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This letter is notification to the Critical Incident Response Team (CIRT), and the involved parties, Officers Logan Hunt and Dylan Moody, and Deputies Mitchell Meens and Ryan Reasoner, of the decision not to file charges against the officers and deputies in the matter of the officer involved shooting of David Martin, DOB 1/23/1992, on July 17, 2020. Mr. Martin was killed during the shooting, thus no charges will be filed against him. However, menacing, domestic violence, against his girlfriend, Necia Davis would have been filed. Additionally prohibited use of a weapon, assault, attempted assault, menacing charges naming the victim/officers would have been filed against him, as detailed below, had he survived.

In the early morning hours of July 18, 2020, the 21st Judicial District Critical Incident Response Team (CIRT) was activated at the request of the Fruita Police Department (FPD) and Mesa County Sheriff's Department (MCSO) to investigate an officer-involved shooting which occurred after an incident which started on July 17 at approximately 2312 hours. The Grand Junction Police Department (GJPD), the Colorado Department of Parole (Parole), and the 21st Judicial District Attorney's Office (DA's Office) were represented during this Critical Incident Response Team investigation. The MCSO and the FPD were present as department liaisons, however per CIRT protocol were not participants in the investigation.

The following is a summary of my findings of fact and conclusions of law based upon the information gathered in this investigation.

The reporting party, later identified as Necia Davis (DOB 12/21/1992), called 911 advising her boyfriend came out of the apartment and attempted to push her down the stairs. She reported that her boyfriend, later identified as David "KC" Martin (DOB 1/23/1992), had a handgun with him, he was intoxicated, and had left the apartment afterward. She reported that Mr. Martin later came back to the apartment and was running in and out of the apartment, yelling that this was a misunderstanding.

In response to Necia's 911 call. Sergeant Paquette and Officer Hunt with the Fruita Police Department were dispatched to a three-toned urgent call of a felony menacing at 1131 East

Carolina Avenue, No. 4, in Fruita, Colorado. Mesa County Sheriff's Deputies also responded to the urgent call. Necia later advised Dispatch she got her daughter, Mila Andrews (DOB 11/2/2016), out of the apartment, she was now going outside and coming downstairs.

Officers were able to secure Necia and Mila, and then began evacuating people from the four-plex apartment building. They were able to evacuate two of the four units. Dispatch sent a shelter-in-place to the 23 occupants of the units. Officers on scene were advised by Necia that Mr. Martin was wearing a Sublime t-shirt and was waving a .380 pistol around, and putting it to his temple.

The following are summaries of the interviews with Necia and Mila, as to what transpired leading to the 911 call, as well as summaries of the interviews with the sergeant on scene, Kevin Paquette, and the two officers and two deputies who fired their weapons, FPD Officer Logan Hunt, FPD Officer Moody, MCSO Deputy Mitchell Meens, and MCSO Deputy Ryan Reasoner.

NECIA AND MILA INTERVIEWS:

Necia advised she and Mr. Martin lived together for approximately one and a half years with her four-year-old daughter, Mila, from another relationship.

July 17, 2020 was her friend Becka's birthday. The two met for drinks at Boston's and went to other local bars. They later separated, as Becka had dinner plans with her boyfriend. Becka later called Necia upset, advising she wanted to come back to Necia's house. Necia asked Mr. Martin who advised it was fine so Becka came over to their apartment.

Necia and Becka were on the patio of Necia's apartment. Because it was windy when Necia went to light a cigarette for Becka, an ash flew into Necia's eye. She went inside and Mr. Martin tried to wash her eye, Necia and Mr. Martin later went to the hospital and learned she had burned her cornea. When Mr. Martin and Necia came back home, they began to argue about Necia being overly dramatic. While they were at the hospital, Becka watched Mila. Becka later came out of the apartment, telling Necia Mr. Martin was being an "asshole" to her and she wanted to go home. Necia and Mr. Martin spoke inside the apartment for about 30 minutes before Becka left the apartment.

Shortly after Becka left, Necia was talking to her father on the phone asking him to reschedule airline tickets for them to visit him in Washington. Mr. Martin came outside and overheard this which made him upset. Mr. Martin came back out of the apartment and sat down next to Necia with his gun. He pointed the gun her and said, "Do you want to play a game," and sat the gun down on his lap. Necia stated this was the first time Mr. Martin brought the gun around her; Mr. Martin then went back into the apartment. She was still talking with her father when Mr. Martin came back out, still holding the gun in his hand. Mr. Martin then nudged her on the shoulder and told her to get off the phone. She said she was not doing that, telling her dad she was scared.

Necia stood up and Mr. Martin pushed her while she was standing near the stairs. She thought she was going to fall down the stairs, so she threw herself to the other side of the balcony, dropping her phone while her father was asking her if she was okay. She told her father she was scared, and Mr. Martin tried to step on her phone to end the call. Necia told her father that Mr. Martin had a

gun and her father told Necia to hang up and call 911. She didn't want to call 911 because she did not think Mr. Martin meant what he was doing as he had been drinking.

Necia called 911 and they asked where Mr. Martin was. Necia told the 911 dispatcher Mr. Martin came out of the apartment and ran downstairs telling Necia not to call the police. The dispatcher told Necia to get her daughter if Mr. Martin still had the gun. Mr. Martin came back to the apartment and Necia was telling Mr. Martin to get away from her with the gun, Mr. Martin came back out of the apartment with Mila in front of him. Mila ran to Necia, and Mr. Martin went inside and shut the door to the apartment. This is when Sergeant Paquette arrived and Necia and Mila were evacuated from the apartment area.

Necia was asked what Mila was doing when this was happening, Necia advised Mr. Martin went into the apartment with the gun in his hand. Necia said Mila was in bed, stating this all happened between 10:00 and 11:00 p.m., but she did not know if Mila was asleep. Mila said Mr. Martin kicked in the door and entered Mila's room with the gun, telling Mila to get up.

Necia was asked if Mr. Martin made any suicidal statements that night. Necia said she heard Mr. Martin say, when the officers arrived, "Are you kidding me? I will just fucking end it." During the interview with Necia, the detective reported that she did have visible abrasions on the back of her elbows from when she threw herself to the other side of the patio in fear of being pushed down the stairs.

Mila was later brought to the Western Slopes Center for Children for a forensic interview. During the interview, Mila advised that Mr. Martin was shot. Mila stated she saw the gun and advised that she told Mr. Martin "Put it down, KC," while he was in her bedroom. When asked if he was holding the gun, Mila said, "KC was." Mila advised "KC" kept the gun in his pocket and in his hand. When asked if "KC" entered the room with the gun, Mila said he did and yelled, stating he came into her room and scared her.

SERGEANT PAQUETTE

Sergeant Paquette advised he was dispatched to a felony menacing at 1131 East Carolina Ave. #4, where a male had been pushing a female down the stairs and was armed with a weapon. He arrived at this call with Officer Hunt. As they were approaching the residence, he saw a male shove a female. He advised that he observed a baby on the landing and he could see the male had something in his right hand. As this female, later identified as Necia, came downstairs with Mila, Mr. Martin went back into the apartment. Sergeant Paquette moved Necia and Mila away from the apartment and handed them off to Officer Chadd Searcy with the Fruita Police Department.

Sergeant Paquette evacuated the apartment directly below apartment #4 and began to verbally address Mr. Martin to come out of the apartment. Sergeant Paquette told officers that Mr. Martin was yelling at him from inside the apartment, so he knew Mr. Martin could hear and understand him. Mr. Martin and Sergeant Paquette continued to verbalize with one another, with Sergeant Paquette asking Mr. Martin to come out without the gun in his hands. Mr. Martin entered and exited his apartment stating he wanted to speak with his mother. Deputy Meens arrived on scene and advised Mr. Martin had a gun in his hands.

Over the radio, Sergeant Paquette overheard somebody say, "The next time David comes out, use the less-lethal bean bag round on him." When Sergeant Paquette asked about the distance, he was advised it was approximately 100 feet. Sergeant Paquette told the Officer to stand down with the less-lethal shotgun because the distance was too far for it to be effective, stating he already asked for a .40-millimeter less-lethal multi-launcher. Sergeant Paquette advised he teaches less-lethal at the FPD and advised the distance was too far.

Mr. Martin came out of the apartment and sat down on the top of the stairs with the gun to his head, he was telling officers "shoot me" or "mow me down." When Mr. Martin sat down, Sergeant Paquette could no longer clearly see Mr. Martin's head or body due to the railing on the second-story balcony. Sergeant Paquette described he could see Mr. Martin, but he could no longer see his exact motions and movements. Sergeant Paquette continued to ask Mr. Martin to put the gun down and promised him he could talk to his mother if he would put the gun down and come down the stairs. Mr. Martin told Sergeant Paquette to "shut up" and he did. Sergeant Paquette advised this was a tactical pause. When he started to talk with Mr. Martin again, he heard gunfire. Sergeant Paquette was not able to see what predicated the shooting because of the railing. During the round count of Sergeant Paquette's duty pistol, it was determined that he did not fire any rounds.

OFFICER HUNT

FPD Officer Hunt was interviewed regarding this officer-involved shooting. He advised he was washing his patrol vehicle in Fruita when he heard the three-tone felony menacing call come in. He began to drive toward East Carolina passing Sergeant Paquette. As they were approaching on foot, he heard screaming coming from the apartment and heard a female crying and screaming, saying something to the effect of, "Just put the gun away." Officer Hunt found cover and drew his handgun from its holster and started to give verbal commands for Necia to come downstairs with Mila. Necia came downstairs and Mr. Martin went back inside the apartment. Necia and Mila were moved to a safe location by Officer Searcy. Officer Moody and other deputies began to arrive on scene.

Officer Searcy relayed to other Officers information from Necia that Mr. Martin had a light-gray .380 caliber pistol. Officer Hunt retrieved his duty rifle from his patrol vehicle, joining Officer Moody who had his handgun. Sergeant Paquette was giving verbal commands to Mr. Martin and the front door of the apartment opened with Mr. Martin holding something light gray, the size and shape of a pistol to his head. Sergeant Paquette requested Mr. Martin come out with his hands up and nothing in his hands. During this verbal encounter, Sergeant Paquette verbally identified himself as a police officer, and Mr. Martin went back into the apartment before coming back out. Officer Hunt advised he was 95% certain it was a gun Mr. Martin was holding to his head.

Mr. Martin would enter and exit the apartment door, when he came back out further onto the balcony Officer Hunt could see Mr. Martin had a gun in his right hand holding it to his right temple. Mr. Martin then flipped the Officers off with his left hand and yelled, "Fuck you," while still holding the gun to his head with his right hand. Mr. Martin later came out to the balcony stairs and sat down on the top step. Officer Hunt described Mr. Martin's demeanor as erratic, unreasonable, and uncooperative.

Officer Hunt described the balcony to be somewhat dark, so he requested that Deputy Meens turn on his vehicle spotlight to illuminate the balcony where Mr. Martin was located. Officer Hunt could clearly see Mr. Martin had the gun to his head and would move it under his chin at times. Officer Hunt asked Officer Moody to retrieve the less-lethal shotgun from his vehicle, which Officer Moody did, but Sergeant Paquette advised the distance was too great.

As Sergeant Paquette continued to speak with Mr. Martin, Mr. Martin exclaimed to Sergeant Paquette he could “see the sniper.” As this was happening, Mr. Martin would move the pistol from his temple to his chin and to his lap in a casual motion several times. During one of these times, Mr. Martin pointed the gun in a quick, deliberate movement straight out at Officer Hunt, who was to the rear of Deputy Meens’s patrol vehicle. Mr. Martin pointed the gun directly at Officer Hunt for one to two seconds before Officer Hunt heard one gunshot go off. As this was happening, Officer Hunt was in the process of engaging Mr. Martin with his rifle. Officer Hunt shot his rifle until Mr. Martin fell back and the threat was gone, at which point Officer Hunt stopped shooting. Officer Hunt felt his life was threatened, he was fearful, and he thought he was going to be shot. Officer Hunt thought he fired four to five rounds at Mr. Martin and was aiming at center mass on Mr. Martin’s body when he fired.

As Officer Hunt and other Officers approached the stairs, he could see the rise and fall of Mr. Martin’s chest as they were at the bottom of the stairs and noticed this rise-and-fall cease as they approached Mr. Martin. Mr. Martin still had the gun in his right hand, Officer Hunt moved the gun approximately four feet away from Mr. Martin’s right hand while Officers were rendering aid to Mr. Martin. Officer Hunt and Deputy Meens did a safety sweep of Mr. Martin’s apartment.

DEPUTY MEENS

MCSO Deputy Meens was interviewed. Deputy Meens advised he heard a call where a male was threatening a female with a handgun in Fruita, so he responded to the area of East Carolina, Code 2 non-emergent from the area of 30 Road and D ½ Road. As Deputy Meens arrived, he understood the female, Necia, and the child, Mila, were no longer with the male or in the apartment. Deputy Meens was asked to retrieve his patrol vehicle and bring it to the front of the apartment, which he did. Deputy Meens took a position over the hood of his vehicle with his AR-15 patrol rifle. As this was happening, Sergeant Paquette was conversing with Mr. Martin.

Deputy Meens overheard there was something in Mr. Martin’s hands, so he entered his patrol vehicle and activated his spotlight to illuminate the balcony. After coming back out to a position on the vehicle hood with his rifle, Mr. Martin came out of the apartment with what looked like a silver handgun in his right hand pointed at his own head. As this was happening, Sergeant Paquette was attempting to de-escalate the situation verbally, as Mr. Martin would go in and out of the apartment with the gun still at his head. Mr. Martin sat down on the top step of the stairs and moved the gun from his head to inside his mouth, then he would put the gun between his legs and quickly bring it back up to his head. Deputy Meens advised this happened several times.

Deputy Meens heard Mr. Martin speak of a sniper, gesture toward him (Deputy Meens) and look at him. Mr. Martin was pointing the gun at his head or in his mouth when Mr. Martin pointed the

gun at Deputy Meens, he was afraid Mr. Martin was going to shoot him or the other officers around him. Deputy Meens began to shoot his rifle until Mr. Martin slumped over. Deputy Meens advised he was aiming center mass and his backdrop was what he believed to be Mr. Martin's vacant apartment. Deputy Meens advised he thought he may have shot approximately five times.

After Mr. Martin slumped over, officers began to move toward Mr. Martin and Deputy Meens asked them to stop and put gloves on before moving. As they approached Mr. Martin, Officer Hunt moved the gun from Mr. Martin's hand while another officer was attempting to handcuff Mr. Martin. Deputy Meens and Officer Hunt went into Mr. Martin's apartment to do a safety sweep and clear the apartment. When he came out, officers were rendering aid to Mr. Martin.



DEPUTY REASONER

MCSO Deputy Reasoner was interviewed. He advised he was at the Clifton substation when he heard the three-tone call of a felony menacing with a male threatening a female with a handgun. Deputy Reasoner responded Code 3 to the area of East Carolina, angling his patrol vehicle toward the apartment on East Carolina Avenue. Deputy Reasoner advised he is a Designated Marksman and has a Designated Marksman Rifle, which he deployed for this incident.

As Deputy Reasoner exited his patrol vehicle, he initially was at the driver's side door before moving to the passenger side door for more cover. He heard officers speaking about using a less-lethal bean bag and officers bringing a .40-millimeter less-lethal multi-launcher to the scene. Deputy Reasoner noticed a male exit the apartment door with his arm up high before hearing over

the radio that the male was holding a gun to his head. At this point, Deputy Reasoner moved to the street near a Fruita patrol vehicle and went to the prone position where he could see 50% to 60% of the right side of Mr. Martin's body.



Deputy Reasoner could now see Mr. Martin was holding a silver metallic handgun to his head before slowly bringing the gun to his lap and back to his head. Deputy Reasoner described Mr. Martin as getting progressively angrier and more aggressive. Mr. Martin was sitting at the top of the stairs before he took the handgun from his head and quickly extended the gun toward the position where the other officers were. When Mr. Martin pointed the gun at the other officers, Deputy Reasoner feared Mr. Martin would shoot and kill or seriously injure the other officers, so he fired at Mr. Martin to eliminate the threat. Deputy Reasoner felt if he didn't shoot, Mr. Martin would have shot the other officers.

As Deputy Reasoner was firing his rifle, his last shot felt different and he thought he had a misfire on the last trigger pull. He then racked his weapon and looked to see Mr. Martin lying on his left side and he could only see Mr. Martin's feet. Deputy Reasoner then moved to the second-level balcony to the west of his location in the street to get a better vantage point. He could see Mr. Martin lying on his left side and could not see any movement through his 1/8 power optic on his rifle. As officers were moving up the stairs toward Mr. Martin, Deputy Reasoner moved from his position to follow the other officers. After they checked on the well-being of other occupants, he went to his patrol vehicle and covered the live misfired round with a traffic cone, securing his rifle in his patrol vehicle.

Deputy Reasoner did not know how many times he fired. He stated he fired until the threat had been eliminated, stating he was aiming center mass and was looking through his optic at center mass when he began firing.

OFFICER MOODY

FPD Officer Moody was interviewed. He advised he noticed a felony menacing call and soon heard a three-tone over the radio, dispatching the call to Officer Hunt. This call was of a female being threatened by her boyfriend with a gun. Officer Moody was dispatched as a cover officer, while Officer Hunt was the primary officer dispatched. He advised he arrived on East Carolina approximately 30 seconds after Officer Hunt and Sergeant Paquette.

As Officer Moody arrived, Sergeant Paquette was getting Necia and Mila out of the apartment, while he and Officer Hunt kept lethal coverage on the apartment. Sergeant Paquette evacuated the downstairs apartment. Mr. Martin began to look through the blinds of his apartment before slightly opening the door and screen door to the apartment. Sergeant Paquette and Mr. Martin began to verbally communicate with one another, Mr. Martin was asking to speak with his mother while going in and out of the apartment. After entering and exiting the apartment several times, Mr. Martin came out of the apartment with something small and gray pointed at his head, Officer Moody advised he was 90% certain was a gun. Officer Searcy arrived and began to get information from Necia, who advised the gun she was menaced with was a small gray handgun, possibly a .380 caliber.

As this was happening, Mr. Martin came back outside with the handgun to his head. Officer Moody advised he could clearly tell at this point this was a handgun pointed at Mr. Martin's head as Mr. Martin was saying, "Just fucking shoot me." Sergeant Paquette said that they were from the Fruita Police Department and were attempting to verbally de-escalate the situation, advising his name was Kevin. As Sergeant Paquette said this, Mr. Martin said, "Fuck you, Kevin." Officer Moody described Mr. Martin as acting emotional, angry, and mentally unreasonable.

Mr. Martin sat down on the top step of the stairs and Officer Moody lost his view of Mr. Martin. Officer Moody moved behind Deputy Meens' patrol vehicle, which was parked parallel to the apartment with its spotlight on the stairs where Mr. Martin was sitting. Officer Moody could now see Mr. Martin clearly from this new perspective. Officer Hunt was near the rear of the patrol vehicle with his rifle, and Deputy Meens was at the hood of the vehicle with his rifle. Officer Moody stayed to the middle of the vehicle where he had a clear view and could see Mr. Martin moving the gun from his lap to his head and in between, but not pointing it at anybody.

Officer Moody retrieved the less-lethal shotgun and got it ready to deploy when Sergeant Paquette asked him to down it because the distance was too long. Mr. Martin was sitting on the stairs yelling, "fuck you," while pointing at Officer Moody with his left hand and pointing back at his head with his hand. Mr. Martin then pointed the handgun with his right hand in a fast motion at Officer Moody, who decided to shoot, and heard other Officers shoot as well.

Officer Moody felt afraid for his life when he saw Mr. Martin pointing the gun at him. Officer Moody thought he may have heard a gunshot before he started shooting, but he did not know where

it came from. He did not see a muzzle flash come from Mr. Martin's weapon; Officer Moody aimed center mass when he started shooting. He stopped shooting when Mr. Martin slumped back onto the balcony, believing he fired nine to ten rounds.

As officers began to move toward the stairway, Officer Moody did a combat reload, dropping his magazine from his weapon in the parking lot, to load it with a new magazine. As they approached Mr. Martin, Officer Hunt removed the gun from Mr. Martin's hand, and Officer Moody began to place Mr. Martin in handcuffs. Officer Moody advised the gun Mr. Martin had was moved and ended up being lodged under the screen door of the apartment. The handgun was a small gray handgun matching the description given by Necia. When Officer Moody didn't feel a pulse, he started CPR until relieved by paramedics.

AUTOPSY:

Dr. Daniel Lingamfelter performed an autopsy and concluded that David Martin died of multiple gunshot wounds. During the autopsy, Dr. Lingamfelter advised that Mr. Martin had approximately 17 gunshot wounds. Mr. Martin's blood was tested in two different manners. One test showed a result of .292 g/dl and the other .316 g/dl. These results are between 3 and 4 times the .08 g/dl legal limit for driving under the influence in Colorado.

CRIME SCENE:

When the scene was processed, there were 7 empty .223 cartridges found in the road where Deputy Reasoner was positioned and 1 live round, totaling 8. Deputy Reasoner fired 7 shots before the misfire which he ejected, totaling 8, which would match with the 22 rounds left in Deputy Reasoner's rifle. There were 9 spent .40 caliber cartridges found, which match the 6 left in the ejected magazine and 1 left chambered in the weapon when Officer Moody did a combat reload, firing 9 total rounds. There were 23 other .223 rounds scattered around Deputy Meens' patrol vehicle, concluding that Officer Hunt shot 14 rounds and Deputy Meens shot 9 rounds.

No officers on scene had body worn cameras.

Mr. Martin was lying in a fetal position at the top of the stairs. The small gray Jimenez Arms Model JA .380 handgun was found wedged under the screen door to the apartment. The gun had 1 live round in the chamber and the magazine was loaded in the handgun with 1 additional live round. There was 1 spent .380 cartridge found directly below the balcony where Mr. Martin was sitting. It is unknown when Mr. Martin fired this round or where it went. No officer reported seeing a muzzle flash from Mr. Martin's handgun during the shooting.



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 issue of using appropriate and justifiable use of force at varying levels.

Here, two officers and two deputies fired weapons. Their use of deadly physical force against Mr. Martin, as described above, was authorized under the theory of self-defense and defense of the other law enforcement personnel they were working with. In Colorado, deadly physical force used in self-defense has two equally important components. The first is a subjective component requiring that the actor himself, here Officers Hunt and Moody, and Deputies Meens and Reasoner, actually believed that they and the others were 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.

According to each of their interviews they described the following, respectively:

- Officer Hunt stated that he felt his life was threatened, he was fearful, and he thought he was going to be shot.
- Deputy Meens described that Mr. Martin was pointing the gun at his own head or in his mouth, but then Mr. Martin pointed the gun at Deputy Meens, and he was afraid Mr. Martin was going to shoot him or the other officers around him.
- Deputy Reasoner described Mr. Martin as getting progressively angrier and more aggressive. Mr. Martin was sitting at the top of the stairs before he took the handgun from his head and quickly extended the gun toward the position where the other officers were. He described that when Mr. Martin pointed the gun at the other officers, he feared Mr. Martin would

shoot and kill or seriously injure the other officers, so he fired at Mr. Martin to eliminate the threat. Deputy Reasoner stated that he felt if he didn't shoot, Mr. Martin would have shot the other officers.

-Officer Moody stated that he felt afraid for his life when he saw Mr. Martin pointing the gun at him.

This subjective belief is also evident from the reactions each had. The officers and deputies did not fire as long as Mr. Martin was pointing the weapon at his own head, or in his lap, however, as soon as he modified his behavior and quickly pointed the gun at the officers, they all reacted immediately and simultaneously.

Turning now to the objective reasonableness of this belief, it is readily apparent that any jury would conclude that it is reasonable for a person to believe that they are in imminent danger of being killed by another in this situation. They were all dispatched due to a call from a woman stating that he had a gun and was pointing it at her. Further, while out there, Mr. Martin was making statements such "just fucking shoot me," and his behavior was described as progressively getting more angry and aggressive.

Finally, it is appropriate to consider whether the deputies and officers have 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 the following training and experience for Officer Hunt and Deputy Reasoner:

Hunt: He reports that he was in the Army for 6 years where he was a medic and had extensive rifle training. He is a Tazer instructor and an AR-15 armorer.

Reasoner: He reported that he is a designated marksman. He is issued a special rifle with a magnified optic and engages in more training than standard patrol officers for this purpose.

My assessment of David Martin's actions lead me to believe that had he survived this encounter, we would have filed charges of first degree assault on a peace officer (F3), C.R.S. §18-3-202(1)(e), criminal attempt to commit first degree assault (F4), C.R.S. § 18-3-202(1)(a), and menacing (F5), C.R.S. § 18-3-206 for his actions towards the law enforcement officers. This is in addition to prohibited use of a weapon charges, C.R.S. §18-12-106(1)(d) and domestic violence charges for his actions towards Necia Davis.

In summary, the officers and deputies were responding to a call of a report of a man pointing a handgun at his girlfriend. They responded and found an armed individual who was acting erratically. They all clearly saw the weapon, made repeated attempts to negotiate a peaceful surrender. They all saw Mr. Martin point the weapon at the officers after he was continually pointing it at his own head and telling the officers to shoot him. This added to the fact that they all responded concurrently and similarly to the threat, and that their recount is corroborated by each other's statements leads me to the conclusion that the actions of Officers Hunt and Moody, and Deputies Meens and Reasoner fall squarely within both the use of deadly force in self-defense

or defense of others justification. Accordingly, this matter is not appropriate for criminal prosecution.

Respectfully,



Daniel P. Rubinstein
District Attorney