



OFFICE OF THE DISTRICT ATTORNEY

TWENTIETH JUDICIAL DISTRICT

Stanley L. Garnett, District Attorney

September 14, 2009

Chief Michael Butler
Longmont Police Department

Sheriff Joe Pelle
Boulder County Sheriff's Office

Dear Sirs:

My office has reviewed the facts and circumstances of the officer-involved shooting on August 10, 2009, by officers of the Longmont Police Department and Boulder County Sheriff's Office. Brian Naranjo was killed in the incident. The following officers fired lethal or potentially lethal rounds: Officer Bruce Pettitt, Officer Mike Snelson, and Officer David Bonday of the Longmont Police Department and Deputy Todd Moody of the Sheriff's Office. Additionally, Sgt. Jason Oehlkers of the Sheriff's Office fired a less-than lethal bean bag round during the incident. The shooting came after Mr. Naranjo displayed a firearm during a traffic stop and then led officers on a vehicle chase on the east side of Longmont.

My office reviewed the officers' actions, as in all cases of officer-involved shootings, to determine whether a prosecution of one or more of the officers is appropriate. As part of this analysis, we reviewed all associated records, including: a power point presentation summarizing an investigation of the shooting, reports of the officers who were involved in the incident, reports of investigators from the multi-agency Boulder County Investigation Team, reports and computer animations produced in connection with an accident reconstruction performed by the Boulder Police Department, transcripts of interviews with involved officers, use of force policies for the Boulder County Sheriff's Office and Longmont Police Department, training records of the officers involved, and computerized dispatch logs. The facts of the incident were then considered in light of Colorado statutes controlling law enforcement application of deadly physical force.

The facts surrounding the shooting of Brian Naranjo, as determined by the Boulder County Investigation Team (shoot team), are as follows:

1. At 2:46 a.m. on August 10, 2009, Deputy Todd Moody of the Boulder County Sheriff's Office initiated a traffic stop on a car driven by Brian Naranjo. Deputy Moody stopped Mr. Naranjo after observing that the temporary license tag on the vehicle looked suspicious and that a large pair of dice hanging from the rear view mirror was obstructing Mr. Naranjo's vision. The stop occurred near the intersection of Eighth Avenue and Lashley Street in Longmont. Mr. Naranjo was alone in the car.
2. Deputy Moody, a five-year veteran of the Sheriff's Office, felt that Mr. Naranjo was unusually nervous and fidgety. Mr. Naranjo was unable to produce a driver's license or any documentation related to the Honda Accord he was driving. Deputy Moody also noticed an odor of marijuana from the car. Mr. Naranjo admitted that he had smoked marijuana earlier in the day.
3. Mr. Naranjo became agitated when Deputy Moody told him he had been stopped for the dice hanging from the rear view mirror. He said the traffic stop was "bullshit" and tossed the dice onto the passenger seat. Deputy Moody also saw him talking on a cellular phone and apparently sending text messages. Meanwhile, he learned from a dispatcher that Mr. Naranjo was wanted on a warrant for failing to appear in court, and that the temporary tag on the car had been reported stolen. He requested additional officers for backup before arresting Mr. Naranjo on the warrant.
4. While Deputy Moody was waiting for officers to arrive, two women—later identified as Jennie Vigil and Maria Salazar—approached on foot. Ms. Salazar said that she owned the car Mr. Naranjo was driving, and said she could find the registration and insurance card in the car. Deputy Moody allowed the women to go to the car and talk to Mr. Naranjo. Ms. Salazar was unable to locate the documents.
5. Sheriff's Deputy Randy Wilber arrived at 2:59 a.m., followed a minute later by sheriff's Sgt. Jason Oehlkers, a 13-year veteran of the Sheriff's Office. Deputy Wilber reported that he heard radio traffic about the warrant and the stolen temporary tag as he pulled up. After Deputy Wilber and Deputy Moody conferred, they asked the women to step away

from the car and moved forward to take Mr. Naranjo into custody. While standing behind the Honda, Deputy Moody asked Mr. Naranjo to step out. Mr. Naranjo shook his head and said he was not going back to jail. Both Deputy Moody and Deputy Wilber later recalled hearing this statement. When interviewed later, Ms. Salazar also said she heard Mr. Naranjo say "I can't go back." Deputy Moody repeated the request several times, but Mr. Naranjo remained seated. Deputy Moody then moved to the driver's side of the car while Deputy Wilber advanced up the passenger side.

6. Deputy Wilber began speaking to Mr. Naranjo through the open passenger side window, again asking him to get out of the car. He saw Mr. Naranjo slide his right hand under his right leg and pull out a handgun. Deputy Wilber then saw Mr. Naranjo move the gun up to the area of his chest and point it toward the driver's door. He began to swing the gun toward Deputy Moody who was standing further back on the driver's side.
7. Deputy Wilber stepped back, drew his sidearm and yelled, "Gun, he's got a gun." Deputy Moody heard this, pulled his gun, and began ordering Mr. Naranjo to show his hands and put his hands on the steering wheel. He recalled shouting these commands six to nine times. Mr. Naranjo did not comply. Deputy Wilber stated that he was about to shoot when Mr. Naranjo lowered the gun.
8. While the deputies kept their weapons on Mr. Naranjo, Sgt. Oehlkers went to his vehicle to retrieve a less- than lethal shotgun that fired bean bags. Before he could return, Mr. Naranjo drove away.
9. Sgt. Oehlkers and the deputies began pursuing Mr. Naranjo through residential areas of east Longmont. The chase would last more than 20 minutes and involve about a dozen patrol cars from the Sheriff's Office and Longmont Police Department. Officers who joined the pursuit had been notified by radio that Mr. Naranjo had brandished a handgun at a deputy.
10. The ensuing chase fell within the pursuit policies of both the Longmont Police Department and Boulder County Sheriff's Office.
11. Several minutes after the chase began, Sgt. Oehlkers and the deputies lost Mr. Naranjo for about a minute. Longmont officers who had responded to the deputies' radio traffic quickly spotted him and joined the pursuit, as

did additional sheriff's deputies. All of the officers and deputies were in full uniform and driving marked patrol vehicles.

12. Mr. Naranjo drove at speeds between 30 and 50 miles per hour for most of the pursuit. He ran through several stop signs and red lights without stopping. He also drove the wrong direction around traffic circles. Various officers attempted to get in front of Mr. Naranjo and deploy "stop sticks" in the roadway. He managed to veer around one set that was in his path. On another occasion, Mr. Naranjo nearly rammed a patrol vehicle that was blocking his path at an intersection. He also nearly hit several patrol cars that were close to him during the chase.
13. Mr. Naranjo drove into a dead end street, then left the road and drove across a field. He returned to the streets on Third Avenue and headed west toward Main Street. His speed on Third Avenue increased dramatically. While on Third Avenue, Mr. Naranjo was driving west in an eastbound lane and nearly collided head-on with a truck that was travelling eastbound. At that point, Longmont Sgt. Eric Lewis authorized Officer Bruce Pettitt to initiate a P.I.T. maneuver. A P.I.T. maneuver involves an officer driving his vehicle into the rear end of another car in a manner that causes the car to spin and stop. Officer Pettitt was certified to perform the P.I.T. maneuver.
14. Officer Pettitt moved into position and struck Mr. Naranjo's vehicle near the intersection of Third Avenue and Emery Street. Several other officers reported seeing a cloud of dust and observing the headlights of Mr. Naranjo as it spun. Before coming to a stop, Mr. Naranjo's vehicle struck, or was struck by Officer Pettitt's car twice, an SUV driven by sheriff's Deputy Kelly Pohl, and a car driven by Longmont Officer Eric Hulett.
15. The Boulder Police Department traffic unit completed an accident reconstruction. Through interviews with the involved officers, calculations based on skid marks on the roadway and comparison of damage to various vehicles, the following conclusions were drawn:
 - Officer Pettitt hit the back of Mr. Naranjo's car, causing it to spin counter clockwise.
 - Deputy Pohl, who was close behind and travelling at a high rate of speed, unintentionally struck the Honda twice. The first was from the

back just as Mr. Naranjo's car began to spin and the second was on the right rear of the car, stopping the spin and sending the car rolling backwards.

- Officer Pettitt's patrol vehicle ended up perpendicular to the lanes of traffic. Mr. Naranjo's car rolled backward into the driver's side of Officer Pettitt's car.
 - Mr. Naranjo's car then began to roll forward because of the slope of the roadway. Officer Eric Hulett pulled his patrol car in front of the Honda and let it bump into the front of his car, coming to a complete stop.
 - As the chase concluded, more than a dozen vehicles from the sheriff's office, Longmont Police Department and Colorado State Patrol surrounded the Honda.
16. Officers quickly drew their weapons and took up positions around Mr. Naranjo's car. All reported having a clear view of Mr. Naranjo in the car because of a combination of street lights and patrol car spotlights trained on the Honda. Mr. Naranjo was clearly the only person in the car.
 17. Longmont Officers Pettitt, Bonday, Snelson, Michael Hazen, and Brent Cairns took up positions behind the Honda with their handguns drawn. Deputy Moody was armed with an AR15 rifle and stood on the driver's side of the car, slightly behind the driver's door. Deputy Pohl and Sgt. Oehlkers were on the passenger side of the car. Deputy Pohl had her handgun pointed at Mr. Naranjo; Sgt. Oehlkers was carrying the less-than-lethal shotgun. Also on the passenger side of the car were Longmont Officer Brett Rimsky and State Patrol Trooper Brandon Means
 18. Mr. Naranjo was still seated in the driver's seat. All of the officers stated that he was looking over his right shoulder at the officers and he was reaching for something in the console between the seats or on the floor. Deputy Pohl later said she told Mr. Naranjo to show his hands and he shook his head no while mouthing the word "no."
 19. Several officers positioned behind the Honda saw that Mr. Naranjo was holding a gun in his right hand. They began yelling "he's got a gun." This was overhead by other officers and by a nearby resident named Chris

Lamb. Various officers began shouting commands such as "show your hands" and "drop the gun."

20. All of the officers who fired their weapons were interviewed shortly after the shooting. They gave accounts of the moments surrounding the shooting.
21. Sgt. Oehlkers said that as he approached the passenger side of the Honda, he could hear other officers yelling commands at Mr. Naranjo. Mr. Naranjo was not responding. He decided to fire a bean bag round through the front passenger side window to establish communication with Mr. Naranjo and to let him know that officers were serious about ending a potential standoff. He aimed toward the front of the window to avoid hitting Mr. Naranjo and fired. Sgt. Oehlkers said that immediately after he fired, he heard several officers fire their weapons.
22. Officer Pettitt was standing behind the trunk of the Honda. He noted that the back window was already broken. He repeatedly told Mr. Naranjo to show his hands. He then noticed a gun in Mr. Naranjo's right hand. He told other officers he saw a gun and ordered Mr. Naranjo to drop the gun. He also heard other officers yelling commands. Officer Pettitt saw Mr. Naranjo turn around and make eye contact with him. Mr. Naranjo then twice said, "I can't (or won't) go back to jail." Mr. Naranjo then turned back toward the front of the car and raised the gun. Officer Pettitt then fired.
23. Officer Bonday, a 13-year officer with the Longmont Police Department, was standing at the back left corner of the Honda. He also could see the pistol in Mr. Naranjo's hand. He reported that he yelled several times for Mr. Naranjo to drop the gun and show his hands. He heard Mr. Naranjo repeatedly say, "Just do it, just do it." Officer Bonday observed Mr. Naranjo lift the gun three times. The third time, Officer Bonday saw the gun come up far enough that he felt he had to fire. He reported hearing other officers fire at the same time.
24. Officer Snelson was still in the Longmont Police Department trainee program on the day of the shooting. He had eight years prior service as a sheriff's deputy in Texas. As Officer Snelson was approaching the Honda on foot, he heard another officer state that Mr. Naranjo had a gun. He then heard Mr. Naranjo say "do it, do it." After he positioned himself behind

the Honda, he saw a gun in Mr. Naranjo's hand. The gun was pointed toward the passenger side of the car, and Officer Snelson feared for the safety of the officers there. He saw the gun come up and he fired. He later recalled that as he squeezed the trigger, he heard a shot from another officer.

25. From his position behind the Honda, Deputy Moody could see Mr. Naranjo sitting in the driver's seat. He observed Mr. Naranjo mouth the words "I'm not going back to jail" several times. He saw Mr. Naranjo reach toward the backseat and then turn back with his hands together as if he was holding something. Deputy Moody heard another officer yell "gun" and then shots were fired. When he saw Mr. Naranjo turn more quickly, he fired his AR15.
26. According to several law enforcement witnesses who did not fire their weapons, the officers fired simultaneously and seemed to stop at the same time.
27. The investigation revealed that Sgt. Oehlkers fired a single bean bag round from the shotgun, Officer Pettitt fired six rounds from a .45 caliber handgun, Officer Snelson fired three rounds from a .45 caliber handgun, Officer Bonday fired three rounds from his .45 caliber handgun, and Deputy Moody fired four rounds from his AR15 .223 caliber rifle.
28. When the shooting stopped Officer Pettitt and State Patrol Trooper Brandon Means approached the car from the passenger side. Trooper Means reached in and removed a revolver that was clutched in Mr. Naranjo's right hand. The gun was found to be a Taurus .22 caliber eight-shot revolver. It was fully loaded. It had not been fired.
29. Investigators contacted several of Mr. Naranjo's friends and family members to gather information about his background and why he would have brandished a handgun when officers attempted to arrest him. One friend, Kyla Weisberg, told detectives that Mr. Naranjo had previously told her that he would not go back to prison and would not be taken alive. (Mr. Naranjo had served three terms in prison. During one, he was stabbed by another inmate.)
30. The following day, August 11, 2009, Dr. John Meyer of the Boulder County Coroner's Office performed an autopsy on Mr. Naranjo. Dr.

Meyer reported 11 gunshot wounds: four to the head, two to the neck, one to the right shoulder, and four in the upper back. At least half of the wounds would have likely been fatal.

31. Testing of Mr. Naranjo's blood revealed a significant level of methamphetamine in his system.

The actions of the officers must be analyzed in the context of Colorado statutes that govern law enforcement's use of deadly physical force. "Deadly physical force" is defined as force, the intended, natural and probable consequence of which is to produce death, which does in fact produce death. C.R.S. § 18-1-901(3)(d). A peace officer is justified in using deadly physical force to effect the arrest of a person who the officer reasonable believes has committed or attempted to commit a felony involving the use of threatened use of a deadly weapon (C.R.S. § 18-1-707(2)(I)), is attempting to escape by the use of a deadly weapon (C.R.S. § 18-1-707(2)(II)), or was likely to endanger human life or inflict serious bodily injury unless apprehended without delay (C.R.S. § 18-1-707(2)(III).) A peace officer is also justified in using deadly physical force to defend himself or a third person from what he reasonably believed to be the use or imminent use of deadly physical force. C.R.S. 18-1-707(2)(a).

The officers who fired on Mr. Naranjo on August 10, 2009, had some or all of the following information:

1. Mr. Naranjo had a warrant for his arrest and was driving a car with a stolen temporary license plate.
2. Mr. Naranjo failed to comply with a deputy's request to get out of the car.
3. During the initial traffic stop, Mr. Naranjo pointed a gun in the direction of a sheriff's deputy and refused repeated commands to drop the gun and show his hands.
4. Mr. Naranjo fled the scene and led officers on a chase through residential areas of Longmont. During the chase, Mr. Naranjo showed a disregard for the safety of others when he nearly collided with several officers and at least one uninvolved motorist.

5. Mr. Naranjo made statements that he would not go back to jail and that officers should "just do it."
6. After the chase ended at Third Avenue and Emery Street, Mr. Naranjo again displayed a weapon and refused repeated commands to drop the gun.
7. Mr. Naranjo raised the gun in the direction of several law enforcement officers.

Because not all of the officers who fired their weapons had the same information or perceptions, each must be analyzed individually.

Officer Bruce Pettitt had been told that Mr. Naranjo menaced a sheriff's deputy with a handgun. He had seen Mr. Naranjo drive toward marked patrol cars during the pursuit. After the chase, Officer Pettitt personally observed Mr. Naranjo holding a handgun and was aware that Mr. Naranjo was not responding to commands to drop the gun. He heard Mr. Naranjo say, "I can't go back to jail." He saw Mr. Naranjo beginning to raise the gun and made the decision to fire. Officer Pettitt had probable cause to believe that Mr. Naranjo had committed the felony offense of menacing with a deadly weapon, and that Mr. Naranjo posed a significant threat unless apprehended immediately. He also had a reasonable belief that he was defending other officers from the imminent use of deadly force. Therefore, Officer Pettitt's use of deadly physical force was justified and no criminal charges are warranted.

Officer David Bonday was also aware that Mr. Naranjo had a warrant for his arrest and had pointed a weapon at a sheriff's deputy during the initial traffic stop. During the pursuit he saw Mr. Naranjo drive toward patrol vehicles that were trying to stop him. Later, from his position behind the Honda, he could clearly see that Mr. Naranjo was holding a handgun. Officer Bonday ordered Mr. Naranjo to drop the gun. Mr. Naranjo's only response was to say, "just do it." Officer Bonday saw Mr. Naranjo raise the gun slightly twice, and only made the decision to fire when he saw Mr. Naranjo raise the gun farther. Officer Bonday had probable cause to believe that Mr. Naranjo had menaced a law enforcement officer with a deadly weapon and that he would endanger human life unless apprehended without delay. He also was acting under a reasonable belief that he was defending other officers from the imminent use of deadly force. Therefore, Officer Bonday's use of deadly physical force was justified and no criminal charges will be filed.

Officer Mike Snelson, who was working with training officer Mike Hazen, recalled that he heard radio traffic that Mr. Naranjo was armed with a gun. He saw Mr. Naranjo nearly collide with an oncoming truck shortly before he was stopped. While moving toward the Honda heard an officer yell, "He's got a gun." He then heard Mr. Naranjo yell, "Do it, do it." Moments later he saw the gun in Mr. Naranjo's hand. Officer Snelson saw the gun was pointed toward the passenger door and he was concerned about the safety of the officers on that side of the car. When the gun came up toward the officers, he fired. Officer Snelson had a reasonable belief that Mr. Naranjo was menacing officers with a deadly weapon and that he was acting to defend the officers from the imminent use of deadly force. Therefore, Officer Snelson's use of deadly physical force was justified and criminal charges are not appropriate.

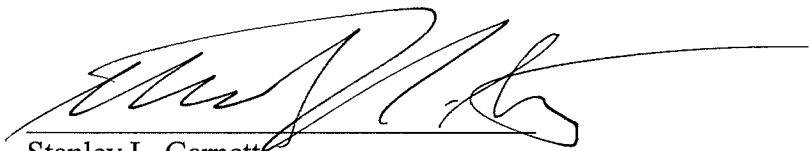
Deputy Todd Moody performed the initial traffic stop at Eight Avenue and Lashley Street. He was concerned about Mr. Naranjo's agitated behavior before calling for the first backup officers. He asked Mr. Naranjo to get out of the car and heard Mr. Naranjo respond that he was not going back to jail. He then heard Deputy Wilber yell "gun" and ordered Mr. Naranjo to show his hands. Mr. Naranjo did not comply, rather he drove off. At Third Avenue and Emery Street, Deputy Moody took up a position on the driver's side of the Honda. He saw Mr. Naranjo mouth the words "I'm not going back to jail." He saw Mr. Naranjo reach toward the back of the car and appear to retrieve something. Another officer then yelled "gun." He then heard gunshots from other officers. When he saw Mr. Naranjo speed up his movements, he made the decision to fire. Deputy Moody stated that he fired "to protect myself and other officers." Like the other officers, Deputy Moody had a reasonable belief that Mr. Naranjo was menacing officers with a deadly weapon and that he in firing his weapon he was acting to defend himself and other officers from the imminent use of deadly force. Therefore, Deputy Moody's use of deadly physical force was justified and no criminal charges will be filed.

Sgt. Jason Oehlkers did not employ deadly physical force. His actions are governed by the statutory provision on the use of physical force. Reasonable and appropriate physical force may be used to effect an arrest or to prevent an escape or to defend one's self or another from the imminent use of physical force. C.R.S. 18-1-707(1). Sgt. Oehlkers was at the scene of the initial traffic stop and planned to use non-lethal force when he understood that Mr. Naranjo as armed with a handgun and was not following commands to show his hands. At Third Avenue and Emery Street, Sgt. Oehlkers decided that enough officers had their guns trained on Mr. Naranjo and he decided to again attempt to use non-lethal force. In his interview, he stated, "He's armed and he's not obeying our commands. I don't know what he's going to do. My thought is, we've got to get this guy's attention to say, you know, we're going to (can't understand) force if you're not going to follow our commands." Given the totality of the

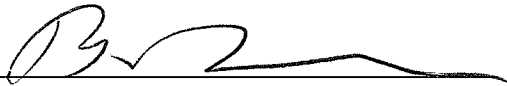
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circumstances, Sgt. Oehlkers' use of non-lethal physical force was justified. No criminal charges will be filed in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stanley L. Garnett', written over a horizontal line.

Stanley L. Garnett
District Attorney
Twentieth Judicial District

A handwritten signature in black ink, appearing to read 'Bruce Langer', written over a horizontal line.

Bruce Langer
Chief Trial Deputy District Attorney
Twentieth Judicial District