yellow metal-jacketed bullet was recovered from the tissues of the mid chest.

There was another gunshot wound on the left thoracic back that penetrated both lungs. There was no exit wound associated with this shot and a deformed yellow metal-jacketed bullet was recovered from the right lower lung along with a bullet fragment from the left upper lung. This is referred to as gunshot wound of the back #7 in the autopsy report.

A ricochet wound was found in the lower left thoracic back. The bullet perforated the skin and penetrated the underlying tissues. There was no exit wound, however, there was a deformed yellow and gray metal bullet fragment that was loose in the body bag that was recovered near Michael's head. This is referred to as gunshot ricochet wound of the back #8 in the report.

Gunshot wound of the back #9 was an entrance wound on the lower left back with no exit wound present. A deformed yellow metal-jacketed bullet was recovered from the left side of the abdominal wall.

Gunshot wounds numbers 10 and 11 were of the upper left arm. One exit wound was located in the left antecubital fossa and there was a deformed yellow metal jacketed bullet recovered from the tissues in the upper left chest.

Heroin metabolites and methamphetamine were present in Michael's system as well.

### **Interview: Officer Jonathan Bell**

On May 17, 2019, Officer Bell was interviewed in his own home by Pueblo Police Detective Ryan Torres and Pueblo County Sheriff Detective JC Williams. Officer Bell's attorney, John Rice, was also present. Bell was asked to start from the beginning and explain what happened the night of the shooting.

Bell began by explaining that a couple of weeks before the incident at around 7:45 pm, Officers Verdugo and Nash were dispatched to 2518 Kara Ct. on reports of a man with a weapon and a white Honda was involved. Officer Bell also responded up to that area and had been given information that people were trying to steal the copper out of an abandoned house near 2518 Kara Court. Officer Bell walked near the house that they believed appliances and copper were being stolen from and he found footprints along with a backpack. Inside the backpack, Officer Bell found an ID for a Michael Hensley. Bell described a "B" tattooed on Michael's cheek. Approximately five minutes after finding the ID, there were gunshots. Officers on scene were not clear what direction they were coming from but knew they were close.

Officer Bell described that he then assisted in searching the white Honda and found another ID belonging to Michael Hensley with that same "B" tattoo on his cheek on the front seat of the car. That night, when officers had dispatch clear Michael Hensley's name, Officers were notified that Michael had both a municipal and a misdemeanor warrant. Bell told detectives that all from the incident that was a couple weeks prior.

Bell then described that on his shifts, he drives down Kara Ct. roughly a minimum of fifteen times a night because it is a "rough" area. The next Friday as Bell was patrolling in that same area he saw who he believed was Michael Hensley. Before he could contact Michael, Bell was dispatched to a different call. The next Tuesday, which was the day of the incident, Officer Bell saw Michael Hensley again coming out of 2518 Kara Ct with two backpacks. Officer Bell tried to verify his name with Officer Verdugo over the radio, but Verdugo was busy at the time. Bell said at the time he thought the name was Matthew Hensley. Bell said that he drove his police cruiser right up to Michael and asked if he was Matthew. Michael told him that it was Michael Hensley. Bell recognized the "B" tattoo on his cheek as well. Bell allowed Michael to go through his bag to search for an ID.

Officer Bell said that he shined his light in the bag to assist Michael. Bell could see that Michael was just swirling a black shirt around in his hands inside the bag. Officer Bell waited until Burns arrived before asking Michael to step to the hood of his car for a pat down. Bell said that as Michael approached the police car, Michael pulled up his pants and took off running fast.

Bell said that as he was running toward Michael he saw Michael stop and was standing like the silhouettes that they use for training, in a shooting stance. Bell could not see the gun, but based on the way Michael was standing, Bell thought Michael had a gun. Bell said that Michael was a very short distance away from Bell at this point and likens the distance to how far away the detectives are from Bell while interviewing him. Bell said then it was "like a grenade going off in [his] face." Officer Bell said that he thinks Michael shot at least twice before he was able to get his own gun unholstered. Bell fired

back, and Michael continued to fire at Bell. Officer Bell could feel that he was getting shot in the legs. Michael then turned to run toward the shed that was 10-15 feet further behind Michael. Michael then fell down near the shed with his back toward Officer Bell. Officer Bell could then see Michael's arms thrashing and Michael was screaming.

Officer Bell then fell to the ground and saw that his own right leg was "flipped in half" and he could not move. Bell remembered asking Burns to shoot Michael at that point. Bell's gun started to malfunction, and he was having to "tap and rack" it repeatedly in an attempt to clear the jam. Bell had to drop his magazine and load another, but the malfunction persisted. He dropped that magazine as well and he remembered bullets falling everywhere and trying to use the moonlight to see if there was a jam. Bell loaded a third magazine into the gun and believes that the gun worked from there.

Bell said that he tried to crawl toward Michael and believed that Michael still shot a couple more times toward him. Bell said that he continued to shoot toward the shed where Michael was, and he could hear Michael scream when he would shoot. Officer Bell then tried to load his last magazine and could see Michael trying to get up, using the wooden picket fence that was behind the shed. Bell continued to shoot toward Michael and the shed. Bell remembered seeing Officer Burns' gun light between the shed and hearing Burns shoot. Bell could then see Michael fall to his knees and was looking at Officer Bell. Bell then fired the rest of the bullets he had in his magazine toward Michael, while Bell was lying on his back. That is when Michael fell all the way down.

Bell's gun was out of bullets, so he laid it down in the rocks and tried to get his tourniquet out of his pocket, but he could not get the pocket open. Bell remembered Officer Wilson arriving and when the officers started rendering aid, that's when all of his adrenaline left, and he could start feeling the pain in his legs. Officer Bell then described the officers taking him to the street so that he could be loaded into the ambulance and taken to Parkview.

After Officer Bell finished with his free narrative of the events, the detectives asked some clarifying/follow up questions. Officer Bell confirmed that he never saw a gun throughout the entire incident. Even when Michael was shooting at him, all Bell could see were the flashes. Bell also confirmed that he was shot by Michael before he (Bell) was able to get any shots off. Bell said he blacked out right before he was loaded on the gurney but was "woken" back up from the pain, however he does not remember anything from the ambulance ride. Officer Bell was asked about telling Burns to shoot Michael in the head and Officer Bell did not remember telling or asking Burns to do that. Bell was asked if his statements to Burns and Wilson to shoot Michael were to make sure that Michael was down and could not shoot him again. Bell confirmed that was the reason.

### **Interview: Officer Julee Burns**

Officer Julee Burns was interviewed on at the Pueblo Police Department by Pueblo Police Detective Ryan Torres and Pueblo County Sheriff Detective Neal Robinson. Officer Burns' attorney John Rice was also present. Officer Burns was asked to give a free narrative of what occurred starting at the beginning of the incident and then if there were follow up questions, they would be asked after her narrative.

Burns described that she was parked a block away from where the incident took place working on an affidavit. She heard over the radio Officer Bell asking Officer Verdugo the name of the male that was involved with a Honda a week prior. Bell asked Verdugo if it was Matthew Hensley and Verdugo confirmed that he believed that was the name of the wanted party.

Officer Burns was not involved in the prior call with the Honda but was aware of the call and the items located within that Honda, to include body armor and a "ton" of bullets. Due to Officer Bell's questions over the radio, Officer Burns headed to Bell's location. Burns saw Bell out of his police cruiser with a male who was bending over looking through a bag. She heard Bell ask Michael to step to his car so that he could be pat searched. She saw Michael walk toward the car but then pull up his pants and take off running. Officers Bell and Burns gave chase. Burns described that as she came around the corner she could see muzzle flashes coming right at her. She could then see Officer Bell on his knees up against a building. Officer Burns could no longer see Michael but could see the muzzle flashes and hear the gun shots.

Officer Burns then remembered going around a bunch of cars in the driveway and could see Bell laying down in the rocks with his head facing the shed that Michael was behind. Burns could hear Bell saying that he needed help, and she moved to the opening between the two sheds. At this point Officer Burns said that she had not seen a gun with Michael but had heard the gunshots and saw the muzzle flashes. She did not know if Michael had been hit.

Officer Burns peered around the back corner of the shed and could see Michael. She did not know if he was on his butt or his knees but could see from his torso up. She described a bunch of white equipment between her and Michael behind the shed. Michael turned and looked at her. She then fired two shots, she believed to his head, and he fell. Burns then fired another shot. She could still see his back moving after her three shots.

Bell was still firing, and Burns told him to stop because she was worried about cross fire. She then exited from in between the sheds and went to Officer Bell. Bell and Michael were both laying on the ground with their heads toward each other. Burns could see and hear Bell saying that he was blacking out and could also hear Bell airing that information over the radio. At this point in the interview Officer Burns had to stop for a second and began to cry. Officer Burns positioned herself between Bell and Michael. Bell continued to yell that he needed help and for Burns to "shoot him in the head." She moved toward Michael and could see his neck pulsing. Officer Burns then fired another shot at Michael. She then went

back to Bell and told him to get his tourniquet out. She tried to get her own tourniquet out as well but could not.

Officer Burns said she could still not see Michael's gun and did not know where it was. She stated that she believed he was still a very real threat. Officer Burns stated that if she knew Michael was dead at that point she would have given Bell help, but she did not believe that Michael was dead. Burns said that she could not hear anything i.e. her radio or any sirens and did not know where anybody [backup] was. She did not know what would happen if she holstered her gun and tried to help Bell.

She remembered Officer Wilson then arrived and Bell was still yelling to shoot Michael in the head. Burns told Wilson that she was covering Michael and directed Wilson to get a tourniquet on Bell. Burns then remembered Nash coming up next to her with a rifle telling her to continue to hold Michael at gunpoint until they had more people up there and was asking her if she was ok. Burns said that Sgt. Maldonado and his rookie arrived and several of the officers approached Michael. Officer Nash placed Michael in handcuffs. Officer Burns then left the scene.

Officer Burns was asked follow up questions by the detectives after her free narrative. She clarified that she was driving marked patrol unit number 420 that night and was dressed in her full police uniform with her badge, patches, and duty belt. She also described that when she came around the corner of the shed and saw Michael, he had his back leaning up against the shed when he turned and looked at her. That is when she then fired her weapon at him.

Officer Burns said the fear she had that night was like nothing she had ever experienced before. She was terrified and thought she was going to die. Burns described it being completely dark that night and when Michael was shooting, all she could see were the red-orange flashes coming at her. Officer Burns said that Bell had no cover what-so-ever where he was located. She remembered thinking to herself that if she did not approach the sheds and find "that guy," he [Michael] would kill Bell. Burns said that Bell was laying on the ground with his head toward Michael and there would be nothing to prevent Michael from coming around the corner and putting a bullet in Bell's head. Officer Burns was in fear for Officer Bell's life. When she went back to Bell after encountering Michael behind the shed, she thought Bell was bleeding out, blacking out, and was going to die. She then placed herself between Michael and Bell so that she could at least be Bell's cover.

Officer Burns said at no point on scene did she believe that Michael was dead. Before she fired her last shot, she could see Michael's head and his neck still pulsing. Burns could not see Michael's gun or hands. She had no cover, she was Bell's cover, Bell was still yelling for help and saying he was about to black out, and the fight was not over yet because Michael was still a threat to both her and Officer Bell. Officer Burns made the decision to fire that last shot because she was scared that Michael was going to stand up and shoot her. Officer Burns made the independent decision to shoot the last shot at Michael because she believed he was still a threat to both she and Officer Bell. It was not in response to Officer Bell's statements.

## **Summary of Officers' Body Worn Camera**

CIT Detectives reviewed the body worn camera (BWC) video from both officers who were involved in this incident. Below are the summaries of both Officer Bell and Burns' BWC.

### **Officer Bell's BWC:**

Officer Bell contacted Michael as he was walking in the parking lot near the Don Quixote apartment complex. The BWC does not have sound for the first 30 seconds after it is activated. Officer Bell told Michael that he "looks a lot like this guy Matthew." Michael told Bell that he had an ID on him and began searching through a backpack at his feet. Michael is seen looking through the backpack for almost a full minute. While searching in the bag Michael asked Bell, "Who are you looking for? Matthew what?" Bell responded that he was searching for "Matthew Henley." At one minute and fifty seconds into the BWC, Bell asked Michael to put his hands on the hood of his patrol vehicle so that he could just make sure that he (Michael) did not have any weapons. Michael continued to stay bent over looking in the bag for a couple more seconds before taking a couple of steps toward Bell's police cruiser. Michael then took off running. Officer Bell immediately gave chase.

Michael ran past a stucco building toward a wooden picket fence and began shooting at Officer Bell. Officer Bell returned fire. Michael cannot be seen on the BWC at this point. Bell's gun started to malfunction, and he fell to his knees. Bell can be seen and heard trying repeatedly to clear his gun jam so that it would fire again. Heavy moaning or groaning can be heard on the BWC, likely coming from Michael, but it was so dark out that Michael cannot be seen. Officer Bell did not have any type of cover or concealment and was only a few feet away from Michael. Once the jam was cleared, Bell began shooting at Michael again, toward a shed that Michael had ran toward. The gun malfunctioned again, and Bell had to continue to try to clear the jam.

Officer Bell lowered himself to the ground and laid on his back, while still attempting to get his gun to function properly. Bell can be heard telling Officer Burns, "I need help, I need help now. I'm bleeding bad. I need help right now, please." Bell's head was laying toward where Michael was, his gun was not working properly, and he had no cover or concealment. Officer Bell was able to clear the gun and fire more rounds toward the shed where Michael was hiding.

Officer Bell continued to air information over the radio. At three minutes and nineteen seconds into the BWC, Officer Bell airs his location and tells the other officers to step it up as fast as they can. Bell then fires more shots toward the shed. Bell then aired that he needed tourniquets on both of his thighs and that he was hit in both legs.

At three minutes and forty-nine seconds into the Bell asked Officer Burns for "help, please." Officer Burns can be heard asking Bell where his tourniquet was. Officer Bell tells Officer Burns to "shoot him in the head." One additional shot can then be heard on Officer Bell's BWC. Bell then said that he was "starting to black out." At four minutes and nine seconds into the BWC additional officers arrive on

scene. Officer Wilson can be seen on the BWC with a shotgun and Bell told Wilson to “shoot him [Michael] in the head.” No other shots can be heard on the BWC after additional officers arrive on scene. Officer Wilson and Officer Cardona can be heard and seen on the BWC applying tourniquets to Officer Bell’s legs and then they carried him to the street where AMR and the Pueblo Fire Department tend to Bell. Bell was then transported via ambulance to Parkview Hospital. During the ambulance ride, Officer Bell said more than once that Officer Burns saved his life.

### **Officer Burns BWC**

Officer Burns arrived at Kara Ct. and Acero as the cover officer for Officer Bell. Burns got out of her car and walked up to Bell and Michael. Officer Bell can be heard asking Michael to put his hands on the hood of the car so that he could be patted down for weapons. Michael can be seen starting to walk toward the police cruiser but then he took off running. Officers Bell and Burns both gave chase to Michael. At only forty-nine seconds into Officer Burns’ BWC the first shot is fired. Officer Burns was behind Michael and Officer Bell. She took cover on the side of a stucco building. As Officer Burns peers around the building, Officer Bell can be seen on his knees leaning up against the stucco building, facing two sheds that Michael ran toward. Officer Burns aired that shots were fired, and she then moved to the left and took cover behind a dumpster wall. Officer Bell can be seen on the BWC trying to clear the malfunction from his gun. Bell is on his knees against the stucco building without any cover or concealment. Officer Burns then went back to the stucco building and took cover while she aired the description of Michael’s clothing. Michael cannot be seen on the BWC due to the darkness but there is moaning or groaning that can be heard.

Officer Bell can be heard telling Officer Burns, “You gotta shoot him dude.” Burns then circled out wide and went behind the dumpster wall and over to the other side of the two sheds that Michael was behind. Officer Burns asked Bell if he was good, and that’s when Bell aired that he needed help right. Bell is seen on the BWC lying down on his back in the rocks next to the stucco building with his head pointed toward Michael.

Officer Burns approached the two sheds and went into a small dark opening in between the two sheds. She aired that shots had been fired at least two more times. As Burns was approaching the back of the two sheds, her flashlight can be seen illuminating the area. There are still shots being fired. Burns tells Bell to stop. As Burns peered around the shed closest to Bell, Burns fired three shots. Michael can then be seen for the first time since he ran on the BWC. Michael is seen rolling over onto his side.

Shots can still be heard coming from Officer Bell. Burns can be heard telling Bell, “Bell I got him.” Officer Burns then left the opening between the sheds and while keeping her gun and flashlight pointed toward Michael, she backed up toward Bell. Burns can be heard asking Bell where his tourniquet was. Officer Bell yelled at Officer Burns to “shoot him [Michael] in the head.” Officer Burns took a couple of steps toward Michael, kept him illuminated with her flashlight, and fired one more shot. Burns then backed up again toward Bell, while continuing to keep her gun and flashlight on Michael. She again asked Bell where his tourniquet was. Other officers began to arrive on scene and Burns is heard yelling at other officers that she had “him” [Michael] at gunpoint and to get tourniquets on Bell.

Officer Bell is heard telling Officer Wilson to shoot Michael in the head. Burns yelled, "Bell he's down." Officer Burns then walked a few steps closer to Michael and held him at gunpoint, illuminated with her light. Officer Burn's shadow can be seen on the side of the stucco building with her gun extended in front of her toward Michael. Burns can be heard breathing very hard. Burns kept Michael at gunpoint while the other officers tended to Bell. Michael can be seen lying on his right side with a gun near his hand. At five minutes and thirty-nine seconds into the BWC, other officers pull Michael out further into the rocks and place him in handcuffs, all while Burns kept him at gunpoint.

Once Michael was placed in cuffs, Burns walked away toward other officers and she can be heard asking where Bell was. Officer Burns was still breathing very hard, sounded upset, and began crying, still asking where Bell was. Sgt. Maldonado is seen asking Burns if she was ok and telling her to go ahead and shut off her BWC at that point.

### **Other Officer's Reports**

#### Officer Kenneth Rhodes:

Officer Rhodes was at Parkview Hospital on an unrelated call when he overheard Officers Bell and Burns on the radio. After he heard that Officer Bell was shot, he headed to the scene. Officer Rhodes conducted a neighborhood canvas and spoke to several people who all said they heard multiple gunshots but did not see the incident itself.

Officer Rhodes then spoke with Jacob Perez who said that after hearing roughly twenty-five shots he was able to run outside and capture the last muzzle flash on video with his cell phone.

#### Officer Adam Quintana:

Officer Quintana also conducted a neighborhood canvas in the area of the shooting. He spoke with Malakai Whitlock who stated that he heard gunshots, went to his window, saw a male officer fall to the ground, and then heard additional gunshots.

#### Officer Alan Wilson:

Officer Wilson heard Officers Burns and Bell on the radio and responded to the scene. When he arrived, he saw Officer Bell on his back with obvious injuries to his legs and saw Officer Burns holding a male at gunpoint. Officer Wilson rendered aid to Officer Bell and placed his own tourniquet on Bell's right leg while Officer J Cardona placed a tourniquet on Bell's left leg. Officer Bell was then carried to the street to be taken to the hospital by AMR.

Officer Wilson provided lethal cover to other officers as Michael was then taken into custody. After Michael was in handcuffs and the scene was safe, Officer Wilson attempted to render first aid to Michael.

Wilson checked for a pulse, could not find one, and believed Michael was deceased. Officer Wilson was unable to treat Michael any further given the scope of his training and abilities.

Officer Wilson then helped conduct a neighborhood canvas in which he spoke to several people who heard multiple gunshots but did not see the incident.

#### Officer Bradley Padilla

Officer Padilla and his PTO Officer Gabe Maldonado were on another call when they heard the radio traffic from Officers Bell and Burns. Padilla and Maldonado immediately ran code to the scene. Officer Padilla retrieved the shield from their patrol vehicle and approached the scene. Officer Padilla provided lethal cover to the other officers as Michael was placed into custody.

Officer Padilla then took photographs of the scene, including Michael. Padilla then located Michael's Smith and Wesson handgun near wooden picket fence and secured it and made it safe. Padilla ejected the magazine which contained one live round. When he pulled back the slide to lock it in a safe position, one live round also ejected out of the chamber of the gun. He then left the handgun on scene where the shooting occurred. The gun was photographed both before and after making it safe.

#### Officer Gregory Golden

Officer Golden was dispatched to the officer involved shooting scene. When he arrived, he assisted AMR with preparing Officer Bell to be transported to the hospital. Once at Parkview, Officer Golden stayed with Officer Bell as medical staff assessed his injuries. It was determined that Officer Bell needed to be transported by air to Memorial Hospital in Colorado Springs due to the extent of his injuries. Officer Golden drove to Memorial Hospital and collected Officer Bell's blue uniform pants, which he later turned over to Sgt. Keller in the ID section.

#### Officer Gabriel Maldonado

Officer Maldonado and Officer Padilla were on an unrelated call when they heard the radio traffic from Officers Bell and Burns. They immediately responded to their location. Officer Maldonado ran up to the officers and saw Officer Bell laying on the ground being treated by other officers and saw Officers Burns and Nash holding a male at gunpoint. Officer Maldonado then organized a "contact team" which consisted of Officers Burns, Padilla, Nash and himself.

Officer Padilla held the shield while Officers Burns and Maldonado kept their weapons drawn and on Michael. Officer Nash was the one that would go hands on. The officers approached Michael and Officer Nash placed Michael in handcuffs.

#### Officer Keegan Verdugo

Officer Verdugo arrived on scene and was assigned as Officer Burns' gatekeeper. He transported Officer Burns from the shooting scene to the Pueblo Police Department and stayed with her in a conference room

until she could be processed by ID detectives. After Officer Burns was processed by ID, she was transported to her residence.

#### Officer Lee Medved

Officer Medved was assigned to fly the Pueblo Police Department's drone over the scene to take aerial photographs and video. This was done on April 10, 2019 at approximately 9:00 am. Due to the wind that day, the drone was flown while the CIT team was still processing the scene.

#### Officer Michael Bellamy

Officer Bellamy arrived on scene and assisted with carrying Officer Bell to the street so that AMR could load Bell in the ambulance. Bellamy then spoke to some neighbors who said they heard gunshots and got down on the ground in their apartment. After the shooting stopped, they looked out their window and saw a person with long hair holding a gun and flashlight standing over another person who was laying on the ground. They did not see any shots being fired.

#### Officer Nicholas Lile

Officer Lile responded to the shooting as well. When he arrived, he saw other officers putting tourniquets on Officer Bell's legs. Officer Lile assisted in carrying Bell to the street for medical attention. He also helped remove Officer Bell's body armor and BWC. Officer Lile turned Bell's BWC off and placed it in his cargo pocket until he could turn it over to Sgt. Antoinette Ramos.

#### Officer Richard Burns

Officer Burns responded to the scene on April 10, 2019 at 3:29 am and flew a Pueblo Police Department drone over the area to take photographs.

#### Officer Ryan Neece

Officer Neece assisted other officers by holding his flashlight while they applied tourniquets to Officer Bell's legs. He then dropped his flashlight to assist in carrying Officer Bell to the street. It is unclear from his report if he ever retrieved his flashlight or if it was one located near where Officer Bell was.

#### Detective Ryan Torres

Detective Torres was involved in conducting multiple officer interviews after the CIT was activated. Detective Torres also ran a wants and warrants check on Michael Wray Hensley (DOB 6-9-1990) and found that Michael was wanted on a parole violation out of the Colorado Department of Corrections. Michael was also flagged in the Pueblo Police Department system as having violent tendencies.

### Detective David Butterfield

Detective Butterfield is an ID detective for the Pueblo County Sheriff Department. He was part of the CIT. Some of his duties when the CIT was activated included walking the scene, taking measurements, marking evidence, taking photographs, and searching Michael's bags that were left on scene. After the scene was walked, evidence marked, and photographed, Detective Butterfield measured the distance from the edge of the stucco building that Officer Bell was up against (manager's building for the Don Quixote Apartments) to the wooden fence that Michael was hiding next to. That measurement was approximately 31 feet.

### **Officer Involved Processing**

Officer Burns was processed in the ID/CSI section at PPD by a CIT detective on April 10, 2019. Officer Bell was not himself processed because he was at the hospital.

Full body photographs were taken of Officer Burns to show any type of wounds, biological evidence, physical evidence, and placement of her duty gear. After the photographs were taken, Officer Burns was placed in a dark room and a bright white light was illuminated over her person while in uniform. The light is used to identify any biological evidence associated with blood.

Officer Burns' duty weapon was then collected. A piece of parchment paper was laid out and the gun was placed on top. Photographs were taken of the weapon. The magazine from the gun as well as the additional magazines that Officer Burns was carrying were placed on the paper. All live cartridges were then removed from the magazines and placed near the magazine they were removed from. All live cartridges were counted and photographed.

Officer Burns advised the CIT detective that she keeps all of her magazines topped off, carrying the maximum number of live cartridges the magazine will allow her to carry.

Officer Burns' gun was a Glock 9mm bearing serial number BGMK720. There was one 9mm live cartridge in the chamber. The magazine that was removed from her gun contained 13 live cartridges. Officer Burns had two spare magazines that each contained 17 live cartridges. Officer Burns had 48 live rounds out of a possible 52.

Some of Officer Bell's clothing had already been transported to the ID section at PPD. Photographs were taken, and the items were collected. The items collected were Officer Bell's duty belt with OC spray, taser, handcuffs, and one Glock magazine with 17 live 9mm cartridges, a uniform shirt with his Police badge and ear piece to his Motorola radio, and a blue undershirt that had been cut by paramedics.

## **Evidence Processing**

Evidence collected at the scene of 2029 Acero Ave. was tagged into evidence at various times by CIT detectives. Officers on scene had already cleared and made safe Michael's gun, which was a .40 caliber Smith and Wesson M&P Shield serial number B33994. The gun was collected by CIT detectives and tagged into evidence.

Michael's bags were photographed, collected, and searched. In one of the bags there were live .40 caliber bullets, two spare Smith and Wesson magazines, and a small Mossberg 12-gauge shotgun that had been reported stolen several days before the incident. Drug paraphernalia and heroin were also located inside Michael's bags.

Michael's clothing was collected at the autopsy, dried, and then placed into evidence.

## **Scene Processing**

CIT Detectives responded to the scene of 2029 Acero Ave. in the early morning hours of April 10, 2019 to process the scene and collect any evidence. The area where the shooting occurred, the street in front of it, and the parking lot were secured by officers and deputies from PPD and PCSO. An initial walk through of the scene was conducted and overall photographs were taken. Drones were flown two different times to capture photographs and video.

Once the initial walkthrough was completed yellow evidence placards were placed near the evidence located throughout the scene and photographs were taken of their locations. Evidence was then collected by the CIT.

Michael Hensley was using a .40 caliber Smith and Wesson M&P Shield (B33994) which was recovered close in relation to his body. Officer Bell's handgun was still on scene as well. There were multiple live cartridges and spent casings that were located to include: 5 spent .40 caliber casings and 3 live .40 caliber cartridges and 8 live 9mm cartridges and 36 spent 9mm casings. Both Officer Bell and Burns were using Glock 9mm handguns.

## **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**

Based on the facts of the investigation conducted by CIT investigators, the use of force by PPD Officers Jonathan Bell and Julee Burns is justified based on the fear and threat of serious bodily injury or death posed as a result of Michael Hensley shooting at the officers. Michael Hensley fired gunshots at Officers Bell and Burns, and Officer Bell was struck multiple times in his legs. Officers Bell and Burns returned fire because they reasonably believed that Michael would continue to shoot at them. This conclusion is based on interviews of the involved officers, body worn camera video, and crime scene and evidence processing.

There is no evidence or facts collected to support any criminal wrong doing by Officers Bell or Burns during the OIS incident. The actions taken by both officers during the OIS incident were conducted with the justified belief that either their lives, or the lives of their fellow officer, were in jeopardy.

It is my conclusion based on the circumstances that Officers Jonathan Bell and Julee Burns were justified by the Defense of Self and Defense of Others provisions of the laws of the State of Colorado in using the actions they employed to defend both themselves and fellow officers from what they reasonably believed to be the imminent use of unlawful physical and deadly force by Michael Hensley, and they reasonably believed that a lesser degree of force would be inadequate. They had reasonable grounds to believe, and did believe, that they and their fellow officers were in imminent danger of being killed or receiving great bodily injury, especially given that Officer Bell was already shot and rendered immobile by Michael Hensley. The last shot by Officer Burns was due to her reasonable belief that Michael was still a threat to both her and Officer Bell. The actions of Bell and Burns 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 Officers Jonathan Bell and Julee Burns would not be appropriate, and therefore no criminal charges will be filed.

Dated this 14<sup>th</sup> day of January 2020

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

J.E. Chostner  
District Attorney

701 Court Street, First Floor • Pueblo, CO 81003-3077  
Telephone 719.583.6030 • FAX 719.583.6666

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