



**OFFICE OF THE DISTRICT ATTORNEY**  
21ST JUDICIAL DISTRICT OF COLORADO

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July 17, 2013

Mark Angelo  
Chief of Police  
Fruita Police Department  
101 West McCune Avenue  
Fruita, CO 81501

RE: June 15, 2013 shooting incident investigated by the 21<sup>st</sup> Judicial District Critical Incident team

Dear Chief Angelo:

As you know, members of your agency were involved in a situation which culminated in the death of an individual named Lewis B. Pollard (DOB 12/24/1951) at 159 Hollyberry Way in Fruita on June 15, 2013. My understanding is that a request was made that the Critical Incident Team for the 21<sup>st</sup> Judicial District (CIT) be activated and conduct a complete investigation. That investigation has now been completed and has been submitted to me for my review.

In reviewing this investigation I have carefully considered all evidence which was gathered by the CIT. I have reviewed the entire case file and all reports which were authored by anyone involved in the investigation. I have viewed all of the videotapes and photographs which were taken in connection with this case. The investigation includes interviews with the involved officers as well as with numerous lay witnesses who observed various parts of the incident. I have reviewed the autopsy report prepared by Forensic Pathologist Robert Kurtzman and photographs which were taken at the post-mortem examination. I have discussed the entire situation with Mesa County Sheriff's office Investigator Jim Hebenstreit, who was the lead person on the CIT investigation.

At about 0130 hours on June 15, 2013, three Fruita Police Officers were involved in a fatal shooting at 159 Hollyberry Way in Fruita, Colorado. Those officers were later identified as Andrew Courtney, Steve Lentz, and Sgt. Kevin Paquette. Two other Fruita Officers, Jessica Rezak and Josh Dove, were present at the time of the incident but did not shoot.

LOUIS POLLARD

The incident began when Officer Courtney initiated what appeared to be a routine traffic stop at about 12:41 am on June 15. Officer Courtney was driving a fully marked Fruita Police unit. The stop took place on Highway 340 near Jurassic. Officer Courtney had observed a Ford Ranger pick-up truck commit a number of traffic violations, including failure to signal for more than one turns, failure to signal lane changes and failure to stop at a stop sign. Most of these violations took place on the north side of I-70, but Officer Courtney did not want to stop the Ford Ranger as it was heading south over the I-70 bridge, so he waited until they were both through the roundabout. The Ford Ranger did in fact pull over near the entrance to the State Park and Officer Courtney then initiated contact. The stop was made with overhead lights activated.

Officer Courtney approached the vehicle from the driver's side, identified himself and asked for the individual's driver's license. The individual (later identified as Mr. Lewis B. Pollard), was quickly somewhat hostile and uncooperative. He told Officer Courtney that he did not need a driver's license, that he had committed no felony offenses and that Officer Courtney had no authority to detain him. These statements caused Officer Courtney to request that a second Fruita Police Officer respond as backup. While awaiting the arrival of backup, Officer Courtney and Mr. Pollard had a conversation about what authority Mr. Pollard was willing to recognize, including the Sheriff. Mr. Pollard told Officer Courtney he "would recognize the authority of the Sheriff only when the Sheriff began to recognize the Constitution".

At this point a second Fruita Police vehicle, driven by Officer Jessica Rezak, arrived at the scene. Officer Courtney made contact with Officer Rezak and began to advise her of the situation, including the fact that Mr. Pollard appeared to consider himself a "sovereign citizen". As the two Officers were having this discussion, Mr. Pollard put the Ford Ranger in gear and drove away. Pursuant to Fruita policy, neither Officer initiated a pursuit. Instead a description of the vehicle was aired and they both watched the vehicle to see where it went. They saw the Ford Ranger drive a short distance and then make a left hand turn into the Redcliffs Trailer Park.

Officer Courtney planned to locate an address where the vehicle was parked, which he could later use to obtain a warrant. Officer Courtney found the vehicle parked in front of a mobile home at about 12:50 am and then met with Officer Rezak and Sgt. Kevin Paquette, who had arrived in the trailer park in a separate marked Fruita Police vehicle. The address where the vehicle was parked was later determined to be 159 Hollyberry Way. While Officer Courtney was briefing Sgt. Paquette on the traffic stop and the driver's actions, they heard someone yelling from inside the trailer and decided to attempt to contact the subject.

As they approached the trailer, Officer Lentz and Officer Dove arrived. All five Officers walked toward the trailer and saw a bedroom window on the south end that faced the driveway. The curtains were cracked enough that they could see a television was on and two people in the room. Officer Courtney stated the two people in this bedroom weren't the people shouting. Officer Courtney heard dogs barking inside the fence at the south end of the mobile home. Sgt. Paquette knocked on the southwest

corner of the trailer and one male subject came outside. This person was later identified as Lewis Pollard. When he saw the subject speaking to Sgt. Paquette, Officer Courtney recognized him as the same person he contacted on the traffic stop.

Officer Courtney described Pollard as being very upset as he was speaking and gesturing with only one hand. When Officer Courtney moved to where he could see the right side of Mr. Pollard, he saw that Pollard's right arm was concealed behind his back and that he was holding a semi automatic handgun. Officer Courtney drew his sidearm, pointed it at Pollard, and ordered him to drop the gun. Mr. Pollard immediately brought his right arm out from behind his back with the gun in his right hand. Officer Courtney described Pollard swinging his right arm out from behind his back in a "moon shape" motion toward him and at that time Officer Courtney fired eight rounds at Pollard and stopped firing when he saw Pollard fall to the ground. Officer Courtney confirmed that prior to the shooting, all the Officers were on the outside of the gate and Pollard was alone on the inside of the gate.

Sgt. Paquette described arriving in the area of 159 Hollyberry after hearing Officer Courtney's radio traffic. Sgt. Paquette spoke with Officer Courtney and Officer Rezak, adding they could hear yelling from inside the mobile home where the truck was parked. He described approaching the trailer with Officer Courtney, Officer Rezak, Officer Josh Dove, and Officer Steve Lentz. Sgt. Paquette knocked on the outside of the trailer and the subject immediately came outside. Sgt. Paquette saw the subject had his right arm "secreted" behind his back and believed the subject was holding some type of weapon. Sgt. Paquette described introducing himself to the subject while he and the other officers stood on the driveway side of the fence and the subject was on the inside of the fence. As he (Sgt. Paquette) was speaking with the subject, Officer Courtney leaned his upper body over the fence and looked around and saw the subject had a gun in his hand. Sgt. Paquette said Officer Courtney yelled "Gun" and then the subject very quickly brought the gun out. Sgt. Paquette yelled at him to "Drop it" and the subject pointed the gun at Officer Courtney. At that time, Sgt. Paquette pulled his gun and fired two rounds at the subject, who fell to the ground.

Officer Lentz was on duty, on bike patrol, when he heard on his radio that a motorist had fled a traffic stop. He went to the Fruita Police station and got into his marked police car. He drove to 159 Hollyberry where he heard that other officers had located the vehicle. Officer Lentz saw Sgt. Paquette knock on the side of the trailer and ask to talk to someone inside. He then heard a male come out of the residence and begin to argue with Sgt. Paquette regarding the Fruita Police Department's lack of authority to contact him, or words to that effect. Officer Lentz stated the man sounded upset and angry. Officer Lentz drew his sidearm from his holster and moved toward the left side of the residence where he could observe the subject. He could see about half of the subject's body from his position near the corner of the residence. He heard Officer Courtney yell at the subject to "drop the gun." Officer Lentz saw the subject raise his right hand, with a handgun in it, toward the Officers. Officer Lentz saw Officer Courtney and Sgt. Paquette firing their pistols at the subject as both officers were backing away.

Officer Lentz said he feared for the safety of the other officers, so he fired three times at the subject with his handgun through the corner of the residence. Officer Lentz thought the rounds he fired struck the subject, who he saw fall to the ground on his back.

After Mr. Pollard fell to the ground, Sgt. Paquette jumped the fence, checked for a carotid pulse, and saw that his eyes were fixed and dilated. He heard Officer Rezak yell that there were people inside the trailer. Officer Rezak and Officer Dove went inside to clear the trailer. They located and detained two subjects inside the residence; Garrett Shoemaker and Kathleen "Kat" DeWolfe. As Officer Rezak and Officer Dove entered to clear the trailer, Sgt. Paquette was scanning the area for Pollard's gun, which he did not immediately see. Sgt. Paquette then located the gun on the driveway side of the fence. He went inside the trailer to assist Officers Dove and Rezak, then went back outside and picked up Pollard's gun. He described taking the magazine out of the gun to clear it. He tried manipulating the slide lock lever but it wouldn't move. He told Officer Lentz he couldn't move the lever and then saw the lever was bent. He assumed there was a bullet in the chamber and decided to hold onto the gun. He later handed this gun to Corporal Bobby Pierson from the Mesa County Sheriff's Office. The pistol is a black Hi-Point JCP .40 caliber pistol, serial number X7126970, with 9 live cartridges in the magazine. The pistol was still loaded with a live cartridge due to the safety having been bent backwards and out, making it difficult to render the firearm safe without damaging it further and altering its condition. The pistol was later found to be registered to Mr. Pollard's daughter, Jolene Gifford. She informed investigators that she had "pawned" the gun to her father about 18 months ago because she needed money.

Dr. Robert Kurtzman did the autopsy on Lewis Pollard on June 16, 2013. According to his Postmortem Examination Report, Dr. Kurtzman located 5 gunshot wounds, which he described as "rapidly fatal." His report states "There is no evidence of a close range fire on the skin of the decedent around any of the gunshot wounds. Five bullets were recovered and retained. There was no other trauma."

Dr. Kurtzman also provided the toxicology report. Dr. Kurtzman documents that Mr. Pollard's urine alcohol concentration was 0.126%, which indicated "the decedent was intoxicated and that the Blood Alcohol Concentration was recently as high as 0.126%." That blood alcohol level was further corroborated by CIT investigators as they traced Mr. Pollard's activities earlier in the evening. They learned that he had been at the End Zone bar in Fruita from approximately 8:30 pm on June 14 until approximately 12:20 am on June 15. During that period Pollard ordered three 22-24 ounce Budweiser beers and purchased four Coors Light Draft beers and one Miller Lite beer for another table occupied by an associate.

All officers involved in the incident chose to provide a blood specimen at Family Health West. The blood kits were booked into evidence at the Mesa County Sheriff's Office and were then sent to ChemaTox for lab analysis (alcohol and 11 panel drug screen). The lab results were received on 07/11/13 and all were negative.

The handguns from the three Fruita Police Officers and the .40 Caliber Hi-Point were sent to the Colorado Bureau of Investigation for ballistic analysis along with the five bullets recovered at autopsy and the 11 spent cartridge casings collected at the scene. The ballistics lab report from CBI was received on 07/12/13 and indicated the following:

1. Hi-Point .40 caliber pistol (Lewis Pollard)
  - Submitted in an inoperable, unsafe condition. The manual safety had been damaged, preventing the slide from being pulled back and emptying the chamber. Also, the pistol was out of battery.
  - The safety was repaired, rendering the pistol operable and tests were fired.
  - The magazine that was collected at the scene with this pistol was used for the test firing.
2. Three (3) of the spent cartridge casings collected at the scene were fired by Officer Lentz's Glock .40 caliber pistol.
3. Two (2) of the spent cartridge casings from the scene were fired by Sgt. Paquette's .45 H&K pistol.
4. Six (6) of the spent cartridges collected at the scene were fired by Officer Courtney's .40 caliber S&W pistol.
5. Five bullets recovered at autopsy. (CBI item #20-24)
  - Three (3) bullets (item 21, 22, 23) were fired from Officer Courtney's pistol.
  - One (1) bullet (item 20) was fired from Sgt Paquette's pistol.
  - Item 24 could have been fired from either the Glock .40 S&W pistol (Officer Lentz) or the H&K .45 caliber pistol (Sgt. Paquette).

Finally it should be noted that at the time of this incident there were two separate arrest warrants active for Mr. Pollard which had been issued by the Courts of Colorado. One was in Mesa County case # 2012 T 87, where Mr. Pollard was charged with Driving Under Suspension. The warrant was issued on September 20, 2012 when Mr. Pollard failed to appear for a jury trial. The second warrant was in Delta County case # 2012 T 48, where Mr. Pollard was charged with Driving Under Restraint and No Proof of Insurance. Mr. Pollard had failed to appear in court on that case on March 14, 2012.

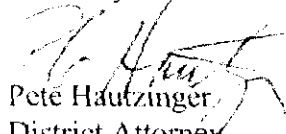
Under the totality of the circumstances present in this case, I conclude that all officers involved acted in an entirely reasonable and professional manner. It is most certainly regrettable that a human being died as a result of this incident. That notwithstanding, my review of the investigation reveals no actions by any of the officers which are in any way questionable. They clearly had probable cause to arrest Mr. Pollard for multiple offenses, including arguably the felony charge of Vehicular Eluding for his driving away from the traffic stop. There were already two warrants for his arrest in the system. Given these facts I believe the Officers had a duty as sworn Colorado Peace

Officers to go follow Mr. Pollard to where he drove and then to at least attempt to make contact with him.

Here it is significant that the Officers made no attempt to force entry into the trailer. They made no show of authority and issued no commands; they merely knocked on the trailer. At that point Mr. Pollard chose to voluntarily exit the trailer and make contact with the Officers. Mr. Pollard also chose to do so with a loaded pistol hidden behind his back. As soon as Officers were aware of this fact they ordered him to drop the weapon; Mr. Pollard then chose instead to pull the gun from behind his back and point it at the Officers. At that instant in time the Officers had no choice but to fire at Mr. Pollard.

I further conclude that there is absolutely nothing criminal about the actions taken by any of the Officers involved. I conclude that none of the Officers involved did anything to unreasonably provoke or exacerbate the situation. Indeed, I believe their actions were exemplary and entirely consistent with reasonably protecting themselves and the people of this community.

Sincerely,



Pete Hautzinger,  
District Attorney  
21<sup>st</sup> Judicial District

CC: Investigator Jim Hebenstreit, Mesa County Sheriff's Office