



## OFFICE OF THE DISTRICT ATTORNEY

GEORGE H. BRAUCHLER, DISTRICT ATTORNEY  
18TH JUDICIAL DISTRICT  
SERVING ARAPAHOE, DOUGLAS, ELBERT AND LINCOLN COUNTIES

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March 26, 2018

Chief David King  
Parker Police Department  
18600 East Lincoln Meadows Parkway  
Parker, CO 80134

Re: Officer-involved shooting of Michael Wayne Marin (DOB: 03/07/1982) by Officer Gregory Moreno, Officer Bradford Bankston and Officer Eric Graham  
Arapahoe County Sheriff's Office Case Number 17-42622  
18<sup>th</sup> Judicial District Critical Response Team case number CRT 17-07

Dear Chief King,

I have completed my review of the officer-involved shooting of Michael Wayne Marin (DOB: 03/07/1982) by Parker Police Department Officers Gregory Moreno, Bradford Bankston and Eric Graham, which occurred on November 4, 2017 in the Town of Parker, Colorado. The following are my factual and legal findings based on my review of the 18<sup>th</sup> Judicial District Critical Response Team investigation compiled by Arapahoe County Sheriff's Office Investigators Kristin McCauley and Michel Garnsey. My review includes 911 dispatch and radio traffic calls, law enforcement reports and interviews, Douglas County Coroner's Office report, witness interviews, scene photographs, phone downloads, attendance at team meetings, internal patrol vehicle camera footage, and review of body worn camera footage of Officers Moreno, Bankston, Graham, Rosselot and other responding officers.

On November 4, 2017, at approximately 9:46 p.m., Parker Police Department dispatch received a call for service at the Trailside Apartments, 10823 Twenty Mile Road, unit . The reporting party stated an unknown male had been knocking on her door numerous times over approximately an hour time period. Parker Police Department Officers Bradford Bankston and Dave Rosselot responded to the call for service. Upon contacting the reporting party and a next door neighbor, Officer Bankston was advised the unknown male was wearing an orange jacket and was associated with a black SUV parked within the apartment complex parking lot. The neighbor provided Officer Bankston an image of the unknown male she captured on her cell phone. The reporting party pointed out the black SUV to Officer Bankston, who shined his light on the vehicle for Officer Rosselot to inspect.

Officer Rosselot advised dispatch the black SUV was a Chevrolet Tahoe Z71 with Colorado license plates . Parker Police Department dispatch advised the black SUV was reported stolen out of Mesa County. Officer Rosselot looked inside the vehicle through the closed windows and observed a mobile gun safe. Officer Bankston instructed the reporting party and neighbor to go inside their respective apartments and lock the doors. Officer Bankston then

responded to the black SUV and stayed with the vehicle as Officer Rosselot searched for the unknown male. Officer Bankston radioed to dispatch and other officers he observed a mobile gun safe located on the center console<sup>1</sup>.

Shortly thereafter, Officer Rosselot located the unknown male wearing an orange jacket, later identified as Michael Wayne Marin (DOB: 03/07/1982), walking just south of 10717 Twenty Mile Road. Parker Police Department Officer Eric Graham arrived on scene and, with Officer Rosselot, approached Marin on foot. Officer Rosselot stated to Marin, "Hello, police department, come here man. Come here. Show me your hands."<sup>2</sup> Marin then began running from officers. Officer Graham yelled "Stop!" and Officer Rosselot yelled "Stop! Stop, Police!"<sup>3</sup> Marin continued running, with Officers Rosselot and Graham giving chase on foot. Officer Bankston headed towards the area and entered Officer Graham's marked patrol vehicle, driving past both Officer Graham and Officer Rosselot, who continued to chase Marin on foot.

Monitoring the call via police radio, Parker Police Department Officer Gregory Moreno arrived on scene in a marked patrol vehicle. Officer Rosselot requested via radio Officer Moreno stop at the south end of the apartment complex. As Officer Moreno placed his patrol vehicle in park, he observed Marin run directly in front.<sup>4</sup> Officer Moreno activated his emergency lights and siren and followed Marin. Officer Moreno had visual of Marin at all times.

Marin ran along the side of building 10841, which is parallel to Twenty Mile Road.<sup>5</sup> Officer Moreno drove his patrol vehicle onto Twenty Mile Road in the wrong lanes of traffic to be in closer proximity to Marin as he ran. As Officer Moreno turned onto Twenty Mile Road, Marin stopped at an entrance to a breezeway for building 10841. Marin appeared to be rummaging around through his pockets, looking directly at Officer Moreno. Officer Moreno placed his patrol vehicle in park, while maintaining visual on Marin the entire time. As Officer Moreno opened his door, he noticed Marin had a gun and was pointing it directly at him. Officer Moreno then commanded Marin to "get on the ground!"<sup>6</sup> Officer Bankston, who simultaneously arrived around the corner of building 10841, also observed Marin point a gun at Officer Moreno and yelled at Marin to "drop the gun!"<sup>7</sup> From Officer Graham's in-car camera footage, Marin can be seen standing, facing Officer Moreno, arms extended outward as if holding a weapon. Officer Bankston indicates he heard Marin fire one round towards Officer Moreno. Officer Moreno does not recall a shot being fired in his direction, but clearly recalls "looking down the barrel" of Marin's handgun, which was pointed directly at him, and believed Marin was going to shoot him.

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<sup>1</sup> In his interview, Officer Moreno recalls Officer Rosselot airing his observations of a gun safe inside the vehicle.

<sup>2</sup> This command can be heard on Officer Rosselot's body worn camera.

<sup>3</sup> This command can be heard on Officer Graham's in-car camera footage, as well as Officers Rosselot and Bankston's body worn cameras.

<sup>4</sup> Marin running in front of Officer Moreno's patrol vehicle can be seen from in-car camera footage. A flash can be seen as Marin is running, which could possibly be the muzzle flash from a gunshot.

<sup>5</sup> Marin running alongside building 10841 is visible via Officer Moreno's patrol vehicle in-car camera footage.

<sup>6</sup> This command is heard on Officer Bankston's body worn camera.

<sup>7</sup> This command is heard on Officer Bankston's body worn camera.

Fearing Marin was going to shoot him or others, Officer Moreno fired his Parker Police Department issued duty weapon five times at Marin from his position in Twenty Mile Road<sup>8</sup>. Officer Moreno believes he hit Marin one time. Officers Moreno and Bankston both commanded Marin to stop and get on the ground. Instead, Marin ran into the breezeway of building 10841. Officer Moreno gave chase into the breezeway, with Officer Bankston following behind.<sup>9</sup> As Officer Moreno entered the breezeway, he found Marin facing him in a crouched position. Officer Moreno commanded Marin to “get on the ground!”<sup>10</sup> Marin did not get on the ground, but did make additional movements.<sup>11</sup> Officer Moreno then fired three more rounds<sup>12</sup>. Marin remained in a crouched position, facing Officer Moreno and now Officer Bankston, who arrived and tactically stood to the right of Officer Moreno. Marin then rose to stand, having what appeared to be a black handgun in his right hand, continuing to ignore the officer’s verbal commands.<sup>13</sup> Officers Moreno and Bankston then fired additional rounds at Marin.<sup>14</sup>

Marin remained in the breezeway, face down with both hands underneath him. A black handgun can be seen on body camera footage just within reach near Marin’s head. Officers Moreno, Bankston and Graham, who then arrived in the breezeway, all had their duty weapons drawn on Marin, yelling verbal commands to not move.<sup>15</sup> Despite these additional and continued verbal commands, Marin again attempted to sit up, removing his hands out from underneath his body.<sup>16</sup> Officers Moreno and Graham then fired upon Marin. At this point, Marin stopped moving and officers placed him into custody, starting CPR and applying an automatic defibrillator. Additional law enforcement officers and fire rescue services arrived shortly thereafter. Marin was taken to Parker Adventist Hospital, where he was pronounced deceased. A suspected crack pipe was located on Marin’s person on scene. A syringe containing liquid was recovered from Marin’s clothing as he was transported to the hospital, which presumptively tested positive for methamphetamine. Marin also had a black knife in a sheath located on his belt, which was not deployed during the incident.

Forensic Pathologist Dawn Holmes of the Douglas County Coroner’s Office determined via autopsy Marin was shot fifteen times, including four to his back, six to his buttock region, two to his chest, two to his elbow/arms and one to his lower leg. The Coroner’s Office report did not

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<sup>8</sup> The five fired rounds can be heard on Officer Bankston’s body worn camera and partially seen from Officer Moreno’s in-car camera footage.

<sup>9</sup> Officer Moreno activated his body worn camera after he fired the first five rounds. Footage from his body worn camera begins as he is chasing Marin into the breezeway. Officer Bankston’s body worn camera is on during the entire event, though not all images are clearly visible given Officer Bankston’s positioning.

<sup>10</sup> This command can be heard on Officer Bankston’s body worn camera.

<sup>11</sup> Visible via Officer Moreno’s body worn camera.

<sup>12</sup> These three fired rounds can be heard, but not seen, on Officer Bankston’s body worn camera. Officer Moreno had his body worn camera on at this time, however these fired rounds are not audible due to a delay in sound within the body worn camera.

<sup>13</sup> Marin rising to a standing position can be seen on both Officer Moreno and Officer Bankston’s body worn cameras. Audible verbal commands include “Get on the ground! Drop the gun! Get on the ground! Drop the fucking gun!” can be heard on Officer Bankston’s body worn camera.

<sup>14</sup> These additional fired rounds can be heard on Officer Bankston’s body worn camera, however given two officers were firing, it is unclear how many total rounds were fired at this time.

<sup>15</sup> “Don’t move! Don’t fucking move!”

<sup>16</sup> Visible from different angles from body worn cameras of Officers Moreno, Bankston and Graham.

indicate which of these wounds were fatal. Several of these wounds were either graze wounds or did not strike any major vessels or organs. Toxicology revealed Amphetamine (1100 ng/mL) and Methamphetamine (5700 ng/mL) was in Marin's system at the time of death.

Critical Response Team investigation began shortly after the shooting, headed up by the Arapahoe County Sheriff's Investigators Kristin McCauley and Michel Garnsey. Numerous bullet fragments and spent shell casings matching ammunition issued to the officers were recovered from the scene. Investigation determined Officer Moreno fired a total of sixteen rounds, Officer Bankston fired a total of three rounds, and Officer Graham fired a total of six rounds.

Officer Moreno was interviewed by Investigators McCauley and Garnsey. Officer Moreno stated he responded to the Trailside Apartment complex once police dispatch aired the Chevrolet Tahoe Z71 was stolen out of Mesa County. Officer Moreno heard Officer Rosselot's call that a gun safe was observed inside the vehicle. Officer Moreno describes seeing Marin fleeing on foot and pursued him in his patrol vehicle. Officer Moreno observed Marin stop in front of the breezeway and rummaged through his pockets. Officer Moreno then placed his patrol vehicle in park, maintained a visual on Marin, opened the door, and noticed Marin had a small handgun which was pointed directly at him. Officer Moreno perceived the gun as a threat and with the gun pointed directly at him, was in fear for his life. Officer Moreno stated he believed he "was going to get shot right there and then." Officer Moreno gave verbal commands<sup>17</sup>, drew his weapon and fired at Marin. Officer Moreno believed Marin was struck by a round, but nonetheless, Marin ran down the breezeway. As Marin was running down the breezeway, his gun remained out and pointed back at Officer Moreno. Officer Moreno perceived Marin as an on-going threat, as Marin was armed and running toward potentially occupied apartments and likely other Parker police officers located on the other side of the apartments. Officer Moreno followed Marin into the breezeway and continued to engage him as Marin appeared again to make movements towards him. Officers could not see Marin's hands and still perceived him as a threat, potentially rummaging around for another handgun inside his clothing. Officer Moreno believed Marin continued to be a threat for not complying with commands until he was placed in custody.

Officer Bankston was interviewed by Investigators McCauley and Garnsey. Officer Bankston described contacting the reporting party, locating the black Chevrolet SUV, observing the gun safe inside the vehicle, observing Marin running from Officers Rossolet and Graham, and driving Officer Graham's vehicle to assist Officer Moreno apprehend Marin. Officer Bankston observed Marin stop in front of building 10841, pull a gun out of his jacket pocket, and turn towards Officer Moreno, firing one shot. Officer Moreno then returned fire and gave verbal commands. Based upon Marin's willingness to fire at other officers, Officer Bankston was in fear of imminent serious bodily injury or death towards himself or other officers. Officer Bankston recalls firing two shots as Marin continued to disobey commands and reach for the gun which was just in front of him.

Officer Eric Graham was interviewed by Investigators McCauley and Garnsey. Officer Graham recalls responding to the call and hearing over the radio a gun safe was found inside the black

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<sup>17</sup> "Get on the ground!", heard on Ofc. Bankston's body worn camera.

SUV. Officer Graham observed Marin running in an orange jacket and pursued on foot. Officer Graham entered the breezeway after Officers Moreno and Bankston. Officer Graham could not see Marin's hands and observed Marin's hands start dropping down towards his waistband, with his leg coming up as if he were trying to get up. Officer Graham believed Marin was reaching into his waistband for a gun to potentially use upon officers. In order to stop such a threat, Officer Graham fired he believed four times. Officers approached Marin and placed him in handcuffs, with Officer Graham starting CPR immediately thereafter.

Officer Rosselot was interviewed by law enforcement. Officer Rosselot arrived on foot to the breezeway after initial shots had been fired. Officer Rosselot did not fire any shots in the incident. Officer Rosselot observed Marin lying face down in the breezeway, observed a handgun near Marin's head, heard officers giving Marin verbal commands, and observed Marin's arm come out making what he believed to be a reaching motion for the gun prior to being shot the final time by officers.

The apartment complex was canvassed for witnesses. Several residents heard, but did not see, the incident. Resident [redacted] who lives in unit [redacted] located just outside the shooting, indicated she heard a loud commotion outside her residence, realized bullets were coming through her door, and heard loud voices stating "something along the lines of 'don't shoot!'", then heard several more gunshot rounds. It should be noted when viewing the body camera footage of the involved officers, there is no mention of "don't shoot" from anyone involved, including Marin, though several commands of "don't move!" are clearly heard. Marin is not heard stating anything in the body camera footage. Two additional eyewitnesses, who refused to be identified, stated to law enforcement they observed a male running from officers, reaching inside his waistband as he was running, though they ran inside before they observed whether the male pulled a gun.

An Iver Johnson TP .22 semi-automatic pistol, located near the head of Marin, was removed from scene by Officer Bankston and secured by law enforcement. The Iver Johnson TP .22 pistol was loaded with a total of six rounds<sup>18</sup>. No fired rounds or spent shell casings were located on scene directly attributable to this weapon.



<sup>18</sup> Review by two firearms instructors for the 18<sup>th</sup> Judicial District Attorney's Office conclude the Iver Johnson TP-22 is a .22 caliber long rifle semi-automatic handgun with a magazine designed to hold a total of seven (7) rounds of .22 caliber long rifle ammunition. When fully loaded, the handgun is designed to hold a maximum of eight (8) live rounds: one (1) round in the chamber and seven (7) in the fully loaded magazine.

## Additional Background Information

The following information was not known by the officers involved in the incident with Marin. However, this information is relevant to provide context to the actions of Marin on November 4, 2017. Additional investigation revealed, on November 3, 2017, the day before the shooting, Marin answered a Craigslist ad for a 2004 Chevrolet Tahoe Z71 SUV (Colorado license plates [REDACTED]) posted by registered owner [REDACTED]. Marin took the vehicle for a test drive and never returned with the vehicle. The vehicle was reported stolen to the Mesa County Sheriff's Office by the registered owner and is the same vehicle located by Parker Police at the Trailside apartment complex. The key to the stolen Tahoe was located on Marin's pockets at autopsy.

After recovery of the Tahoe by Parker Police, the registered owner gave verbal consent to search the vehicle. Inside, a small handgun safe was found resting atop the center console storage space of the vehicle. Additionally, over 100 rounds of .22 caliber long rifle ammunition, drug paraphernalia, luggage, various items of clothing, and paperwork associated with Marin was found inside the vehicle. The registered owner reported no such items were in the vehicle prior to Marin's theft, as it was previously cleaned out for sale purposes.

The registered owner of the Tahoe recognized Marin from a posting of a top ten most wanted list on the Mesa County Sheriff's Department website, and reported him to authorities. At the time of his encounter with Parker Police, Marin had four active warrants, including a warrant for Aggravated Robbery issued by the Grand Junction Police Department for an armed robbery of a local fast-food restaurant on October 30, 2017. According to a bulletin issued by the Colorado Information Analysis Center, Marin was facing potential life sentencing in one or more of his pending criminal cases, a fact known to Marin through his attorney. The bulletin indicated Marin would "continue to run to avoid arrest".<sup>19</sup> Two days prior to the incident in Parker, the Grand Junction Police Department issued an alert to law enforcement to be on the lookout for Marin, as he was wanted for multiple armed robberies of fast-food establishments in and around the Grand Junction and Colorado Western Slope area from October 14 through November 2, 2017. In one such armed robbery, Marin allegedly used a small black handgun.

On November 4, 2017, at approximately 5:58 p.m., an individual matching Marin's description attempted to rob the drive-thru window of a Rite Aid pharmacy located in Lakewood, Colorado. The suspect drove up to the window and passed a note that demanded "*(A)ll your oxy & perc's. Don't say a word till I am gone.*" The suspect pointed a small black handgun at the attendant. The attendant fled and the suspect drove off without getting any drugs. Prior to the attempted robbery, the suspect was photographed via security footage inside the store. The Lakewood Police Department investigated the case and determined the suspect was in fact Michael Marin.<sup>20</sup>

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<sup>19</sup> Colorado Information Analysis Center, Colorado Department of Safety (09/25/2017)

<sup>20</sup> Lakewood Police detectives were able to positively identify a fingerprint recovered from the passed note to Marin, as well as the victim positively identifying Marin in a photographic lineup. Additionally, tower information analyzed by Parker Police detectives from Marin's cellular phone records placed him near the Lakewood Rite Aid at the time of the attempted robbery.

Investigators interviewed Marin's girlfriend, . She indicated Marin traveled to Parker to "say goodbye" to his father before "running away together" and leaving Colorado.<sup>21</sup> indicated she and Marin were having relationship issues and that Marin always had a gun on him. indicated Marin knew he was facing prison time on some of his outstanding criminal cases and, while he didn't want a shootout with police, he "was not going back to prison" and would do whatever he had to do to avoid going back to prison. acknowledged Marin had been accused of conducting several recent robberies, though she indicated they occurred after they separated.

Analysis of Marin's cellular phone confirm text messages between Marin and from late October 2017 to November 4, 2017 indicating a breakup and Marin leaving the Colorado Western Slope area. On November 2, 2017, Marin text messaged "*I don't see me being alive in the next 2 days.*" On November 3, 2017, Marin text messaged the registered owner of the Chevrolet Tahoe Z71 inquiring whether it was for sale. Two hours before being contacted by Parker Police, Marin text messaged "*I probably won't interested live through the night [sic]*".<sup>22</sup>

### Legal Analysis

Colorado law allows the use of physical force in defense of a person in specified circumstances. C.R.S. § 18-1-704 provides, in pertinent part:

- (1) Except as provided in subsections (2) and (3) of this section, a person is justified in using physical force upon another person in order to defend himself or a third person from what he reasonably believes to be the use or imminent use of unlawful physical force by that other person, and he may use a degree of force which he reasonably believes to be necessary for that purpose.
- (3) Notwithstanding the provisions of subsection (1) of this section, a person is not justified in using physical force if:
  - (a) With intent to cause bodily injury or death to another person, he provokes the use of unlawful physical force by that other person; or
  - (b) He is the initial aggressor; except that his use of physical force upon another person under the circumstances is justifiable if he withdraws from the encounter and effectively communicates to the other person his intent to do so, but the latter nevertheless continues or threatens the use of unlawful physical force; or
  - (c) The physical force involved is the product of a combat by agreement not specifically authorized by law.

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<sup>21</sup> Investigators confirmed with members of Marin's family that Marin's father previously lived in Parker, in the area of the Trailside apartment complex.

<sup>22</sup> Text message 7:55 p.m., November 4, 2017.

In this circumstance, Officer Moreno reasonably believed unlawful physical and potential deadly force was about to be applied upon him by Marin outside the breezeway. As Officer Moreno stopped his patrol vehicle, he observed and recognized Marin possessed a handgun potentially capable of inflicting imminent physical force, serious bodily injury, or death. Further, Marin ignored Officer Moreno's verbal commands to get on the ground, and instead pointed the handgun directly at Officer Moreno. Officer Moreno reasonably believed Marin would or could fire the handgun towards him. Indeed, Officer Bankston recalls Marin did in fact fire a round at Officer Moreno, though Officer Moreno does not recall this. Nevertheless, Officer Moreno did not provoke the use of force by Marin, was not the initial aggressor, nor was there any sort of combat by agreement. In short, Officer Moreno reasonably believed imminent physical or deadly force, was about to be applied towards him by Marin. In response, Officer Moreno fired his service weapon at Marin, using a degree of force he reasonably believed necessary to prevent Marin from applying such imminent physical or deadly force.

As Marin fled into the apartment complex breezeway, pointing his weapon back towards officers as he ran, Officer Moreno pursued, fearing Marin could use the firearm on him, members of the public located inside apartments, or other officers in the area. As Officer Moreno entered into the breezeway, he again encountered Marin, who was faced towards him in a crouched position. Marin ignored Officer Moreno's verbal commands and made a movement. Again fearing for his life and believing a threat of imminent physical force, serious bodily injury or death was upon him, Officer Moreno fired additional rounds towards Marin. As Officer Bankston entered the breezeway to assist Officer Moreno, Marin again ignored verbal commands and attempted to get to his feet while directly facing officers. Officers observed Marin holding what appeared to be a small black handgun in his right hand. Fearing for their lives and believing a threat of imminent physical force, serious bodily injury or death was upon them, Officers Moreno and Bankston fired upon Marin. Finally, as Marin lay face down with his hands underneath his body, obstructed from officers view, Marin continued to ignore verbal commands and continued to make movements underneath his body and forwards towards the handgun which was on the ground a small distance above his head. Officers Moreno, Bankston and Graham all perceived Marin as a threat, particularly since his hands were obstructed and his movement was at or towards the gun. As such, fearing a threat of imminent physical force, serious bodily injury or death, Officers Moreno and Graham again fired upon Marin. In all instances of discharge of their weapons upon Marin, Officers Moreno, Bankston and Graham were in fear of imminent physical force, serious bodily injury or death. In discharging their firearms upon Marin, Officers Moreno, Bankston and Graham did not provoke the use of force, were not the initial aggressors, nor was there any sort of combat by agreement. In short, Officers Moreno, Bankston and Graham reasonably believed imminent physical or deadly force, was about to be applied towards them or others by Marin and believed discharge of their weapons was the degree of force necessary to prevent such imminent physical or deadly force.

Colorado law additionally provides a peace officer is justified in using deadly physical force in making an arrest of a suspect in specified circumstances. C.R.S. § 18-1-707 provides, in pertinent part:

- (1) ...a peace officer is justified in using reasonable and appropriate physical force upon another person when and to the extent that he reasonably believes it necessary:



- (a) To effect an arrest...; or
  - (b) To defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force while effecting or attempting to effect such an arrest...
- (2) A peace officer is justified in using deadly physical force upon another person for a purpose specified in subsection (1) of this section only when he reasonably believes that it is necessary:
- (a) To defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force; or
  - (b) To effect an arrest...of a person whom he reasonably believes:
    - (I) Has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon; or
    - (II) Has committed or attempted to commit a felony involving the use or threatened use of a deadly weapon; or
    - (III) Otherwise indicates, except through a motor vehicle violation, that he is likely to endanger human life or to inflict serious bodily injury to another unless apprehended without delay.

As defined in C.R.S. § 18-3-206, the crime of felony menacing occurs where a person, by any threat or physical action by the use of a deadly weapon, knowingly places or attempts to place another person in fear of imminent serious bodily injury.

Officers Moreno, Bankston and Graham were justified in using deadly physical force in attempting to make an arrest of Michael Marin. As Marin pointed the gun at Officer Moreno, he committed the crime of felony menacing, as defined in C.R.S. § 18-3-206<sup>23</sup>. Officer Moreno reasonably believed it necessary to defend himself or others from what he reasonably believed to be the use of imminent deadly force. Additionally, Officers Moreno, Bankston and Graham reasonably believed it necessary to use deadly physical force to effect the arrest of Marin where they had knowledge Marin used a deadly weapon to commit the crime of felony menacing against Officer Moreno. Likewise, Officers Moreno, Bankston and Graham reasonably believed deadly physical force was necessary to prevent Marin from endangering human life or inflict serious bodily injury to another unless apprehended without delay.

Therefore, I conclude Officer Moreno, Officer Bankston and Officer Graham reasonably believed their lives, or other lives, were in danger and all acted reasonably in shooting Michael Wayne Marin. Further, Officers Moreno, Bankston and Graham used an appropriate level of physical force given the circumstance. Accordingly, I find Officer Moreno, Officer Bankston and Officer Graham's actions were justified and did not violate Colorado law.

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<sup>23</sup> Arguably, Marin committed the felony crime of Attempted Murder in the First Degree, as defined in C.R.S. § 18-3-102(1)(a); 18-2-101 when he fired a shot towards Officer Moreno, as observed by Officer Bankston.

Sincerely,

*Jacob Edson*

Jacob Edson  
Chief Deputy District Attorney

Cc: by fax, e-mail or mail as indicated below:

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