



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

April 1, 2020

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

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

Re: District Attorney CIT Decision Letter  
Officer Involved Incident on November 23, 2019  
Location: 3210 Rex Street, Pueblo, CO  
Deceased: Estevon Cruz  
Officers Involved: Reid Herrera, Megan Chapman, Logan O'Hayre, Patrick Cancino

Dear Chief Davenport and Sheriff Taylor:

The 10<sup>th</sup> Judicial District Critical Incident Team (CIT) was activated on November 23, 2019, to investigate an Officer Involved Incident which resulted in the death of Estevon Cruz (DOB 06/28/1995). 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 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 the Incident**

At approximately 10:44 pm on November 23, 2019 Pueblo Police officers were dispatched to 3210 Rex Street, Pueblo, Colorado, in reference to an active domestic disturbance called in from 719-924-2150. The caller did not speak, but on the open line, the Pueblo Police communication dispatchers could hear a female crying and screaming. A male voice could also be heard on the open line talking to the female about taking her hostage and telling her to lay on the bed. The male party could be heard saying "I just want you to love me."

The information heard on the open line was relayed to responding officers, who upon arrival formed a perimeter around the exterior of the home. Officers Reid Herrera, Megan Chapman, Logan O'Hayre, Patrick Cancino and Vincent Nash staged at the front door to the residence while additional officers remained on the perimeter. Officers repeatedly identified themselves and asked the people in the home to come outside, but the officers' requests went unheeded. Fearing for the safety of the female, officers broke down the door.

Officer Cancino used the butt of his shotgun to knock the handle off the screen door and open it. Once the screen door was opened, Officer Herrera yelled "Pueblo Police," then kicked down the other door. Officers Herrera, Chapman, O'Hayre, Cancino and Nash entered through the door into the living room with their weapons drawn.

Upon entry, Officer Nash begin to clear a room to the right of the entry door and the other four officers begin to clear the rooms on the left side of the entry door. After clearing the living room, Officer Herrera covered a hallway as Officers Cancino, O'Hayre and Chapman moved towards the hallway to clear the remaining rooms in the house. As Officer Herrera kept focus on the hallway, a female later identified as Courtney Nicole Piper (DOB 3/10/97), came out of a room at the end of the hallway with her hands up and she appeared to be crying. The officers directed her towards them, while asking her where the male party was. As Courtney approached Officer Herrera's position, a male party later identified as Estevon Isaiah Cruz (DOB 6/28/95), exited out of the same room Courtney did. Estevon advanced down the hallway towards the officers, pointing a silver and black handgun, while actively pulling the trigger.

Seeing Estevon pointing the handgun and repeatedly pulling the trigger, all officers (except Officer Nash) discharged their duty weapon in defense for their safety and the safety of Courtney who was still in the room. After the officers discharged their weapons, Estevon fell to the floor and Courtney screamed and yelled "it wasn't loaded." The officers on scene relayed to the Pueblo Police Communication Center that shots had been fired and medical was needed.

Officer Herrera then escorted Courtney out of the residence as she was hysterical and screaming. Officer Herrera tried consoling Courtney, but she continued to scream, "it wasn't loaded...he wanted this." Officer Herrera eventually carried Courtney to a patrol car and placed her in the backseat of the car. While Officer Herrera took Courtney outside, the remaining officers inside cleared the house.

The incident scene was immediately secured to protect the integrity of the scene as well as all potential evidence. Each PPD officer involved in the shooting was assigned a gatekeeper per CIT protocol and they were all transported to PPD to be processed.

## **Autopsy**

The autopsy on the body of Estevon Cruz was conducted on November 25, 2019 at St. Mary Corwin, 1008 Minnequa Ave, Pueblo, CO, 81004. The autopsy was performed by Forensic Pathologist Dr. Daniel Lingamfelter. Dr. Lingamfelter concluded that the cause of death was injuries resulting from multiple gunshot wounds.

Cruz suffered a total of eleven wounds. A shotgun wound to his right shoulder and gunshot wounds to the following areas: back, right arm, chest, back, right flank, penis, and both thighs. Collectively, these wounds caused massive blood loss, respiratory and central nervous system failure, and ultimately death.

### **Interview: Officer Reid Herrera**

Officer Herrera was interviewed by CIT detectives at the Pueblo Police Department on December 2, 2019. He was interviewed in the presence of his attorney and advised pursuant to *Garrity*.

On November 23, 2019 at approximately 10:40pm Officer Herrera was sitting in his patrol car making phone calls in reference to another case that he was working on. Officer Herrera hears dispatch air that there is an active domestic disturbance on Rex Avenue and that the suspect is attempting to take a female hostage. Seeing Cancino respond to the Rex Avenue address, Herrera heads to the call to help.

While on the way to the home, Officer Herrera hears Officer Chapman radio other officers to “step-it-up”. Officer Herrera took Chapman’s statement to mean that he should respond “code emergent.” Officer Cancino is also airing that he hears yelling and screaming inside of the home.

Officer Herrera arrives and sees Officer Cancino outside of the home. Officer Cancino says that he initially heard yelling and screaming coming from inside the house and that dispatch has an open line inside the home and could hear a conversation between a male and female. Dispatch is in contact with officers on scene and airs to them what’s taking place over the open line. But, by the time Herrera arrives, officers outside could no longer hear anything going on inside.

Officers Cancino and Herrera discussed whether the screaming that Officer Cancino initially heard constituted “exigent circumstances” to allow officers to force entry. Officer Cancino spoke with Sergeant Dodge, who advised Officer Cancino to use his discretion to determine exigency.

Officer Herrera and the others formed a perimeter around the home, vigilantly listening for sounds from within. Time had elapsed and officers were still unable to hear any sounds from within the house. During this period, Officer O’Hayre repeatedly knocked on the front door to elicit a response from the occupants. While knocking, he would announce “Pueblo Police Department...open the front door.” Officer Herrera did this 3-4 times but was unsuccessful in drawing out any response from the people inside. At one-time dispatch was still able to hear a female crying over the open line even when officers outside could not hear anything. However, the open line inside the home eventually goes silent.

Unable to hear anything inside the home, fearing the worst, officers force entry. Officer Herrera asked Officer Cancino to use the butt of his shotgun to unlock the screen door. Officer Cancino struck the screen door handle 3-4 times until the handle fell off and police were able to unlock the door. Officer Herrera then knocks on the front door and announces, “Pueblo Police Department...open the door.” Receiving no response from inside, Officer Herrera executes a reverse kick with the butt of his boot to the locked main door, causing the door to open.

Officer Herrera draws his gun and enters the home. Herrera enters first and is followed by Officers Cancino, O’Hayre, and Chapman. Herrera continues yelling “Pueblo Police Department.” Another officer is yelling “show us your hands...come out.”

Officer Herrera and the other officers enter the living room. Officer Herrera looks to his right and sees an empty room with a pile of weights in it. Officer Herrera continues scanning the room to his left and sees a dining area. Continuing to scan to the left, Officer Herrera sees a doorway to another room and sees Courtney running out of a room with her arms up. Officer Herrera approaches Courtney as she’s running

closer to him. Before reaching Courtney, Herrera sees a male running down the hallway towards him and Courtney. The male is aggressively pulling the trigger on a gray semi-automatic handgun and has the muzzle pointed towards Courtney and Officer Herrera. Courtney is positioned in the line of fire between Officer Herrera and the shooter. Officer Herrera could hear what he describes as “light pops.” Seeing the shooter aggressively pull the trigger and hearing the “light pops,” Herrera thinks he’s getting shot. Fearing for his and Courtney’s safety, he guides her into the kitchen area out of harm’s way. Officer Herrera lunges back into the hallway and begins shooting down the hallway towards the shooter. Officer Herrera believes that he fired seven shots.

After the shooting stops, Officer Cancino begins directing officers to preserve the scene. Officer Herrera holsters his gun and begins ushering Courtney out of the home. Officer Herrera tells Courtney “come with me...we need to leave...we’ll get AMR to treat him...I’m so sorry this happened to you.” Courtney, screaming hysterically, tells Officer Herrera “it wasn’t loaded.” Officer Herrera brings Courtney to the back of his car and asks Officer Ruiz to stay with her.

### **Interview: Officer Megan Chapman**

Officer Chapman was interviewed by CIT detectives at the Pueblo Police Department on December 2, 2019. She was interviewed in the presence of her attorney and advised pursuant to *Garrity*.

On Sunday November 23, 2019 at around 10:30pm Officers Chapman and Cancino were just finishing up a call. Around this time, dispatch airs that there is an active disturbance on Rex Street. Dispatch advises that they had an open line and could hear a couple arguing in the background. About a minute after the initial call, dispatch airs that the male party inside the home is threatening to take the female hostage and is yelling at her to get onto the bed.

Officer Chapman responds and parks on the eastern side of the home. As she is walking up, she notices a light on in one of the rooms on the eastern side of the house. Officer Chapman walks around to the front of the house and notices another light on in the front. Officer Chapman gets closer to the house; she could hear a male angrily screaming at the top of his lungs. Officer Chapman cannot make out what the male is saying but could tell that he was angry. Officer Chapman notes that dispatch could also hear the male screaming over the open line.

Based upon call history, dispatch identifies the likely parties involved. Dispatch airs that there is a valid restraining order, protecting the female from the male.

Officers repeatedly knock at the door and ring the doorbell, but there is no answer from inside. Officer Chapman requests more officers because she still hears yelling inside. Officer Chapman decides to go around to the rear of the house to see if there is another entry into the home. Finding the back door locked, Officer Chapman returns to the front of the home.

Dispatch advises that they could still hear crying on the line. Moments later, dispatch airs that they no longer hear the female crying nor do they hear the male and female having a conversation – the line is silent.

Officers did not hear anything else coming from inside the home. Officers continued banging on the windows while yelling “Pueblo Police Department...come out.” The lights in the room on the eastern side of the home had been turned off.

Officer Chapman was afraid that the male had harmed the female since officers were no longer able to hear anyone inside. Officer Chapman said that when they heard the parties yelling, they at least knew that the female was alive. But once it went silent, there were no guarantees that the female was safe.

Officer Chapman and the other officers apprised Sgt. Dodge of the situation. Sgt. Dodge approved forced entry if the officers believed there was exigency. Officers on scene made the decision to force entry. Officer Cancino used the butt of his shotgun to knock the door handle off the screen door and open it. Officer Herrera kicked down the main door. Prior to and while breaking down the door, officers repeatedly announced "Pueblo Police Department...come out with your hands up." No one inside the home responded to the officers' commands.

Officer Chapman says that Officer Herrera was first in line into the home. Officer Chapman was the fourth in line. Initially she decided to use less lethal and had her taser out. Upon entering the home, she noticed that there were several rooms that she was unable to see all the way into. Feeling that there were more threats than the officers could handle, Officer Chapman decided to switch from less lethal to lethal in order to hold certain doors and to be safe.

Upon entering, Officers Cancino and O'Hayre moved to the left and Officer Chapman eventually follows suit. Officer Chapman sees Courtney coming out of a room off the hallway. The hallway lights were off, but the living room light illuminated the door that Courtney came from. Officer Herrera yells to Courtney "come here, come here, come here." Courtney is frantically crying, and Officer Herrera goes to grab her. While Herrera embraces Courtney, Estevon Cruz comes out of a room holding a gun. Officer Chapman hears Estevon click the trigger two or three times. Officer Chapman says the shooter pointed the gun at her for a second then pointed the gun at Officer Herrera. Not only was the shooter firing at them, he was also charging in their direction. Officer Chapman remembers thinking that the shooter wanted to kill them. Officer Chapman and the others returned fire until the shooter was no longer a threat. Officer Chapman thought that she had only fired her gun 2-3 times but later learned that she fired approximately 10 rounds. Officer Chapman saw the shooter fall behind the couch and she then stopped shooting. Officer Herrera took Courtney outside and Officers Cancino and O'Hayre began securing the scene.

#### **Interview: Officer Logan O'Hayre**

Officer O'Hayre was interviewed by CIT detectives at the Pueblo Police Department on December 2, 2019. He was interviewed in the presence of his attorney and advised pursuant to *Garrity*.

Officer O'Hayre was near the Wal-Mart off Northern Ave. on the southside of Pueblo when he heard Officer Cancino over the radio. Officer Cancino could hear screaming and yelling inside of a house and was requesting backup. Officer Chapman then comes over the radio and asks officers to "step it up," which means "Code 3." Officer O'Hayre activated his lights and sirens and placed himself on the call.

Officer O'Hayre joins Officers Chapman and Cancino in the front of the home. Officer O'Hayre looks through the window and sees the living room light on but does not see anyone inside. Officer O'Hayre thinks he hears a female crying inside but is uncertain because of the background noise created by the other officers and radio traffic.

Officers are in contact with dispatch, and up until this point, dispatch could hear a female crying on the open line. All the while officers are knocking, identifying themselves as Pueblo Police Department, and telling the occupants to come outside. At some point dispatch can no longer hear the female crying over the open line.

Officer O'Hayre thinks that the male is badly hurting the female or possibly killing her and that is why the line went quiet so officers force entry. Prior to and as they break down the door, officers announce "Police Department...come out with your hands up."

Officer O'Hayre enters the home and sees a room on his right side with the lights off. Across from where he is standing, he sees a kitchen area. Officers continue calling out, and Courtney Piper walks down the

hallway, her arms raised, she's crying and appears frightened. Officer O'Hayre hears "pop, pop, pop, pop, pop" and sees Estevon Cruz coming down the hallway with a gun. O'Hayre was in fear for his, Courtney's, and his fellow officers' lives. O'Hayre returns fire and estimates that he shot 11 rounds.

#### **Interview: Officer Patrick Cancino**

Officer Cancino was interviewed by CIT detectives at the Pueblo Police Department on December 2, 2019. He was interviewed in the presence of his attorney and advised pursuant to *Garrity*.

Officer Cancino was dispatched to the 3200 block of Rex Street in reference to a domestic disturbance. Dispatch had an open line into the house and could hear a male threatening to take a female hostage and directing her to lie on the bed.

Dispatch checked the history on the number and learned that it was associated with Courtney Piper. There was also a restraining order protecting Courtney Piper from Estevon Cruz. Dispatch indicated that Estevon lived at 3210 Rex Street and that the male heard over the line was referring to the female as Courtney.

Officers Cancino and Chapman were the first to arrive at the house. Officer Cancino removed his shotgun and walked up to the house. Officer Cancino could hear the male yelling loudly and the female crying inside. Officer Chapman requests that more officers respond to the home.

Officer Cancino radios Sgt. Dodge requesting permission to force entry. Sgt. Dodge tells Officer Cancino to use his best judgment on whether to force entry. Backup officers begin arriving and take up positions around the perimeter of the home. Officer Cancino is periodically checking with dispatch about what could be heard over the open line. Eventually, dispatch does not hear anything over the open line. More time passes and dispatch still does not hear anything over the line.

Officer Cancino reasons that there is a restraining order between Courtney and Estevon, Courtney called 911, and dispatch does not hear anything over the line, it is time to go in. Officer Cancino is concerned for Courtney's safety.

Officer Herrera, prior to knocking down the door, knocks and yells "police are here, open the door, this is the police, open the door." Officers repeatedly pound on the door, announcing police presence, giving those inside an opportunity to come out. Hearing no response from inside, police break down the door. Officer Cancino uses the handle of his shotgun to break the handle on the screen door. Officer Herrera then kicks down the front door. Officer Cancino enters the house giving commands "police, come out with your hands up, police, police." Courtney comes from a hallway to the left, her hands in the air and she is crying. After that, Estevon comes down the hallway with a gun in his hand and Officer Cancino hears "pop, pop, pop." Estevon had the gun pointed towards Courtney and the other officers. Officer Cancino, fearing for the safety of Courtney and his fellow officers, fires three shots with his shotgun.

Feeling that there was no longer a threat, officers cease fire. Cancino felt burning on his right leg and calf. Officer Cancino checked but did not see any blood or injuries on his person. Officer Cancino then continued to clear the house. The following day Officer Cancino checked and noticed he had a small scratch near the area where his leg was burning. There was also a mark on his pants that lined up with the area of his leg that was scratched.

#### **Witness Interview: Officer Vincent Nash**

Officer Vincent Nash was a responding officer on scene but did not discharge his firearm. He was interviewed by PPD Detective Jose Medina and PCSO Detective Ryan Landreth at the Pueblo Police Department on December 2, 2019.

Officer Nash said that Officers Cancino and Chapman were the first to respond to the scene. Dispatch had an open line into the house and could hear an active domestic disturbance. Dispatch heard "I just want you to love me...don't make me kidnap you." Officer Cancino arrived on scene and heard yelling and arguing inside. Officer Chapman then requested backup officers.

Officer Nash says that there were already a bunch of officers on scene when he arrived. Officer Nash walks along the west side of the home from the front to the back. There was a window on the west side of the home, and he yells into the window, "come out of the house, it's the Pueblo Police Department, we're not leaving." Nash peeked around the corner into the rear of the house and saw Officers Verdugo and Burns positioned in the backyard. Officer Nash hears Cancino radio that they were going to force entry, so Officer Nash returns to the front of the home. As Officer Nash is coming back to the front, he sees Officers Herrera, Cancino, O'Hayre, and Chapman entering the home. Officer Nash walks through the doorway and sees the other officers standing to the left of the door facing towards the living room. Officers are yelling "show me your hands" and things along those lines. Officer Nash begins to clear the room on the right. He hears officers yelling "give me your hands" and then gunshots going off. Officer Nash did not see where the shots were coming from. Officer Nash ducked back outside and aired "shots fired." Turning to look back into the home, Officer Nash sees Herrera escorting the female outside.

When Officer Nash looks back inside, he sees all the officers pointing towards the left of the front door towards the hallway. Officer Cancino is still yelling "show me your hands, show me your hands" which indicated to Officer Nash that he was trying to get control of the situation. Officer Nash proceeds forward into the home and sees the shooter on the ground behind the couch. Officer Nash held the shooter at gunpoint while the other officers confirmed that they were not hit. Officers determined that Officers Cancino, O'Hayre, Chapman, and Herrera all fired shots. The officers that fired shots were sent outside and Sgt. Dodge placed Officer Nash in charge of the scene. Officer Nash stood by the deceased as AMR examined him. Officer Nash was able to see the hand grip of a pistol underneath the shooter's chest.

### **Witness Interview: Courtney Piper**

Courtney Piper was the reporting party in the initial call. She was interviewed by PPD Detective Ryan Torres and PCSO Detective Ryan Landreth at the Pueblo Police Department at 12:34am on November 24, 2019.

Estevon Cruz and Courtney Piper were living together at the time of the incident. On November 23, 2019 Estevon was leaving to go to a probation appointment around 10:30am and Courtney was just getting out of bed. After Estevon left the house, Courtney called to tell him that she was going to her mother's house. Estevon returned home about 10 minutes after he left for his appointment. He was mad that Courtney was going over her mom's house and told Courtney that his probation appointment was cancelled and that he was just going to go hang out over at his uncle's house.

Around noon, Courtney's mom picks her and her daughter Jaya up. Estevon goes to dinner with his family then calls Courtney afterwards. Estevon eventually picks Courtney up at her mother's home in the Belmont neighborhood of Pueblo. Courtney says Estevon is angry because she went to her mother's house and because she let Estevon and Courtney's daughter Jaya spend the night at her mom's house.

When Courtney and Estevon get home, Estevon grabs a pint of Southern Comfort and starts drinking. Estevon was mad at Courtney, but she just sat around and took it. Eventually, Estevon starts talking about wanting to kill himself. Courtney tells Estevon that she was going to call an ambulance, and this caused Estevon to blow up. He grabbed her, then grabbed her phone and threw it. Estevon grabbed Courtney and threw her up against the wall. Courtney said that Estevon smashed the screen on her cell phone when he threw it. Courtney says that Estevon is yelling. She cannot tell what he was saying, just that he was yelling

at her. Estevon tells Courtney to go to the bedroom and go to bed. Estevon was holding onto her and directed her into the bedroom. Courtney was unable to stop crying and Estevon was still angrily yelling at her. Courtney thinks that Estevon held the power button down on her I-Phone and in doing so triggered a phone feature where the phone automatically dials 911. Estevon then left her and she was able to get up and look at her phone. The screen was smashed so she did not know whether a 911 call was placed.

When Estevon came back into the room, that's when they heard the knocks on the door. Estevon is telling Courtney to be quiet, to just be quiet. Next thing Courtney knows, there is knocking at the front door. Officers announce, "Pueblo Police" and Estevon is getting scared. Estevon kept telling Courtney to be quiet because he did not want to get arrested. When Estevon heard police, he began telling Courtney "I'm sorry...please be quiet...I can't get arrested...please be quiet...please be quiet." After hearing the knocks, Estevon grabs the BB gun from underneath the bed.

Courtney kept telling Estevon to open the door because it was going to get kicked in. Courtney heard officers knocking on the window just before the door was kicked in. The police kick open the door and begin announcing come out with your hands up. Courtney runs out of the room and Estevon comes out behind. That is when Estevon must have come out of the room with a BB gun. Estevon had a BB gun with him as he was coming out of the room. Courtney does not know what Estevon wanted officers to think when he came out of the room with a BB gun. Courtney hears shots firing. She indicated that Estevon was emotional and intoxicated at the time. Courtney knew that the people in her living room were officers because of their uniforms and because they had been knocking on the windows and doors for a long-time saying "Pueblo Police." After all the gunshots, the officer closest to the door grabbed Courtney and took her outside.

### **Officer Involved Processing**

#### **Report: Detective David Butterfield**

On November 24, 2019, at around 12:00am Detectives David Butterfield and Bethany Solano responded to the Pueblo Police Department on a report of an officer involved shooting. Detectives Butterfield and Solano were 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 processing for each officer are listed below.

Officer Herrera – Glock 17 9mm – 3 magazines – 45 live cartridges out of a possible 52

Officer Chapman – Smith & Wesson 2.0 .40 Cal. – 3 magazines – 36 live cartridges out of a possible 46

Officer O'Hayre – Glock 17 9mm – 3 magazines – 41 live cartridges out of a possible 52

Officer Cancino – Remington 870 12 GA Shotgun – 8 live shot shells out of a possible 12

#### **Report: Detective Bethany Solano**

At approximately 2:50am on November 24, 2019 Detective Solano responded to 3210 Rex Street, Pueblo, CO 81005 to execute a search warrant. Detective Solano found Estevon Cruz face down in a pool of blood, behind the love seat in the living room. There was an impact blood stain pattern on the living room wall and floor. Underneath of Estevon was a black and white CO2 powered UMAREX BB gun.



## **Bodyworn Camera**

Officers can be seen entering through the front door and walking into the living room area. Officers can be heard announcing “Police” and instructing Courtney and Estevon to show officers their hands. Officers are positioned in the living room area and Courtney Piper can be seen walking from the end of the hallway through the living room towards Officer Herrera. Seconds after Courtney walks down the hallway, multiple “popping” noises could be heard, and Estevon advances down the hallway towards the living room. Officers discharge their weapons at Estevon. Approximately five seconds later, officers cease firing. Estevon made his way down the hallway into the living room, ultimately falling to the ground behind the love seat.

The officer’s statements are consistent with their bodyworn camera footage.

## **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 incident were responding to a hostage situation. Dispatch aired that it had an open line into the home and could hear a male yelling and threatening to take a female hostage. The call to dispatch originated from Courtney Piper’s mobile phone. Officers learned that there was an active protection order that restrained Estevon Cruz from Courtney Piper.

When police arrived at the home, they could hear Courtney Piper crying and Estevon Cruz angrily yelling at the top of his lungs. Officers repeatedly knocked on the door and announced “Police Department” to get Estevon and Courtney to come out of the home. The police made numerous attempts to get Estevon to come out of the house, but to no avail. Eventually, officers on scene and dispatch could not hear any sounds coming from inside the home. When things went silent, officers feared that Estevon had harmed Courtney, so they forced entry. Prior to and while breaking down the door, officers continued announcing “Police Department...come out with your hands up.”

Once inside, officers are standing in the living room, still screaming “Police Department...come out with your hands up.” Courtney Piper exits a room with her hands up in the air and goes towards Officer Herrera.

Estevon emerges from behind Courtney holding a gun. Estevon repeatedly pulled the trigger and advanced on Officers with the barrel of his gun pointed towards Courtney and the officers. Officers are in fear for their and Courtney's lives.

Although Estevon's gun was a non-lethal BB gun, police were unable to know that. Officers reasonably believed that Estevon intended to fatally harm them and Courtney.

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 Estevon Cruz, 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 1<sup>st</sup> day of April 2020



J.E. Chostner  
District Attorney