



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

August 17, 2021

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

Chief Steven Noeller
Pueblo Police Department
Pueblo Municipal Center
200 S. Main Street
Pueblo, CO 81003

Re: District Attorney Critical Incident Team (CIT) Decision Letter
Officer Involved Incident on January 29, 2021

Location: 4301 N. Elizabeth Street Pueblo, CO, 81001, continuing through the Pueblo
Grande Mobile Home Park at 999 Fortino Blvd., Pueblo, CO 81001
Injured: James Justice (DOB: 04/15/1980)
Officers Involved: Officer Anthony Cordova
Officer Richard Giconi
Officer Chad Jefferies

Dear Sheriff Taylor and Chief Noeller:

The 10th Judicial District Critical Incident Team (CIT) was activated on January 29, 2021, to investigate an Officer Involved Incident which resulted in a single gunshot wound to James Justice (DOB: 04/15/1980). The Pueblo County Sheriff's Department was designated as the lead investigative agency and other CIT participants included the 10th Judicial District Attorneys Office (DA).

After the investigation, the CIT prepared and submitted an executive summary and its investigative reports and materials to the District Attorney's Office for review. Those materials were reviewed, and this is the District Attorney's Decision Letter pursuant to CIT protocol.

Overview of the Incident

On Friday January 29, 2021, at approximately 12:09 p.m., the Pueblo Police Department (PPD) received a call from an anonymous female that a male (later identified as James Justice) had menaced an unknown male and female party outside of the Motel 6 located at 4103 N. Elizabeth Drive, Pueblo, CO.

At approximately 12:13 p.m., PPD Officer Anthony Cordova responded to the area of 4300 N. Elizabeth and initially contacted James Justice in the parking lot near the Pueblo Sleep Solutions business. Officer Cordova exited his marked patrol unit and asked James Justice to stop and speak with him. Mr. Justice fumbled with his jacket and a plastic bag, then pulled a pistol, later identified as a .410 Taurus Judge. James Justice fires three (3) to four (4) rounds at Officer Cordova, striking his patrol vehicle. Officer Cordova fired four (4) rounds back at Mr. Justice, missing him with all four shots.

Officer Cordova began to chase Mr. Justice in the area of DJ's Steakhouse (4289 N. Elizabeth Street) and the Spirit Store (4225 N. Elizabeth Street). During the chase, a citizen directed Officer Cordova that Mr. Justice ran by a dumpster behind the Spirit Store. Several PPD units arrived on-scene and surrounded the dumpster; however, police later determined that Mr. Justice had not been hiding in the dumpster, and instead had jumped a fence that lead into the Pueblo Grande Village Mobile Home Park located at 999 Fortino Blvd., Pueblo, CO. Police later determined that Mr. Justice crossed over the fence-line near mobile home #31, losing a shoe and watch in the process.

PPD Officer Aaron Sanders deployed a PPD Unmanned Aerial Vehicle (UAV), or drone, to attempt to locate Mr. Justice in the mobile home park. Officer Sanders used the drone to track Mr. Justice through the park, providing location updates to officers who had been simultaneously searching the mobile home park to attempt to find James Justice.

PPD Officer Richard Giconi located Mr. Justice at #202 Post Street in the mobile home park. Officer Sanders watched the interaction via the drone. Officer Giconi exited his vehicle and gave verbal direction to Mr. Justice. Mr. Justice ignored all verbal commands from Officer Giconi. Officer Giconi pursued Mr. Justice around mobile home unit #202. As Officer Giconi rounded the back of the mobile home, Mr. Justice fired two (2) shots at him. Officer Giconi dove to the ground, thus avoided being hit by any bullets. Officer Giconi responded with seven (7) shots from a .223 rifle back at Mr. Justice. However, all seven (7) shots missed Mr. Justice.

Mr. Justice then fled through the neighboring yard and came out next to mobile home lot #217 on Loras Street. While there, Mr. Justice dropped several spent shell casings, a black backpack, ear plugs, a purple lighter, and a power cord. It was also believed that Mr. Justice reloaded his pistol while hiding behind a red truck.

PPD Officer Aaron Sanders aired to PPD Detective Chad Jefferies and PPD Officer Scott Vahlbusch that Mr. Justice had been located behind a red truck. Both officers moved up to mobile home lot #213 on Loras Street. Justice, who had been hiding behind a red truck, fired in the direction of Detective Jefferies and Officer Vahlbusch and then ran across the street and fired at the officers once again.

Mr. Justice then zig-zagged across the street and ended up at mobile home lot #225 on Loras Street. Detective Jefferies continued to pursue Mr. Justice, and took cover at a location across the street from Mr. Justice at mobile home lot #228. From there, Detective Jeffries fired three (3) .223 rounds at him. One round pierced an aluminum shed that Mr. Justice hid behind, striking him in the left leg. PPD Officers converged on Mr. Justice and took him into custody. Officers called for medical personnel to attend to Mr. Justice. PPD Officers then taped off the area and secured the crime scene.

It was later confirmed that three (3) PPD Officers fired rounds at James Justice during the course of this incident: PPD Officer Anthony Cordova fired four (4) rounds, PPD Officer Giconi fired seven (7) rounds, and PPD Det. Chad Jefferies fired three (3) rounds.

PPD Officer Romero rode with Mr. Justice to the hospital and read him his rights pursuant to *Miranda*. Mr. Justice invoked his right to remain silent and refused an interview with law enforcement.

Mr. Justice has been charged for this incident. An arrest warrant was later sought and approved for Mr. Justice stemming from this incident. Mr. Justice was ultimately charged by the Tenth Judicial District Attorney with the following offenses stemming from this incident:

Count 1: Criminal Attempt of Murder in the First Degree, C.R.S. 18-3-102(1)(a), F-2, listing Officer Anthony Cordova as the victim.

Count 2: Assault in the First Degree, C.R.S. 18-3-202(1)(e), F-3, listing Officer Anthony Cordova as the victim.

Count 3: Criminal Attempt of Murder in the First Degree, C.R.S. 18-3-102(1)(a), F-2, listing Officer Richard Giconi as the victim.

Count 4: Assault in the First Degree, C.R.S. 18-3-202(1)(e), F-3, listing Officer Richard Giconi as the victim.

Count 5: Criminal Attempt of Murder in the First Degree, C.R.S. 18-3-102(1)(a), F-2, listing Officer Chad Jeffries as the victim.

Count 6: Assault in the First Degree, C.R.S. 18-3-202(1)(e), F-3, listing Officer Chad Jeffries as the victim.

Count 7: Criminal Attempt of Murder in the First Degree, C.R.S. 18-3-102(1)(a), F-2, listing Officer Scott Vahlbusch as the victim.

Count 8: Assault in the First Degree, C.R.S. 18-3-202(1)(e), F-3, listing Officer Scott Vahlbusch as the victim.

Summary of Events on North Elizabeth Street, Pueblo, CO

At approximately 12:09 p.m., on January 29, 2021, the Pueblo Police Department received an anonymous 911 call from a female party that a male (later identified as James Justice) had menaced an unknown male and female party outside of the Motel 6 located off of Elizabeth Street in Pueblo, CO. Officer Anthony Cordova was the first PPD officer dispatched to the scene. Officer Cordova drove his marked Pueblo Police Department vehicle #663 toward the area of Motel 6 (4103 N. Elizabeth St., Pueblo, CO).

Officer Anthony Cordova's body worn camera (BWC) began to record while he was driving southbound on Elizabeth Street, in the general area of Pueblo Sleep Solutions (4301 N. Elizabeth Street) and DJ's Steakhouse (4289 N. Elizabeth Street). The locations were slightly north of the Motel 6 on Elizabeth Street. Officer Cordova pulled his marked PPD vehicle on the west side of Elizabeth Street, immediately north of DJ's Steakhouse.

Upon exiting the vehicle, Officer Cordova saw a male party walk through the parking lots of the aforementioned businesses. The male party appeared to hold a plastic bag and a Carhart jacket in his hands. The male party's hands were not immediately visible to Officer Cordova. Officer Cordova attempted to make contact with the male party (later determined to be James Justice) by announcing, "What's up bro? Stop right there for me." Mr. Justice responded, "What?" Officer Cordova again directed Mr. Justice to "stop". Mr. Justice responded, "Why?" Officer Cordova repeated "Right there". Mr. Justice again responded, "Why?" At this point in time, the BWC footage showed Mr. Justice adjust the bag and jacket in his hands. Again, Mr. Justice's hands were not visible to the officer. Officer Cordova remained by the driver's door of his patrol vehicle. The patrol vehicle was stationed between Officer Cordova and Mr. Justice.

Body worn camera footage then showed Officer Cordova yell toward Mr. Justice, "Don't reach for anything!" Officer Cordova later reported that Mr. Justice had pulled a gun out of the jacket he was holding. At that time, BWC footage showed Officer Cordova run toward the back of the patrol vehicle and then back toward the driver's side of the vehicle. Officer Cordova had removed his weapon and announced over the radio that Mr. Justice had a gun. Next, BWC footage showed Officer Cordova point his gun over the hood of his patrol vehicle while yelling, "Drop the gun!" Several shots were exchanged. Officer Cordova then ducked behind his vehicle and ran toward the back of the vehicle. Another shot was fired from the back of the vehicle. Officer Cordova again yelled, "Drop the gun!" Another shot was fired. Officer Cordova aired over the radio, "Shots fired, shots fired." While Officer Cordova was yelling, "shots fired," BWC footage showed Mr. Justice run between U-Haul vehicles in the parking lot. Officer Cordova loaded his gun and announced over the radio that the male party was by DJ's Steakhouse.

Officer Cordova then began to chase Mr. Justice through the parking lots of Pueblo Sleep Solutions and DJ's Steakhouse. Officer Cordova announced that he could see Mr. Justice by the Spirit Store (located at 4225 N. Elizabeth Street). Officer Cordova aired over the radio that he had lost sight of Mr. Justice; however, a lay witness pointed Officer Cordova in the direction that Mr. Justice ran. Officer Cordova announced over the radio that he was not hit (with any bullets), however, his vehicle was hit.

At this point in the BWC footage, other police sirens were heard in the background. Officer Cordova again aired his location along with Mr. Justice's clothing and physical description (black jacket, grey "wife beater", blue pants, with a beard.) Officer Cordova also aired that Mr. Justice fired at least three (3) to four (4) rounds at him.

Several other police vehicles arrive in the parking lot and begin to set up a perimeter. Officer Cordova and other responding officers are ultimately unable to locate James Justice in the Spirit Store parking lot. Officer Cordova initially believed Mr. Justice was hiding in a dumpster in the parking lot, but he was later determined not to be there. Officer Cordova airs a final description of James Justice (white male, heavier set, beard, long black hair, black jacket, grey "wife beater", blue jeans and a Carhart jacket, which was found abandoned in the parking lot.) Officer Cordova then left the scene as other officers took over the pursuit and investigation.

Investigation of Officer Anthony Cordova's Glock 17 9mm and the scene on North Elizabeth Street revealed that he fired four (4) shots at Mr. Justice. All four (4) fired shots missed Mr. Justice.

Summary of Dispatch of Drone & Summary of Interview with Officer Aaron Sanders

Immediately following Officer Cordova's airing of the shooting incident on North Elizabeth, Officer Aaron Sanders reported to the scene to assist with the investigation and apprehension of James Justice. Officer Cordova's patrol vehicle was equipped with a DJI Mavic 2 Zoom drone. Officers decided to deploy the drone to attempt to locate Mr. Justice in the area. The drone footage was recorded, following shots that were exchanged with Officer Giconi in the mobile home park.

Upon arriving on-scene, Officer Sanders set up the drone equipment in the Spirit Store parking lot. Officer Sanders was the only PPD Officer who managed the drone and attempted to air Mr. Justice's location. Officer Sanders determined that Mr. Justice had fled the area of the Spirit Store parking lot and used the drone to ultimately locate Mr. Justice in the mobile home park off of Fortino Blvd. Officer Sanders noted Mr. Justice walking southbound along the fence line of the mobile home park. At this point in time, Officer Sanders had not recorded the drone footage.

Officer Sanders reported during his interview that at the same time that he located Mr. Justice walking along the mobile home park's fence line, he also saw Officer Giconi park his patrol vehicle in the mobile home park. Officer Sanders viewed Officer Giconi run after Mr. Justice along the fence line and toward a mobile home (that home was later determined to be located at 199 Fortino Blvd).

Via the drone, Officer Sanders observed Mr. Justice run around the back of the mobile home. Officer Sanders attempted to air Mr. Justice's location to Officer Giconi. Officer Sanders watched Mr. Justice come around the back of the mobile home with a gun in his right hand. Officer Sanders watched Mr. Justice shoot at Officer Giconi as Officer Giconi rounded the back of the mobile home. During his recorded interview, Officer Sanders recalled watching the muzzle flash on Mr. Justice's gun, despite it being broad daylight. Officer Sanders noted that it appeared Mr. Justice had waited for Officer Giconi to round the mobile home to shoot directly at him.

After Mr. Justice shot, Officer Sanders watched Officer Giconi fall to the ground at the corner of the mobile home. At this point, Officer Sanders assumed Officer Giconi had been hit by the gunfire. After seeing the gunfire exchange, Officer Sanders hit the "record" button on the drone. Officer Sanders then announced over the radio, "shots fired, shots fired", to alert other officers in the mobile home park.

Officer Sanders then used the drone to continue to follow Mr. Justice as he made his way southbound through the mobile home park. Officer Sanders observed Mr. Justice hop over several residential fences throughout the park. During this timeframe, Officer Sanders continued to air Mr. Justice's location to officers on-scene who were attempting to apprehend him.

Officer Sanders observed Mr. Justice travel toward a pink trailer with cardboard. A red truck was parked in the driveway several mobile home units down from the pink trailer. Officer Sanders observed Mr. Justice crouch behind the red truck. Mr. Justice was observed, via the drone, throwing down his bags and look around. Officer Sanders observed Mr. Justice remove something from the bag and then retreat to a nearby carport.

Officer Sanders aired the location of the pink trailer, red truck, and carport to police officers on-scene. Officer Sanders noted that Officer Scott Vahlbusch and Detective Chad Jefferies appeared to be the closest officers to Mr. Justice's location. Officer Sanders watched via the drone as Mr. Justice exited the carport. Mr. Justice saw Detective Chad Jefferies and Officer Scott Vahlbusch in close proximity to him. Officer Sanders observed Mr. Justice fire a round at them. As before, Officer Sanders saw Mr. Justice's muzzle flash and heard the shot. Officer Sanders observed that the shot appeared to be toward Detective Jeffries and Officer Vahlbusch.

After firing the shot, Officer Sanders watched Mr. Justice hide behind a shed on the northside of Fortino Blvd. Officer Sanders observed Detective Chad Jeffries and Officer Scott Vahlbusch run across the street and toward the shed that Mr. Justice was hiding behind. Officer Sanders observed Detective Jeffries take a shot toward the shed. He then watched as officers apprehended Mr. Justice and had taken him into custody.

During Officer Sanders interview with PPD Detective Ryan Torres and PCSO Detective Victor Herrera, Officer Sanders reported that the manner in which Mr. Justice was moving through the mobile home park and hiding from officers appeared to be tactical. Officer Sanders stated that Mr. Justice would look for locations to hide, and then he would come out and fire at officers with one to two shots. Officer Sanders stated that while he had been following Mr. Justice with the drone, it did not appear as though he had attempted to hide or run away from police.

Officer Giconi Body Worn Camera Footage and Recorded Interview

Officer Giconi's BWC footage began in his patrol vehicle at the Spirit Store on North Elizabeth. Officer Giconi then drove to the mobile home park located at 999 Fortino Blvd. Radio traffic can be heard while he was driving through the mobile home park in his patrol vehicle. Officers were providing information regarding Mr. Justice's physical description and clothing while Officer Giconi drove through the park.

At minute 11:40 of his BWC footage, Officer Giconi located Mr. Justice in the mobile home park near home residence #199 Fortino Blvd. Officer Giconi aired over the radio his location and then proceeded to exit his patrol vehicle. Officer Giconi exited his vehicle and yelled verbal commands to Mr. Justice, "Hands, mother fucker, hands!"

Body worn camera footage showed Officer Giconi pursue Mr. Justice along the side of a yellow mobile home with the AR-15 rifle drawn. Officer Giconi ran, and as such, the BWC footage was shaky and was difficult to see Mr. Justice. As Officer Giconi rounded the back of the mobile home, Mr. Justice fired several shots at Officer Giconi and Officer Giconi immediately fired back. Exchanged shots were heard in the BWC recording.

Officer Giconi fell to the ground right after shots were fired. After falling, Officer Giconi took approximately five to six seconds to get back on his feet. At that point in time, his BWC was upside down. The BWC apparatus appeared to have fallen on the ground after he got back on his feet, around minute 12:16. Officer Giconi announced, "I lost my fucking radio." The BWC was blacked out from approximately 12:16-13:08; however, sound continued to record on the camera. During that timeframe, Officer Giconi could be heard telling citizens to get in their house because, "there is a guy shooting at us." At minute 13:08, Officer Giconi retrieved his BWC and placed it back on his person. The BWC began visual recording again. At that point, members of the Pueblo Police Department checked on Officer Giconi and pointed him in the direction that Mr. Justice ran. Officer Giconi made contact with several other police officers that were attempting to pursue Mr. Justice and were setting up a perimeter in the mobile home park. Officer Giconi eventually returned back into his patrol vehicle and drove out of the mobile home park. He met up with other PPD officers who had formed a perimeter on the outside of the park along a wooden fence line. Officer Giconi's BWC footage stopped shortly thereafter, at minute 22:28.

Officer Giconi was not present or involved when Officer Chad Jeffries shot Mr. Justice.

During Officer Giconi's recorded interview, he stated that when he rounded the mobile home at #199 Fortino Blvd., Mr. Justice opened fire on him, shooting around three to four rounds. Officer Giconi reported, "I could feel the concussion from him shooting. I thought I was gonna be shot and killed. I returned fire and ended up on the ground."

Follow-up investigation of Officer Giconi's rifle and the scene revealed that Officer Giconi shot seven (7) times at Mr. Justice. All seven (7) bullets missed Mr. Justice.

Officer Scott Vahlbusch BWC and interview

Officer Scott Vahlbusch's BWC began with him arriving at the Spirit Store on North Elizabeth Street to assist with locating Mr. Justice. He gathered information from officers on-scene about Mr. Justice's physical description and last known location. Officer Vahlbusch then drove to the Fortino mobile home park to assist with location and apprehension.

At minute 13:05 on the BWC, Officer Vahlbusch was driving through the mobile home park and attempted to locate Mr. Justice. Officer Giconi was airing shots fired, that he lost his radio, and was updating Mr. Justice's physical description. The radio transmission occurred right after Mr.

Justice fired off several rounds at Officer Giconi. At minute 13:20, Officer Vahlbusch parked his vehicle near the pink trailer that Officer Sanders had been airing Mr. Justice's location. Detective Chad Jeffries was standing outside the pink trailer when Officer Vahlbusch arrived at the trailer.

As Officer Vahlbusch approached Detective Jeffries, Detective Jeffries' rifle was withdrawn but pointed toward the ground. Detective Jeffries and Officer Vahlbusch stood beside a shrub and looked toward the red truck that Mr. Justice was crouched behind. At minute 13:47 on the BWC, Detective Jeffries pointed toward the red truck and asked, "Is that him right there?" At minute 13:53, Mr. Justice fired a round toward Detective Jeffries and Officer Vahlbusch. Officer Vahlbusch aired over the radio "Hey, he's got a gun, he's firing." Mr. Justice fired a second round at officers at minute 13:57. Officer Vahlbusch and Detective Jeffries then moved behind the pink trailer and continued to air Mr. Justice's location to other officers over the radio. At minute 14:31, Officer Vahlbusch yelled toward Mr. Justice, "Give me your hands!" Mr. Justice fired a third shot toward the officers, who were still standing beside the pink trailer. Detective Jeffries and Officer Vahlbusch then began to chase Mr. Justice through the mobile home park on foot. Detective Jeffries positioned himself behind a tree with his rifle pointed in the direction that Mr. Justice ran. Officer Vahlbusch left Detective Jeffries, returned to his patrol vehicle, and drove around the mobile home park to attempt to locate Mr. Justice again.

At minute 16:58, Officer Vahlbusch pulled over his patrol vehicle. A gun shot was heard on his BWC. Due to Officer Vahlbusch's location, the BWC footage did not depict where the shot originated from. A second gunshot was heard at minute 17:00. A third shot was heard at minute 17:09. Officer Vahlbusch began to yell at 17:09, "Chad, where is he at?" Mr. Justice could be heard yelling and screaming at minute 17:09. Officer Vahlbusch ran toward Detective Jeffries, who was standing to the side of a mobile home, facing a shed. Mr. Justice was heard behind the shed yelling. Officer Vahlbusch pointed his gun toward the shed and yelled out to officers, "He's here behind the shed, hold on, we can't see him." Other officers arrived at that location and multiple officers yelled towards the shed, "Police Department, come out with your hands up!"

After approximately one to two minutes of officers yelling commands to exit with his hands raised, Mr. Justice did not come out from behind the shed. Mr. Justice was heard during that duration of time yelling and screaming from behind the shed. Officer Vahlbusch, Detective Jeffries, and several other officers approached the shed with their weapons drawn. Officer Vahlbusch was the first officer to come around the corner of the shed. Mr. Justice was located laying on his right side on the ground. He appeared wounded and both of his hands were raised in the air. Officer Vahlbusch placed him in handcuffs at minute 19:10. Officer Shelby Claussen arrived and assisted with taking Mr. Justice into custody. At minute 19:15, Officer Vahlbusch's BWC fell off. The visual portion of the camera was blacked out, however, Mr. Justice was heard yelling "My leg!". Officer Vahlbusch retrieved his camera and placed it back on his person at minute 20:11.

The remainder of Officer Vahlbusch's BWC showed Mr. Justice being taken into custody and medical personnel arriving on-scene.

Interview Detective Chad Jeffries

Detective Chad Jeffries was interviewed by PCSO Detectives Joshua Ragan and Jonathon McCluskey with legal counsel, John Rice, present at the Pueblo Police Department on February 4, 2021. Detective Jeffries was wearing a BWC during the incident on January 29, 2021; however, his camera was not activated during the incident.

On January 29, 2021, Detective Jeffries reported doing covert surveillance on the southside of Pueblo. BWC was not activated during covert operations, and he was not wearing a BWC. Upon receiving notice that shots had been fired at police in the area of North Elizabeth street, Detective Jeffries headed to the area of the incident. By the time he arrived on-scene, he was routed to the mobile home park on Fortino Blvd.

Upon entering the mobile home park, Detective Jeffries pulled over to the side of the road, put on a marked police tactical vest equipped with a BWC, and removed his rifle and clip from a locked box in the bed of his patrol vehicle. Detective Jeffries did not activate the BWC at that time or at any other point during the incident. In his interview, Detective Jeffries reported that he was not used to wearing a BWC as part of his normal routine and he forgot to turn it on. After he put on his vest and retrieved his rifle, Detective Jeffries then began to drive around the park looking for Mr. Justice.

While he had circled the park, Detective Jeffries heard Officer Giconi air over the radio, "I got him right him, right here, I got him right here at 199." Detective Jeffries recalled being around trailer number 160 or 170 when he heard Officer Giconi's announcement over the radio. Detective Jeffries recalled Officer Giconi reported that shots were fired, but at that point, Detective Jeffries was unaware of who, if anyone, had been hit. At that point, Detective Jeffries saw Mr. Justice run west through the mobile park. Mr. Justice did not appear injured.

Detective Jeffries heard the drone air that Mr. Justice had moved locations to a yellow trailer and red truck. Detective Jeffries pursued Mr. Justice on foot, while carrying the rifle, to the area of the yellow trailer. At that point, Detective Jeffries located the red truck parked in a driveway, several mobile home units away from his location. Detective Jeffries remained several trailers away from the red truck to keep cover, while still trying to get a visual location on Mr. Justice. Detective Jeffries had received updates from the drone operator that Mr. Justice was behind the red truck.

Detective Jeffries reported that he saw movement underneath the red truck and placed a scope on his rifle in an attempt to see what was under the truck. At that point, Detective Jeffries recalled Officer Vahlbusch arrive at the trailer with him, and Officer Vahlbusch announced that Mr. Justice was located behind the red truck. Detective Jeffries then saw Mr. Justice's head pop up on the frontside of the red truck and watched Mr. Justice point a gun in his direction. Detective Jeffries quickly moved behind the trailer and heard Mr. Justice fire a shot toward him. Mr. Justice quickly fired a second shot toward Detective Jeffries and Officer Vahlbusch. Detective Jeffries then heard an announcement over the radio that Mr. Justice was again running. Detective Jeffries looked around the trailer and Mr. Justice fired a third shot off in the direction of Detective Jeffries and Officer Vahlbusch. The three shots that Detective Jeffries reported were confirmed by Officer

Vahlbusch's BWC footage of that portion of the incident. Neither Detective Jeffries nor Officer Vahlbusch fired their weapon during that time.

After Mr. Justice fired a third shot toward Detective Jeffries and Officer Vahlbusch, Detective Jeffries began to chase Mr. Justice on foot. Detective Jeffries found a tree and decided to hide behind the tree, using the tree as cover to protect his body. He reported that he pointed his rifle in the general direction that Mr. Justice ran. That portion of the pursuit was captured on Officer Vahlbusch's BWC.

Detective Jeffries then began to pursue Mr. Justice again on foot. That portion of the pursuit was not captured on BWC, as Officer Vahlbusch had returned to his patrol vehicle for that portion of the pursuit and was described only in Detective Jeffries recorded interview.

According to Detective Jeffries interview, he continued to pursue Mr. Justice on foot. A citizen came out of a mobile residence and pointed Detective Jeffries in the direction that Mr. Justice ran. Detective Jeffries stationed himself behind a truck for protection while monitoring the direction that Mr. Justice ran. After getting a visual on Mr. Justice, Detective Jeffries fired one shot, without warning, at Mr. Justice. Detective Jeffries explained in his interview that he did not yell a verbal warning or make any other announcements, since he knew that Mr. Justice was not following any verbal commands. Additionally, Detective Jeffries knew that Mr. Justice had already shot at two (2) other officers and Detective Jeffries was concerned that if he announced his presence that would provide Mr. Justice with another opportunity to shoot at him. Detective Jeffries first shot missed. Detective Jeffries then fired a second shot, again without warning, which also missed Mr. Justice. Mr. Justice then ran behind a shed near a mobile home.

Detective Jeffries waited in the same location and watched Mr. Justice peek around the left side of the shed, and saw Mr. Justice lift a gun, pointed in his direction. Detective Jeffries fired a third and final shot at Mr. Justice. Detective Jeffries watched Mr. Justice fall behind the shed and heard him moan in pain. Immediately after the third shot, Detective Jeffries aired over the radio that he had fired shots and Mr. Justice was hit. Detective Jeffries then slowly approached the shed. He could see Mr. Justice's feet and legs, with a gun near his feet. Detective Jeffries did not know if Mr. Justice had another firearm in his hands and was unable to see his hands from his vantage point. However, he could hear Mr. Justice continually moan in pain.

Detective Jeffries stated he heard other officers arrive on-scene behind him, to include Officer Vahlbusch. Again, that portion of the incident was captured on several different officers' BWC, to include Officer Vahlbusch and Officer Shelby Claussen's. Other officers approached Detective Jeffries and asked where Mr. Justice was located. Detective Jeffries directed them toward the shed. Detective Jeffries provided cover protection with his rifle while officers approached Mr. Justice behind the shed and took him into custody. Detective Jeffries then returned to the location where he had fired from to protect any shell casings or other evidence.

Follow-up investigation of Detective Jeffries' rifle and the scene revealed that Detective Jeffries shot three (3) times at Mr. Justice. The third bullet hit Mr. Justice in the upper left thigh. There were no medical reports regarding Mr. Justice's injury and as mentioned previously, Mr. Justice

invoked his rights pursuant to *Miranda* at the hospital and did not speak with police about the incident.

Senate Bill 217 was enacted and signed into law on June 19, 2020 (C.R.S. 24-31-902). This law states in pertinent part that by July 1, 2023, all local law enforcement agencies must issue body-worn cameras to their officers and all recordings of an incident must be released to the public within 14 days after the incident. Further, the law explicitly states, "Peace officers **shall** wear and activate a body-worn camera at any time when interacting with the public." Failure to activate a body-worn camera as required results in a **permissible inference for any investigation or legal proceeding that the missing footage would have reflected misconduct by the officer**. Further, statements sought to be introduced through the officer in a prosecution related to the incident that were not recorded due to the police officer's failure to activate the body-worn camera creates a rebuttable presumption of inadmissibility. Finally, if a peace officer is found to have intentionally failed to activate body-worn camera, the employer shall impose discipline up to termination, and said failure will result in a P.O.S.T. suspension for at least one year.

As previously mentioned, Senate Bill 217 has not yet gone into effect. Accordingly, Detective Jeffries was not subject to the sanctions of C.R.S. 24-31-902. However, in reviewing the incident, it is important to note that Detective Jeffries should have activated the body worn camera on his tactical vest when he initially put it on in the trailer park. **Moving forward, failure to do so will result in sanctions. This particular portion of Senate Bill 217 should, again, be briefed to all PPD Officers. This Office stands ready to assist in this briefing, as was done in May/June 2020.**

Officer Shelby Claussen BWC

Officer Shelby Claussen's BWC footage began as he drove his patrol vehicle with lights and sirens activated. He initially arrived at the Spirit Store on North Elizabeth Street and then was directed to the mobile home park on Fortino Blvd.

Officer Claussen parked his vehicle in the mobile home park at minute 7:09. Upon exiting his vehicle, he made contact with other officers on-scene, to include Officer Vahlbusch. Officers discussed Mr. Justice's physical description and clothing. At minute 11:40, Officer Claussen appeared to see Mr. Justice in the mobile home park (although Mr. Justice cannot be seen on the BWC footage). Officer Shelby Claussen returned to his patrol vehicle and began to drive through the parking lot to search for Mr. Justice. At minute 12:58, Officer Claussen received a radio transmission that shots had been fired. At minute 13:05, Officer Claussen yelled "Right there! Right there!" He immediately parked his patrol vehicle and began a foot pursuit. During the foot pursuit, Officer Claussen ran behind several different mobile home trailers for cover and was communicating with other officers on-scene that were also searching for Mr. Justice. At minute 16:53, Officer Claussen was in the backyard of a mobile home residence. A loud shot was heard, however, due to Officer Claussen's vantage point, the origin of the shot was unknown. A second shot was fired at minute 16:55. A third shot was fired at minute 17:03. Again, due to Officer Claussen's location in the mobile home park, it was unknown who fired the shots or where they came from. Officer Claussen and several other officers began to run in the direction of the shots.

At minute 17:23, Officer Claussen located Detective Vahlbusch and Detective Jeffries near the shed. The shed that Mr. Justice was hiding behind can be seen on his BWC footage. Mr. Justice could be heard yelling and moaning from behind the shed, however, his body was not visible. At minute 17:38, Officer Claussen and Officer Vahlbusch began to yell commands at Mr. Justice to come out from behind the shed. Officers yelled, "Police Department! Come out with your hands up!"

At minute 18:38, Officer Claussen, Officer Vahlbusch, and other officers began to approach the shed in lines while they continued to yell verbal commands. At minute 18:58, officers found Mr. Justice lying behind the shed on his right side, both hands were raised, and his leg appeared to be injured. Officers immediately placed Mr. Justice on his stomach and handcuffed him. Once Mr. Justice was apprehended, officers called for medical assistance.

Body Worn Camera Footage Regarding Involvement of Captain Eric Bravo

Officer Shelby Claussen's BWC footage showed Captain Eric Bravo arrive on-scene at minute 20:00, within approximately a minute of officers apprehending Mr. Justice behind the shed. At that point in time, Mr. Justice was handcuffed and lying on the ground. He was on his left side and was surrounded by multiple officers who were all carrying firearms. Officers were in the process of calling for medical help. Officers were also attempting to locate Mr. Justice's weapon and assess his injuries. Mr. Justice was yelling and screaming during that portion of the BWC footage. His upper left leg was bloody.

Captain Bravo approached Mr. Justice while Officer Claussen was kneeling next to him. At minute 20:12, Captain Bravo turned Mr. Justice onto his back by lifting up on Mr. Justice's belt and Officer Claussen assisted Captain Bravo by pulling on Mr. Justice's right shoulder and hoodie. Once on his back, at minute 20:15, Officer Claussen used his left hand to hold the left side of Mr. Justice's face against the ground and Mr. Justice continued to yell and scream.

At minute 20:28, Captain Bravo placed his foot on the back of Mr. Justice's head. Officer Claussen was still holding Mr. Justice's face while Captain Bravo placed his foot on the back of his head. Other Officers were checking Mr. Justice's pants for weapons and undoing his belt and pants to assess the bullet wound while Officer Claussen and Captain Bravo maintained their positions.

At minute 20:50, Officer Claussen yelled, "Don't bite me!" to Mr. Justice. Up until that point in time, Officer Claussen's hand had been on Mr. Justice's face. After Officer Claussen yelled, "Don't bite me!" Captain Bravo moved his foot onto Mr. Justice's neck. At minute 20:53, Mr. Justice yelled, "I can't breathe". At minute 20:57, Captain Bravo moved his foot off of Mr. Justice's neck and onto the left side of his face. Officer Claussen had let go of Mr. Justice's face and assisted other officers with pulling down Mr. Justice's pants to look at his gunshot wound. Captain Bravo kept his foot on the left side of Mr. Justice's face during the timeframe.

At minute 21:26, Mr. Justice again announced, "I can't breathe". Mr. Justice then said, "Please, please, thank you!" Due to the positioning of Officer Claussen's body, it is unclear exactly where Captain Bravo's foot was during the timeframe that Mr. Justice yelled, "I can't breathe", for the

second time. However, it was clear that Captain Bravo's foot was either on Mr. Justice's head, face, or neck.

BWC did show that Captain Bravo maintained his foot on Mr. Justice's face until minute 23:02. At that point, Captain Bravo completely released his foot from Mr. Justice. Altogether, Captain Bravo had his foot on Mr. Justice's head, face or neck from minute 20:28 to minute 23:02 of Officer Claussen's BWC footage. Given that Mr. Justice was handcuffed, surrounded by officers with firearms, and injured during the incident, Captain Bravo's actions did not appear to be necessary given the totality of the circumstances. **Captain Bravo's conduct should be investigated by an independent agency to review the proprietary, or lack thereof, of his actions.**

Officer Involved Processing

The three (3) officers present and involved in the shooting were processed separately by CIT Detectives at the PCSO Investigations Annex. Detectives took full body photographs of each officer to show any type of wounds, biological evidence, physical evidence, and placement of their duty gear.

Next, each officer had an alternate light source (ALS) ran over them. ALS was used to identify any biological evidence, such as blood. PCSO Detective David Butterfield processed all three officers. He did not locate any blood or other biological evidence on Officer Anthony Cordova, Officer Richard Giconi, or Detective Chad Jeffries.

Finally, the Officers' duty gear was collected. Pictures were taken of their duty weapons as they were. Then the magazine in each weapon was removed along with the round in chamber, and the slide was locked back. This process made the weapon "safe". Any additional magazines the Officers were carrying were also removed and placed with their duty weapons.

Detective Butterfield counted the live cartridges in the Officers' duty weapons, plus the cartridges in additional magazines they carried were counted. The following results were from the processing of the Officers' firearms:

- Detective Chad Jeffries: Colt Match Target, .223 caliber rifle, chamber: 1 live cartridge recovered, magazine: 24 out of possible 30 live cartridges. Officer Jeffries reported that he normally holds 27-28 live cartridges in the magazine to alleviate jamming.
- Officer Richard Giconi: LRB Arm AR-15, M15SA .223 rifle, chamber: 1 live cartridge recovered, magazine: 22 of possible 30 live cartridges. Officer Giconi reported he normally holds 28-29 live cartridges in the magazine to alleviate jamming.
- Officer Anthony Cordova: Glock 17 9mm handgun. Chamber: 1 live cartridge recovered, magazine: 17 live cartridges from magazine in handgun, 17 in spare magazine #1, 13 in spare magazine #2.

Scene Processing

On January 29, 2021, CIT members responded to the scene at 4301 N. Elizabeth Street (Sleep Solutions). All evidence at the scene was photographed, packaged, and placed into a secured evidence processing room. PCSO Detective Butterfield located three (3) shell casings near patrol vehicle unit #633 (Officer Anthony Cordova's assigned unit). The shell casings were consistent with the live cartridges collected from Officer Anthony Cordova during the officer processing.

During a subsequent search of unit #633, Detective Butterfield located a single bullet defect passing through the back storage/trunk area of the vehicle, passing from west to east. It continued into grass/brush separating North Elizabeth from Colorado Interstate-25. A search for the projectile was performed but was not successful. Detective Butterfield located three (3) bullet defects on the wall of Sleep Solutions, that appeared to be consistent with Officer Cordova's bullets.

Detective Butterfield then searched the parking lot area of DJ's Steakhouse and the Spirit Store. Detective Butterfield located shoe impressions that were consistent with police-style footwear and an area of fresh upturned dirt that was consistent with an individual sliding down a hill. Additionally, Detective Butterfield located a brown jacket hanging over a barbed wire fence, consistent with the jacket that Officer Cordova saw Mr. Justice carrying. Below the jacket was a black cell phone. It appeared the jacket was placed over the fence in an attempt to protect someone from the barbed wire while jumping the fence.

Upon collecting these items, Detective Butterfield reported to the Fortino Blvd. Mobile Home Park. Near residence #217, Detective Butterfield located a backpack and two (2) spent .410 shell casings. Detective Butterfield continued the investigation to spaces #217 and #225. Detective Butterfield also searched the area where Mr. Justice was apprehended. In that area, Detective Butterfield located a Taurus Judge Revolver 45LC/.410. The firearm had five (5) live .45 caliber (W-W 45 Colt) cartridges in the cylinder. In the same area, Detective Butterfield located jeans coated in blood. The jeans appeared to have been cut by medical personnel. A single projectile was removed from the jeans. The projectile was small and appeared to have come from a rifle. Behind the shed, Detective Butterfield located five (5) live .45 caliber cartridges. Other clothing was located behind the shed, to include a belt and boot.

While examining the shed, Detective Butterfield located a single bullet defect that perforated the shed from northeast to southwest. The trajectory was consistent with Detective Jeffries discharging his firearm from property space #228, which was directly northeast from the shed that Mr. Justice was hiding behind. The defect in the shed appeared to be from the projectile located in the bloody jeans.

Detective Butterfield returned to the mobile home park on February 4, 2021. At that time, Detective Butterfield searched mobile home lot #225. The reason for the search was that Detective Jeffries reported during his recorded interview that he first engaged Mr. Justice between mobile home lot #225 and the small shed that Mr. Justice was ultimately found behind. During the search, two (2) bullet defects were located in the backyard area, consistent with the first two (2) shots that Detective Jeffries reported firing.

PCSO Detective Chuck Roldan performed a scene search of mobile home lot #202, where Officer Giconi engaged Mr. Justice. At that location, Detective Roldan found a PPD black baseball cap, black sunglasses, and several spent .223 casings. Detective Roldan also located two (2) bullet defects indicating that shots were fired toward Officer Giconi. Specifically, Detective Roldan found a defect in the southwest siding of mobile home lot #202 and another defect in the power pole adjacent to mobile home lot #202. Both defects were consistent with a projectile striking the residence and power pole. Detective Roldan recovered two (2) lead projectiles from the power pole and from the side wall of mobile home lot #202.

Finally, Detective Roldan reported to mobile home lot #217 where a single spent red and brass Winchester .410 shell casing was located in the driveway. Located next to the driveway was a black phone charger, purple lighter, and an ear plug. Around mobile home lot #216, a motel sleeve was located with three (3) fake counterfeit bills, a blue MasterCard with the name “James Justice”, Chime Visa Debit Card, White eBay Card, and Access Freedom Master Debit Card. Detective Roldan searched 4245 N. Elizabeth Street (Northside Storage facility). In that area, Detective Roldan collected a spent W-W Colt .45 shell casing, spent Winchester red and brass .410 shot shell, and a white phone cord.

Legal Principles

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 vehicle that was determined to constitute a grave public safety risk due to the high-speed pursuit as well as the suspect intentionally striking a police cruiser and forcing an officer to move to avoid being struck by the fleeing vehicle. 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.

As previously mentioned, Colorado Senate Bill 20-217 was enacted on June 19, 2020. In it, certain Colorado revised Statutes were repealed and reenacted with amendments. Specifically, C.R.S. 18-

1-707(3), (4), (4.5) which deals with the use of deadly physical force in making an arrest. The statute reads as follows:

C.R.S. 18-1-707(3): "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."

C.R.S. 18-1-707(4): "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 the peace officers at risk of injury, would create a risk of death or injury to other persons"

C.R.S. 18-1-707(4.5): "Notwithstanding any other provisions in this section, a peace officer is justified in using deadly physical force if the peace officer has an objective reasonable belief that a lesser degree of force is inadequate, and the peace officer has objectively reasonable grounds to believe, and does believe, that he or another person is in imminent danger of being killed or receiving serious bodily injury."

All officers conduct in connection with this matter has been reviewed under the provisions of Senate Bill 20-217.

Conclusion

Officer Anthony Cordova was dispatched regarding a potential felony menacing incident near the Motel 6 on North Elizabeth. When he arrived on-scene, Officer Cordova attempted to contact James Justice; however, Mr. Justice avoided contact with the Officer while attempting to conceal something in his hand underneath his jacket. Within seconds of Officer Cordova's arrival on-scene, Mr. Justice removed a firearm from underneath his jacket. Mr. Justice fired three to four rounds at Officer Cordova, striking his patrol vehicle. Officer Cordova returned four (4) rounds back at Mr. Justice missing him with all four (4) shots. Officer Cordova immediately gave chase; however, quickly lost sight of Mr. Justice. At that point in time, Mr. Justice presented an immediate danger to the community and other law enforcement officers, based on the initial dispatch call and his intentional shooting at Officer Anthony Cordova.

Through the deployment of a PPD Unmanned Aerial Vehicle (UAV), officers located Mr. Justice in a nearby mobile home park off of Fortino Blvd. Officer Richard Giconi attempted to apprehend Mr. Justice in the mobile home park. However, Mr. Justice used a trailer home as a tactical advantage to hide behind and fired off two (2) rounds directly at Officer Giconi. Officer Giconi reacted to the unlawful use of deadly force by Mr. Justice against himself by firing his firearm in return at Mr. Justice. Officer Giconi fired seven (7) times. However, all seven (7) shots missed, and Mr. Justice was able to escape police apprehension.

Detective Chad Jeffries finally located Mr. Justice several minutes later near a red truck. Mr. Justice again fired three (3) rounds at Detective Chad Jeffries and Officer Scott Vahlbusch. Neither officer had returned fire at Mr. Justice.

Several minutes later, Detective Chad Jeffries again located Mr. Justice near mobile home lot #225. At that point in time, Detective Jeffries fired three (3) shots at Mr. Justice. The first two shots missed; the third shot struck him in the left leg. Mr. Justice was injured and treated by medical professionals. At the time of this review, Mr. Justice has been criminally charged.

Mr. Justice's actions on January 29, 2021, were carried out in an intentional manner, and they posed a threat of serious bodily injury or death to three separate officers: Officer Anthony Cordova, Officer Richard Giconi, and Detective Chad Jeffries.

It is my conclusion based on the circumstances that the officers were justified by the Self-Defense provisions of the laws of the State of Colorado in using the actions they employed to defend themselves from what they reasonably believed to be the imminent use of unlawful physical and deadly force by Mr. Justice, and that all three officers reasonably believed that a lesser degree of force would be inadequate. Indeed, the fact that Mr. Justice repeatedly shot at different officers at different locations and at different times proved that a lesser degree of force was not adequate.

Detective Chad Jeffries had reasonable grounds to believe and did believe based on James Justice's repeatedly shot at police officers, that he was in imminent danger of being killed or receiving great bodily injury. Additionally, he had reasonable belief that other officers and potentially citizens were also in imminent danger of being killed or receiving great bodily injury. Detective Jeffries' reaction was based on his own knowledge, observation and perception at the time and his actions were reasonable under the circumstances.

Given the facts and circumstances of the situation and the governing statutes and case-law, criminal charges against Officer Anthony Cordova, Officer Richard Giconi and Detective Chad Jeffries would not be supported. Therefore, no criminal charges will be filed against the PPD Officers and Detective.

Dated this 17th day of August 2021



J.E. Chostner
District Attorney