



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

July 21, 2023

Sheriff David Lucero
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 November 10, 2022
PPD 22-022363 PCSO 22S031871

Location: 3610 Dillon Drive (Goodwill parking lot)
Deceased: Reginald Bethea, (DOB: June 24, 1960)
Officer(s) Involved: PPD Corporal Richard Burns and Officer Marcus Duran

Dear Sheriff Lucero and Chief Noeller:

The 10th Judicial District Critical Incident Team (CIT) was activated on November 10, 2022, to investigate an Officer Involved Incident which resulted in the fatal shooting of Reginald Bethea.

The Pueblo County Sheriff's Office (PCSO) was designated as the lead investigative agency. Other CIT participants included the Colorado Bureau of Investigation (CBI) and the Colorado State Patrol (CSP).

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

CRITICAL INCIDENT SUMMARY

On November 10, 2022, at 9:14 a.m., dispatch received a 9-1-1 call from a reporting party which stated, "I see a man with a gun behind the Goodwill Store, yeah near target, he's acting crazy." The reporting party hung up before dispatch could ask any follow-up questions. Dispatch attempted to re-call the reporting party at 9:15 a.m. and there was no answer. At 9:18 a.m., the number was plotted at 3610 Dillon Drive, Pueblo, CO 81008, and registered to Reginald Bethea.

The communications center aired on the Pueblo Police Department radio that there was a report of a man with a weapon located at Goodwill on 3610 Dillon Drive. PPD Corporal Richard Burns and PPD Officer Marcus Duran were routed to the scene. Through both aired communications from dispatch and computer call notes, Corporal Burns and Officer Duran were aware of nature of the report.

At 9:19 a.m., Corporal Burns arrived on-scene and entered through the parking lot entrance located on Dillon Drive between Target parking lot to the right and Goodwill parking lot to the left. Officer Duran arrived immediately after. Both, Corporal Burns and Officer Duran, saw a man at the back corner of Goodwill with a gun (visible) in his hand. This information was aired to dispatch and PPD Officer Klopp who was in route to the scene. Corporal Burns and Officer Duran backed their patrol vehicles to gain a safer distance between them and the man with the gun. They positioned their front engines to face toward the back of Goodwill for cover.

The man slowly and steadily advanced toward Corporal Burns' and Officer Duran's parked patrol vehicles. Corporal Burns retrieved his duty bag where his patrol-ready rifle was located and positioned himself at the doorframe of his patrol vehicle that faced toward the man walking toward them. Officer Duran used his vehicle's Public Address (P.A.) system to announce commands to the man. Radio traffic and body worn cameras confirmed that Officer Duran directed the individual as he walked toward officers to "Stop! Drop the gun!" multiple times. Radio traffic and body worn cameras confirmed that Corporal Burns yelled at the individual to "Stop and put down the gun" multiple times. Corporal Burns also told the individual, "Stop, please don't make me do this".

Despite multiple verbal commands the individual said nothing to Corporal Burns or Officer Duran and did not follow any of the commands given. Disregarding officer commands, the man continued to steadily walk directly toward the patrol vehicles while swaying his arms with a gun in his right hand. The man then raised the gun to almost a 45-degree angle and pointed it toward the patrol vehicles when Corporal Burns fired three (3) shots and Officer Duran fired one (1) shot. "Shots fired" was immediately aired to dispatch and Fire and Rescue was requested. Instead of waiting for a shield for officer safety, Corporal Burns and Officer Duran stacked up and approached the man on the ground lying flat on his back in hopes of rendering life saving measures. The individual on the ground had his right arm extended out toward the direction of where the black handgun was positioned. Officer Klopp arrived on-scene and followed. Officer Klopp performed CPR until other officers and AMR arrived on-scene.

Mr. Bethea was pronounced dead on the scene. He was in possession of a High-Point 40 Caliber handgun.

After the incident and with permission from the Mr. Bethea's wife, Kathy Bethea, Mr. Bethea's black Fiat, located on the backside of Goodwill, was searched. In the vehicle, Mr. Bethea's suicide letter to his wife was recovered from a small red notebook that contained two torn out pages. A subsequent interview with Ms. Bethea and daughter, Ashley Bethea, corroborated the financial struggles and instability noted in Mr. Bethea's letter.

At the time of the incident, both Corporal Burns and Officer Duran arrived in their marked PPD patrol vehicles with no overhead emergency lights on. They both were wearing PPD issued uniforms with standard police duty belts and standard police equipment. Both Corporal Burns and Officer Duran had activated their body worn cameras. Officer Duran had his dash cam activated before arrival and Corporal Burns activated his while at the scene.

The Critical Incident Team investigation commenced.

SCENE AND EVIDENCE PROCESSING

CBI Agent Dennis Honeycutt, with the assistance of PPD Officer John Trivett, took photos of Corporal Burns and Officer Duran. Agent Honeycutt used an Alternate Light Source (ALS) to examine their clothing and duty gear. No biological evidence was located on either Corporal Burns or Officer Duran. No injuries were documented in the photos. All photos were taken at the CBI Office on November 10, 2022.

Corporal Burns' Colt M4 carbine (S/N: LE467281) was collected and examined. The round count conducted on the rifle concluded that one-unfired 5.56 cartridge was in the chamber and 24-unfired 5.56 cartridges were removed from the magazine. One extra magazine with 38-unfired 5.56 cartridges was accounted for as well. Corporal Burns was down a total of three (3) rifle cartridges. Corporal Burns also had a department issued Glock 17th Gen 9mm pistol (S/N: BTWP519) in his duty belt, which he did not fire.

Officer Duran's department issued Glock 17 5th Gen 9mm pistol (S/N: BTWP612) was collected and examined. The round count conducted on the pistol and magazines showed that the firearm had one round in the chamber and 16-unfired 9mm cartridges in the magazine. Spare magazines #1 and #2 were both loaded to capacity with 17 cartridges and were unused. Officer Duran was down one (1) cartridge.

PCSO ID Detective Dominic Montoya processed and photographed all firearms.

CSP Master Trooper David Conway documented the scene at 3610 Dillon Drive by using drone technology to take ariel photographs of the entire area.

PCSO Detective Vanessa Simpson secured and processed the scene, which was located between Goodwill and the Target parking lot at 3610 Dillon Drive. There were three PPD fully marked patrol vehicles present during the incident. Unit #2113 and #881 were parked on the south end of the parking lot. Photographs were taken of the vehicles exterior and interior. Overall photos of the

entire scene were taken as well as photos of the shell casings located on the ground near the patrol vehicles.

Detective Simpson photographed the body. The deceased, identified as Reginald Bethea, had brown lace up boots, blue jeans, black t-shirt, a grey jacket, and a grey ball cap. There was a black holster clipped to his jeans on the top left waist band. Mr. Bethea was lying flat on his back with his left arm to his side and his right arm straight out with his hand parallel to his shoulder. Several items located around the body included a black handgun (High-point 40 Caliber) close to the right hand, a red lighter and pack of cigarettes on the right side of the body, and a quarter to the right of the left arm.

The gun next to Mr. Bethea was collected and processed. The firearm was a High-Point JCP 40 caliber handgun (S/N: 7279712). There was one unfired .40 cartridge in the chamber and 10-unfired .40 cartridges in the magazine.

Detective Simpson also photographed the black Fiat Spider bearing Colorado plates #BKXZ52, which belonged to Mr. Bethea. The Fiat was approximately 10- to 15-feet away from Mr. Bethea's body and parked backward facing the Goodwill building. Detective Simpson was able to see that a note was present in the center console of the vehicle but was unable to get a clear picture of it because of the sun glare on the windows. On November 16, 2022, at 2:00 p.m., Detective Simpson conducted a search of the vehicle at the PCSO Annex, at 920 N. Main Street in Pueblo, Colorado. Photographs were taken of the exterior and interior of the vehicle. A small red spiral notebook with two torn-out pages were located. The torn-out pages contained a handwritten note which stated the following:

"Kathy I'm so sorry. I am out of my mind crazy. Someone has to stop me. I left you with no money. I was going to rob a bank but did not want to hurt anyone. I have been living in a fantasy - a dream. I really believed we would get the money. Call (illegible?) HR right away You will get the life insurance. The # is on the fridge Please sell the Jeep. Sell everything. Ashley - Mark Please help mom Please Social Security will give you Benefits call them. I never thought I would end up this way. What a stupid man. I have always loved you. Please try to forgive me Perry, Call Laura I (unreadable) will help. We have no money - this is why I am doing this. So so sorry Perry"

Investigator Troy Puga with the Pueblo County Coroner's Office was on-scene. Investigator Puga collected a wallet, the holster, and two pocketknives from Mr. Bethea's body. Upon rolling Mr. Bethea's body over, a pair of keys for the Fiat was located. The body was removed from the scene and sealed in a white body bag (red tag #4340059).

AUTOPSY VIEWING SUMMARY

On November 11, 2022, at 10:00 a.m., PCSO Detective Simpson responded to St. Mary Corwin Medical Center Morgue at 1008 Minnequa Avenue, Pueblo, CO, for the autopsy of Mr. Bethea. Pathologist Dan Lingamfelter, D.O., performed the autopsy. Dr. Leon Kelly from the El Paso County Coroner's office assisted by taking radiographic scans and collecting projectile fragments. Detective Simpson photographed the autopsy. All clothing was removed from the body and

separately processed. Mr. Bethea had the following injuries: one entry wound to the right abdomen immediately below the ribcage, an exit wound to the left side of the face near the top of the left ear, a large open wound on the left side of the neck, an exit wound on the left side of the back located near the lower part of the rib cage, and an exit wound on the opposite side of the previous exit wound which contained three smaller wounds. Dr. Lingamfelter reported the manner of death as homicide and the immediate cause or condition resulting in death was from multiple gunshot wounds.

The autopsy report was received on January 12, 2023, with the toxicology report showing the following in Mr. Bethea's system: caffeine, cotinine, and nicotine. No other alcohol or drugs were reported.

Based on the body worn camera footage, examination of officer firearms, and interviews, it can be concluded that Corporal Burns fired a total of three (3) shots and Officer Duran fired one (1) shot. The findings are consistent with the injuries, spent shell casings found during scene processing, and autopsy findings.

ADDITIONAL EVIDENCE

Corporal Burns' Body Worn Camera: The recording began with Corporal Burns at the trunk of his patrol vehicle grabbing his rifle from his duty bag. Corporal Burns positioned himself behind his open driver side door and pointed the firearm out toward the direction the engine of the car was facing. Corporal Burns then yelled "drop the gun." And Officer Duran was heard saying on the P.A. system of his patrol vehicle, "drop the gun." Corporal Burns continued to yell "drop the gun," "drop the gun," "drop the gun now do not make me do this," "drop the gun," "drop the gun," before shots were fired. Mr. Bethea cannot be seen in this video until after shots are fired.

Officer Duran's Body Worn Camera: the recording began with Officer Duran at the trunk of his patrol vehicle headed toward the open driver side door. Officer Duran pulled his body into the vehicle presumably to use the P.A. system (no sound on the video). Officer Duran then was positioned behind the open driver side door with his firearm pointed toward the southeast corner of the Goodwill. In the video, a man in dark loose fitted clothing was walking toward the patrol vehicles. The man was holding what appeared to be a firearm in his right hand. When the video recording sound was heard, Officer Duran was heard saying "stop," "don't do it," "stop please," before shots are fired.

Corporal Burns' Dash Cam: The video showed Corporal Burns with Officer Duran stacked behind him and approached the man who was lying flat on ground. In the video, the man was located on the far-right corner and half of his body was cut off in the video due to the positioning of the patrol vehicle.

Officer Duran's Dash Cam: Sound was not detected on the dash cam. The car was pointed toward the southeast corner of Goodwill. Officer Duran pulled up to the left of Corporal Burns. Dash cam showed that a person in dark loose clothing stood at the corner of the back of the Goodwill building. Corporal Burns and Officer Duran backed up their patrol vehicle and both angled their

patrol vehicles to have the engine side face toward the man at the southeast corner of Goodwill. Mr. Bethea began to walk toward the patrol vehicle and appeared to have a gun in his right hand and was holding that in front of him. As Mr. Bethea approached closer the dark object resembling the shape of a gun can be more clearly seen in his right hand and he was swaying his arms at his side while walking. The man began to raise his right-hand that contained the object that appeared to have been a firearm. The arm was raised from the position next to his thigh to about his stomach area, pointed toward the patrol vehicle direction. The man was hit with a bullet, then fell to the ground.

911 Call: On November 10, 2022, at 9:14 a.m., dispatch received a 9-1-1 call from a reporting party saying, "I see a man with a gun behind the Goodwill store, yeah near target, he's acting crazy." As dispatch attempted to get more information the reporting party hung up. Dispatch attempted to recall the reporting party at 9:15 a.m. and there was no answer. At 9:18 a.m., the number was plotted at 3610 Dillon Drive, Pueblo, CO 81008 and registered to Mr. Bethea.

Interview with Corporal Burns: On November 15, 2022, PCSO Detective Amy Lile and Sergeant Ben Parsons interviewed Corporal Richard Burns. Corporal Burns' attorney, John Rice, was also present.

Corporal Richard Burns has worked for PPD for nine (9) years and his current role was a patrol officer. He drove a marked Ford Explorer Unit #2113 patrol vehicle while on-duty. Corporal Burns has five (5) years of previous law enforcement experience in Nebraska. He also has military experience and was a firearms instructor.

On November 10, 2022, Corporal Burns was on patrol duty and headed toward the interstate to attend to an unrelated matter when Communications aired that there was report of "someone acting crazy with a weapon at Goodwill". Based on that information, Corporal Burns asked dispatch to re-route him to that call since he was nearby at the intersection of Cesar Chavez and Dillon Drive. He was aware that Officer Duran and Officer Klopp were also routed that way. When he approached Goodwill on Dillon Drive, Corporal Burns noticed a man in blue walk on the sidewalk past Goodwill but did not raise him any concerns. Corporal Burns then described pulling into the parking lot entrance that splits the north end of the Target parking lot and the south end of the Goodwill parking lot. Corporal Burns drove through the section between the business parking lots toward Goodwill and the river trail. Corporal Burns had prior experience with the river trail that ran along the backside of Goodwill and Target and since there was little information aired from dispatch, he described his initial thought was to drive toward the trail. At that time, Corporal Burns only knew what was aired over the radio by dispatch which was that the phone number of the reporting party registered to a Reginald Bethea and that there had been previous dealings with this number. Corporal Burns had no personal knowledge of the person and had no previous encounters with him as well.

As Corporal Burns approached the backside of Goodwill and the river trail, he explained that he got an odd feeling and stopped his vehicle. Corporal Burns was in his marked patrol Unit #2113 and at the time had no lights or flashers activated because the information aired by dispatch did not say that the reported person was a threat to the public. He then observed a man standing at the corner of the back of the Goodwill closest to the trail. Corporal Burns then used his P.A. system to

speak to the male. Over the system, Corporal Burns asked if the male would not mind taking his hands out of his pockets. Corporal Burns further explained that the man made a physical gesture toward him as to indicate asking the question of whether he was the one the officer was speaking too. Corporal Burns then said "yes, I am talking to you. Would you mind taking your hands out of your pockets?" The man proceeded to pull his left hand out of the jacket and Corporal Burns saw that a black handgun had also been pulled out of the jacket. At this point, Corporal Burns noted that Officer Duran had pulled up beside him, and with his window down he told Officer Duran they needed to back up to gain distance from Mr. Bethea. It was then aired that a weapon was present to dispatch. After the patrol vehicles were backed up with engines facing toward the man for cover, Corporal Burns grabbed his duty bag from the back of his vehicle to retrieve his duty ready rifle. He also explained how he told Officer Duran to give commands over his vehicle's P.A. system. Corporal Burns grabbed an extra magazine and manually racked a round in the chamber of his firearm.

Corporal Burns explained how he returned to his position at the doorframe. He then stated that he watched as the man switch the gun over from his left hand to his right hand. Verbal commands were being directed over the P.A. system. Corporal Burns noted that there was no construction, loud music, or trains pass by to cause a hearing interference. Furthermore, Corporal Burns stated that he knew the man could hear and understand English because at the initial interaction he motioned as to ask if he talked to Mr. Bethea, and Mr. Bethea followed the first verbal command and took his hand out of his pocket.

Corporal Burns reported that as they stood at their parked patrol vehicles, the man began to walk directly toward them. He described the pace of the walk to be slow but steady toward their position and that there was nothing in the path between the man and the Officers position. Corporal Burns noted that the only thing behind the man was the cement back of the Goodwill building and some parked cars to the side. Corporal Burns continued to yell verbal commands to the man. He remembered saying "stop", "drop the gun", and "please don't make me do this". Corporal Burns said the man did not listen to any of the commands and was never told to keep walking toward the officers. Corporal Burns explained that the man continued to advance toward them with the gun in his right-hand swaying at his side when he began to lift the gun to almost a 45-degree angle pointed at the parked patrol vehicles. Because of past experiences as a firearms instructor and in law enforcement, Corporal Burns was aware that a firearm can be shot before hitting an exact 45-degree angle. Corporal Burns fired two shots and a third aiming for the center mass of Mr. Bethea. He immediately aired that shots were fired and to send Fire and Rescue. Even though Corporal Burns did not specifically state that if the man kept advancing that he would have to shoot, he did say "please don't make me do this". Corporal Duran explained how the whole incident from arrival to shots fired took place in under a minute.

Corporal Burns saw the man fall to his back after the third shot and he described the handgun to be about three feet away from where the man's hand was extended. Corporal Burns noted that safety protocol usually called for getting a shield before approaching but he made the decision to approach instead to wait for a shield. He explained how he wanted to get to the man to render any life saving measures and felt confident that the handgun was far enough away that they would be able to see an exaggerated movement toward the gun in time. Corporal Burns instructed Officer

Duran to stay behind him for safety and they approached Mr. Bethea. As they approached, Corporal Burns yelled to Mr. Bethea to “not go for the gun”. Officer Klopp arrived at this point.

Corporal Burns described that once they were a “few” feet from the man that he instructed Officer Klopp to check for a pulse and for Officer Duran to stand over the handgun to protect it. He further described that Officer Klopp began to perform CPR and shortly after AMR and the Fire Department arrived on-scene as well as PPD Sergeant Robinson.

Corporal Burns described that after the incident took place, he immediately felt sick because the situation was unnerving to him. He further stated that he felt as though this was a “suicide by cop”. Corporal Burns then recounted how he had a bad feeling as soon as he first saw the man at the back corner of the Goodwill. Corporal Burns explained that he was afraid that the man was going to shoot at him or Officer Duran and feared that if he didn’t shoot in their direction he could turn and shoot at innocent bystanders in either the Target or Goodwill parking lot.

Interview with Officer Duran: On November 15, 2022, Officer Marcus Duran was interviewed by PCSO Detective Amy Lile and Sergeant Ben Parsons. Officer Duran’s attorney, John Rice, was also present. Officer Duran had been with the PPD for one year. At the time of this incident, Officer Duran was on his third week of non-supervised individual patrol duty.

On November 10, 2022, Officer Duran attended to an unrelated call in the parking lot of Health Solutions on Montebello Drive when he heard on the radio that a suspect was erratic behind Goodwill. Furthermore, Officer Duran then read on the call notes in his car computer that the suspect behind Goodwill had a weapon. Officer Duran, knew he was close by, asked Communications to show him in route to the call at Goodwill. Officer Duran was aware that Corporal Burns was by northside Walmart on Dillon Drive, and that Officer Klopp was on the south side of town.

At the light at the intersection of Dillon Drive and Cesar Chavez, Officer Duran was in the left turn lane when he saw Corporal Burns drive across the intersection on Dillon Drive and head to Goodwill. Officer Duran followed, entered the parking lot second and pulled up next to where Corporal Burns was located. Officer Duran was in his marked Ford Explorer Unit #881 patrol vehicle and in full uniform. Officer Duran’s attention was then directed toward the back of the Goodwill building where a man was leaning against the corner of the building. Officer Duran then saw the suspect raise a gun in the air but could not remember exactly what hand/arm was raised. He immediately aired that there was a weapon present. Both Officer Duran and Corporal Burns backed up their patrol vehicles at this time. Both Officer Duran and Corporal Burns got out of their vehicle, with driver’s side doors open and engines faced the suspect for cover. The suspect began to walk directly toward the patrol vehicles. Corporal Burns grabbed his long gun and directed Officer Duran to give commands.

Officer Duran while inside his patrol vehicle used the P.A. system to give verbal demands to Mr. Bethea. Officer Duran stated there was no music or construction going on in the area other than general traffic and that there was nothing in-between the man and the P.A. speaker system that would indicate that the man could not hear the commands. Officer Duran remembered saying “stop” and “drop the gun”. Officer Duran further explained how the man continued to walk directly

toward the patrol vehicles. He explained how Mr. Bethea did not listen to the commands to “stop”, and he continued to advance directly at the parked patrol vehicles. Officer Duran also said Mr. Bethea did not follow the command of “putting the gun down” since it was still visible in his hand. Officer Duran then took his position behind the door of his patrol vehicle with his firearm pointed toward the man. He explained how he further yelled verbal commands to “stop” and “don’t do this”. Though Officer Duran told the man to stop, he did not specifically say “or I’ll have to shoot”. Officer Duran described that while Mr. Bethea walked toward them, he had the gun in his right hand, and his right arm swayed at his side as he raised the firearm toward the officers. Officer Duran then described Mr. Bethea lifted the gun up from his resting arm position to about his stomach area. Officer Duran fired one time after Corporal Burns. He then immediately aired that shots were fired and to alert Fire and Rescue.

Following Corporal Burns lead, Officer Duran stacked up behind him without a shield and approached the man who was lying flat on his back on the ground. Officer Klopp then arrived on the scene. Corporal Burns gave Officer Klopp directions to check for a pulse and directed Officer Duran to stand over the firearm that was located on the ground near the man’s right hand. Officer Duran saw the man twitch and Officer Klopp began performing CPR. Officer Duran continued to stand over the exposed firearm on the ground to protect it before being told his next order.

Officer Duran explained that when he shot, he was in fear for his own life, as well as the life of Corporal Burns and the pedestrian and vehicle traffic behind him. Officer Duran noted that the both the Target and Pueblo Mall parking lots were directly behind him and was aware that general pedestrian and vehicle traffic was nearby.

Report from Officer Klopp: Officer Klopp was located on the south side of Pueblo when dispatch aired that there was a male with a gun behind Goodwill. While in route to the location, Officer Klopp heard Corporal Burns and Officer Duran advise they were on the scene and that a male did have a gun. Officer Klopp was directed by Corporal Burns that he should get to the scene utilizing Dillon Drive. Officer Klopp turned on his emergency overhead lights and drove from his position at W. 29th Street and Hart Road to Dillon Drive. Upon arrival, Officer Klopp stacked behind Corporal Burns and Officer Duran. He noticed that man lying on his back on the ground with a gun near his right hand and blood came from the side of his neck. Officer Klopp checked for a pulse and when the man twitched and made a small gasp for air, he began to perform CPR until AMR arrived and took over.

Interview with Family of Mr. Reginald Bethea: On November 10, 2022, Detective Amy Lile interviewed Kathy Bethea (DOB: 07/21/1962 and wife of Mr. Bethea) and Ashley Bethea (DOB: 07/20/1988 and daughter of Mr. Bethea). PPD Detective Joe Cardona and Coroner Investigator Troy Puga were also present.

At around 10:00 a.m. on November 10, 2022, Kathy tried to contact Mr. Bethea via phone text and call. Both Ms. Bethea and Ashley were under the impression that Mr. Bethea went to pick up a check from his employer (Pueblo Chemical Depot), go to the bank to cash it, and pickup McDonald’s. Ms. Bethea usually woke up at approximately 7:00 a.m. and she noted that Mr. Bethea had already left their residence, which was unusually early for his day off. Though Mr. Bethea used to use direct deposit, Ms. Bethea stated that in the last month, he began to receive his

checks physically to have more control over finances due to other issues. When Mr. Bethea had not returned any of Ms. Bethea's calls or texts, she went to look for him. Ms. Bethea stated that they live near the Goodwill and Ashley attested to the fact he often went there to shop for hours. Ms. Bethea drove by Goodwill and saw Mr. Bethea's vehicle parked in a place that she described as not his usual spot. She also saw that an active crime scene was set up. Ms. Bethea and Ashley eventually called to find out more information.

Ms. Bethea and Ashley both attested to the fact that Mr. Bethea had sole control of the finances and any accounts associated with their finances. Neither had any personal access to bank accounts other than to obtain the current balance, which Ashley described was a rare occurrence because it would upset Mr. Bethea. Other than being aware of about \$2,200 of debt, Ms. Bethea and Ashley had no general control or information related to the family finances. Furthermore, Ms. Bethea and Ashley explained that Mr. Bethea was not forthcoming with information concerning finances especially concerning difficulties. They both also spoke of two other prior suicide attempts in 2006 with Mr. Bethea. Both prior attempts were motivated by deteriorating financial conditions. Ms. Bethea also explained that Mr. Bethea's parents and sister had passed within the last three (3) years, and on-going financial difficulties ensued with probate that caused more stress for Mr. Bethea. Within the last month Ashley described Mr. Bethea as being more on edge than usual when it came to finances.

According to his family, Mr. Bethea did not have any substance abuse or gambling issues. Mr. Bethea also had never been diagnosed with any mental health issues. Both Ms. Bethea and Ashley knew Mr. Bethea owned firearms but did not know any specifics about them. After discussions of the note left in the black Fiat, Ms. Bethea and Ashley attested to the fact that finances have always been an issue. Ashley further stated that she was sure this was a "suicide-by-cop" attempt, and Ms. Bethea agreed that Mr. Bethea would do something like that.

No check was ever discovered on Mr. Bethea or in the car of Mr. Bethea.

Interview with Witness Jaclyn Vierra: On November 10, 2022, Detective Amy Lile, along with PPD Detective Joe Cardona went to 1915 E Frying Pan Drive in Pueblo West, Pueblo County, Colorado to interview Jaclyn Vierra (DOB: 11/03/2023).

Ms. Vierra explained how she showed up to her shift at Target early that morning. She entered the parking lot through the entrance located off Dillon Drive between Goodwill and Target. As Ms. Vierra drove into the lot around 9:21 a.m., she noticed two police vehicles parked. Ms. Vierra parked her vehicle in the "Employee designated area" which she described as the back of the Target parking lot, closest to both Dillon Drive and Goodwill. Ms. Vierra noticed that the two parked patrol vehicles had both driver's side doors open, two officers outside the open doors as to use them as shields, and both officers had their weapons drawn and pointed.

Ms. Vierra noted that the officers had their weapons pointed toward Mr. Bethea, located behind the Goodwill near the wooded area of trees. She described Mr. Bethea with dark colored loose-fitted clothing, but stated she could not see anything in his hand. Ms. Vierra further stated she saw the man walk toward the officers.

Ms. Vierra described making a phone call and noticed the time was 9:23 a.m. Ms. Vierra heard three (3) shots and saw the man fall to the ground. More officers arrived on-scene as CPR was rendered to the man. Finally, Ms. Vierra stated that she saw one officer at the passenger side of a patrol vehicle who seemed to be in distress while another officer calmed them.

Ms. Vierra did not hear anything verbally said by officers. During the incident, Ms. Vierra remained in her black Dodge Ram (License plate AVIF84) with the windows rolled up with no radio playing.

Ms. Vierra noted she was about 50- to 60-yards from the officers and about 100-yards from the man. Other observations that Ms. Vierra made included some people were exiting their vehicles in the Target parking lot to presumably enter the store as the incident occurred. She observed another woman parked by her who was on her phone during the incident but immediately left in her vehicle.

Interview with Mary Wardell: On November 10, 2022, Detective Amy Lile contacted Mary Wardell (DOB: 09/25/1995) via telephone who was reported to be a witness to the incident.

Ms. Wardell drove into the parking lot of Target and parked her vehicle about 100-yards away from where the incident occurred. Brianne, Ms. Wardell's sister, was also present in the vehicle. Ms. Wardell saw two parked patrol vehicles, with officers behind the open vehicle doors. As Mary turned off her car, she heard three (3) shots, while Brianne stated she heard four (4) shots. Both women turned to see what happened and saw both officers with their guns pointed.

Ms. Wardell and Brianne did not hear anything other than the shots fired. The windows on the vehicle were rolled up and the radio was not on.

Target Exterior Surveillance Video at Parking Lot Right on November 10, 2022:

At 8:59:18 a.m., an individual in dark clothing appeared to exit the driver side of a vehicle parked on the backside of Goodwill. Another individual passed by, but the video footage was too far away to confirm that any interaction occurred between the individuals. The individual stood outside the black vehicle before re-entering it.

At 9:08:14 a.m., the individual exited the black vehicle again and stood outside the vehicle. The individual walked eastward toward the southeast corner of the back of the Goodwill. There appeared to be movement by the corner of the building for a few minutes, but the video is too far away to confirm exact movements. The individual appeared in the rest of the video as a blurry dark figure.

At 9:19:31 a.m., the first patrol vehicle pulled into the parking lot through the entrance on Dillon Drive.

At 9:19:43 a.m., the second patrol vehicle entered the parking lot through the entrance on Dillon drive. The second patrol vehicle pulled up to the left of the first one. Both patrol vehicles were past the center parking rows at Target. A slender and blurry black figure was seen at the corner of the back of the Goodwill near the tree and wooded area.

At 9:20:04 a.m., both patrol vehicles were facing the back of the Goodwill. Both patrol vehicles begin to back up. Both patrol vehicles were in line with the center row of parking at Target.

At 9:21:12 a.m., the blurry dark-colored figure in the video began to walk toward the patrol vehicles.

At 9:21:38 a.m., the blurry figure walked toward the patrol vehicles and was seen falling down to the ground.

At 9:22:20 a.m., the third patrol vehicle entered the lot. Three blurry black figures were seen approaching the back of the Goodwill where the other figure was laying on the ground.

For references, the patrol vehicles were parked between Goodwill and Target but in line with the center parking lanes at Target. During the above reported times, multiple patrons were seen getting in and out of their vehicles in the Target parking lot. The video depicts the outdoor conditions which appeared to have been sunny and clear. It should be noted that a small black sedan parked on the backside of Goodwill was seen in all videos. The figure went down relatively close to the vehicle. The vehicle was later identified as belonging to Mr. Bethea.

Target Exterior Surveillance Video at Drive Up Parking on November 10, 2022: The video captured the same information as previously described from a different angle, along with the same time stamps. The individual in the distance were not clear and there was significant sun glare from the back of Goodwill.

Render Aid Summary: After the incident, Corporal Burns and Officer Duran approached Mr. Bethea, without a shield, to attempt to render aid. Corporal Burns made commands to not reach toward the gun as they approached Mr. Bethea. No verbal response was given from Mr. Bethea. Officer Klopp arrived on-scene and assisted. Officer Klopp checked for a pulse and was unable to feel one until Mr. Bethea appeared to take a small gasp of air and twitched. Officer Klopp began CPR. PPD Corporal DeCesaro arrived on-scene and assisted with CPR until AMR arrived. AMR and Fire and Rescue personnel arrived on-scene and continued life saving measures but after no success the male was declared deceased.

LEGAL PRINCIPLES

a) Use of Deadly Physical Force in Defense of a Person

“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.” *C.R.S 18-1-704(2)(a)*.

“A person is justified in using deadly 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 necessary for that purpose.” *C.R.S. 18-1-704(1)*.

In evaluating whether a person is legally justified in using deadly physical force, the person is entitled to act on appearances. *People v. La Voie*, 395 P.2d 1001 (Colo. 1964).

b) Use of Deadly Force in Making an Arrest

“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(3).

“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 or would create a risk of death or injury to other persons.” *C.R.S. 18-1-707(4).*

“Notwithstanding any other provisions in this section, a peace officer is justified in using deadly physical force if the peace officer has an objectively 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.” *C.R.S. 18-1-707(4.5).*

CONCLUSION

Based on the facts of the investigation conducted by CIT investigators, the use of force by Pueblo Police Department Corporal Richard Burns and Officer Marcus Duran were justified. This conclusion was based on the interviews of the involved officers, civilian witnesses to the incident, body worn camera videos, dash cam videos, and crime scene and evidence processing information.

There was no evidence in the facts collected to support any criminal wrongdoing by Corporal Burns or Officer Duran. The actions taken by Corporal Burns and Officer Duran during this officer involved incident were conducted with the justified belief that either their lives or the lives of close by civilians were in danger.

It is my conclusion that, based on the circumstances, that Corporal Burns and Officer Duran were justified by the Defense of Self and Defense of Other provisions of the laws of the State of Colorado in using the actions they employed to defend themselves and each other from what they reasonably believed that a lesser degree of force would be inadequate. They had reasonable grounds to believe, and did believe, that they and nearby civilians were in imminent danger of being killed or receiving great bodily injury. The actions presented here were based on each officers' own observations and perceptions, and as such their responding actions were reasonable when Mr. Reginald Bethea disregarded clear demands, continued to walk directly toward both

officers with a handgun visible, and then began to lift that handgun into a position where it was both directed at the officers and could possibly be fired in their direction. Furthermore, Corporal Burns and Officer Duran were legally entitled to act upon the appearance of the black handgun and was not required to wait until Mr. Reginald Bethea fired the first shot. Mr. Bethea intentionally appeared ready to use that weapon and both Corporal Burns' and Officer Duran's actions at the time were based on those immediate observations, and their actions were reasonable under the totality of circumstances.

Given the facts and circumstances of the situation and the governing law, criminal charges against Corporal Burns and Officer Duran would not be appropriate, and therefore no criminal charged will be filed.

Dated this 21st day of July, 2023


J.E. Chostner, District Attorney