



# Law enforcement experts call for more transparency in El Paso County deputy's death in shootout

By: Kaitlin Durbin Sep 29, 2018 Updated 9 hrs ago

Local law enforcement agencies have released hundreds of pages of reports describing how El Paso County sheriff's Deputy Micah Flick was killed in the Feb. 5 shootout with suspected car thief and gang member Manuel Zetina, but key questions remain unanswered.



Deputy Micah Flick was shot and killed Feb. 5 in a gunbattle with a suspect in east Colorado Springs.

Among them: Was the Beat Auto Theft Through Law Enforcement task force uniformly trained on how best to arrest felony offenders? Were appropriate tactics used? How was a bystander allowed to wander into the shooting zone? And are there changes the task force should make to prevent similar tragedies?

It's unlikely these questions will be answered publicly by the three agencies involved in the task force — the Colorado Springs Police Department, El Paso County Sheriff's Office and Colorado State Patrol. All have declined to respond to such queries, citing the potential for lawsuits. The agencies say they are analyzing the shooting internally, but are not likely to share with the public determinations they make about "what was right and what was wrong."

But the gravity of the case in which an officer was killed, two officers were seriously wounded, the suspect was killed, and a civilian was shot and left paralyzed from the waist down calls for such transparency, said three law enforcement experts consulted by The Gazette.

They say the public is entitled to know how the agencies plan to better defend their officers and civilians.

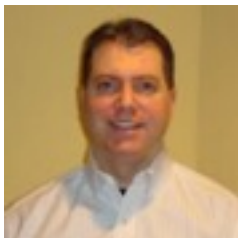
The experts are:



- Dan Corsentino, a former Fountain police chief and four-term Pueblo County sheriff turned private investigator.



- John Brandt, who served 21 years with the El Paso County Sheriff's Office before retiring in 2016; his last four years with the office he served as a lieutenant overseeing the training academy. He served 23 years with the Los Angeles Police Department.



- Jon Shane, a retired captain with the Newark Police Department in New Jersey who now teaches police science and criminal justice administration at the John Jay College of Criminal Justice at the City University of New York.

“You should be transparent with this,” said Brandt, who is a critic of Sheriff Bill Elder. “Criticism is a form of training.”

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Even if agencies have to use “generalities,” they owe the public something, Shane said.

“I hate to say it, but it’s a great learning experience,” Shane said of the shooting. “Nobody wants to learn at the expense of somebody’s injury or death, but it’s an example of how the human dynamic plays into policing.”

Corsentino cautioned that the public is only entitled to information when agencies finish their internal investigations and have all the facts. But after that, he said “law enforcement has to get in the practice of full disclosure,” which includes admitting deficiencies along with describing strengths.

“I understand that we’re talking about human beings and human behavior, but we’re also trying to lay a foundation so we can protect officers in the future and those investigations certainly assist in doing that,” Corsentino said.



El Paso County Deputy Scott Stone, who was shot Feb. 5, 2018, when Deputy Micah Flick was killed, kisses his wife, Aleyana Stone, with their son, Carter, 3, during a vigil for Colorado Springs Police Officer Cem Duzel, 30, Friday, Aug. 3, 2018, at Boulder Park next to Memorial Hospital where Duzel remains hospitalized in critical conditions after being “gravely wounded” in a shootout early Thursday. (The Gazette, Christian Murdock)

CHRISTIAN MURDOCK

Agencies have made no indication that they intend to discuss lessons learned. But the three experts reviewed some of the files from the shooting and drew some conclusions:

## Identify as officers early

Immediately after the shooting, El Paso County Sheriff Bill Elder and Colorado Springs police spokesman Lt. Howard Black said officers were clearly identified by insignia. That has since been refuted by the 4th Judicial District Attorney's Office, which said officers did not have their badges visible or verbally identify themselves until they were physically engaged with Zetina.

Corsentino said it makes sense for officers to disguise their identity when they're still trying to gather information about a suspect or assessing the danger of a situation. But once officers make the decision to arrest, they should be announcing who they are "as they're approaching."

In addition to verbal commands, officers should also have "some sort of outward adornment" confirming who they are, Shane said, "so the person they're approaching doesn't believe they're being robbed ... or somebody is trying to assault them."

Brandt also said officers should be identifying themselves when they decide to make the arrest — announcing as they're putting hands on a person is too late.

This is important not only for the safety of officers and the suspect, experts said, but it also would remove doubt about whether Zetina knew who was confronting him when he chose to start shooting.

Officers' statements after the shooting gave conflicting accounts of whether they thought Zetina suspected law enforcement was closing in. Some officers said they thought he was on to them when he stuck his middle finger out of his car window at a stoplight, but others said he directed it at another driver. Some officers argued that Zetina's "burn moves" to avoid being followed proved he knew law enforcement was tailing him, while another officer said the maneuvers are common when thieves are trying to cover their tracks.

Detective Trey White said he believed Zetina knew he was a cop because the suspect was staring "really hard" at him, but said he was in plainclothes and did not have his badge visible.

It's possible that Zetina, a known gang member, could have thought White was another gang member about to jump him, Brandt said.

White sports a kind of unkempt, spiraling hi-top fade haircut, a version of the hairstyle made popular by '80s hip-hop icons.

Chief Deputy District Attorney Margaret Vellar said, “We don’t know for sure whether or not (Zetina) knew” police were there, but “it looks like he probably did know.”

Regardless, Brandt says it’s a moot point.

“Whether he knew they were law enforcement is neither here nor there,” Brandt said. “(Officers) should have had some type of identification out.”

## Weapons should be drawn

The DA’s office said Zetina unleashed a hail of bullets, wounding four officers and a civilian, Thomas Villanueva, all “before any member of law enforcement fired their weapons.” That’s because the officers had their guns holstered, the investigation determined.

The experts said that is very unusual.

At the time, officers knew Zetina was driving a stolen car; that he was suspected of felony motor vehicle theft; that he was a gang member and gang members are often armed; and that he was acting suspiciously and had his hand in his pocket.

“As far as I’m concerned, my weapon would have been out, pointed at his chest, and I



Members of the El Paso County Sheriff’s Office hug while reading sentiments on a car memorial Feb. 8, three days after the shooting death of Deputy Micah Flick. About 100 law enforcement officials and community members attended a flag ceremony on Thursday, February 8, 2018. .(Photo by Jerilee Bennett, The Gazette)

would have been giving him loud, verbal commands,” Brandt said, adding that officers must assume all suspects are armed “until you prove otherwise.”

“At least someone there should have had their gun drawn,” Shane said, if not the arresting officer then someone among the nine other officers who were on the scene.

Having their guns ready protects officers, and also can be a deterrent against suspects who might resist, Brandt said.

“There’s a good chance that (Zetina) might have thought, this isn’t worth it,” Brandt said.

Corsentino called it “unfair” to second-guess the officers because no one outside their group knows why they made the decisions they did or if they felt threatened enough to draw their guns. With 10 officers there, he said, they “may have had a comfort level” or “felt they had control of the situation.”

But, in most situations, Corsentino said, there should be an assumption that every individual is armed and has the potential to use lethal force against you.

He also called it “the norm” for officers making a felony arrest to have their guns “unholstered, even if it’s down to the side.”

## Physical contact last resort

Records show that just as officers were passing Zetina in the parking lot of Murray Hill Apartments, Deputy Scott Stone, one of those wounded in the fusillade, turned and grabbed him around the arms in a sort of “bear hug.”





The 4th Judicial District Attorney's Office released an aerial diagram showing where officers were positioned and where bullets or shell casings were recovered after the Feb. 5 fatal shooting of El Paso County sheriff's Deputy Micah Flick and suspected car thief Manuel Zetina in east Colorado Springs.

**Kaitlin Durbin**

All three experts said the move is not one they've heard of, trained on or used themselves, but varied in their assessment of it.

Brandt was most critical: "Why are you going to approach a suspect if you don't know if he's armed or not?"

Shane didn't have a problem with the move.

"I guess it's intended to gain control of somebody's arms, ideally to keep him from doing what he did," Shane said. "Despite best efforts, sometimes they're still able to grab a firearm."

Corsentino said: "It's not a tactic that I'm aware of that would be used in close proximity in that particular situation."

All three agreed there were better ways and safer ways of making the arrest.

Corsentino advocated for stopping Zetina while he was still inside the vehicle — a scenario the BATTLE team said it routinely avoids to prevent a car chase, which can put other drivers at risk. But Corsentino said the maneuver allows officers to



give verbal commands from a distance, safely manage multiple suspects if Zetina had friends in the car, and approach with guns drawn.

Shane suggested safeguarding the parking lot to slow things down — sealing off exits, warning civilians away and warning Zetina that if he doesn't comply with their commands, he could be shot. Depending on the size of the complex, that can be a difficult to impossible task, he conceded, but the visible presence could “prevent somebody from walking out of their house” — like the woman who ran out with a gun thinking it was a

gang shooting — or placing other civilians at risk, like families coming home after school or Thomas Villanueva, walking home from lunch. Villanueva was shot by Zetina and paralyzed from the waist down,

The question agencies need to ask is “do their tactics escalate the situation or de-escalate?” Brandt said. “Did you put yourself in a position of advantage or did you put yourself at a disadvantage?”

Based on the report, Brandt concluded the unannounced approach and physical contact placed officers at a disadvantage. And the only way to prevent that, he said, is through planning and training.

It's unknown if or how the team trained together — agencies refuse to address the question — and Corsentino says to be on the team, officers would have to be well-trained and “high-achievers” . But that wouldn't negate the need for “uniform tactical training,” he said.

“I'm sure that the chief and others that are looking at this are saying at this point, ‘Was this unit properly trained?’ ”

## Communication is key



After protesting at the El Paso County Coroner's Office, Thomas Villanueva, right, and family and friends take their protest to the El Paso County Courthouse in Colorado Springs in August. Villanueva was paralyzed in a shooting in which El Paso County sheriff's Deputy Micah Flick was killed Feb. 5.

Jerilee Bennett, The Gazette

Leading up to the shooting, records show BATTLE members were in constant communication with each other. They discussed where each vehicle would stop on the route while they followed Zetina around the city. They ate lunch together. They knew when their team was set up and ready and when it wasn't. They all heard the command to move in on Zetina.

But the minute the arrest was in motion, communications broke down.

White, who had been relaying information about Zetina to Detective Michael Boggs over the phone, which was then shared through radio to the other team members, suspected at the last second that Zetina was armed, but he had no way to warn anyone.

Boggs had stepped out of his vehicle, leaving the phone behind. White tried to call Deputy Stephanie Criss to warn her, but said he "didn't know if she heard him or not." In her statement, Criss doesn't mention White discussing a possible weapon.

"That's a great concern to me," Shane said. "That's a plausible tactic that they were using a cellphone and someone else is transmitting information (by radio), so obviously they dropped the ball."

Brandt blamed the shooting on "lack of communication and lack of planning" and called for better training.

Ten officers are enough to have one or more watching for civilians or other threats and warning them away, Brandt said.

And typically, that job is assigned from the get-go, he said.

But during the investigation, BATTLE members said all eyes were either on Zetina or his possible escape routes. No one saw Villanueva cross the street and walk down the parking lot — a distance of about 400 feet — until he was nearly parallel with Zetina. The shooting started a split second later.

Corsentino said that even when officers are watching the perimeter, sometimes “you have citizens, civilians that enter into an unsafe zone and you do not have enough time to remove them.”

Those are considerations Shane stresses — police can’t prevent or plan for every contingency. “Where you can take somebody down, how they can do it, can it be done safely, those are things that change constantly,” he said. “There’s always people around, there’s always pedestrians or other cars.”

It’s law enforcement’s job to find the environment that presents the least risk to themselves and others, but “there’s always going to be some kind of risk,” Shane said. “You can’t get risk down to zero.”

## Learn from experience

Brandt knew Micah Flick. He wasn’t just his co-worker, he’d worked with Flick on firearms training at the range and recalls several conversations in which Flick indicated he had an interest in becoming a training deputy. He called Flick’s death “tragic.”

But that doesn’t mean he or the Sheriff’s Office or anyone else shouldn’t speak critically of the BATTLE operation, he said.



El Paso County Sheriff's Deputy Micah Flick's mother, Chenoa Flick, left, and wife, Rachael Flick, listen to Gina Milne sing "Oceans" at his memorial service at New Life Church in Colorado Springs, Colo. on Saturday, February 10, 2018. (Nadav Soroker, The Gazette)

NADAV SOROKER

"Their tactics escalated this," Brandt said. "They should send officers to remedial training immediately."

Corsentino agrees that the operation should be thoroughly examined and that there may be some changes that could come out of it, but again stressed, "Unless you have been in the situation ... it's extremely difficult to make a determination as to the right way or the wrong way to do something."

"Policies give you boundaries, but there's got to be officer discretion, officer flexibility built into that," Corsentino said.

Because each shooting is different and, "There's not a formula you can apply to incidents."

But you can learn from them, Shane said.

He hopes officers will take a page from his book, "Learning From Error in Policing: A Case Study in Organizational Accident Theory," and analyze the shooting critically to identify where weaknesses may be, because that's how you better plan for safety.

"There's a long, long history of learning from error in medicine, aeronautics, the petroleum industry, the nuclear industry, aviation, and all of those industries have benefited greatly from critiques on how things went wrong — how airplane crashes became a learning laboratory for making aviation safer, how people who died in surgery reduced hospital accidents, how tanker spills have helped us keep that from happening again," Shane said.

But “police and criminal justice, in general, have been reticent to adopt the learning- from-error model, and thus they continue to repeat the same mistakes.”

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