



**OFFICE OF THE
DISTRICT ATTORNEY**

**Kala Beauvais, District Attorney
10th Judicial District, Colorado**

July 8, 2025

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

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

RE: District Attorney CIT Decision Letter
Officer Involved Incident December 26, 2023
Location: Broadway & East Evans Ave Pueblo CO, 81004
Decedent: Jerome Lee Avalos
Officers Involved: Richard Giconi, Tyler Okonsky

Dear Chief Noeller and Sheriff Lucero:

The 10th Judicial District Critical Incident Team (CIT) was activated on December 26, 2023 to investigate an Officer Involved Shooting (OIS) Incident which resulted in Officer Richard Giconi and Tyler Okonski discharging their firearms. The original call for service began on December 26, 2023, when the Pueblo Police Department responded to an armed carjacking that occurred on 45 Bonnymede Road 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 10th Judicial District Attorney's Office (DA) and the Colorado Bureau of Investigation (CBI). After the investigation, the CIT prepared and submitted an executive summary and its investigative reports 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 December 26, 2023, at 2:42 p.m., PPD Officers Kalob Johannsen and Jonathan McMillan responded to 45 Bonnymede Road, Pueblo CO, on a report of an armed carjacking. Upon arrival the victim of the carjacking, Louis Domenech, told officers that he was approached by the suspect as he was unloading groceries from his car. The suspect approached him with a gun and was wearing a ski mask. The suspect told him to put all his items back into his car and to give him his car. Mr. Domenech complied with the demands of the suspect. After the suspect left in Mr. Domenech's gray Jeep Patriot bearing a Florida license plate number 88AAUX (VIN: 1C4NJPFAXHD187831), Mr. Domenech called the police. Mr. Domenech had a tracker in his car and could see the car's location on his phone through an application called LoJack Now.

Mr. Domenech gave Officer McMillan access to his phone to watch the tracking application. Officer McMillan aired the description of the vehicle and then started airing the location of the vehicle along with continuous updates in the changing location of the vehicle.

PPD Officer Monte Montez was able to locate the stolen Jeep driving southbound on Lake Avenue. Officer Montez was driving northbound on Lake when he first saw the vehicle. When he drove past the vehicle, he saw two male parties in ski masks. Officer Montez performed U-Turn and got behind the stolen Jeep. He turned on his lights and sirens. The suspects began to elude Officer Montez by running stop signs, driving on the sidewalk, and driving against the flow of traffic. The vehicle continued to elude driving from the residential streets to Pueblo Boulevard. Then, the vehicle turned from Pueblo Boulevard onto Prairie Avenue going northbound. The Jeep was driving at an excessive speed going over 80 miles an hour on Prairie Avenue. The Jeep continued to drive at extremely high speeds until it crashed at 311 Abriendo Avenue by running into a chain link fence. When the car crashed the two passengers ran in different directions. PPD Sergeant Stephen Biggs was on scene at the car crash and ran after one of the suspects, who was later apprehended and identified as Ralph Sanders. Officer Montez pursued the other suspect, later identified as Jerome Avalos.

As Officer Montez ran towards Avalos, he observed Avalos slip and fall. When Avalos was attempting to get back on his feet, Officer Montez observed a black handgun and aired on the radio that the male had a gun in his hand. At this time, Avalos was running toward Broadway Avenue next to Hercules Liquor.

Officer Giconi and Okonsky arrive at the scene when Avalos is running toward Hercules Liquor. The officers exit the patrol vehicle and Officer Giconi yells "get on the fucking ground, get on the ground," at Avalos several times. Avalos continues to run behind Hercules Liquor. Officers Giconi and Okonsky pursue the suspect and are in front of the building. Avalos rounds the corner and faces officer Giconi and Okonsky. Avalos begins to raise his arm and Officers Giconi and Okonsky fire their weapons. Avalos falls to the ground.

Officer Montez responds to where Avalos is laying on the ground. He kicks the firearm away from Avalos and places him in handcuffs. He immediately renders aid after Avalos is in handcuffs. Avalos was later pronounced dead on scene. The firearm located near Avalos was a Beretta 9mm handgun.

Interview: Officer Richard Giconi

Officer Richard Giconi was interviewed by PCSO Detective Steven Chavez and PCSO Detective Vanessa Simpson on January 2, 2024, at the Pueblo Police Department. This interview was conducted in the presence of his attorney, Ramsey Lama.

Officer Giconi noted that on the date of the incident he was training a recruit, Officer Okonsky, and that it was his second week training with him. Prior to the dispatch, Giconi and Okonsky were working on a recovered stolen vehicle call. After clearing that call, the officers heard the dispatch for a carjacking in progress. Officer Giconi advised Officer Okonsky to start driving in the direction of the carjacking. The officers initially responded to 45 Bonnymede, but did not stop to re-interview anyone who had already spoken to other officers. Giconi and Okonsky initially travel towards the Val-u Stay to locate the stolen vehicle. At this time, the dispatch aired that there was GPS tracking of the stolen vehicle. Officers Giconi and Okonsky started heading south and drove to Minnequa and Lake. A subsequent GPS update informed Officer Giconi that the suspect vehicle was in his area. He also heard about the extreme excess speeds driven by the fleeing vehicle. Officer Giconi expressed concern that the suspect vehicle was driving towards an area of downtown Pueblo where there were a lot of people and the vehicle was driving in an extremely dangerous fashion.

Officers Giconi and Okonsky were driving on Broadway when it was aired that the suspect was running northbound. As the Officers drove, Officer Giconi saw the suspect running with an Officer chasing him. Officer Giconi stated that he saw the suspect and the suspect pointed his firearm at Giconi prior to him exiting the vehicle. Shortly after this, he directed Okonsky to stop the vehicle and exit the vehicle.

After exiting the vehicle, Officer Giconi described the suspect running behind a building and then seeing him again in an alley. When Officer Giconi saw the suspect for a second time, he described that the suspect "bladed his body and he faced me and we made eye contact and he took two steps forward and started raising his gun," Giconi Transcript on Page 9.

Officer Giconi noted that he gave the suspect multiple commands to "get on the ground". At this time Officer Giconi was fully uniformed. The suspect did not stop in response to Officer Giconi's commands.

Officer Giconi stated that he knew prior to seeing the suspect that he had a handgun. Officer Giconi also saw the gun when he first saw the suspect.

Officer Giconi described the backstop for the shooting. He noted that behind the suspect was a brick-and-mortar building. He noted that this was important because it was a long shot for a handgun and if his shot did not strike the target it would stop in the building.

Upon further follow-up questioning, Officer Giconi described the gun as in a "low-ready" position prior to raising the gun. Officer Giconi described the low ready position as holding your handgun down. He described that it is very fast to raise the gun up because that is how police officers' train. When he saw the suspect raise his gun, Officer Giconi stated that he did not have additional time to give additional commands because he was at risk of being shot by the suspect.

After the shooting, Officer Giconi did not approach the suspect. Officer Giconi could see that the suspect was still moving and was concerned that the suspect may be able to reach his handgun or produce another weapon. Officer Montez approached the suspect and placed him into handcuffs.

Interview: Officer Tyler Okonsky

Officer Tyler Okonsky was interviewed by PCSO Detectives Steven Chavez and Vanessa Simpson on January 2, 2024, at the Pueblo Police Department. This interview was conducted in the presence of his attorney, Ramsey Lama.

Officer Okonsky stated that he and Officer Giconi were finishing up with a call for a recovered stolen vehicle when the dispatch came on about the carjacking in progress. Officer Okonsky was aware that the carjacker was armed and there were two male suspects from the carjacking.

Officer Okonsky described initially seeing the suspect as he drove the car. He reported seeing the handgun in the suspect's hand and Officer Giconi yelling for the suspect to "get on the ground". Officer Okonsky described the suspect falling to the ground, doing a barrel roll, and then returned to his feet with the firearm and continued to run. Officer Okonsky then parked the car as the suspect was running. He exited the car and described the suspect blading his body toward his partner with his gun at a low ready position. Officer Okonsky described yelling "get on the ground" and then fired his weapon.

In follow-up questioning, Officer Okonsky stated that the suspect was "bladed toward Officer Giconi". He noted that this position is a more accurate position to shoot the target. This was after Officer Giconi had yelled at the suspect to "get on the ground".

Officer Okonsky described that another Officer went to render aid to the suspect after he was shot. He explained that he was directed to leave the area at this time.

Officer Okonsky described the backdrop of the shooting. He noted that there was a concrete wall behind the suspect and that if he shot and missed that the shot would hit the wall. He also noted that he did not see anyone behind the defendant. He contrasted this with the backdrop behind himself and Officer Giconi. The officers were near restaurants and businesses, where people may have been inside.

Officer Okonsky noted that the suspect never said anything to officers until after the shooting occurred. After the shooting, he remembered the suspect saying that he was hit.

Officer Okonsky noted that several of the cars chasing the defendant had lights on and that there were several marked patrol vehicles chasing the suspect. He and Officer Giconi were also in a marked patrol vehicle.

Officer Okonsky stated that because the suspect was recently involved in an armed carjacking and an extremely dangerous car eluding it gave him concern that the suspect could use his weapon to harm another member of the community. He noted that the suspect ignored commands to get on the ground and bladed his body toward Officer Giconi making him fear of the safety of himself and Officer Giconi, which was why he fired his weapon.

Summary of Witness Interviews

After the incident, Officers with the Pueblo County Sheriff's Department performed a neighborhood canvass to interview witnesses to the shooting and the events preceding the shooting. Jennifer Lunde-Elder was interviewed. She reported she saw the stolen Jeep crash and that she had to run out of the way of the car prior to the crash because it was coming straight at her. She noted two males in the vehicle. She saw the driver holding the gun. She stated that the driver exited the vehicle and ran toward the liquor store. When the car crashed, Ms. Lunde-Elder saw two police patrol vehicles with visible lights and audible sirens on.

Officers also spoke with Asriel Pena, who worked at Taco Bell, which is located close to Hercules Liquor. Ms. Pena walked to work with her boyfriend when she saw a car speed by, and cop cars followed. Ms. Pena and her boyfriend ran to see what was going on and then saw a male run. The male pointed a gun at them. Ms. Pena did not believe the male would shoot her and thought he pointed the gun at them to get them to stop following him. Ms. Pena reported that the male ran to toward the liquor store. She heard gunshots and heard Officers say, "drop the gun". Ms. Pena reported being shaken up and scared by the incident.

Officers attempted to interview Ms. Pena's boyfriend, Malaki. Malaki did not want to talk and made a statement that the guy was "shot by the cops because he was a dumbass and ran".

Officers spoke with Tobi Cary who worked as the manager at Gypsy Java's Coffee shop, located at 119 Broadway. Ms. Cary was in the alley across from the liquor store, outside with her daughter in the vehicle when she observed this incident. Ms. Cary heard an Officer say, "get down" and then observed a tall bald Officer shoot another guy she observed to have a gun. Officers asked Ms. Cary if she saw who the police were shooting at. She informed them it was the guy dressed in all black holding a gun she saw in the alley. Ms. Cary observed several police officers in the area she described as "being in full uniform" and several police cars with police markings on the sides equipped with lights and sirens.

Summary of Body Worn Camera: Richard Giconi

Officer Giconi's body worn camera began when he was in the passenger seat of the patrol vehicle, which was driving northbound on Broadway Ave. toward Abriendo Ave. At 0:17 seconds of the video, you can see Officer Giconi gesture to Officer Okonsky and turn toward his side window. Based on the position from the body worn camera, you cannot clearly see what Officer Giconi saw at this point. The car briefly reversed and at 0:26 seconds of the video, you see Officer Giconi gesture again, where he appeared to point outside the car. Immediately after this gesture, Officer Giconi unholstered his weapon and exited the vehicle. The audio began at 0:30 seconds of the recording, which was standard for body worn cameras. Once the audio began, Officer Giconi yelled "get on the ground, get on the fucking ground". At 0:33 seconds, the suspect was seen running behind Hercules Liquor on Officer Giconi's body worn camera. From 0:34-0:38 seconds, Officer Giconi ran in front of Hercules Liquor and was heard yelling "he's got a gun", multiple times. At this time, Officer Giconi went to the north corner of the store closest to Broadway Ave. He looked around the corner toward the alley behind the store. The defendant came into the picture at around 0:39 to 0:40 seconds. The footage was at a distance, but the defendant appeared to be facing Officer Giconi. At this time, you can hear Officer Okonsky yell "get on the ground" and the shooting began. At 0:48 seconds, Officer Giconi yelled "ceasefire," and the shooting stopped.

Afterward, other officers were seen contacting the suspect and Officer Giconi walked toward the other officers on the scene.

Summary of Body Worn Camera: Tyler Okonsky

Officer Okonsky was seen driving the patrol vehicle. The location of the body worn camera only allowed the viewer to see inside the car before the officers exited the vehicle. The same gestures noted in Officer Giconi's body worn camera were seen in this footage as well. As Officer Okonsky exited the vehicle, he saw Officer Giconi run alongside the front of Hercules Liquor. Officer Giconi yelled that the suspect had a gun and was audible during this time. Officer Okonsky approached the corner of the building next to Officer Giconi. At 0:39 seconds, Officer Okonsky was heard yelling "get on the ground" and then the shooting began. Officer Okonsky was escorted away from the area as other officers contacted the defendant.

Summary of Body Worn Camera: Monte Montez

Officer Montez's body-worn camera began as he responded to the area where the suspects crashed the stolen Jeep. At approximately 0:36 seconds, Officer Montez passed the crashed Jeep and was told that "one went north, one went south". At this time, Officer Montez responded that he would go north. During the next portion of the body worn camera footage, Officer Montez was running north in pursuit of the suspect. The suspect was seen in the distance as Officer Montez was pursuing him. At 1:15 on the video, Officer Montez aired that "he has a black handgun in his hand". At 1:18 of the video, Officer Montez was behind Hercules Liquor in the alley behind the store. The suspect was seen walking toward the position of Officers Giconi and Okonsky. At 1:19 of the video, Officer Montez yelled "drop the gun". The suspect can be seen with his arm raised with his firearm at the same time the shooting began at 1:20 in the footage. Officer Montez approached the suspect, kicked the handgun away from him, and placed the suspect in handcuffs. Afterward, Officers were directed to retrieve a gunshot wound kit.

Officer Involved Processing

Lieutenant Bethany Solano of the Pueblo County Sheriff's Office processed Officers Giconi, Okonsky, and Montez. Lieutenant Solano took full body photographs and processed the officers' weapons. Officer Okonsky reported topping off his magazines and kept a round in the chamber of his pistol. The magazine from Officer Okonsky's firearm contained four live rounds and one round in the chamber. The magazine has a 17-round capacity. Officer Okonsky was down 13 rounds. Officer Giconi also reported topping off his magazines and kept a round in the chamber of his pistol. Officer Giconi's firearm contained nine live rounds and one round in the chamber. Officer Giconi was down eight rounds. Officer Montez did not discharge his firearm but some of his clothing was processed because he had rendered aid to the suspect and had blood on his clothing.

Scene Processing

The scene was processed by Detective Vanessa Simpson of the Pueblo County Sheriff's Office. She photographed the scene and recovered 21 spent shell casings on the front/west side of the liquor store. She also collected the Beretta 9mm handgun located near Avalos. That weapon had a round in the chamber and eight rounds in the magazine.

Autopsy

On December 29, 2023, Dr. Daniel Lingamfelter, a forensic pathologist employed with Pueblo County, performed an autopsy at St. Mary Corwin medical center. Dr. Lingamfelter noted eight gunshot wounds to Avalos. Dr. Lingamfelter noted that the gunshot wound that entered on the mid chest perforated the heart and right lung resulting in massive blood loss. Dr. Lingamfelter reported the manner of death as homicide and the immediate cause was multiple gunshot wounds.

Avalos' blood was analyzed by a forensic toxicologist, and the analysis was reported as part of the autopsy report. The analysis showed that Avalos had methamphetamine and fentanyl in his system at the time he was killed.

Based on the evidence, it was determined that the officers discharged their weapons, killing Avalos. These findings were consistent with the injury, the evidence from the scene, and witness interviews.

Legal Guidelines

A person is justified in using physical force upon another person in order to defend himself or a third person from what he reasonably believes to be the use or imminent use of unlawful physical force by that other person. Furthermore, he may use a degree of force which he reasonably believes to be necessary for that purpose. §18-1-704(1), C.R.S.

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

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

A peace officer is justified in using deadly 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 of receiving great bodily injury. §18-1-707(4.5)

Conclusion

Based on the facts of the investigation conducted by CIT investigators, the use of force by PPD Officers Richard Giconi and Tyler Okonsky was justified based on the fear and threat of serious bodily injury or death posed as a result of Avalos committing an armed carjacking, dangerously eluding the carjacking, refusing commands to drop to the ground, and beginning to raise a firearm toward Officers. Avalos clearly knew he was being pursued by many Officers given the lengthy period of eluding prior to him crashing the stolen vehicle. Officers reasonably believed that Avalos would seriously injure or kill another officer, a civilian, or Officers Giconi and Okonsky. There was not much time between Officers Giconi and Okonsky exiting the car and the shooting. However, during this time, Avalos had already engaged in an armed carjacking, dangerous eluding, ran from other officers, and had been reported to have a firearm multiple times. Avalos also ignored Officer Giconi's lawful command to "get on the ground". The Officers were reasonable in thinking that Avalos may fire the weapon at them or others, creating an immediate threat to life. This conclusion was based on interviews of the officers involved, civilian witnesses to the incident, body worn camera video, and crime scene and evidence processing. The statements provided by all officers and witnesses were consistent with each other, consistent with the evidence from the scene, and consistent with the footage of the incident.

There was no evidence or facts collected to support any criminal wrongdoing by Officer Giconi or Officer Okonsky during the OIS incident. The actions taken by Officer Giconi and Officer Okonsky during the OIS incident were conducted with the justified belief that their lives, the lives of fellow officers, or the lives of the residents in the area were in jeopardy.

It is my conclusion based on the circumstances that Officers Richard Giconi and Tyler Okonsky 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, fellow officers, and nearby civilians from what they reasonably believed to be the imminent use of unlawful physical and deadly force by Jerome Avalos, and they reasonably believed that a lesser degree of force would be inadequate. Officers Giconi and Okonsky 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 Officers Giconi and Okonsky 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 Officer Richard Giconi and Officer Tyler Okonsky would not be appropriate, and therefore no criminal charges will be filed.

Dated this 8th day of July

Kala Beauvais

Kala Beauvais
District Attorney