



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

April 8, 2024

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

Sheriff David Lucero
Pueblo County Sheriff's Office
101 W 10th Street
Pueblo, CO 81003

Re: District Attorney CIT Decision Letter
Officer Involved Incident on October 4, 2023
Location: 2101 Chatalet Lane, Apartment C, Pueblo, CO 81005
Injured: Officer Alan Peil
Officers Involved: Alan Peil and Jordan Roberts from the Pueblo Police Department

Dear Chief Noeller and Sheriff Lucero:

The 10th Judicial District Critical Incident Team (CIT) was activated on October 4, 2023, to investigate an Officer Involved Shooting (OIS) Incident which resulted in Officers Alan Peil and Jordan Roberts discharging their firearms in response to shots being fired by Deon Council-Rivera (DOB 04/07/2000). The original call for service began on October 4, 2023, where the Pueblo Police Department (PPD) responded to a domestic fight with weapons at the 2100 block of Chatalet Lane in the City and County of Pueblo, Colorado. The Pueblo County Sheriff's Office (PCSO) was designated as the lead investigative agency and other CIT participants included the Colorado Bureau of Investigation (CBI) 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 and Colorado State statute.

Summary of the Incident

On October 4, 2023, at 9:11 a.m., PPD Officers Alan Peil and Jordan Roberts responded to 2101 Chatalet Lane, Apartment C, regarding a domestic fight with weapons where Sarah Blanco reported that her boyfriend, Deon Council-Rivera, hurt her, tried to take her phone, and had a gun.

Upon arrival, Officer Peil and Officer Roberts knocked on the door of Apartment C, but there was no answer and no sign of a disturbance. Officer Roberts spoke with a female resident of Apartment D, who advised that she had heard a loud disturbance in Apartment C. Officer Roberts returned to the front door of Apartment C and knocked on the door and announced himself as a police officer. Officer Roberts called his supervisor and provided him with an update on the situation.

The door to Apartment C opened, Sarah exited the apartment, and Deon appeared in the doorway. Neither Officers, Roberts nor Peil, saw anything in Deon's hand. Officer Roberts yelled at Deon to step outside, while Officer Peil drew his firearm and ordered Deon to "show his hands". Deon ignored their commands and retreated inside. Officer Roberts drew his firearm and positioned himself behind Officer Peil, as he believed Deon had gone back into the apartment to obtain a firearm.

Deon reemerged with a firearm in his hand and almost immediately began to fire through a screen door. Officer Peil was hit twice, once in the vest and once in the shoulder. Both Officers, Peil and Roberts, had previously observed a brick wall behind the doorway where Deon was standing and proceeded to return fire. Officer Roberts fired five (5) rounds at Deon and Officer Peil fired ten (10) rounds; however, Deon fled back into the residence without being hit and without sustaining any injuries.

Officers Peil and Roberts backed away and headed toward their police vehicles. Shortly thereafter, Sarah's four-year-old son then emerged from the house, unharmed, and joined his mother by the police vehicles. Additional Officers arrived on-scene and surrounded the house. An ambulance arrived and transported Officer Peil to the hospital. Deon was later taken into custody.

Interview: Officer Alan Peil

Officer Alan Peil was interviewed by PCSO Detective Victor Herrera and CBI Agent Julie Petterson at the Pueblo Police Department on October 12, 2023. This was in the presence of his attorney, Thom LeDoux.

Officer Peil recounted that on October 4, 2023, he was working his assigned shift on the southside of Pueblo, when he was dispatched to a call that involved a male hurting a female inside a residence. Dispatch advised that the female said he had a gun, but the male in the background denied having a gun. Dispatch was not able to provide an exact location, but said the call originated from an apartment complex on Chatalet Ave.

Officer Peil responded to the call with Officer Jordan Roberts, where they had attempted contact at Apartment C by knocking on the door. There was no answer and no sign of an ongoing disturbance inside. Officer Peil recalled that a female in Apartment D told Officer Roberts that Apartment C was being rented out as an Airbnb and she had heard some sort of loud disturbance.

Officer Roberts attempted contact with the occupants in Apartment C by knocking on the door and Officer Peil heard Officer Roberts announce, "Pueblo Police Department, come to the front door".

Sarah Blanco opened the door and exited the apartment and Officer Peil heard Officer Roberts yell for "him" to come to the door and recalled that a party, later identified as Deon Council-Rivera, partially appeared in the doorway. Officer Peil was able to see Deon's left hand but could not see Deon's right side. Officer Peil drew his firearm, pointed it toward Deon, and verbally commanded him to "show his hands". Deon immediately retreated into the residence, at which time Officer Peil instructed Sarah to make her way to his police vehicle.

Officer Peil then saw Deon had returned to the doorway with a firearm in his hand. Officer Peil heard gunshots and was immediately struck twice. He initially believed he had been hit in the vest and in the arm. Officer Peil stated that he did not have time to give Deon any type of warning between seeing the firearm and being shot. He observed that there was a brick wall behind Deon, and Officer Peil returned fire. Officer Peil believed he fired his weapon five (5) to seven (7) times. After he was shot and fell to the ground, Officer Peil heard Officer Roberts yell "move". Officer Peil saw blood and realized he had been shot in the right shoulder and had difficulty using his arm. He switched his gun to his other hand and kept his sight on the door as the Officers backed away from the apartment.

A child appeared in the doorway, so Officer Peil yelled at the child to "come to him". He told the child to go to his mother, Sarah, so he would be safe. Officer Peil asked Sarah if anyone else was in the residence and she confirmed it was just the three of them. An ambulance arrived and transported Officer Peil to the hospital.

Summary of Officer Alan Peil's Body Worn Camera (BWC)

The review of the relevant portions of Officer Peil's BWC showed that his actions were consistent with his interview provided to PCSO Detectives and CBI Agents. The footage from his BWC was also consistent with the evidence that was analyzed, documented, and collected. At the time of the shooting, Deon appeared in the screen door with a gun in his hand and fired his gun in the direction of Peil, that hit him twice. When the first shot was heard, a muzzle flash was seen coming from the firearm Deon held and debris flew out in the direction of Peil, possibly from the screen door. Officer Peil yelled at the time of impact and then returned fire as he backed away from the door.

Interview: Officer Jordan Roberts

Officer Jordan Roberts was interviewed by PCSO Detective Victor Herrera and CBI Agent Julie Petterson at the Pueblo Police Department on October 12, 2023. This was in the presence of his attorney, Thom LeDoux.

He recounted that on October 4, 2023, he was working his assigned shift on the southwest side of Pueblo when he was dispatched to a domestic fight with weapons. He did not recall the exact address but recalled Dispatch mentioning something about a gun.

He responded to the call with Officer Alan Peil, where they attempted to contact Apartment C, knocked on the door and rang the doorbell. They did not receive an answer and did not hear signs of a disturbance. He went next door to Apartment D and contacted a female who said she heard a

loud disturbance in Apartment C. He returned to the front door of Apartment C and knocked on the door and announced himself as a police officer. He called his supervisor and provided him with an update on the situation.

Shortly after, the door to Apartment C opened and Deon appeared in the doorway. Officer Roberts did not see anything in Deon's hand. He asked Deon to step outside, but Deon ignored him and went back inside. A distraught female, later identified as Sarah Blanco, then came to the door and he told her to get away until they could determine what Deon was doing inside.

Deon then returned to the doorway. Officer Peil drew his firearm and told Deon to "show his hands". Deon retreated into the house. He believed Deon was going to get a firearm, so he drew his weapon and positioned himself behind Officer Peil. He had heard gunshots and knew Deon had shot at them. He saw bricks in the background and knew if he returned fire and missed it would go into the brick. He determined the shots came from the doorway, so he shot three (3) to four (4) times in defense of himself and his partner.

He took Sarah to the corner of the complex so she would be safe. When he turned back, he saw Officer Peil on the ground. Officer Peil said he had been hit so he told Officer Peil to come toward him while he covered the front door. They both moved away from the house and positioned themselves by Officer Roberts' police vehicle.

He asked Officer Peil if he was bleeding, and Officer Peil confirmed he was but said he would be "ok". He instructed Officer Peil to cover the front door while he got his rifle. Officer Peil then advised that a child had emerged from the house, at which point he saw the child run toward them. After Sarah and the child were safely secured, he got behind a shield and covered the front door until backup arrived. He was not aware of any other shots fired by any of the parties after that point. Once the scene was secured, he was removed from the scene.

Summary of Officer Jordan Roberts' Body Worn Camera

The review of the relevant portions of Officer Roberts' BWC showed that his actions were consistent with his interview provided to PCSO Detectives and CBI Agents. The footage from his BWC was consistent with the evidence that was analyzed, documented, and collected. The footage confirmed that when Deon appeared in the doorway, just prior to the shooting, the screen door did not open prior to shots being fired. Instead, Deon shot through the screen and Officer Peil leaned forward in a manner consistent with being shot. Sarah was behind Officer Roberts at the time and started to run when shots were fired.

Defendant Interview: Deon Council-Rivera

Deon Council-Rivera was interviewed by PCSO Detective Victor Herrera and CBI Agent Danny Garcia at the Pueblo County Sheriff's Office Investigations Annex on October 4, 2023. Deon was mirandized and agreed to speak.

Deon said he worked as an armed security guard for DC security and had a 9mm handgun for his security job. On the morning of October 4, 2023, Deon said he was arguing with his girlfriend, Sarah Blanco, and police arrived in response to her calling "9-1-1". He also said he knew they were cops because they knocked on the door and announced and he saw the uniforms.

When he came to the door, he saw Officers with their guns drawn and got scared. In turn, he ran back into the house to get his gun, which he had on the table near the entrance of the house. When the cops told him to “come outside”, he returned to the open door and fired several rounds with one hand. Deon said he did not aim or tried to shoot anyone, but he knew firearms can kill and did not know why he put his hand out and started shooting. Deon believed the Officers shot back at him because he heard their gunfire.

After he fired the initial shots, Deon said he went back inside and called his mother. He told her what he had done and that he wanted to kill himself. His mother told him not to kill himself or make the police kill him. She told him that he needed to go outside and surrender. Deon proceeded to remove all his clothes, except his boxers, so the Officers could see he was unarmed.

Officer Involved Processing: Officer Alan Peil

Officer Peil was processed by PCSO Detective Vanessa Simpson at Parkview Hospital. Photos were taken of Officer Peil and his injuries. Officer Peil’s uniform, including his clothing, boots, duty belt, and vest, were taken back to the Pueblo Police Department and processed. Officer Peil had a bullet hole around his right shoulder area and an abrasion on the left side of his abdomen, just above his belt line. Officer Peil’s holster, vest, and duty belt contained suspected blood on the right side, including on his asp, handcuffs, and OC spray. A one-centimeter by one-centimeter defect was in the lower left corner of the vest. The projectile was recovered after a small cut was made on the bottom of the vest.

Detective Simpson examined Officer Peil’s duty weapon, which was armed with one-live cartridge in the chamber. The weapon was made “safe” when the magazine and the cartridge in the chamber were removed from the weapon. The extra magazine he had was removed and placed with the other items. His other spare magazine was missing from his vest carrier but was later located at the scene of the incident, near where he fell to the ground. All live cartridges were removed out of the magazines separately to count how many live cartridges were left.

The results of Officer Peil’s processing were a Glock 17 9mm handgun (serial number: BTWP616), one-live cartridge in the chamber and seven-live cartridges out of a possible 17 from the magazine which were in his handgun. The other two magazines, one on Officer Peil and one recovered from the scene, had 17-live cartridges out of a possible 17 cartridges. In total, Officer Peil had 42-live cartridges out of a possible 52 cartridges. Officer Peil’s firearm had suspected blood transfer on the grip of the firearm and suspected blood at the base of the magazine that was removed from the firearm.

Officer Involved Processing: Officer Jordan Roberts

Officer Roberts was processed by PCSO Lieutenant Bethany Solano at the Pueblo Police Department. Full body photos were taken of Officer Roberts, including his back, arms, and duty belt. No items with evidentiary value were located.

Officer Roberts was brought into a dark room where an Alternative Light Source (ALS) could be used to examine his clothing. With this process a bright white light is passed over an individual’s

clothing and hands. The ALS was used to search for any biological (blood) evidence. Officer Roberts was searched using the ALS but did not appear to have any biological evidence on him.

Lieutenant Solano then examined Officer Roberts' duty weapon, which was still armed with one-live cartridge in the chamber. The weapon was made "safe" by removing the magazine in the weapon and the live cartridge in the chamber of the weapon. The live cartridges and magazine were placed with the weapon. The two extra magazines he had were removed and placed with the other items. All live cartridges were then removed out of the magazines separately to count how many live cartridges were left.

The results of Officer Roberts' processing were a Glock 17 9mm handgun (SN BTWP627), one-live cartridge in the chamber and 12-live cartridges out of a possible 17 cartridges from the magazine which was in his handgun. The other two magazines were on Officer Roberts had 17-live cartridges out of a possible 17 cartridges. In total, Officer Roberts had 47-live cartridges out of a possible 52 cartridges.

Scene Processing: 2101 Chatalet Lane, Apartment C

PCSO Detective Vanessa Simpson responded to 2101 Chatalet Lane, Apartment C, where the shooting had occurred. Digital photographs were taken of the scene, that began with the two fully marked patrol vehicles driven by Officer Peil and Officer Roberts. Nothing of evidentiary value was observed in or around Officer Peil's vehicle; however, small blood drops were observed near the grass area behind Officer Roberts vehicle. A small amount of blood spatter was also observed on a light pole located next to the sidewalk in front of Apartment A.

A pair of sunglasses, a spare magazine with 17-9mm rounds, and small flashlight were found around the grass area outside Apartment C. All three items were believed to belong to Officer Peil. Several bullet defects were observed in the front door, the screen door, the frame around the window, and the brick wall around the door leading into Apartment C. Several spent shell casings were located on the sidewalk and in the grass. Two rounds were observed to have traveled across the street. One went through a street sign and the other went through a white fence at 4161 Chatalet.

Inside Apartment C, several spent shell casings were found just inside the doorway. One 9mm handgun with one-live round in the chamber and 12 rounds in the magazine were found in the north bedroom closet, on top of a pile of clothing. In total, 15 spent 9mm casings were found outside of Apartment C and four (4) spent 9mm casings were found inside of Apartment C. These were all photographed, collected from the scene, and marked with evidence placards.

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. *See also* Graham v. Connor, 490 U.S. 386 (1989). "The Fourth Amendment "reasonableness" inquiry is whether the officers' actions are "objectively reasonable" in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation."

Conclusion

Officer Peil and Officer Roberts responded to a "9-1-1" call regarding a domestic fight with weapons. While investigating the situation, the suspect, Deon Council-Rivera, shot four rounds at the Officers through the screen door leading into Apartment C of the Chatalet Apartments, hitting Officer Peil twice. Officer Peil and Officer Roberts returned fire in the direction of the threat, firing a total of 15 rounds collectively. None of the 15 rounds fired by the two Officers hit Deon or any other parties in the area.

Based on the facts of the investigation conduct by CIT investigators, the use of force by PPD Officers Alan Peil and Jordan Roberts appeared to be justified based on the fear and threat of serious bodily injury or death posed to them by Deon Council-Rivera when he shot multiple rounds at them with a semi-automatic handgun. This conclusion is based off interviews of the involved officers, statements made by civilian witnesses, to include Deon Council-Rivera, body worn camera videos, crime scene and evidence processing, and the execution of search warrants.

There is no evidence or facts collected to support any criminal wrongdoing by either Officer Peil or Officer Roberts during the Officer Involved Shooting (OIS) incident. The actions taken by Officers Peil and Roberts during the OIS incident were conducted with the justified belief that their lives were in jeopardy. The body worn camera videos, along with the statements made by both civilian and law enforcement witnesses, make clear that Deon Council-Rivera was in possession of a 9mm, semi-automatic handgun.

It is my conclusion, based on the circumstances, that both Officer Peil and Officer Roberts were justified by the Self-Defense provision 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 Deon Council-Rivera, and they reasonably believed that a lesser degree of force would be inadequate. They had reasonable grounds to believe, and did believe, that they were in imminent danger of being killed or receiving great bodily injury. The actions of Officer Peil and Officer Roberts 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 either Officer Alan Peil or Officer Jordan Roberts would not be appropriate. Therefore, no criminal charges will be filed.

Dated this 8th day of April 2021



J.E. Chostner
District Attorney

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