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April 20, 2021

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This letter is notification to the Critical Incident Response Team (CIRT), and the involved party, Deputy Jason Bailey, of the decision not to file charges against him in the matter of the officer involved shooting of Jason Unangst, DOB 10/3/1987, on March 7, 2021. As will be detailed below in the findings of fact and conclusions of law, charges against Deputy Bailey are not appropriate, as he was acting in defense of Ms. Marrissa Morin, DOB 3/24/1983, whose life I conclude, Deputy Bailey saved during Mr. Unangst's attempted murder of her. Mr. Unangst has now been charged with seventeen substantive counts, and a crime of violence count, including, but not limited to, the Assault of Deputies Bailey and Dilka, and the Attempted First Degree Murder, First Degree Assault, and Kidnapping of Ms. Morin. He is also charged with arson for pouring lighter fluid on Ms. Morin and setting her on fire.

On March 7, 2021, the 21st Judicial District Critical Incident Response Team was activated at the request of the Mesa County Sheriff's Office (MCSO) to investigate an officer involved shooting which occurred on March 7, 2021 at approximately 1134 hours at 497 Coronado Ct #B. The following agencies were represented: Grand Junction Police Department (GJPD), Fruita Police Department, Palisade Police Department, Colorado Bureau of Investigations and the 21st Judicial District DA's office. Detective Brian Frasier was assigned as the lead investigator by GJPD Sgt. Lonnie Chavez.

The following is my summary and findings of fact, and conclusions of law:

FINDINGS OF FACT

Summary of interviews with witnesses and video evidence:

On March 7, 2021 at approximately 1048 hours, Mesa County Sheriff's Office (MCSO) deputies were dispatched to a suspicious call in the area of Central High School at 3145 E ½ Rd, Grand Jct. CO 81504. The reporting party, Matthew Broe DOB 04/24/1969, advised dispatch a maroon sedan had been swerving and driving erratically and he believed subjects inside it were arguing before it stopped near the high school. Deputies located the vehicle, describing it as an

older maroon four-door sedan with a white driver door, and observed a female unsuccessfully attempt to exit the vehicle before it sped away. Deputies were unable to read the license plate but noticed that it was a specialty plate and was not a standard green and white Colorado license plate.

Deputies pursued the vehicle before losing sight of it southbound on 32 Rd from I70 Business Loop. Prior to losing sight of the vehicle, deputies advised the vehicle was driving very erratic, disregarding numerous red signal lights and almost striking another vehicle at one point. A second reporting party, Dylan Lane DOB 7/14/99, advised dispatch the same vehicle that the deputies were looking for pulled into the parking lot for 497 Coronado Ct. Mr. Lane witnessed a male wearing a flannel shirt and pants pulling a female into apartment 497 Coronado Ct #B. Mr. Lane noted the female appeared to be in distress. Mr. Lane later told law enforcement, the female was wearing a pink or purple shirt with a picture on it when he observed her being pulled into the apartment.

Deputies arrived at the apartment building and located the vehicle, a 1997 maroon Ford Crown Victoria with Colorado license plate QBX017, which registered to Marissa Morin at that apartment.



From the outside of the vehicle, deputies noticed what appeared to be blood inside the vehicle. A contact number for Morin was obtained, and deputies called the number to check the welfare of the occupants in the apartment, but the call went straight to voicemail.



Deputies were stationed at the front and back of the apartment and at approximately 1116 hours, they began making loud hails, directing any occupants to come outside. Deputies continued loud hails for at least five minutes. It should be noted, all involved MCSO deputies were issued and wearing body worn cameras that were activated during this incident. In addition to considering the witness interviews, footage from the body worn cameras (BWC) was referenced when completing this summary, and is included in my findings of fact.

At approximately 1123 hours, deputies noticed some movement inside the apartment from the back-door area. Fearing for the welfare of the female seen being pulled into the vehicle and ultimately the apartment, deputies attempted to breach the front door but found it may have been barricaded. Deputies transitioned to breach the back glass sliding door for entry, utilizing the 40mm less lethal launcher and collapsible batons. By approximately 1130 hours, the back door had been breached, and deputies again began loud hailing the occupants inside.

Deputies could hear voices from inside the apartment and heard a male yelling, prompting them to enter the apartment. Once inside the apartment, deputies found a juvenile male, later identified as Jeovanni Unangst DOB 03/05/2009. He was evacuated from the residence while other deputies continued attempting to contact other occupants. Deputies determined there was a male and female (later identified as Jason Unangst DOB 09/03/1987 and Marissa Morin DOB 03/24/1983) in the master bedroom bathroom in the apartment, and they refused to exit. Jeovanni told deputies there was no one else in the apartment but Mr. Unangst and Ms. Morin. He also advised he did not know if there were any firearms in the home but stated they might have access to knives.

While issuing orders for Mr. Unangst and Ms. Morin to exit the bathroom, a male voice

could be heard yelling, "Where's your fucking warrant, where's your probable cause?" The male voice was also heard yelling for the deputies to "get the fuck out of my house." A female voice could also be heard saying, "Please leave." At one point, Deputy Dilka opened the bathroom door. As he did, Mr. Unangst's hand quickly came into view holding a yellow object as he doused what was later determined to be lighter fluid on Deputies Dilka and Bailey. This caused Deputy Dilka to fall backwards to his back. The female voice could be heard saying, "Put the knife down, put the knife down." The male voice is then heard yelling, "Come in here and you fucking die!" This sequence of events is best observed on Deputy Dilka's BWC video. A screenshot from Deputy Dilka's BWC footage documents the moment Jason tosses the lighter fluid towards deputies.

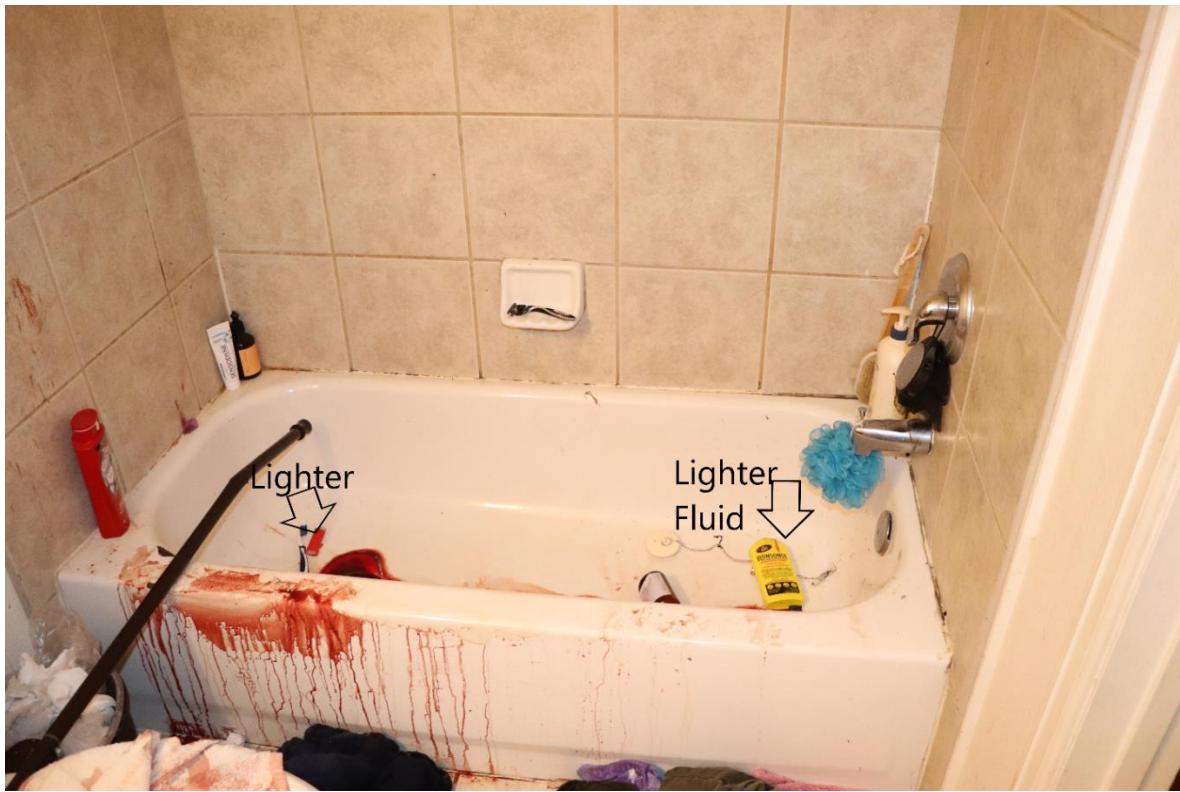


In this screenshot, on the left side, Mr. Unangst's arm is seen reaching around the shower curtain and in his hand is a yellow item, later determined to be a bottle of lighter fluid that he was squirting on the deputies, and which he had also poured on Ms. Morin.

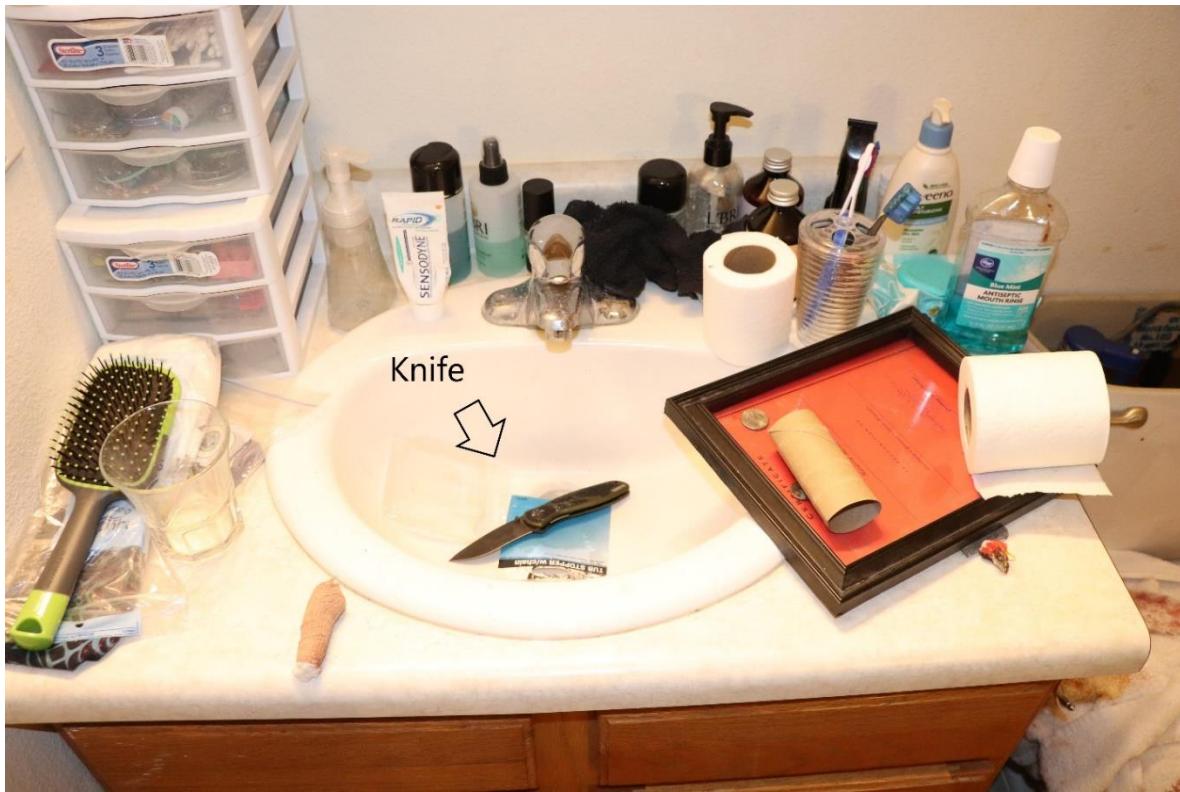
Due to the layout of the bathroom, deputies did not initially see Mr. Unangst and Ms. Morin. Deputy Bailey asked Deputy Stobbe if he had a clear shot with his less lethal 40mm launcher. Deputy Stobbe advised he did not. At this point, Mr. Unangst could be heard yelling, "Close that fucking door, now!" Deputy Bailey slowly moved to his left to gain a better view of the inside of the bathroom. As he did, Mr. Unangst yells, "Ready?" As he does, Deputy Bailey observed Mr. Unangst has a knife to Ms. Morin's throat. Fearing for Ms. Morin's safety, Deputy Bailey fires one round from his patrol rifle at Mr. Unangst's head to stop Mr. Unangst's actions. Mr. Unangst falls to his backside in the bathtub and according to Deputy Bailey, appears to lunge back towards the knife that has fallen at his and Ms. Morin's feet. Deputy Bailey fires one more round at Mr. Unangst still fearing for Ms. Morin's safety. The "shots fired" call into dispatch occurred at approximately 1134 hours. When reviewing Deputy Bailey's BWC video frame by frame, one can clearly observe what appears to be a knife in Mr. Unangst's right hand as he is falling backwards after the first shot. The two shots were fired within a few seconds of each other.



After the shooting took place, Ms. Morin exited the bathroom at the deputy's guidance. She was nude, appeared wet with some sort of substance, and was badly burned. Deputy Bailey secured the knife from the tub and placed it in the bathroom sink.



Master bathtub



Master bath sink

Deputies on scene rendered aid to Mr. Unangst by applying a tourniquet to his right arm.

EMS was called for both Mr. Unangst and Ms. Morin, and they were transported to St. Mary's Hospital. Ms. Morin was subsequently airlifted to Anschutz Medical Center in Aurora, Colorado due to the significance of her injuries. Ms. Morin sustained a puncture wound to her right rear shoulder that required sutures. Ms. Morin was diagnosed as sustaining 2nd and 3rd Degree burns to at least 20% of her face and upper body. Marissa had surgery while in Anschutz to take skin grafts from her lower body to replace damaged skin on her upper body. Ms. Morin also sustained cuts to her hands and fingers, suspected to have been done when Mr. Unangst later held a knife to her throat. Ms. Morin also had facial injuries including a black eye. Doctors at St. Mary's hospital signed a Serious Bodily Injury (SBI) form for Ms. Morin due to her injuries prior to transport to Anschutz.

While Ms. Morin remained in the hospital in Aurora recovering, GJPD Detective Charles Rojo went to Anschutz and interviewed her. During that interview, Ms. Morin advised that she was attempting to go to work on March 7, 2021 when Mr. Unangst took the keys to her Kia, so she decided she was going to take the red Ford which was their other vehicle. Mr. Unangst told Ms. Morin he was going to take the battery out of the Kia to make it inoperable. Mr. Unangst was arguing with Ms. Morin, telling her she was working too much. As she was leaving their house, Mr. Unangst opened the back door to the Ford and jumped into the rear seat as the vehicle was in motion.

Ms. Morin could not remember a lot about this, but she advised Mr. Unangst punched or slapped her during the drive and moved into the front passenger seat. While driving, Mr. Unangst was grabbing the steering wheel which made her swerve on the road. When they neared Warrior Way, Mr. Unangst grabbed the wheel and turned the vehicle onto Warrior Way and then into the dirt lot where they were later seen by Deputies. She advised they were parked in the dirt lot for approximately five minutes. During this time, Mr. Unangst punched Ms. Morin and was yelling at her about her job. Mr. Unangst also bit Ms. Morin's upper right thigh while in the dirt lot. As the deputies pulled up and Mr. Unangst saw them, Ms. Morin was in the process of trying to get out of the vehicle to walk. Mr. Unangst pulled Ms. Morin back into the vehicle and moved across the bench seat to the driver position before accelerating out of the lot at a high rate of speed. Mr. Unangst drove them back to 497 Coronado Ct. #B while saying "we will lose them", driving erratically and running red lights. Ms. Morin advised they got onto I-70 Business Loop before turning south on 32 Road, east on E Road and into their apartment complex.

When they arrived at their apartment, Mr. Unangst drug her from the vehicle into their apartment. The arguing continued in the apartment and the two proceeded into the kitchen. In the kitchen, Mr. Unangst punched Ms. Morin in the face two times, and punched her in the stomach two times. Ms. Morin fell to the ground where Mr. Unangst proceeded to kick her in the back and started pouring lighter fluid on her. Ms. Morin took off her purple Rugrats shirt and washed off some lighter fluid in the kitchen sink.

Ms. Morin went into their bedroom where she sat on the corner of their bed. Mr. Unangst again started to pour lighter fluid on Ms. Morin while in the bedroom. Ms. Morin asked Mr. Unangst "are you going to kill me?" to which Mr. Unangst responded, "I don't know". Ms. Morin did not see Mr. Unangst with a lighter, but he lit her on fire shortly after. Ms. Morin crawled to the bathroom while on fire, grabbed the shower curtain, attempting to put out the fire. She then turned

on the water in the bathtub which put the fire out. This is when they started to hear police. Mr. Unangst was yelling for the police to get out. Ms. Morin heard the glass break from the sliding glass door and she also yelled for the police to get out as she thought this would make Mr. Unangst think she was on his side. Mr. Unangst placed a knife to Ms. Morin's throat, and she began to struggle with Mr. Unangst, trying to get the knife away. Ms. Morin showed the detectives her hands which had injuries consistent with defensive knife wounds across the palm area. When the door to the bathroom opened, Mr. Unangst put the knife to her throat. She stated she thought he was going to slit her throat and she would die. Ms. Morin stated the police shot Mr. Unangst twice and took her out of the shower. Ms. Morin grabbed a sheet to wrap around her, as she was naked, and went with the police. When she was put in a police car, Ms. Morin stated she could feel her skin burning. When asked if Mr. Unangst was saying anything when he was lighting her on fire, Ms. Morin stated he was only saying "no." She had further described that he had a blank stare in his eyes while this was happening. When asked where the lighter fluid came from, Ms. Morin said Mr. Unangst uses it to light their grill.

On March 9, 2021, Deputy Bailey submitted to a voluntary interview with GJPD Detective's Frasier and Gregory. He had not viewed his BWC footage, and was represented by counsel, Michael Lowe. He advised he was on patrol on March 7, 2021 and heard a report over dispatch about a suspicious vehicle near Central High School. The address was in the City of Grand Junction call area, but they were not available. Deputy Keyes aired that she would take care of it, and shortly afterwards aired that the vehicle pulled away at a high rate of speed and it appeared that a female was attempting to jump out of the passenger side of the vehicle. She gave a description of the vehicle, which matched the description of the vehicle in the photograph shown above in this letter.

In his interview, Deputy Bailey described the situation unfolding over the radio as the vehicle was eluding, and that he was reporting to the area to assist in determining what was going on with the female's situation as she was attempting to jump out of a moving vehicle. "It started to look like there was some exigent circumstances. Maybe this female's not in a safe situation." He described that a second reporting party was calling the 911 system stating that "a vehicle matching the description pulled into 497 Coronado Court, Unit B and a female was seen being dragged into that unit, um, by a male and that she appeared to be in distress." Deputy Bailey obtained the vehicle plate information and then tried to call the registered owner. The call went to voicemail, but he was able to confirm from the voicemail that it was the same person. He did not leave a message. He arrived at the location of 497 Coronado Court and other patrol vehicles were already there. He activated his BWC, took his patrol rifle, and conferred with others including MCSO Sgt. Pierson, another member of the SWAT team. He learned from the other deputies about the blood in the vehicle (described above; then discussed with the others the facts leading to this regarding the woman trying to jump from the moving vehicle; they saw blood in the vehicle; and another witness describing the woman being taken to that apartment unit in distress. The deputies all concluded an exigency existed that caused them to need to make sure that the female wasn't harmed or being harmed inside the unit. At that point, he recalls Sgt. Pierson saying "I think it would just take too long to get SWAT out here. We need to make entry ourselves."

He recalls them making repeated loud hails with no response, and then dividing up the following responsibilities: the use of "less-lethal" force; the use of the battering ram; the deputy

responsible to handcuff people they were in contact with; and who would use the shield. He described efforts to breach the door by multiple deputies which resulted in the locks being defeated, but the door was still not opening, and then he concluded it was barricaded. He suggested that they should breach the sliding glass door. They all went around the back of the apartment and breached the glass door through use of 40 mm less lethal, as well as a collapsible asp. Deputy Bailey described the conversation relayed above with the commands to come out and hearing screams from the woman in the bathroom.

Deputy Bailey describes seeing the child, later identified as Jeovanni Unangst, and getting him out of the apartment. He describes going “back and forth” with the people inside the bathroom and they were still not coming out. He described that he was “in the number one spot” with his rifle, and they opened the door towards him. “[A]s soon as the door comes open, you just see a hand holding like a little bowl, I believe it was a yellow bowl, reaches around the, the doorway and just flings some kind of a flammable liquid on us and I don’t know what it was exactly... but it reminded me of like Zippo fluid.” He described that he began clearing the bathroom and saw a clothed man in the bathroom and he could see part of the naked female. “As soon I see the male, he’s clothed, he gets behind the naked female, and he’s got a black pocketknife and he’ he goes behind the female with a good majority of his body, and he puts the black pocketknife directly to her neck. Um, when I saw him do that, I stop, and I take one shot directly to his head.”

Deputy Bailey then describes that after the first shot, the male wobbled and fell to the tub. He describes that as soon as he hit the tub floor the male “immediately lunges back toward the female with both of his arms out in front of him. Um I figured he still had the knife. I take my second shot, um, I was aiming at his head... .” He later described that he was trained to take head shots for immediate incapacitation and under the circumstances here, that was necessary. When asked what he believed would have happened if he did not take the shot, he responded “I think if I didn’t take the shot, he would have killed her. He probably would have cut her throat. Maybe started stabbing her. ... I know she was in imminent danger of serious bodily injury or death.” When asked whether using the 40mm less-lethal was an option, he responded that “with the level of imminent danger the female was in, it just wouldn’t have been the right tool for the job... it works on pain compliance... so if he is able to soak up the pain [he could] continue to cause harm to her after being hit with that. [The] purpose of the headshot with the rifle is to incapacitate his ability to hurt her.”

Detectives attempted to interview Mr. Unangst at the hospital, but he declined to make a statement.

Crime scene:

While executing search warrant 21SW173 at 497 Coronado Ct #B, clothing believed to be Ms. Morin’s was located within the apartment. A purple Rugrats shirt matching what she advised she was wearing and similar to what witnesses observed, was located on the floor of the kitchen. While searching the master bedroom bathroom, clothing believed to be Ms. Morin’s was located on the floor at the base of the tub. The clothing, a pair of pants, underwear, sports bra and two socks were found to be soaking wet. There was what appeared to be blood on one of the legs of the pants. This portion of the pants were folded over itself, so it appears the blood was on the pants

prior to them being removed. The sports bra appeared to have sustained obvious burns. The clothing matches the description of the clothing Ms. Morin stated she was wearing during her interview.

A yellow bottle of lighter fluid and disposable lighter were located inside of the tub. The yellow bottle still contained a small amount of what appeared to be lighter fluid. The yellow bottle of lighter fluid is consistent with what is observed on deputies' body worn cameras as Mr. Unangst tosses fluid on Deputies Bailey and Dilka. An open, approximate eight-inch folding knife was located in the sink of this same bathroom. (photographs previously shown of bathtub and sink). This is consistent with the statement of Deputy Bailey and his associated body worn camera that support he removed the knife from the tub and placed it in the sink to remove it from the reach of Mr. Unangst for safety reasons. An interview with Ms. Morin's son, identified as Nicandro Morin DOB 05/01/2002, revealed information that Mr. Unangst carried a knife on his person matching this description because of his paranoia.

While searching the master bedroom attached to the bathroom where the officer involved shooting occurred, two expended .223 Hornady cartridge casings were located consistent to what Deputy Bailey had previously loaded in his patrol rifle magazine and chamber.

Officer processing:

All involved Mesa County Deputies were processed and photographed on March 7, 2021. All Law Enforcement including Deputy Bailey were found to be in full uniform and easily identifiable as law enforcement, with badges on the front of their uniform shift or vest and Mesa County Sheriff's Office patches on both sleeves. Deputy Bailey's firearms and ammunition count confirmed he fired two rounds (.223 Hornady ammunition) from his MK18 Daniel Defense rifle.

Unangst injuries:

As previously noted, Mr. Unangst survived the encounter and has been criminally charged for the incident. Mr. Unangst was shot twice; once in the head and once in the arm. As of the issuance of this letter, he is still recovering in St. Mary's Hospital. Deputies Stobbe and Bunch rendered aid to Mr. Unangst, utilizing a T-shirt and a towel to limit the bleeding until the ambulance arrived and paramedics took over.

APPLICATION OF THE LAW

Colorado law permits deadly physical force to be used if a person reasonably believes that a lesser degree of force is inadequate, and the actor has reasonable grounds to believe, and does believe, that he or another person is in imminent danger of being killed or receiving great bodily injury. C.R.S. § 18-1-704(2). There is no special exception or permission under this statutory justification for law enforcement officers to utilize deadly force, although the nature of the job puts them in situations more likely to present the decision process of using appropriate and justifiable use of force at varying levels.

Here, Deputy Bailey fired his patrol rifle. His use or attempted use of deadly physical force against Mr. Unangst, as described above, was authorized under the theory of defense of the of Ms. Morin. In Colorado, deadly physical force used in defense of others has two equally important components. The first is a subjective component requiring that the actor himself, here Deputy Bailey, actually believed that another was in imminent danger of death or great bodily injury, and that deadly force was required. The second component is an objective component; that the actor's actual belief was also a reasonable belief.

Subjective belief of Deputy Bailey

According to his interview, Deputy Bailey subjectively believed that Ms. Morin was in imminent danger of being killed or receiving great bodily injury.¹ During his interview he made the following statements about his subjective perception of what was occurring:

- “As soon I see the male, he’s clothed, he gets behind the naked female, and he’s got a black pocketknife and he’ he goes behind the female with a good majority of his body, and he puts the black pocketknife directly to her neck. Um, when I saw him do that, I stop, and I take one shot directly to his head.”

- Deputy Bailey then describes that after the first shot, the male wobbled and fell to the tub. He describes that as soon as he hit the tub floor the male “immediately lunges back toward the female with both of his arms out in front of him. Um I figured he still had the knife. I take my second shot, um, I was aiming at his head... .”

- “I think if I didn’t take the shot, he would have killed her. He probably would have cut her throat. Maybe started stabbing her. ... I know she was in imminent danger of serious bodily injury or death.”

This subjective belief is also evident from the reaction he had. He describes entering the bathroom, having a flammable liquid thrown on him, and he still did not shoot until Mr. Unangst put the knife “directly to her neck” at which point he reacted immediately. I therefore find that Deputy had a subjective believe that Mr. Unangst was an imminent threat to Ms. Morin’s life.

Objective reasonableness of the belief

Turning now to the objective reasonableness of this belief, it is readily apparent that any jury would conclude that it is reasonable that a person would believe that Ms. Morin was in imminent danger of being killed by another in this situation. Law enforcement was dispatched out there due to a call from two different callers reporting suspicious activity. The first resulted in a deputy observing a woman attempting to jump out of the passenger side of a moving vehicle. The driver then eluded law enforcement. The second caller, a completely independent reporting party, reported a woman was being drug to an apartment and appeared in distress. The deputies on scene observed blood in the vehicle before entering the residence. Once inside the residence, Mr. Unangst was yelling obscenities at them and refused to obey commands to come out, which would cause any reasonable person to believe that the woman continued to be in danger, and to believe that the suspect was not likely to submit to law enforcement authority. Next, Deputy Bailey had some sort of flammable liquid thrown on him and when he tried to see what was

¹ Colorado utilizes the terms great bodily injury and serious bodily injury interchangeably.

occurring in the bathtub area, he observed the suspect escalate the situation by putting a knife to the woman's throat. All of this would cause a reasonable person to conclude that she was in imminent grave danger.

Finally, it is appropriate to consider whether the **deputy** has specialized training that would allow them to make decisions more calmly, or otherwise be able to assess threats properly, without mental distortion due to stress. In the present instance, the investigation revealed that the training and experience for Deputy Bailey shows that he is highly trained. He was in the Marine Corps for 4 years, from 2005 to 2009, having done two combat tours in Iraq as infantry. He is currently assigned to patrol with the MCSO, however he is also a field training officer, is on the Special Weapons and Tactical (SWAT) team as a sniper, and is a use of force instructor and firearms instructor. He estimated that he trains approximately 16 hours per month with the SWAT team, and another six to eight hours per month for sniper training.

This additional training assists in his assessment of the reasonableness of the decision. Here, not only was Deputy Bailey highly trained to handle a situation like this, he was calm enough to make thoughtful decisions, not only about what level of force was required to stop the threat, but also where he needed to deliver the force in order to have it result in immediate incapacitation due to the circumstances he was facing. He specifically described needing to take a headshot under the circumstances of this situation.

In summary, deputies were responding to a call after a report of a suspicious vehicle. A deputy observed a woman attempt to get away from the driver while putting herself in danger in her effort by attempting to jump out of a moving car. The driver eluded law enforcement. A second, independent caller reported that the woman was taken to the apartment and she appeared to be in distress. The deputies observed blood in the vehicle where she had been. Deputy Bailey was aware of all of this information when he, and others, made multiple efforts to enter the residence to check on her. The man, Mr. Unangst, who had burned his victim, now threw a flammable liquid on the deputies while refusing their commands. In front of Deputy Bailey, Mr. Unangst quickly put a knife to her throat. This caused Deputy Bailey to believe that she was in imminent danger of death or great bodily injury, and his assessment was a reasonable one. Accordingly, it is not appropriate to file charges against Deputy Bailey. As previously referenced, this office has charged Mr. Unangst.

Respectfully,



Daniel P. Rubinstein
District Attorney