



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

July 10, 2023

Sheriff David Lucero
Pueblo County Sheriff's Office
909 Court Street
Pueblo, CO 81003

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

Re: District Attorney CIT Decision Letter
Officer Involved Incident on October 6, 2022
Location: 4800 block of Santa Fe Drive, Colorado City, Pueblo County, Colorado
Decedent: Troy Garcia (DOB 04/28/1971)
Officers Involved: Deputy Alexa Carlino, Deputy Tyler Johnson, Deputy Robert Garbiso

Dear Sheriff Lucero and Chief Noller:

The 10th Judicial District Critical Incident Team (CIT) was activated on October 6, 2022, to investigate an Officer Involved Shooting (OIS) Incident which resulted in the fatal injury of Troy Garcia (DOB 04/28/1971). The Colorado Bureau of Investigation (CBI) was designated as the lead investigative agency and other CIT participants included the Colorado State Patrol (CSP), Pueblo County Sheriff Office (PCSO), Pueblo Police Department (PPD), and the 10th Judicial District Attorney's Office (DA). After the investigation, the CIT prepared and submitted an executive summary and its investigative reports and materials to the District Attorney's Office for review. Those materials were reviewed, and this is the District Attorney's Decision Letter pursuant to CIT protocol.

Overview of the Incident

On October 5, 2022, at approximately 11:25 p.m., Pueblo County Sheriff's Office Deputies Alexa Carlino, Tyler Johnson, and Robert Garbiso were dispatched to a burglary in progress in the 4800 block of Santa Fe Drive, Colorado City, Pueblo County, Colorado. While enroute from the Pueblo area, the Deputies learned that the suspect was believed to be Troy Garcia, who was flagged by law enforcement to have known mental health issues and to carry weapons. Upon arrival, the Deputies spoke with the reporting party, Lynn Hickman (03/30/1962). Ms. Hickman stated to Deputies that a male, unknown to her, walked into her house asking for "Dave". Ms. Hickman stated the male identified himself as "Troy", and after learning "Dave" was not at the house, the male walked back out the front door. Ms. Hickman stated that she had been at the residence with the permission of her son-in-law, David, and she had been babysitting her granddaughter. Ms. Hickman stated that the house had been unlocked, and that was how the suspect was able to get inside the home. Ms. Hickman stated that after the suspect left the residence, she locked the front door, and heard the suspect attempting to turn the door handle.

While leaving the home, Deputies discovered a yellow Nissan Xterra had been in the general area during their investigation. Deputy Garbiso stopped behind the yellow Nissan Xterra (Colorado License Plate 301PNU) which was parked alongside Santa Fe Drive with a male occupant standing outside the driver's door with the door open. The male was later identified as Troy Garcia (04/28/1971). Mr. Garcia approached Deputy Garbiso's marked patrol vehicle. As Deputy Garbiso attempted to get out of the driver's seat, Mr. Garcia pushed the door shut, held a handgun into the vehicle through the open driver's side window, and pushed the barrel of the gun against Deputy Garbiso's head. Mr. Garcia stated to Deputy Garbiso, "I told you not to fuck with me, I told you not to fuck with me. I'll kill you mother fucker, I'll kill you. I'm going to kill you right here". Deputy Garbiso told Mr. Garcia, "Please don't, please don't. Drop the gun, it's not worth it." Mr. Garcia did not put the gun down.

At that time, PCSO Deputy Tyler Johnson arrived in the area and pulled his marked patrol vehicle behind Deputy Garbiso's. Deputy Johnson observed that both of Mr. Garcia's hands were inside of the open driver's side window of Deputy Garbiso's vehicle. Deputy Johnson heard Deputy Garbiso state over dispatch, "he has a gun". Deputy Garcia approached with his weapon drawn. Deputy Johnson observed Garcia point a handgun in his direction. Deputy Johnson responded by moving behind Deputy Garbiso's patrol vehicle, using it as cover. At that time, Deputy Johnson observed Deputy Alexa Carlino's patrol vehicle approach from the opposite direction of the road.

As Deputy Carlino approached in her patrol vehicle in front of Mr. Garcia's vehicle, the Deputies observed that Mr. Garcia's attention was drawn to Deputy Carlino and Mr. Garcia approached her patrol vehicle. Mr. Garcia stopped while next to his own vehicle, with his right arm raised and pointed a handgun at Deputy Carlino. Deputy Carlino got out of her patrol vehicle and crossed over the front of the vehicle toward the passenger side and out of the view of the headlights. All three of the Deputies gave loud verbal commands to Mr. Garcia to drop the weapon. Mr. Garcia did not comply. All three of the Deputies fired their duty firearms at Mr. Garcia, striking him

multiple times in the abdomen and the arms. After he was struck, Mr. Garcia dropped his weapon at the back of his vehicle and walked to his open driver's side door, where he dopped to the ground with part of his torso in the vehicle. Mr. Garcia ultimately died as a result of injuries sustained in this incident.

Interview: Deputy Alexa Carlino

On October 11, 2022, PPD Tim Torres and CBI Agent Danny Garcia interviewed Deputy Carlino regarding her involvement with the officer involved shooting on October 5, 2023.

Deputy Carlino has been employed with the Pueblo County Sheriff's Officer for five (5) years, with the last year being on patrol and four (4) years in detention. Prior to working in Pueblo, she worked at the Walsenburg Police Department for several months before it was closed.

Deputy Carlino said she ran code from Pueblo with emergency lights and sirens activated, as Ms. Hickman did not know if the male had left or not. While enroute, dispatch advised they had contact in the past with Troy Garcia and was flagged in their system with mental health issues. Deputy Carlino said she had never had contact with Mr. Garcia prior to this call.

Upon arrival, Deputy Carlino exited her car, she saw a yellow Nissan Xterra pass her. Deputy Carlino said she and Deputy Garbiso checked inside and outside of the house for the intruder and spoke with Ms. Hickman. The Deputies left the house and were outside the residence. While outside, Deputy Garbiso saw a yellow Nissan Xterra leave a field next to the house and stated that the same vehicle passed by her when she arrived on scene. At that time, she saw the yellow Nissan Xterra up the road to the West of Ms. Hickman's house. Deputy Carlino got in her vehicle and drove by the Nissan Xterra to run the plate, as she did, she saw there was a male sitting inside the vehicle.

Deputy Carlino said as she drove past the Xterra, it appeared the person in the vehicle was either getting in or getting out of the vehicle, and it appeared to be the same vehicle she passed earlier. Deputy Carlino said she let Deputy Garbiso know the plate came back to Mr. Garcia, at which time Deputy Garbiso aired that Mr. Garcia was walking up to him. Deputy Carlino said she turned around and started driving back toward Deputy Garbiso. As she was rounding a curve, Deputy Garbiso started yelling over the air, so she dove faster. Deputy Carlino said she could tell Deputy Garbiso sounded stressed or panicked on the radio. Deputy Carlino said within five to ten seconds she heard the word "gun" come across the radio.

Deputy Carlino said as she arrived at the location of Mr. Garcia and Deputy Garbiso, she could see that both Deputy Garbiso and Deputy Johnson had their weapons drawn, and she remembered them saying something along the lines of "drop the gun", "drop the weapon". She stated that she could see Mr. Garcia's arm was raised at Deputies Garbiso and Johnson, but she could not see what was in his hand. Deputy Carlino drew her weapon as she exited her car. Deputy Carlino walked across the front of her vehicle, and she gave commands to Mr. Garcia to drop his weapon, at which point he turned toward her. Deputy Carlino could then see Mr. Garcia raise the gun toward

her. Deputy Carlino said she was terrified Mr. Garcia was going to shoot her. Deputy Carlino said she told Mr. Garcia again to “drop the gun”, and once Mr. Garcia pointed the gun at her she discharged her weapon. Deputy Carlino didn’t know how many rounds she shot at Mr. Garcia. She said Mr. Garcia then started to walk back toward his vehicle and Deputies told him to “drop the gun”, which he eventually did.

Deputy Carlino said she was only aware of the name of “Troy Garcia” based on the information aired by dispatch concerning threats and weapons. She said she had never met Mr. Garcia before the date of this incident.

Interview: Deputy Tyler Johnson

On October 11, 2022, Deputy Johnson was interviewed by CBI Agent Danny Garcia from and PPD Detective Tim Torres. Deputy Johnson has worked for the Pueblo County Sheriff’s Office for four (4) years, with three (3) years inside the Detention Center and one year on patrol.

Deputy Johnson said he drove from Pueblo to Colorado City in response to a burglary call involving an allegation that a male party had illegally entered someone else’s home. Deputy Johnson said he ran with his lights and siren activated to Colorado City.

Deputy Johnson said he was the third Deputy on scene and spoke with the reporting party, Lynn Hickman. Ms. Hickman advised him that the male suspect had walked into the home. Deputy Johnson said the male identified himself when he was in the home. Ms. Hickman told him that when she went to bed, she did not lock the front door. Ms. Hickman said the male then left the home, at which time she closed and locked the door and called police. After the house was checked and all information was collected, the Deputies left the residence.

Deputy Johnson said that when the Deputies were outside, Deputy Garbiso told him the Nissan Xterra that was described looked familiar, and the Deputies saw the vehicle down the street. Deputy Johnson said he and Deputy Garbiso were going to contact the party. Deputy Johnson said Deputy Carlino drove up to the vehicle first and saw someone in the vehicle. Deputy Johnson said Deputy Carlino checked out the vehicle as she passed and then came back around to their location.

Deputy Johnson said Deputy Garbiso pulled behind the yellow vehicle and aired “someone was coming out of the vehicle”. Deputy Johnson said he was behind Deputy Garbiso at this time. Deputy Johnson said the male party that came out of the yellow vehicle walked up to the driver side of Deputy Garbiso’s vehicle as he was pulling up. Deputy Johnson said he saw a male hanging inside Deputy Garbiso’s vehicle through the driver’s window. Deputy Johnson said when he stopped and approached Deputy Garbiso’s vehicle, he heard Deputy Garbiso say, “he has a gun”. Deputy Johnson said he didn’t think the male knew he was approaching. Deputy Johnson said when Deputy Johnson issued a warning, the male turned and pointed a gun at him, at which time Deputy Johnson drew his duty weapon. He said he was in fear of his life and scared. Deputy

Johnson said he took cover behind Deputy Garbiso's vehicle. Deputy Johnson said he switched his gun to his left hand and turned on his body worn camera.

Deputy Johnson said he then moved forward from the other side of Deputy Garbiso's vehicle, ordering the male to the ground. Deputy Johnson said he heard other Deputies saying something to the male, but he did not know what was said. Deputy Johnson moved to the front of the vehicle and shot the suspect twice, at which time the suspect moved toward his own car, the yellow Nissan Xterra. Deputy Johnson said he then did not know if the male was trying to grab something out of his vehicle, and he ordered the male to the ground. The male did not get on the ground. Deputy Johnson said he and Deputy Carlino approached the male, and Deputy Johnson pulled him to the ground, where he was handcuffed.

Deputy Johnson said as he pulled up to Deputy Garbiso's vehicle, he did not turn on any of his emergency lights as he wanted to get out to assist Deputy Garbiso. Deputy Johnson said the first time he saw the male had a gun was when the male pointed it at him. Deputy Johnson stated that when the male came out of Deputy Garbiso's vehicle it appeared he already had the gun in his hand. Deputy Johnson said he remembered seeing the barrel of the gun as it was pointed at him. Deputy Johnson said as he moved to the passenger side of Deputy Garbiso's patrol car, he heard multiple gun shots. Deputy Johnson said as he moved up the passenger side of the vehicle, he saw the suspect and took a shot at him. Deputy Johnson said when he heard gunshots, he thought one of his partners had been shot and thought it was the suspect who was shooting. Deputy Johnson said he didn't recall where the suspect was pointing the weapon at the time. Deputy Johnson said he felt like his life, his partners' lives, and the community were threatened at the time, which is why he discharged his weapon. Deputy Johnson said he recalled discharging his weapon two times at the suspect.

Interview: Deputy Robert Garbiso

On October 11, 2022, PCSO Deputy Robert Garbiso was interviewed by CBI Agent Danny Garcia and PPD Detective Tim Torres. Deputy Garbiso has been employed with the Pueblo County Sheriff's Office for approximately seven years. He started in the Detention Center where he worked for approximately two and a half years, then he worked at the 10th Judicial Jail Intake, then he was assigned to Patrol where he has been assigned for the past year.

Deputy Garbiso said on the date of this incident he was assigned to Pueblo West, when he saw on the call screen a burglary was in-progress in Colorado City. Deputy Garbiso said he was dispatched to the call where a male had walked into a female's residence without her permission. Deputy Garbiso said he responded with his lights and sirens activated. He said the suspect had asked for a male named "David Mitchell" and said his name was "Troy". Deputy Garbiso said dispatch advised the description given to them was of a male named "Troy" whom PCSO Deputies had previously interacted with frequently in that area.

Deputy Garbiso said when he arrived and got out of his vehicle, he heard a car door nearby his location. It was a yellow vehicle that drove past him. He then went and checked the property around the house with Deputy Carlino and contacted Ms. Hickman at the front door. Ms. Hickman said she had never met the male who entered the house before. Ms. Hickman said when she walked out of the bedroom, she saw the male standing in the house. The male said his name was Troy and he asked for the homeowner. Ms. Hickman did allow the Deputies to check the house to ensure the male was not at the house. Deputy Garbiso said Ms. Hickman appeared to be upset with the events which had taken place.

Deputy Garbiso said as Deputies Johnson and Carlino left, he told them about a yellow SUV which he saw drive away when he arrived on-scene. He shined his light to the area where the yellow SUV was last seen, and Deputy Carlino pointed out the yellow SUV was there. Deputy Carlino said she would go run the plate and left the residence.

Deputy Garbiso said as he approached the vehicle, he saw someone standing at the driver door and could only see a person's legs. Deputy Garbiso said he was still in his patrol car when a male started to walk toward him. He could see something in the male's hand, but he did not know what it was. Deputy Garbiso said his driver window was down and a male came up to his window and pointed the barrel of a gun at his face. The male said, "I told you not to fuck with me, I told you not to fuck with me. I'll kill you mother fucker, I'll kill you. I'm going to kill you right here." Deputy Garbiso said he was telling the male, "Please don't, please don't. Drop the gun man, it's not worth it." Deputy Garbiso said he was begging for his life. He said the look in the male's eyes was very angry. Deputy Garbiso said he thought he was going to get shot. Deputy Garbiso said he tried to fight the male, grabbed the gun, and threw the male's hands in the air, hoping that the male would miss him if he shot. He said the male kept yelling, "I'm going to fucking kill you, I'm going to kill you." Deputy Garbiso said the male then looked to the back of his car when Deputy Johnson arrived. Deputy Garbiso said he got out of his car as Deputy Carlino arrived, and the male walked to the yellow SUV. Deputy Garbiso saw the male point a gun toward Deputy Carlino, at which time he fired his weapon at the male. The male had been identified as Troy Garcia.

Deputy Garbiso said Mr. Garcia was flagged "10-19", which is a mental subject, and this information had been passed on by dispatch. Deputy Garbiso said he did not know who Mr. Garcia was and he had never interacted with him before. Deputy Garbiso stated that dispatch had advised that Mr. Garcia was known to have possessed weapons. Deputy Garbiso said when he pulled behind Mr. Garcia's vehicle, he only had his headlights on and did not have a chance to turn on his overhead lights. Deputy Garbiso said as Mr. Garcia walked toward him, he didn't hear Mr. Garcia say anything. Deputy Garbiso said he did see something in Mr. Garcia's right hand upon his approach, but Deputy Garbiso did not know what the object was until it was pointed in his face.

Deputy Garbiso said as the incident occurred, he was afraid, scared, and thought he was going to die. He said he had never been so fearful until this day. Deputy Garbiso said he was able to grab ahold of the gun, but Mr. Garcia was able to pull it away from him. Deputy Garbiso said when he

fired at Mr. Garcia, he does not recall how many shots were fired. He said he was trying to stop the threat as he fired.

Deputy Garbiso said after Mr. Garcia was shot, Mr. Garcia went to the yellow SUV, where he fell to his knees with an arm inside the car. Deputy Garbiso said as Mr. Garcia was taken into custody by Deputies Johnson and Carlino, he went to his patrol car and retrieved a first aid kit so the Deputies could render aid to Mr. Garcia. Deputy Garbiso said he saw the gun Mr. Garcia had previously possessed on the ground, and he kicked it away from Mr. Garcia. Deputy Garbiso also stated that he retrieved a second tourniquet, which he provided to the other Deputies during their provision of medical aid.

Dash Cameras

Deputy Garbiso's dash camera showed him approach Troy Garcia's vehicle from the rear and Mr. Garcia stood at the driver's side door of his own vehicle. Mr. Garcia observed Deputy Garcia's vehicle, and he approached Deputy Garcia while he is seated in the driver's seat. Mr. Garcia was holding a large shiny object in his right-hand. Deputy Garcia's dash camera does not have audio. A short while later, Deputy Carlino's patrol vehicle with headlights activated was seen approaching the roadway in the opposite direction of Deputy Garcia's vehicle and stopped in front of Mr. Garcia's car. It was observed that Mr. Garcia reacted to the presence of Deputy Carlino's patrol vehicle and approached that vehicle. At that time, the object in the Mr. Garcia's right hand was confirmed to be a handgun. While between the two patrol vehicles in the roadway, and adjacent to his own vehicle, Mr. Garcia was observed to have his right hand raised and a handgun pointed at Deputy Carlino's vehicle.

Deputy Carlino's dash camera showed the opposite vantage point with audio recording. Prior to Deputy Carlino's arrival on-scene, Deputy Garbiso was heard on the radio to dispatch, advising the other Deputies that the suspect had a gun. Immediately upon arriving on-scene, Deputy Carlino was observed getting out of her driver's seat and crossed in front of her patrol vehicle to the passenger's side and out of the view of her vehicle's headlights. At that time, Mr. Garcia was seen approaching Deputy Carlino's vehicle, with his right arm pointing a firearm in the direction of the dash camera. Several shots were then fired by the Deputies. It was apparent from the available audio and video that the first shot was fired by Deputy Carlino, followed by several shots that came from the opposite direction as they were fired by Deputies Johnson and Garbiso.

Body Worn Cameras (BWC)

Deputy Robert Garbiso had multiple BWC recordings for the incident. The first one was for the initial burglary call and the second one involved the contact with Troy Garcia.

At approximately 12:25 a.m., Deputy Garbiso activated his BWC while seated in his marked patrol vehicle and was heard with an elevated voice and his breathing was labored. As he exited his vehicle, Deputy Carlino was heard yelling "drop it," and then shots were fired. As Deputy Garbiso

exited his patrol car, he cleared the driver's door at which point the yellow SUV was seen with Mr. Garcia standing by the rear portion of the car with the driver's door open. It appeared that Mr. Garcia was faced toward Deputy Carlino's direction with his right arm at an upward angle, but he then turned toward Deputy Garbiso. As Mr. Garcia turned toward Deputy Garbiso, he raised his right hand toward him, with an object in his hand. At this point on BWC, Deputy Carlino, Deputy Garbiso, and Deputy Johnson had discharged their duty weapons at Mr. Garcia. Mr. Garcia appeared to drop to the ground. Deputy Garbiso moved toward the back of his patrol car and the driver's door blocked the view of Mr. Garcia. When Deputy Garbiso moved back to the driver door, an item was seen laying on the ground at the back of Mr. Garcia's vehicle. All Deputies gave commands to Mr. Garcia, telling him to "drop the gun and get on the ground". While at the driver door, Mr. Garcia dropped to his knees between the driver door and the driver seat. On the ground, just behind the driver's side rear tire a silver object was seen, which is later determined to be an altered .22 caliber long rifle. All three Deputies approached Mr. Garcia while they gave commands to get on the ground. Mr. Garcia stayed at the open door on his knees and was taken to the ground by Deputy Johnson. Mr. Garcia was handcuffed, and first aid was rendered.

Deputy Alexa Carlino had several BWC recordings for this incident. The first BWC was of the burglary call, and the second was of Troy Garcia, which started after the shooting. In this BWC, Mr. Garcia was on his knees at the driver side of the SUV with the door open. Both Deputies Johnson and Deputy Garbiso were seen giving commands for Mr. Garcia to get on the ground. Deputy Garbiso was kicking the gun away from the area twice.

When Mr. Garcia refused commands to "get on the ground" he was pulled to the ground by Deputy Johnson and handcuffed. Deputies Carlino and Johnson then started applying tourniquets to both arms where Mr. Garcia was injured from the shooting. In this BWC, at minute marker 6:40, Deputy Garbiso was heard saying that Mr. Garcia approached his vehicle, when his window was open. At this point, Deputy Garbiso said something that could not be heard, and Mr. Garcia started to say that he needed to use the restroom. Deputy Carlino told him he cannot at the time. Mr. Garcia then tells the Deputies they are "fucking idiots".

Deputy Tyler Johnson had two BWC videos, one with the initial call for the burglary and the second of the shooting involving Mr. Garcia. The video involving the shooting began with Deputy Johnson driving, and Deputy Garbiso was heard on the radio stating, "He's walking up to me." When Deputy Johnson exited his patrol car, Mr. Garcia yelled, "Get the fuck out of here, I will fucking kill you." Deputy Garbiso stated to Mr. Garcia, "Why do you have a gun?" At the time, Mr. Garcia was standing at Deputy Garbiso's driver side window. As Deputy Johnson ran toward Deputy Garbiso's vehicle, Mr. Garcia turned toward Deputy Johnson and a gun was seen in his right hand. As Mr. Garcia turned with the gun, he raised his right hand and pointed the gun at the direction of Deputy Johnson, at which time Deputy Johnson drew his service weapon. Mr. Garcia was heard saying "Get the fuck out of here mother fucker."

Deputy Johnson took cover behind Deputy Garbiso's car and starts giving commands to Garcia, telling him to get down. When Deputy Johnson was behind Deputy Garbiso's car, Mr. Garcia was

heard saying, "I will kill you, dumb fuck." Deputy Johnson ordered Mr. Garcia to get to the ground, as Deputy Johnson moved around the driver side of the car. Deputy Johnson then moved behind the car and to the passenger side of the car. While Deputy Johnson was behind the car, Deputy Carlino was heard yelling, "Get on the ground now." Mr. Garcia was heard yelling "I ain't getting on the fucking ground, mother fucker." Deputy Carlino was heard yelling again, "Get on the ground now, drop it," at which time a gunshot was heard. At this point, Deputy Johnson had moved to the passenger side of Deputy Garbiso's patrol car and moved toward Mr. Garcia's car and discharged his service weapon.

Next, as Deputy Johnson moved toward Mr. Garcia, Mr. Garcia appeared to walk toward his car from the front of Deputy Garbiso's car. As Mr. Garcia walked, he was bent over, and something of a metallic sound was heard hitting the ground. All three Deputies were heard ordering Mr. Garcia to drop the gun. As Deputy Johnson walked forward, an apparent gun was seen on the ground at the rear of Mr. García's vehicle.

Mr. Garcia was given several verbal commands to get on the ground and drop the gun. Mr. Garcia was at his driver's door with the door opened, at which point he squatted to the ground on his knees with part of his body in the open door. As the Deputies approached Mr. Garcia and yelled at him to get on the ground, he stayed kneeling in between the door and the cab of the vehicle.

On the BWC, it appeared that Mr. Garcia was bleeding from his right arm, with blood on his right shoe. Mr. Garcia did not respond to the Deputies' commands for him to get on the ground. Deputy Johnson grabbed ahold of Mr. Garcia's right arm and pulled him to the ground, where he was handcuffed. Once handcuffed, Mr. Garcia's injuries were tended to by Deputy Johnson and Deputy Carlino.

Render Aid Summary

After Troy Garcia was struck by the Deputies' discharge of their duty firearms, he responded by dropping his firearm at the back of his vehicle and walked to his open driver's side door. Mr. Garcia knelt to the ground while leaning part of his torso into his vehicle. Deputy Johnson ordered Mr. Garcia to go to the ground, but Mr. Garcia did not comply. Deputy Johnson then pulled Mr. Garcia to the ground, and he was handcuffed. At that time, Deputies Johnson and Carlino provided Mr. Garcia with medical attention and aid. Deputy Garbiso provided the first aid kit and two tourniquets to the other Deputies. Deputies Johnson and Carlino placed tourniquets on both of Mr. Garcia's arms, and Deputy Carlino attempted to pack the wounds to Mr. Garcia's abdomen with gauze. The Deputies requested an emergency medical response. Mr. Garcia was kept in a seated position until paramedics and an ambulance arrived on-scene.

Legal Guidelines

A person is justified in using physical force upon another person in order to defend himself or a third person from what he reasonably believes to be the use or imminent use of unlawful physical

force by that other person. Furthermore, he may use a degree of force which he reasonably believes to be necessary for that purpose. §18-1-704(1), C.R.S.

A person is justified in using deadly physical force upon another person in order to defend himself or a third person if he reasonably believes a lesser degree of force is inadequate, and he has reasonable grounds to believe, and does so believe, that he or another person is in imminent danger of being killed or receiving great bodily injury. §18-1-704(2)(a), C.R.S.

In evaluating whether a person is justified by self-defense, the person is entitled to act on appearances. People v. La Voie, 395 P.2d 1001 (Colo. 1964). The United States Supreme Court evaluated whether officers used excessive force under the Fourth and Fourteenth Amendments by approaching the issue of reasonableness from the perspective of a reasonable officer at the scene, rather than with the 20/20 vision of hindsight. Plumhoff v. Rickard, 143 S. Ct. 2012 (2014). In that case officers fired a total of 15 shots at a suspect in a fleeing car that was determined to constitute a grave public safety risk. In its ruling the Court said, “It stands to reason that, if police officers are justified in firing at a suspect in order to end a severe threat to public safety, the officers need not stop shooting until the threat has ended.” Further, the Court took into account that police officers are often forced to make split-second judgments about the amount of force necessary in a particular situation – in circumstances that are tense, uncertain, and rapidly evolving.

Conclusion

Based on the facts of the investigation conducted by CIT investigators, the use of force by Pueblo County Sheriff’s Deputies Alexa Carlino, Tyler Johnson, and Robert Garbiso were justified. This conclusion was based on interviews of the involved officers, the PCSO Patrol Vehicles’ on-board dash cameras, and body worn camera videos.

There was no evidence or facts collected to support any criminal wrongdoing by Deputies Alexa Carlino, Tyler Johnson, and Robert Garbiso during the incident. The actions taken by all three Deputies during the 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 Deputies Alexa Carlino, Tyler Johnson, and Robert Garbiso were justified by the Defense of Self and Defense of Others provisions of the laws of the State of Colorado in using the actions they employed to defend both themselves and fellow officers from what they reasonably believed to be the imminent use of unlawful physical and deadly force by Troy Garcia, 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. The actions of the 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 PCSO Deputies Alexa Carlino, Tyler Johnson, and Robert Garbiso would not be appropriate, and therefore no criminal charges will be filed.

Dated this 11th day of July, 2023

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

J.E. Chostner, District Attorney