



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

September 22, 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 June 23, 2020  
Location: 1143 Bragdon Ave. Pueblo, CO 81004  
Deceased: Kevin Andrew Pulido (4-21-1977)  
Officers Involved: Reid Herrera, Ryan Neece, Dustin Robinson

Dear Chief Davenport and Sheriff Taylor:

The 10th Judicial District Critical Incident Team (CIT) was activated at approximately 6:00pm on June 23, 2020, to investigate an Officer Involved Shooting (OIS) Incident which resulted in the death of Kevin Pulido (DOB 4/21/1977). The Pueblo County Sheriff's Office (PCSO) was designated as the lead investigative agency and other CIT participants included the 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

At approximately 5:27 p.m., on June 23, 2020, the Pueblo Police Department (PPD) Communication Center, received a call from a party who reported a Hispanic male, approximately 5'6", wearing a black shirt, black cap with a white brim, had just confronted their neighbor and pulled out a hand gun from his waistband. The male party stated the cops were looking for him and that "if you call the cops, I know where you live, I will come back for you". The reporting party stated this occurred near Jackson Street and Mesa Avenue. The reporting party stated the male had been walking back and forth down Mesa Avenue and was now walking south down the alley of Jackson Street.

PPD Officers Kyanah Ramos and Derek Wyberg were dispatched to the call as a "man with a weapon". Officer Ramos arrived in the area first and observed a male matching the description near the intersection of Mesa Avenue, and Bragdon Street. While Officer Ramos was in her marked patrol unit the male party (later identified as Kevin Pulido - DOB 4/21/77) ran in front of her fully marked police unit, pulled out a handgun, "cocked" it, and pointed it at her. Pulido then ran into an alley and Officer Ramos lost sight of him.

As additional PPD officers arrived in the area, Pulido was observed in front of a residence located at 1143 Bragdon. He was running back and forth from the front and back yard of this residence. Officer Wyberg was behind the residence in the alley and from behind a cinder block fence he could see Pulido in the backyard. Pulido appeared to see Officer Wyberg in the alley behind the fence and pulled out a gun from his waistline, racked it, pointed it at Officer Wyberg, and pulled the trigger. Nothing discharged from the gun and then Pulido turned and ran toward the front of the residence.

While in the front of the residence near the street, Pulido encountered his brother Steven Pulido (DOB 09/24/73). Steven pleaded with Kevin to give him the gun, telling him that "they" were going to shoot him. Kevin told Steven over and over that he didn't care. As Kevin and Steven were near a white van that was parked in the driveway, PPD Officer Reid Herrera confronted Kevin and repeatedly yelled at him to drop the gun and to prone out. Officer Herrera had both his Taser and duty weapon drawn and was giving commands to Kevin. When he deployed his Taser at Kevin, the Taser proved to be ineffective, and Kevin immediately pulled a gun from his waistline and pointed it in the direction of Officer Herrera. Officer Herrera saw Kevin pull the gun and point it at him. Officer Herrera then fired one round from his duty weapon at Kevin.

After Officer Herrera fired his first round, PPD Officer Ryan Neece who was positioned in the street in front of the residence observed Kevin near the rear of the white van holding a gun and pointing it in the direction of Officer Herrera. Officer Neece then fired one round at Kevin from the shotgun he was carrying. Officer Herrera fired his duty weapon several more times at Kevin which caused him to go to the ground. As Kevin was on the ground behind the van, PPD Officer Dustin Robinson, who was outside the yard on the southside of the property, propped the AR-15 rifle he was carrying on the fence and fired three rounds at Kevin. Officer Herrera yelled "stop, hold fire" at which time no other rounds were fired.

As officers approached Kevin, they observed Steven on the ground near the rear tire of the van and they proceeded to give commands to Steven to walk back towards the officer that was giving the commands. Steven complied with the commands and was able to be temporarily detained to ensure he was not injured, which he was not.

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.

The CIT investigation commenced.

### **Autopsy**

On June 25, 2020 a forensic autopsy was performed by Dr. Daniel Lingamfelter on Kevin Pulido at Street Mary Corwin Medical Center.

It was discovered that Pulido sustained six gunshot wounds. Two of the wounds were to his head. One of the bullets passed through skin behind his left ear, and the other passed through the skull and spine and ultimately lodged in the lower left neck area. A third bullet wound was found in the right side of the chest where the bullet entered, traveled through the body, and punctured the pancreas.

Both of Pulido's arms sustained bullet wounds. One bullet entered the right forearm and a deformed bullet was recovered. Another bullet struck the left wrist and hand. Pulido also had one bullet wound on the outside of his left thigh.

Dr. Lingamfelter determined that Kevin Pulido died as a result of multiple gunshot wounds.

A handcuff key was found inside Pulido's mouth. Methamphetamine and ethanol were present in Pulido's system as well.

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

Officer Reid Herrera was interviewed by Detective JC Williams and CBI Agent Gregg Slater. Officer Herrera was asked to describe what occurred on June 23, 2020. He recalled being dispatched to a separate call, but was also scanning the radio listening to other calls that were coming in. He heard dispatch air that there was a man with a black hat, black shirt, and blue jeans that possibly had a gun. Officer Herrera remembered hearing Officer Ramos get on the air and state that the male actually pointed the gun at her. She sounded scared and panicked. Due to Officer Ramos' statements, Officer Herrera asked dispatch if he should re-route to the call with Officer Ramos. Dispatch then re-routed both Officer Herrera and Officer Crowder, who was Herrera's cover officer, to the call with Officer Ramos. He activated his BWC and lights to his fully marked police car several blocks from where the call was transpiring. He could see several police vehicles in the intersection of Mesa and Bragdon with their lights activated.

As he parked his police cruiser at the stop sign of Mesa and Bragdon, he could see a male matching the description from dispatch was in a driveway in front of 1143 Bragdon Ave along with a male in a gray shirt. As he got out of his car, he could hear Officer Neece saying "don't reach" and he believed Officer Neece was speaking to the male in the black. Officer Herrera estimated that there were approximately 5 other PPD officers on scene at this time, all in PPD uniforms with identifying badges, name plates, and PPD patches. Multiple police vehicles with their lights on were around the house. Officer Herrera stated that any reasonable person would know they were police officers.

Officer Herrera yelled to the man in the gray to get back and for the male in the black to stay. Neither complied. The male in the gray ran up the driveway behind a white van where Officer Herrera lost site of him. The male in the black ran up toward the house and other officers aired that he was running toward the alley. He started to run to the back but then heard the male in the gray screaming as if he was in pain or agony. At that point Officer Herrera holstered his gun, jumped the chain link fence, and ran toward the

garage as a position of cover. He retrieved his handgun again. Officer Herrera recalled Officer Wyberg airing that the male in black had "racked" the gun at him, so he believed that the gun was a fully functioning firearm. At this point Officer Herrera believed that the male was a threat to himself and others that were there. He could not see where the male in the gray was at this time. Right before Officer Herrera reached the wall of the garage, the male who had been wearing the black shirt emerged but was now shirtless.

Officer Herrera could see the male, later identified as Kevin Pulido, holding a black semi-automatic handgun in his right hand. Kevin was looking at Officer Herrera, yelling, in a fighting stance, and posturing at Officer Herrera. Kevin and Officer Herrera were approximately 10 feet from each other at this point. Officer Herrera stated that he then saw Kevin use his right hand to put the gun in his waistband behind his back. Both of Kevin's hands were empty at this point and he was yelling "come on" at Officer Herrera. Officer Herrera then drew his taser with his left hand. Kevin then yelled "come on use that taser." Officer Herrera deployed his taser, using one cartridge. He could see that at least one probe hit Kevin in the abdomen, but it only appeared to make Kevin more agitated and was not effective. Officer Herrera stated that he used the taser with the hopes that it would incapacitate Kevin so that he could intervene and get control of Kevin, removing that gun, without having to use any lethal force. The taser did not incapacitate Kevin.

At that point, Officer Herrera could see Kevin step closer to the van and then get the gun from his waistband with his right hand. Kevin raised the gun at Officer Herrera, and Officer Herrera could see the muzzle pointed in his direction. In response, Officer Herrera lunged left behind the wall of the garage for cover and fired one round from his handgun with his right hand. Officer Herrera could see Kevin crouch to take cover behind the front portion of the van, causing Officer Herrera to believe he missed hitting Kevin with that first shot. Officer Herrera then recalled firing several more rounds, he believed 4 more, because Kevin was still in full control of the gun. Kevin then collapsed and Officer Herrera could no longer see Kevin's hands or the gun. Officer Herrera yelled, "stop, hold fire" and there were no other shots after that. Officer Herrera took a couple steps toward Kevin in order to see better and he could see that the gun was above Kevin's head and he was bleeding.

Officer Herrera stated that people from 1143 Bragdon started coming up behind him, so he holstered both his gun and taser and politely tried to get the people back into the house for their safety. After the people were back in the house with Officer Crowder, Officer Herrera asked if Officer Sanchez was available to take him to the station. Officer Herrera left the scene at that point.

When asked why he fired his gun, Officer Herrera stated that Kevin pointed the gun at him after the taser was ineffective on him. Officer Herrera felt he had no other option but to fire his gun because Kevin was an immediate threat to Officer Herrera's life. Officer Herrera felt that he, other officers, and others on scene were in imminent danger of serious bodily harm or of being killed. Due to Kevin's immediate reaction of pulling his gun on Officer Herrera after the taser deployment, there was no time for Officer Herrera to verbally indicate his intent to use deadly force. When he fired his gun, he knew that the male in the gray shirt, Steven, was near the back of the van. He could not see Steven but knew that Steven was not in his line of fire. Officer Herrera did not see anybody behind the individual that was posing a threat to him, meaning Kevin. Officer Herrera said that after firing his gun he remembered feeling the most scared that he had ever been during a critical incident.

### **Interview: Officer Ryan Neece**

Officer Ryan Neece was interviewed by PCSO Detective JC Williams and CBI Agent Gregg Slater. Officer Neece was asked to describe what occurred on the day of the shooting that he was involved with. He recalled being dispatched to a "man with a weapon" call. He heard Officer Ramos and Officer Wyberg being dispatched to another "man with a weapon" call. He reviewed the dispatch notes including the reporting party stating that the male said, "the police are looking for me so I'm looking for them." This sounded like a potential ambush, so he asked dispatch to assign him to this call. Officer Neece was searching for the male in the area and heard Officer Ramos say over the radio that a male had pointed a gun at her. When he arrived in front of 1143 Bragdon he could see two males talking in a driveway near a van. Officer Neece was in a fully marked Pueblo Police cruiser and had on a PPD uniform. One male had on a black shirt and black hat which matched the description of the male that dispatch aired. Officer Neece grabbed his shotgun and purposely loaded it with a slug shotgun round because it has more of distinct path of travel over buckshot.

One male, later identified as Kevin Pulido, started yelling. Officer Neece could not remember exactly what he was yelling. Kevin then ran toward the back of the house on the side of the garage and Officer Neece aired this information. The other male that was in the driveway, later identified as Steven Pulido, made eye contact with Officer Neece, pointed to Kevin, and nodded his head in a "yes" fashion to Officer Neece as he was pointing at Kevin. This indicated to Officer Neece that the male that ran toward the back of the house was the suspect they were looking for. At this time, Officer Neece did not know that the two males were brothers.

Kevin then returned back to the driveway in front of the garage and that is when Officer Neece could see that he had a black handgun. Officer Neece loudly yelled at Kevin to "drop the gun" repeatedly, but Kevin did not follow any of the commands and did not drop the gun.

Officer Neece knew that Officer Reid Herrera was on the side of the garage also yelling at Kevin to drop the gun. He then heard Officer Herrera deploy his taser and saw the probes going toward Kevin. Kevin started backpedaling down the driveway toward the street where Officer Neece was located. This is when Officer Neece could see that the taser probes had not been effective on Kevin. Kevin then raised the gun toward Officer Herrera. This is when Officer Neece fired one round from his shotgun at Kevin. He then backed away, chambered another slug round, and knelt down in the street to get a view under the van of where Kevin was located. He saw that Kevin went to the ground and was trying to assess whether he was still an active threat, and he did not believe Kevin was a threat any longer at this time.

Officer Neece was asked why he fired his shotgun. He explained that he knew Kevin had at the very least already menacing Officer Ramos with a firearm, was ignoring commands to drop the weapon, did not respond to the taser, and raised his gun at Officer Herrera. Officer Neece believed that Kevin was going to shoot Officer Herrera and he had no other choice but to fire his shotgun at Kevin. Officer Neece stated that when he fired his weapon he had a clear view of Kevin. He could see Steven's feet, but the rest of his body was concealed by the white van. When Officer Neece fired he did not believe that Steven was in any kind of danger because he had a clear view of Kevin and that's where he was aiming. Due to the speed and intensity of the situation, Officer Neece was not able to indicate to Kevin his intent to use deadly force.

Officer Neece then took cover behind a car that was parked in the street. He began calling to Steven Pulido who was lying on the ground near the rear passenger of the van. He was commanding Steven to crawl back toward him so that they could get Steven to safety and make sure he was not injured. Officer Neece then stacked up with Officer Wyberg and Officer Garcia to approach Kevin to ensure the scene was safe. Officer Wyberg said he could see Kevin's hands and Officer Garcia said he could see the gun right above Kevin's

head. AMR then arrived and said that Kevin was dead. Officer JJ Ortiz arrived and acted as Officer Neece's gatekeeper, secured Officer Neece's firearm, and escorted him from the scene.

### **Interview: Officer Dustin Robinson**

Officer Dustin Robinson was interviewed by PCSO Detective JC Williams and CBI Agent Gregg Slater. Officer Robinson was asked to describe what occurred on the day of the shooting that he was involved with. Officer Robinson recalled being parked on Acero and Arroyo typing a report. He heard a "man with a weapon" call go out and Officer Ramos' radio traffic relating to that call did not sound normal to him. Her voice was scratchy, and she was not saying things completely, which was not normal for her. He felt that something wasn't right. He was not far from Officer Ramos' location. He heard her confirm over the air that the male had pointed a gun at her. Officer Robinson headed her direction and asked for a clothing description of the male. Officer Ramos told him black hat, black shirt, and black backpack. At first Officer Robinson was too far north on Bragdon and had to circle back to the 1100 block. When he arrived in that area he could see Officer Wyberg's car in the road with the lights on.

When Officer Robinson first arrived, he saw Officer Wyberg walking back toward an alley. He also saw two males arguing out in front of a residence, but he was not sure if the male in black was their suspect at this point. He kept his eye on them while he retrieved his rifle from the back hatch of his fully marked police cruiser. Officer Robinson could hear the other male say, to who was later identified as Steven Pulido, "look there's the police" and pointed in his direction. Kevin Pulido, the male in the black shirt, responded by saying something to the effect of, "fuck those bitches they can't do nothing." Officer Robinson was dressed in a full police uniform with identifying badge and patches.

He recalled that Officer Neece was giving Kevin commands to show his hands, but Kevin was behind the van. Officer Robinson lost site of him for a short period of time. Kevin then emerged and put his hands up as if he was going to comply and bent over at the waist as if he was going to comply with commands. He recalls calling Officer Ramos over to him in an attempt to see if this was the male that pointed the gun at her. Before that could happen, Kevin ran westbound toward the alley. He believes he aired that information at that point.

Officer Robinson ran toward the back of the house in the alley and could see Officer Wyberg with his gun pointed over a 6.5 feet cinder block wall and heard Officer Wyberg say to "drop it." Officer Robinson asked him if the male had the gun and Officer Wyberg said, "yeah he is right there." He attempted to see anything past the wall but then heard officers in the front of the house giving verbal commands. Officer Robinson took off running back toward the front of the house. He could then see Officer Herrera up against the side of the garage with his taser drawn, and Kevin Pulido did not have a shirt on anymore. He saw Officer Herrera deploy his taser and Kevin do "kind of a sweeping motion" with his hand but there was no effect on him (Kevin).

Officer Robinson recalled hearing a handgun shot immediately following the taser deployment and believed that Kevin had just shot at Officer Herrera. He stated that in his experience when officers fire it's usually rapid fire and there is more than one round shot. That is what led him to believe that Kevin shot at Officer Herrera. Officer Robinson then heard a shotgun round go off to the right side of him. He knew that's where Officer Neece was located.

Officer Robinson then recalled that Kevin put both hands down on the ground, with the gun still in his right hand, and rolled toward Officer Robinson's direction as if he was going to go for cover underneath the van.

While he was rolling toward Officer Robinson, Kevin was extending his right arm, which is the hand in which he was holding the gun. Officer Robinson stated that he knew if Kevin looked up and saw him that his life was in imminent danger. Officer Robinson was standing outside of a chain link fence without any cover whatsoever. He felt that his life as well as Officer Herrera's life were in imminent danger and did not want Kevin to get in a position to fire on Officer Herrera or himself. He fired three rounds from his rifle at Kevin until he could see that Kevin no longer had the handgun in his hand. There was insufficient time for Officer Robinson to verbally declare his intent to use his firearm between the taser deployment and the shots being fired.

Officer Robinson was asked by the interviewers how he loads his weapons. He responded that he carries his handgun at full capacity but only loads 28 rounds into his rifle. He indicated that the reason he grabbed his AR-15 was that it is a more effective weapon at long range and he did not know where the suspect was when he arrived. Officer Robinson knew this was one of the most serious calls because Kevin had already pointed a gun at one officer. Officer Robinson is a trained sniper on the SWAT team and is specifically trained with that AR-15. When he fired his weapon, he had a clear site picture with only Kevin Pulido in it, and he did not feel that anybody else was in danger of his shots. Officer Robinson did not even know that Steven Pulido was behind the van somewhere until after he fired his rounds. Steven dropped to the ground after Officer Robinson stopped shooting and was yelling "that's my brother."

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

CIT Detectives reviewed the body worn camera (BWC) video from the officers who were involved in this incident. Below are the summaries of Officer Herrera's, Neece's, and Robinson's BWC.

#### **Officer Herrera's BWC**

Officer Herrera was wearing a body camera and activated it before arriving to this call. The audio does not start until :30 seconds into the video. Officer Herrera arrives to the scene, gets out of his vehicle and immediately starts yelling to the two males located in the driveway. He yells, "sir back away, sir in the gray shirt back away, you in the black stay." The male in black, later identified as Kevin Pulido, can be seen running toward the back of the garage, while the male in the gray comes out from behind a white van that is parked in the driveway. Officer Herrera again tells the male in the gray, later identified as Steven Pulido, to get away from the house. Officer Neece can be seen in Officer Herrera's BWC and he is airing that Kevin is running to the back of the house. Both Officer Herrera and Neece start running toward the back. Officer Herrera then stops and jumps a chain link fence that is surrounding the house. He goes into the yard and Kevin can be seen in view coming back toward the white van in the driveway from the back of the house. Officer Herrera tells people that are in the front yard to get inside. These people are later identified as Kevin's family members. As Officer Herrera is running across the grass toward the detached garage he is yelling at Kevin to "drop the gun sir, drop the gun, prone out, prone out now, prone out sir." Kevin can be seen in the driveway without a shirt on at this point. Officer Herrera points both his gun and taser at Kevin in the driveway as he is giving him verbal commands to prone out. Kevin yells back at Officer Herrera, "go ahead, pull that fucking taser." Officer Herrera deploys his taser with his left hand. In response to the taser deployment, Kevin can be seen immediately raising a black handgun and pointing it at Officer Herrera. Officer Herrera fires one round toward Kevin and backs up to obtain cover against the detached garage. Kevin is not in view of the camera for a split second. Another shot can be heard on the BWC. Officer Herrera moves forward, and Kevin is back in view. Officer Herrera fires 5 more shots

from his weapon toward Kevin. Three more shots can be heard. These are from Officer Dustin Robinson. Officer Herrera then yells at officers to “hold fire, hold fire.” No further shots can be heard. Officer Herrera takes a couple steps toward Kevin. Kevin can be seen on the ground. Officer Neece can be heard yelling at Steven to get on the ground.

Officer Herrera then turns and is yelling at the people behind him to “get back.” As he turns around, several people can be seen behind him. One man in a wheel chair is right behind Officer Herrera and there is another male approaching the officer from the front porch of the house. Officer Crowder then jumps the fence and helps Officer Herrera get the people back toward the house. Officer Herrera is repeatedly telling the people to stay back and that they are trying to get help to the male in the driveway. He asks the people to go inside and tells them they will be interviewed by other officers about what they saw. Officer Herrera offers to hold the door open for the man in the wheelchair and tells them again that they are trying to get AMR there to help the male in the driveway.

After Officers Herrera and Crowder get the people back in the house, Officer Herrera can be seen winding up the leads from his taser that were deployed. Officer Herrera is then escorted away from the scene by Officer Sanchez.

#### **Officer Neece’s BWC**

Officer Neece was wearing a body camera and activated it during this call. The audio does not start until 30 seconds into the video. Officer Neece arrives to the scene can be heard airing over the radio that the male was running to the back alley. Officer Neece starts to run that direction as well, but abruptly changes direction back toward the front of the house. Within seconds Officer Neece can be heard yelling loudly at least four separate times to “drop it” and “drop the gun” and “keep your hands in the air.” A taser deployment can be heard on camera followed by one gunshot. Officer Neece then fires his shotgun one time and a blue shell casing can be seen bouncing on the pavement in the street.

Due to the angle that Officer Neece holds his gun and where his BWC is attached to his uniform, not much more than Officer Neece’s forearm can be seen on the BWC. The audio is functional and the shots from other officers can be heard as well.

Officer Neece then yells at Steven Pulido to “get on the ground” as he circled behind the white van again. Officer Neece’s hand can be seen manipulating his shotgun, loading another shell. He then appears to kneel down on the ground to look under the van. He yells “show me your hands” to Steven Pulido who is near the rear tire of the white van in the driveway. Officer Neece attempts to get Steven Pulido to crawl toward him by yelling “blue pants crawl back.” Neece then takes cover behind a car while other officers attempt to get Steven out of the scene. Officer Neece then joins Officer Chad Garcia and Officer Derek Wyberg on a rescue team. The three officers approach Kevin Pulido together. The gun can be seen by Officer Garcia laying above Pulido’s head in the driveway. Officer Neece is then taken by Officer Ortiz away from the scene.

#### **Officer Robinson’s BWC**

Officer Robinson was wearing a body camera and activated it during this call. The audio does not start until 30 seconds into the video. The video starts with Officer Robinson running along a chain link fence toward a back alley. A rifle can be seen in Officer Robinson’s hands. Officer Wyberg can be seen in the video looking over a cinder block wall in the alley. There is still no audio at this point. After being in the alley for a few seconds, Officer Robinson begins to run back toward the street and along the chain link



fence again. As he is running back to the front of the house Officer Robinson states over the radio, "he's got the gun. Maintain, maintain, maintain." Seven gunshots can be heard on the BWC while Officer Robinson runs along the chain link fence. Officer Robinson stops outside of the fence and sets his rifle along the top rail.

The camera shows part of Officer Robinson's sling to his rifle and a white van parked in a driveway approximately 30 yards from Officer Robinson. Officer Herrera can be seen standing along the side of the detached garage directly in front of the white van. Kevin Pulido can be seen under the van. Officer Robinson fires 3 rounds from his rifle at Kevin Pulido. After he fires the three shots, Officer Herrera can be heard yelling to "hold fire." Officer Neece can be heard yelling at Steven Pulido to "get on the ground."

Officer Robinson airs that shots were fired and starts telling everybody to "chill, we're cool" trying to take control of the scene. Officer Herrera can be seen taking a couple of steps toward Kevin and then backing up again as a man in a wheel chair approaches Officer Herrera. Officer Wyberg can be heard yelling at Officer Herrera to watch his back.

Officer Robinson directs Officer Neece to "order that guy back" referring to Steven Pulido and to get him out of the scene. Officer Robinson then directs Officer Norton to move her car forward. Officer Robinson then airs to dispatch to send rescue ASAP. While Officer Robinson maintains his position on the fence, other officers can be heard giving commands to Steven Pulido to remove him from the scene. Officer Robinson requests over the air a shield so that they can "get to that guy," meaning Kevin Pulido.

Officer Robinson continues to direct officers on the next steps, one of which is to get a rescue team assembled to check on Kevin. During this time, Kevin Pulido can be seen laying in the driveway from under the white van. As the rescue team of officers approach Kevin, Officer Robinson maintains his position and provides cover for the rescue team.

Officer Robinson then calls Officer Ramos over to him to verify that the male in the driveway is the same one that had pointed the gun at her. She says that it looks like him. He then directs other officers who are arriving on scene to do a neighborhood canvass and take pictures. Officer Robinson points out where the 3 casings from his shots are located on the ground. He is then escorted from the scene by Officer Pedraza.

#### **Other Officer's Interviews:**

##### **PPD Officer Kyanah Ramos**

On June 23, 2020, PCSO Detective Victor Herrera and PPD Detective Shawn Davis interviewed PPD Officer Kyannah Ramos, who was on scene during the incident.

Officer Ramos was assigned to Watch 2 which consists of her working 12 p.m. to 10 p.m. Officer Ramos said she was dispatched to a "man with a weapon" call for service with fellow officer Derek Wyberg. Officer Ramos said the call came in with limited information, and the reporting party said they were not menaced by the man with the weapon, but he said the police were looking for him and he was looking for the police. Officer Ramos said it was reported the male had a gun in his waistband.

Officer Ramos stated she observed a male matching the description in the area of Mesa Ave, and Bragdon Street so she attempted to contact him. Officer Ramos said the male did not appear to want to come any closer or talk to her. Officer Ramos said she was still in her marked patrol unit and activated her lights. Officer Ramos said the male turned away from her, pulled out a handgun and "cocked" it and pointed it at her. Officer Ramos said she was unsure where the male pulled the gun from, but believed it was possibly

his waistband. When she first observed him, he did not have a gun in his hand. Officer Ramos said it appeared the male was trying to call her to follow him, like he was planning something or trying to bait her. Officer Ramos said the male ran northwest of her location and she kept visual of his direction of travel until other officers arrived. Officer Ramos said she observed the male run into the alley and then saw the male jump a fence but wasn't sure which one. Officer Ramos stated she heard over the radio the male was now in front of the residence on Bragdon Avenue. Officer Ramos stated she observed other police cars and was unsure if he was in the alley or in front of the residence. Officer Ramos stated fellow officers were running back and forth so she went back to the alley where Officer Wyberg was behind the residence.

Officer Ramos said she heard a loud pop, and then heard gunshots and was unsure if the male suspect was firing the shots or if it was fellow officers. Officer Ramos said she saw a vehicle parked in the driveway and saw a male laying down in the driveway and was able to identify him as the male who pointed the gun at her earlier.

Officer Ramos said the gun was a black handgun and was freaked out because she was unsure if he was going to start shooting at her. Officer Ramos stated she felt her life was in danger. At this point of the interview Officer Ramos became emotionally upset and was crying. Officer Ramos said she didn't see who shot the suspect because she was behind the residence and didn't approach the male but stood behind the fence following the shooting. She then began to secure the scene and locate shell casings.

#### **PPD Officer Derek Wyberg**

On June 23, 2020, PCSO Detective Victor Herrera and PPD Detective Shawn Davis interviewed PPD Officer Derek Wyberg who was on scene during the incident.

Officer Wyberg stated he is a patrol officer and works from 12 p.m. to 10 p.m. Officer Wyberg stated he and PPD Officer Kyanah Ramos, were dispatched to a man with a weapon call, as it was reported a man had a gun in his waistband. The reporting parties claimed they were not menaced by the man with a weapon but that the male said, "police were looking for him, so he was looking for the police". Officer Wyberg stated Officer Ramos arrived in the area and her radio traffic wasn't completely clear but that the male had a gun and was running southbound in an alley.

Officer Wyberg said he arrived in the area and saw the male suspect walking northbound on Bragdon. Officer Wyberg said he pulled his vehicle up to 1143 Bragdon, got out of his vehicle, and asked the male to come and talk with him. Officer Wyberg stated the male suspect was "fiddling" underneath his shirt and continued to ask him to speak with him. Officer Wyberg said the male told him, "I'm right here". Officer Wyberg said the male walked toward the back of the residence, and thought he was going to the alley. Officer Wyberg said he and Officer Ramos went into the alley behind the residence but didn't see the male suspect. Other officers arrived on scene, and he said it sounded like they had contact with him in front of the residence. Officer Wyberg stated fellow officers were saying the male was going to the back of the residence, so he looked over a 6-ft cinder block wall and saw the male. Officer Wyberg said when he looked at the male, the male suspect saw him, racked a gun and pulled the trigger. Officer Wyberg said the gun sounded like it fired but it was not really loud. Officer Wyberg said he took cover behind the wall but did not hear anything hit around him. Officer Wyberg said he ducked down and heard a taser then heard several shots being fired. Officer Wyberg said he then witnessed the male down in the driveway. Officer Wyberg stated he was scared when the male pointed the gun at him but was unsure if he fired because he didn't hear anything.

Officer Wyberg said following the shooting, he and fellow officers approached the male who was down in the driveway. Officer Wyberg stated the male was no longer wearing the shirt he previously saw him wearing and was bleeding heavily. Officer Wyberg stated AMR came and rendered aid to the male, and he began taking photographs. Officer Wyberg described the handgun which was silver and black in color near the head of the male suspect.

## **Other Witness Interviews**

### **Steven Pulido**

On June 23, 2020, Steven Pulido, Kevin's brother, was interviewed by PCSO Detective JC Williams and PPD Detective Ryan Torres.

Steven stated he was on his way to check on his parent's house, when he observed his brother, Kevin, near the intersection of Mesa Avenue and Bragdon Avenue. Steven said Kevin was acting "strange". Steven then observed a female Pueblo Police Officer, near this intersection, and she was standing at the door of her police vehicle. Steven said the police officer was yelling at Kevin for him to put down his weapon. Steven said he saw Kevin point a gun at the officer and then ran west on Mesa Avenue and then into the alley.

Steven went to his parent's house and went inside to check on them not knowing what was going on. Steven said his parents also did not know what was going on. Steven said at about that time, Kevin showed up to the house and came from the back of the residence. Steven went outside and started trying to reason with Kevin.

Steven said Kevin asked him for a cigarette and he (Steven) replied that he would give him a cigarette if he would give him the gun. Steven said he was pleading with Kevin to give him the gun, telling him that "they" were going to shoot him. Steven said Kevin told him over and over that he didn't care. Kevin then asked Steven to come outside with him, so Steven followed Kevin outside so they could get a cigarette. Steven said as they neared the van that was parked in the driveway, the officers confronted Kevin and yelled at him to drop the gun, but Kevin would not drop the gun.

Steven said the first round fired by the officers, hit Kevin in his stomach area and he went down to the ground. Steven said Kevin and himself were both near the van and he could feel the bullets as they went by him as the officers fired at Kevin. Steven said right after Kevin went to the ground, Kevin was struck in the head by another round that was fired by the officers.

Steven was obviously upset by these events and he was unable to continue speaking.

### **Katherine Burow**

On June 23, 2020, PCSO Detective Victor Herrera and PPD Detective Shawn Davis interviewed Katherine Burow (DOB 05/09/1950), who claimed to have witnessed the shooting.

Katherine stated she was in her kitchen at her residence located at 1140 Bragdon Avenue, Pueblo, CO when she heard loud voices, so she decided to look outside. Katherine said when she looked outside, she saw sirens and police yelling at someone. Katherine said she was watching from her front door, when officers

were telling the man to put the gun down. Katherine said she didn't observe a gun at first, but then saw the male go by the car port in front of the residence.

Katherine said the male took off his shirt and pulled out a gun and shot once while pointing the gun at the officer. Katherine said police then shot the male, but said he was the aggressor.

Katherine described the male by stating that he pulled off a white in color shirt and was wearing jeans. Katherine stated the officers kept yelling at him to put the gun down. Katherine said it looked like another male, possibly a friend of the suspect, was trying to talk the male suspect down. Katherine said she was standing at the front door of her residence which is across the street from where the incident took place. Katherine said she didn't know the male suspect and has never seen him before at that residence or around in the neighborhood.

Katherine stated she witnessed the male shoot the gun once at officers. She said the male shot first then officers shot back numerous times. Katherine said the male suspect had a handgun, and after officers shot the male, he went down immediately. Katherine said they got the other male to lay down, and that's when she went back to cooking dinner in the kitchen.

### **Joshua Romero**

On June 23, 2020, PCSO Detective Victor Herrera and PPD Detective Shawn Davis interviewed Joshua Romero (DOB:02/25/1997).

Joshua described an encounter he had with the male suspect prior to the shooting. Joshua said between 5:15 p.m. and 5:30 p.m., the male, later identified as Kevin Pulido, jumped his neighbor's fence in the area of 1123 Jackson Street. Joshua said the male told his neighbor and him, he wasn't wanting to hurt anyone but that he was looking for the police and the police were looking for him. Joshua stated, when the male was telling them this, he pulled a handgun from his waistband, cocked it, and put it back into his pants. Joshua said the male was acting strange and was fidgety and possibly on narcotics.

Joshua said about 15 minutes later, the male returned and called him a "cop caller" while walking in front of his residence. Joshua said he was on his phone and the male called him a snitch and began to repeat his address in a threatening manner saying he'll remember his address and come back. Joshua said a little after the male called him a snitch, he continued to walk around the neighborhood acting strange. Joshua said a short time later about an hour or an hour and a half later he heard yelling in the distance, and they were saying "put the gun down" and then he heard about 12 gunshots. Joshua said he didn't know the male and has never seen him before. Joshua described the gun as a small handgun with a silver slide and a black bottom.

Joshua said after the shooting occurred, he heard the male's family members saying the male was on drugs, and just got out of prison and had court earlier in the day which didn't go well.

## **Victor Flores**

On June 23, 2020, PCSO Detective Victor Herrera and PPD Detective Carly Gustin interviewed Victor Flores (DOB 11/20/2004).

Victor said he was home where he currently lives at 1213 Bragdon Avenue. when the cops were looking for a male in the area of Mesa Ave and Bragdon Avenue. Victor said does not personally know the male, but knows he's a problem in the neighborhood, and has seen him get arrested in the past Victor said the male was whistling and yelling as he passed by his residence. Victor told Detectives the male started running toward Mesa and Bragdon when his dog began to chase the male. Victor said he thinks the male ran around the block and then walked to the house (where he was shot). Victor said two cops arrived and the male pulled up his shirt and told the cops "shoot me, shoot me". Victor said the male tried to run to the back of the residence, but he thinks there was cops back there because the male ran back to the front where the van was in the driveway.

Victor said the male then took off his shirt, his hat and his glasses, and pulled out a gun. Victor said the officers began to tell him to "drop the gun, drop the gun". Victor said there was another male trying to get the male to comply, but the male walked to the other side of the van. Victor said that's when he heard a gunshot which sounded like a .22 caliber round. Victor said the cops then shot at him about seven to nine times. Victor said cops then told the other guy to get on the ground and were able to place him under arrest.

Victor stated when the male pulled out the gun, he wasn't pointing it but was holding it and telling officers "shoot me, shoot me". Victor said the male was standing on the other side of the van and he didn't see him fire the gun but believes he did because the way his body was positioned, and it appeared as if he was aiming it at the officers. Victor said his uncle told him, he saw the male at the Loaf-N-Jug earlier in the day and the male flashed the gun at him while it was still in his waistband.

Victor said he saw the male first pull the gun out after he took his shirt and hat off. Victor said after the male pulled the gun, he was waving it around, and the officers gave him an opportunity to put the gun down. Victor said officers continued to tell him "put the gun down, put the gun down". Victor said following the shooting, the male suspects aunt told him, the male was suicidal but never followed through with it. Victor said he has seen the male at the residence in the past and believes his family lives at the residence where he was shot. I asked Victor if he knew why cops were called, which he stated he believes the male may have tried to start a fight with someone on Jackson Ave, and said the male kept yelling and repeating the address. Victor described the gun the male had as a handgun, and as silver and shiny.

## **Officer Involved Processing**

On June 23, 2020, at approximately 6:00 p.m., PCSO Detective David Butterfield was notified that an officer involved shooting took place. He was tasked with processing any of the officers involved at PPD's Crime Scene Investigation Lab. The officers to be processed were PPD Officers Reid Herrera, Ryan Neece, and Dustin Robinson.

Each officer was brought down for processing one at a time and during this process the following actions were taken:

Full body pictures were completed of each officer. Once pictures were completed of the officer an Alternative Light Source (ALS) was used on their person. This process is completed by running a bright

white light over their uniform and exposed skin to identify any potential biological evidence. None was located on any officer mentioned above.

After the ALS light was used, a clean sheet of parchment paper was laid out to download their weapons. The weapons were examined from each officer.

Officer Reid Herrera carried a Glock 19 9mm Handgun (SN# BMWK776) with three magazines. The magazine in gun contained 11 live cartridges. There were two spare magazines from a holster that each contained 17 live cartridges. One live cartridge was recovered from the chamber of the weapon. Total there were 46 live cartridges of a possible 52, so there was a potential of 6 discharges from this weapon.

Officer Herrera's Taser 7 (SN# X40006T5K) was also collected which displayed a deployed left cartridge.

Officer Ryan Neece carried a Glock 17 9mm Handgun (SN# BGE2369) with three magazines (17 round). The magazine in the gun contained 17 live cartridges and both of his spare magazines each contained 17 live cartridges. One live cartridge was collected from the chamber of the weapon. There were 52 live cartridges total out of a possible 52. There was no discharge from this weapon.

Also collected from Officer Neece was a Mossberg 590 Shotgun (SN# Unknown) covered by side saddle. The tube of the shotgun contained 6 live buckshot and the side saddle contained 6 live cartridges. There was one live slug in the chamber. Detective Butterfield collected a total of 13 live shotshells out of a possible 14, which means there was a potential of one discharge.

Officer Neece had a Taser 7 (SN# X40006RNY) but it was not deployed.

Officer Dustin Robinson carried a Smith & Wesson M&P 2.0 9mm Handgun (SN# NAR0036) with three magazines (17 round). The magazine in the gun contained 17 live cartridges. One of his spare magazines contained 16 live cartridges while the other contained 17 live cartridges. One live cartridge was collected from the chamber.

Total, there were 51 live cartridges of possible 52 collected. It was determined after viewing BWC that there was no discharge from this weapon and that Officer Robinson was just missing one live round.

Officer Robinson also carried a BCM BCM4 Rifle .223 (SN# A057861) with one magazine (30 round). The magazine in the gun had 25 live cartridges and there was one live cartridge in the chamber of the weapon. There were 26 live cartridges of a possible 30. Detective Butterfield noted that meant there was a possibility of four discharges, but after the full investigation it was determined that Officer Robinson only fired three rounds on scene.

Officer Robinson had a Taser 7 (SN# X40006T64) but it was not deployed.

With the above information, Detective Butterfield collected the handgun and Taser 7 as evidence from Reid Herrera, the shotgun from Ryan Neece, and the rifle from Dustin Robinson. All ammunition was also collected from these firearms.

After the officer processing was completed all evidence was transported to the Pueblo County Sheriff's Officer secured lab and later dropped into evidence.

## Scene and Evidence Processing

CIT Detectives responded to the scene of 1143 Bragdon on June 23, 2020, to process the scene and collect any evidence. The entire scene was secured by officers and crime scene tape. An initial walk through of the scene was conducted and overall photographs were taken.

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.

The evidence located on scene is as follows. Evidence placard #1-3 were (3) Speer .223 spent shell casings collected on the ground outside of the chain link fence on the South side of the residence.

Evidence placard #4 was a 12-gauge blue shotgun shell located on Bragdon Avenue, in the street directly in front of the residence. Evidence placard #5 was a small piece of possible fragment located in the street on Bragdon Avenue. Evidence placard #6 was a piece of wadding located outside of the chain link fence in the dirt to the South of the driveway. Evidence placard #7 was a projectile located in the street. Evidence placard A was possible tissue located in the street to the North of #7.

Evidence placard #8 and #9 were projectiles located in the front yard grass outside of 1130 Bragdon Avenue. Sergeant Allen Brooks obtained a consent to search from the residents at this address. Evidence placard #10 was a projectile located in the street on Bragdon Avenue.

Evidence placard #11 was a broken pair of black Locs sunglasses found on the driveway next to the rear passenger tire of the Chevy van. A small piece of the frame was also located close to the garage. Evidence placard #12 was the deceased, Kevin Pulido. Kevin was found face down in a pool of suspected blood predominately around his head and torso. He was clothed in black/white shoes, blue jeans, black shorts and did not have a shirt on. Kevin's feet were to the East of the driveway and his head was to the West. Evidence placard #13 was a black/silver Powerline CO2 .177 caliber 45mm BB gun SN# 14D00322. The gun had black electrical tape around the handle and was located directly above Kevin's head on the driveway. Evidence placard #14 was a black shirt found on the Northwest side of the driveway.

Evidence placards #15-19 were (5) 9mm FC spent shell casings located on the front lawn to the South of the garage. Evidence placard #20 was a piece of wadding located inside the chain link fence at the East end of the grass near the driveway. In the chain link fence to the East of the wadding, a defect was located at the very top. The back of the white van did appear to have two defects and three possible strikes. The front passenger side of the van had two defects. One located underneath the right head lamp in the plastic portion and the second exiting the right passenger panel. Evidence placard #21 was a black Colorado baseball cap found next to Kevin's head with suspected blood. Evidence placard B was the large pool of suspected blood located under the deceased.

A note that read "Please give me all your \$\$\$" was also located inside Kevin's right front pocket.

All evidence collected was taken to the PCSO annex and placed in the secured evidence processing room.

## 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.

A peace officer is justified in using deadly physical force to make an arrest only when all other means of apprehension are unreasonable given the circumstances and:

- a) The arrest is for a felony involving conduct including the use or threatened use of deadly physical force;
- b) The suspect poses an immediate threat to the peace officer or another person;
- c) The force employed does not create a substantial risk of injury to other persons.

§18-1-707(3), C.R.S.

A peace officer shall identify himself or herself as a peace officer and give a clear verbal warning of his or her intent to use firearms or other deadly physical force, with sufficient time for the warning to be observed, unless to do so would unduly place peace officers at risk of injury, or would create a risk of death or injury to other persons. §18-1-707(4)

## Conclusion

Based on the facts of the investigation conducted by CIT investigators, the use of force by PPD Officers Reid Herrera, Ryan Neece, and Dustin Robinson is justified based on the fear and threat of serious bodily injury or death posed as a result of Kevin Pulido pointing a gun at Officer Herrera. Kevin Pulido had been seen in the surrounding neighborhood with a gun and contacted a neighbor telling him that he was looking for the cops, while racking a slide on his gun. When Officer Kyannah Ramos arrived on scene and located Pulido, he refused to talk to her and instead, pointed his gun at her before running away. Pulido then pointed his gun at Officer Derek Wyberg and pulled the trigger. Officer Herrera attempted to bring Pulido into



compliance with his taser, but the taser was ineffective on Pulido. Pulido then immediately pointed his gun at Officer Herrera. Officers Herrera, Neece, and Robinson fired because they reasonably believed that Pulido would shoot at them and they felt that at least Officer Herrera was in imminent danger. This conclusion is based on interviews of the involved officers, body worn camera video, and crime scene and evidence processing.

It was clear that no other means of apprehension were reasonable once Officer Herrera's taser had no effect on Pulido. In response to the deployment of the taser, Pulido pulled his gun from his waistband and immediately pointed it at Officer Herrera. Pulido's immediate reaction also left insufficient time for any of the officers to verbally announce their intent to use deadly force. The officers were dispatched to a call regarding "a man with a weapon". Pulido menaced at least two officers with that gun, and therefore, the officers were justified in trying to arrest Pulido for a class five felony, Felony Menacing, which involves the use or threatened use of deadly physical force. Additionally, Pulido posed an immediate threat to the officers on scene and his own family members who were in the immediate vicinity. There was no way for the officers to know that the gun Pulido was carrying was a CO2 BB gun rather than a firearm capable of firing bullets. When each officer fired their weapons, they all had a clear site on Kevin Pulido without any other bystanders or citizens in harms way of the force that they needed to employ. Therefore, there was no substantial risk of injury to anyone other than Kevin Pulido when the officers fired their weapons.

There is no evidence or facts collected to support any criminal wrongdoing by Officers Herrera, Neece, or Robinson during the OIS incident. The actions taken by the officers during the OIS incident were conducted with the justified belief that either their lives, or the lives of their fellow officers, were in jeopardy.

It is my conclusion based on the circumstances that Officers Reid Herrera, Ryan Neece, and Dustin Robinson were justified by the Defense of Self and Defense of Others provisions of the laws of the State of Colorado, and Senate Bill 217, 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 Kevin Pulido, 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 Kevin Pulido had already told neighbors he was looking for the cops while racking the slide on his gun, pointed his gun at two officers, and then pointed the gun at Officer Herrera after Officer Herrera's taser had no effect on Kevin Pulido. The actions of all three officers 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 Reid Herrera, Ryan Neece, and Dustin Robinson would not be appropriate, and therefore no criminal charges will be filed.

Dated this 22<sup>nd</sup> day of September 2020



J.E. Chostner  
District Attorney