

**DANIEL P. RUBINSTEIN**  
**DISTRICT ATTORNEY**

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TWENTY-FIRST JUDICIAL DISTRICT ATTORNEY'S OFFICE  
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August 22, 2023

Detective Zac McCullough  
Grand Junction Police Department  
555 Ute Ave  
Grand Junction, CO 81501

This letter is notification to the Critical Incident Response Team (CIRT), and the involved officer, Deputy Everett Blanck, of the decision not to file charges against him in the matter of the officer involved shooting of Roberto Castillo (02/01/1980), on June 28, 2023. As will be detailed below in the findings of fact and conclusions of law, charges against the officer are not appropriate, as he was acting in defense of others. Mr. Castillo has been charged with first-degree assault on a peace officer for threatening an officer with a deadly weapon, as well as arson, resisting arrest and harassment.

On June 28, 2023, the 21<sup>st</sup> Judicial District Critical Incident Response Team was activated at the request of the Mesa County Sheriff's Office to investigate an officer involved shooting, which occurred on June 28, 2023 at approximately 10:42 pm near outside of 2908 Sandra Ave, Grand Junction, CO. The Grand Junction Police Department (GJPD), Palisade Police Department (PPD), the Colorado Bureau of Investigation (CBI), Grand Junction Fire Department (GJFD) and the 21<sup>st</sup> Judicial District Attorney's Office were represented during this CIRT investigation. From the GJPD, Detective Zac McCullough was assigned as the case agent for this investigation.

The following are my findings of fact, and conclusions of law:

**FINDINGS OF FACT**

**Initial Information:**

On June 28<sup>th</sup>, 2023, at approximately 2018 hours, Deputies with the Mesa County Sheriff's Office were dispatched to an assist to Fire Department personnel at 2908 Sandra Ave., Grand Junction, CO. 81504. Call notes indicated a vehicle was on fire at the address and possibly started by the tenants at the address. Additional neighbors began calling in reference the vehicle fire advising there were popping noises, however, there was no information the vehicle was

occupied. The vehicle was located in the front easement of the address. Grand Junction Fire Department Engine 2 arrived on scene and advised of a “vehicle fully involved” at 2024 hours and advised the fire was extinguished at 2027 hours. Several minutes later, fire requested law enforcement assistance at the scene.

Around 2030 hours, Deputy Michael Dixon arrived at the scene. A firefighter informed Deputy Dixon there was a male at 2908 Sandra Ave who had his hand wrapped up and was carrying a metal rod.

*(The below screen shot was taken from Deputy Dixon's body camera when he initially arrived on scene)*



Deputy Dixon contacted a female at the residence who told him the car involved in the fire belonged to the guy in the back. The female was later identified as Estela Castillo (12/16/1991). Ms. Castillo told Deputy Dixon the guy in the back was her uncle and he needed to go to Mind Springs. Deputy Dixon asked Ms. Castillo if she knew anything about the car fire. Ms. Castillo said, “I dunno, he lit it on fire”. A male began yelling from the backyard area of the residence.

Around 2042 hours, Deputy Dixon started communicating with the male in the backyard. The male was wearing a dark colored shirt. The male was later identified as Roberto Castillo (02/01/1980). Mr. Castillo was holding a long object in one hand and the other hand was wrapped up with a white piece of cloth/clothing. Deputy Dixon asked Mr. Castillo to put the object down and Mr. Castillo said, “I ain’t putting shit down”. Mr. Castillo denied lighting the car on fire and refused to provide his name to Deputy Dixon. Mr. Castillo raised the hand that was wrapped and said, “I got a gun right here”. Mr. Castillo said something about how he was just sitting in the car and it caught on fire.

*(The below screen shot was taken from Deputy Dixon's body camera during his initial contact with Mr. Castillo. Mr. Castillo's right hand is wrapped with a white piece of cloth/clothing, there is a long object in Mr. Castillo's left hand that is resting on his shoulder.)*



Viewed by zmccullough (grandjunctionpd.evidence.com) on 13 Jul 2023

Deputy Shane Pfister was on scene with Deputy Dixon. Deputy Pfister spoke with Ms. Castillo while Deputy Dixon was watching Mr. Castillo. After speaking with Ms. Castillo, Deputy Pfister was able to identify the male as Roberto Castillo. A record check of Mr. Castillo through dispatch found that he had three active warrants for his arrest. The following is information about Mr. Castillo's arrest warrants:

- 1) Failure to Appear: GJPD 2023-00025565, Vehicular Eluding, Bond \$1,000.00
- 2) Failure to Appear: GJPD 2021-00001824, Assault on a Peace Officer, Criminal Impersonation, Theft, Obstructing a Peace Officer, Bond \$10,000.00
- 3) Failure to Appear: GJPD 2022-00025247, Burglary, Assault, Felony Menacing, Bond \$10,000.00

Upon learning the information about Mr. Castillo's warrants, Deputy Dixon and Deputy Pfister attempted to contact Mr. Castillo again. Mr. Castillo had gotten into a camper trailer parked in the back yard of the residence.

Deputy Dixon asked Mr. Castillo about the car fire again. Mr. Castillo said something about how he was just sitting in the car and someone threw something in it, which started the fire. Mr. Castillo would not come out of the camper to speak with Deputy Dixon.

Due to Mr. Castillo not coming out of the camper, Mr. Castillo's sister, Isela Rodriguez (10/06/1978), was allowed to speak with Mr. Castillo in an attempt to convince Mr. Castillo to come out. Mr. Castillo and Ms. Rodriguez spoke in a mixture of Spanish and English. Mr. Castillo still refused to come out of the camper.

Ms. Rodriguez told Deputy Dixon that Mr. Castillo was suicidal and likely smoking methamphetamine. Ms. Rodriguez said Mr. Castillo thought people were following him and were trying to kill him. Mr. Castillo told Ms. Rodriguez the only way he was going to come out of the camper was if you guys (law enforcement) killed him. Ms. Rodriguez said Mr. Castillo was trying to get law enforcement to shoot him.

Ms. Rodriguez said Mr. Castillo did not have a gun and that Mr. Castillo did not own any guns. Mr. Castillo told Ms. Rodriguez he was going to light the camper on fire with him inside of it. Ms. Rodriguez said Mr. Castillo would probably light the trailer on fire and that he smoked methamphetamine. Ms. Rodriguez thought it was likely he had small propane torch bottles inside the camper.

Between approximately 2107 hours and 2148 hours negotiations with Mr. Castillo continued and Mr. Castillo still refused to exit the camper. During this time, Deputies observed Mr. Castillo stabbing a large metal rod through the side of the camper. Additional Deputies responded to the residence to assist Deputy Dixon and Deputy Pfister. Around 2148 hours, Deputy Dixon told Mr. Castillo he was under arrest and needed to comply with law enforcement. Mr. Castillo said, "fuck you".

Around 2151 hours, Mr. Castillo's wife, Maria Marquez Delara (09/22/1982), was allowed to speak with Mr. Castillo in an attempt to convince Mr. Castillo to come out. Ms. Marquez Delara handed Mr. Castillo a cigarette through the front door of the camper. Ms. Marquez Delara was also unable to get Mr. Castillo to exit the camper.

Ms. Marquez Delara told Deputy Dixon that for the past several weeks Mr. Castillo had been "hearing voices". Ms. Marquez Delara said Mr. Castillo's brother was schizophrenic. Ms. Marquez Delara said Mr. Castillo was not doing any drugs and did not have any guns. Ms. Marquez Delara said Mr. Castillo had a knife and a metal bar inside the camper. Mr. Castillo told Ms. Marquez Delara he was not going back to jail and was going to make law enforcement shoot him.

Due to the circumstances of what was going on, it was determined a portion of the Special Weapons and Tactics (SWAT) team would respond to assist. Around 2239 hours, a tactical vehicle, commonly referred to as a BearCat arrived on scene to provide additional safety measures for Deputies and Swat Operators as they attempted to negotiate with Mr. Castillo.

Around 2240 hours, dispatch call notes advised a fire was observed inside of the camper. The BearCat was positioned in front of the camper and Deputies continued to try and get Mr. Castillo to exit the camper.

*(The following image was taken by a drone and shows how the scene looked the morning after the incident, of note during an interview it was determined the BearCat was backed up from the exact position it was at during the incident).*



Viewed by zmccullough (grandjunctionpd.evidence.com) on 14 Jul 2023

Deputies reported seeing active flames inside of the camper. Deputy Dixon deployed Oleoresin Capsicum (OC), using a Mark 9, into a window of the camper to force Mr. Castillo out. Deputies yelled for Mr. Castillo to come out of the camper with his hands up. Mr. Castillo said, "fuck you".

At approximately 2241:24 hours Mr. Castillo exited the front door of the camper. Mr. Castillo had a long object in his right hand and another smaller object in his left hand.

*(The following image was taken from Deputy Meens body camera and shows Mr. Castillo after he exited the camper, an object is visible in Mr. Castillo's right hand)*



Viewed by ckopp (grandjunctionpd.evidence.com) on 29 Jun 2023

Deputy Means attempted to shoot Mr. Castillo with a 40 mm less lethal sponge round to get Mr. Castillo to drop the object(s) and comply with Deputies' commands. Mr. Castillo did not drop the object(s) and ran around the south side of the camper to where Deputy Dixon was.

Mr. Castillo ran at Deputy Dixon who still had the Mark 9 OC canister in his hands. Deputy Dixon saw Mr. Castillo running at him with a metal object in his hand that was raised at or above hip level. Deputy Dixon began back pedaling to try and get away from Mr. Castillo. Deputy Dixon was fearful Mr. Castillo was going to assault him with the metal rod based on his behavior and previous statements he made during the incident. Deputy Dixon deployed a spray of OC in the direction of Mr. Castillo to avoid being hit with the metal object. In a later interview Deputy Dixon said, *“Yeah, so when he came, when he came around, um, I mean his eyes, that's what I remember seeing was just they were really big and they just had that look, uh, like he was, he was wanting to hurt something is, is what it looked like. So, I had every belief that he was coming at me with that as well. Um, that, that metal stick rod, whatever that thing is.”*

### **Interview with Investigator Blanck**

Investigator Blanck, who was in the turret position (standing and looking out of the top of the vehicle) on the BearCat, saw Mr. Castillo exit the trailer with what he believed to be a “short sword”. Investigator Blanck heard the 40 mm less lethal rounds being fired. Investigator Blanck saw Mr. Castillo run to the south and then the east around the front of the camper. Mr. Castillo still had the weapon in his hand. Investigator Blanck saw Mr. Castillo “charge toward” a Deputy that was in that area. Investigator Blanck saw Mr. Castillo “strike” at the Deputy with the weapon in his hand. Investigator Blanck saw the Deputy moving backward and eventually lost sight of the Deputy.

*(The following images were taken from Deputy Dixon's body camera and depict Mr. Castillo running toward Deputy Dixon with the metal rod in his hand. The second image shows Mr. Castillo's right arm down by his left hip, which is not consistent with a running motion and is consistent with a swinging motion)*





Mr. Castillo then turned and ran back to the south between the two exterior sheds/garages on the property. Investigator Blanck knew there were Deputies taking cover behind the shed Mr. Castillo was running toward. Having just seen Mr. Castillo attack a cop with a weapon, not succumb to less lethal means, and not respond to verbal commands, Investigator Blanck was concerned Mr. Castillo would encounter the Deputies behind the shed and they would not have enough time/distance to react.

Investigator Blanck made the decision to Mr. Castillo. Investigator Blank believed he fired three rounds from his patrol rifle at Mr. Castillo. Mr. Castillo quickly disappeared from his view behind the shed. Investigator Blanck could hear what he thought was physical altercation happening behind the shed where he last Mr. Castillo. From the time Mr. Castillo exited the trailer until Deputy Blanck fired his patrol rifle was approximately 4 seconds.

Investigator Blanck then directed his attention back to the trailer because it was unknown if anyone else was inside. According to Investigator Blanck's interview, due to the camper being on fire, Investigator Blanck became concerned the camper could blow up. Investigator Blanck recalled a previous incident where an individual was venting propane into an RV to blow himself and law enforcement up. Deputies began trying to extinguish the fire and Investigator Blanck backed the BearCat up as far away from the camper as he could.

After Investigator Blanck fired his patrol rifle at Mr. Castillo, Deputy Dixon ran south from the camper after Mr. Castillo. Deputy Dixon could not remember exactly how Mr. Castillo ended up on the ground, but Mr. Castillo was on the ground and Deputy Dixon saw that Mr. Castillo still had the weapon in his hand(s). Deputy Dixon got on top of Mr. Castillo and began trying to place Mr. Castillo in custody. Deputy Pfister was able to get the weapon away from Mr. Castillo and it was later located in the area Mr. Castillo was taken into custody.

*(The following images were taken from Deputy Dixon and Deputy Pfister's body cameras and show the moment Mr. Castillo was on the ground and being taken into custody. Mr. Castillo still had the metal rod in his hands)*





Viewed by ckopp (grandjunctionpd.evidence.com) on 29 Jun 2023

### **Aid/Medical at scene and at hospital**

Deputies provided medical aid to Mr. Castillo until the ambulance arrived. Mr. Castillo was transported by ambulance to St. Mary's Hospital for further medical attention. A CT scan was performed on Mr. Castillo when he arrived at the hospital. During the scan, Mr. Castillo started to break out of a strap that was across his chest. Mr. Castillo was able to get his left arm free and started banging on the outside of the machine. Medical staff attempted to restrain Mr. Castillo and Mr. Castillo continued escalating, yelling/swinging his arms. During the incident, Mr. Castillo struck Emerson Fuller (EMT/ER Tech) in both of the hands. EMT Fuller reported he did not feel any discomfort or pain from the incident.

Law enforcement assisted medical staff in restraining Mr. Castillo. Mr. Castillo tensed his muscles and tried to pull away from law enforcement. Mr. Castillo grabbed onto the bedrail with his right hand. Officer Been Mitchell (GJPD) delivered four "distractionary" strikes to the back of Mr. Castillo's right hand. Mr. Castillo let go of the bed rail and was able to be restrained. Due to Mr. Castillo's behavior, medical staff gave Mr. Castillo a medicine to calm him down. Mr. Castillo stopped struggling after the medicine was administered.

### **Other Law Enforcement Interviews**

#### **Deputy Troy Rolbiecki**

Deputy Rolbiecki was part of the partial SWAT contingent that was activated for this incident. Deputy Rolbiecki was the driver of the BearCat tactical vehicle.

Deputy Rolbiecki positioned the BearCat in front of the camper trailer in the backyard of 2908 Sandra Avenue. As Deputy Rolbiecki was positioning the BearCat, he heard someone say the male inside of the camper was starting a fire. Deputy Rolbiecki looked up and saw some kind of flame coming from inside the camper.

Deputy Rolbiecki heard Deputies begin yelling verbal commands for the male to come out of the camper with his hands up. Deputy Rolbiecki heard someone say the male came out of the camper. When Deputy Rolbiecki looked up, he saw a male standing outside of the camper. The male had what Deputy Rolbiecki thought was a “sword” in his hand. Deputy Rolbiecki described the weapon as being kind of thin, cylindrical/flat, metal object that came to a point.

The male started running south from the camper. The male ran around the corner of the camper at Deputy Dixon. Deputy Dixon still had the OC sprayer in his hands, Deputy Rolbiecki saw a “mist” and was not sure exactly what happened. Deputy Rolbiecki later believed Deputy Dixon must have deployed some more OC at the male. Deputy Rolbiecki saw Deputy Dixon backpedaling trying to get away from the male.

Deputy Rolbiecki said the male “clearly” ran at Deputy Dixon. Deputy Rolbiecki thought the male was “going after” Deputy Dixon. Deputy Rolbiecki believed the male would have had the opportunity and ability to cause Deputy Dixon harm. Deputy Rolbiecki said he perceived the object in the male’s hand to be a deadly weapon. Deputy Rolbiecki initially thought the object was a sword, but then thought of it more as a “metal rod”. Deputy Rolbiecki said if the male were to hit Deputy Dixon with the object, what he believed to be a solid heavy metal rod, it could potentially kill or cause serious bodily injury to Deputy Dixon.

Around that same time Deputy Rolbiecki heard what he thought were three gun shots. Deputy Rolbiecki grabbed his patrol rifle and got of the Bearcat. Deputy Rolbiecki ran to where he last saw the male. Deputy Rolbiecki saw Deputy Dixon and other Deputies in a physical altercation with the male. The Deputies were able to get the male into handcuffs. Deputy Rolbiecki noticed the male had blood coming off his torso. They moved the male to the street to wait for the ambulance. They located a wound to the male’s torso and Deputy Rolbiecki placed a chest seal over the wound. The male was then transported to the hospital by ambulance.

#### **Sergeant Stuckenschneider**

Sergeant Stuckenschneider responded to the incident in relation to the partial SWAT contingent that was activated for this incident. Sergeant Stuckenschneider took command of the tactical operations.

Sergeant Stuckenschneider made verbal contact with Robert through the camper and told Mr. Castillo he was under arrest. Mr. Castillo yelled back to Sergeant Stuckenschneider that he was not coming out and made comments about hurting law enforcement if they came into the camper. Sergeant Stuckenschneider told Mr. Castillo he needed to come out with his hands up and that law enforcement was not leaving. Sergeant Stuckenschneider could hear banging noises coming from the camper and saw a big metal spike come out the side of the camper.

Sergeant Stuckenschneider continued trying to negotiate with Mr. Castillo. Mr. Castillo kept saying he was not going back to jail and that law enforcement was going to have to shoot him.

The BearCat arrived at the scene and Sergeant Stuckenschneider got into the passenger side. As the BearCat was getting into position, Sergeant Stuckenschneider saw a fire start inside of the camper.

Sergeant Stuckenschneider still wanted Deputy Dixon to introduce OC spray into the trailer to get Mr. Castillo to come out. As all of that was happening, Mr. Castillo came “busting out” of the camper. Mr. Castillo came out of the camper with a 1.5’ to 2’ foot long metal rod that had a point on the end of it.

Sergeant Stuckenschneider heard the 40 mm less lethal rounds go off. Mr. Castillo ran to the area between the camper and shed. Mr. Castillo ran right into Deputy Dixon and raised the pipe above his head and swung it at Deputy Dixon. Sergeant Stuckenschneider thought Deputy Dixon may have blocked the strike with a shield. Sergeant Stuckenschneider could not see what happened after that. Sergeant Stuckenschneider started moving to get a better view of what was happening and around that time he heard three gunshots.

Sergeant Stuckenschneider moved forward and saw Deputy Dixon on top of Mr. Castillo. Sergeant Stuckenschneider saw blood on Mr. Castillo’s left side and Mr. Castillo was not complying with orders to give Deputies his hands. Deputy Dixon gave Mr. Castillo some closed fist strikes to the ribs. Sergeant Stuckenschneider did not know where the metal rod was at. Deputies were able to place Mr. Castillo in handcuffs and took Mr. Castillo to the front of the residence to provide medical care and wait for the ambulance to arrive.

### **Crime Scene**

The incident scene was processed by Evidence Technicians with the Grand Junction Police Department.

Four spent .223 REM Hornady cartridge casings were located. When Investigator Blanck’s rifle was processed there was a magazine inserted. There were 25 live rounds in the magazine and 1 live round in the chamber of the rifle (26 total). 3 spent 40 MM less lethal casings were located.

A metal “concrete form stake” was collected and identified as the weapon Mr. Castillo had in his right hand during the incident.





After reviewing body camera footage, Detectives completed an additional search warrant because the object Mr. Castillo had in his left hand during the incident was identified as a pair of plyers. The plyers were recovered and collected as evidence.



## **Roberto Castillo Interview**

On 07/10/2023 Mr. Castillo was released from St. Mary's Hospital. Mr. Castillo was arrested for his three active arrest warrants and transported to the Grand Junction Police Department. Detectives Rojo and McCullough interviewed Mr. Castillo at the Grand Junction Police Department.

Mr. Castillo was advised of his Miranda Rights and he agreed to speak with the detectives. Detective McCullough asked Mr. Castillo to tell him about the day/night of the incident. Mr. Castillo said he was in his camper and either his niece or the neighbor came out back to tell him his car was on fire.

Mr. Castillo reported that the Sheriff's Department came to his residence and a Deputy asked if he could talk to him. Mr. Castillo said he knew he had a warrant, so he said something like "fuck you, I ain't talking to you, I ain't do nothing wrong. I don't have to talk to you."

Mr. Castillo said he went inside his camper and the Deputy told him he was not going anywhere and the Deputy in fact did not go anywhere. Mr. Castillo said he saw the Sheriff's Department bring the "Goon Squad Car," referring to the BearCat.

Mr. Castillo said he knew they were going to tear down his door. As soon as he saw the BearCat, he kicked open the door and ran out of the camper. The next thing he knew he heard "boom, boom, boom,....." and realized he had been shot. Mr. Castillo said he did not have any weapons.

Mr. Castillo said he did not remember what happened after that and he spent around five days in the hospital.

Mr. Castillo mentioned several times that when he came out of the camper, he did not have any weapons or anything else. Mr. Castillo said the Deputies had no reason to shoot him.

Detective McCullough asked Mr. Castillo if he had anything in his hands when the Deputies first spoke with him in the backyard. Mr. Castillo said he was already inside of the camper when Deputies first contacted him. Detective McCullough explained to Mr. Castillo much of the incident was captured on body worn camera.

Detective McCullough told Mr. Castillo when Deputies first contacted him, he was outside of the camper and had something wrapped around his hand. Mr. Castillo said he had his shirt wrapped around his hand because he cut it. Mr. Castillo said he was also carrying an aluminum leg that went to the camper when the Deputies first contacted him.

Detective McCullough asked Mr. Castillo if he ever made a comment to the Deputies about having a gun in the hand that was wrapped up. Mr. Castillo said he did not have guns and was not allowed to have them. Detective McCullough asked why he might have said something like that. Mr. Castillo said the Deputy asked about something that was next to him and he told the Deputy it was a drill gun.

Mr. Castillo said, "I've been doing my time since 99, bro. I don't, I don't fuck around with you guys cause I know what you guys are about capable of, you know what I mean? I'm not here to play games with nobody. I'm not gonna tell you I have a gun when I don't have a gun. So, if I had a gun, I'd use it."

Mr. Castillo talked about the Deputies trying to get him to come out of the camper. Mr. Castillo told the Deputies he was not going to come out and they were going to have to kill him because he was not going to leave willingly. Mr. Castillo said his sister and wife tried to talk to him and he told them to fuck off to.

Mr. Castillo again said how when he came out of the camper, he did not have anything in his hands. Mr. Castillo said he had been doing stuff like this for too long and he was not stupid. Mr. Castillo said if he would have come out with stuff, he would have been killed or something. Mr. Castillo said the holes in the side of the camper, where Deputies saw him shoving the metal rod through, were already there.

Detective McCullough asked Mr. Castillo if he drank any alcohol the day of the incident and Mr. Castillo said he did not drink. Mr. Castillo said he used methamphetamine three days prior to the incident.

Detective McCullough told Mr. Castillo the body camera footage showed that he came out of the camper with some kind of metal rod or concrete stake in his hand. Detective McCullough asked Mr. Castillo where he may have gotten that. Mr. Castillo said it came from Ms. Marquez Delara's car and was used to hold the hood up. Mr. Castillo said he did not remember having that and the only thing he had in his hands when he came out was a flashlight. Detective McCullough told Mr. Castillo he also had a pair of pliers in his other hand when he came out. Mr. Castillo said he did not remember that.

Detective McCullough asked Mr. Castillo if there was any reason he might not remember coming out of the camper with those items. Mr. Castillo said maybe he was "pissed off" and blacked out. Detective McCullough asked Mr. Castillo if he was mad that the Deputies stayed there and continued trying to get him out of the camper and he said he was mad about that.

Mr. Castillo denied starting the car or the camper on fire. Mr. Castillo said the camper may have started on fire when the cigarette was passed to him through the door.

Mr. Castillo said he had never been diagnosed with any mental health conditions and he did not take any medication. Mr. Castillo said his brother was in a hospital in Pueblo because he was crazy.

### **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). Here, deadly physical force was not applied, as Mr. Castillo survived, but it was attempted, thus the analysis is the same and its attempted use must be justified in the same manner.

In Colorado, deadly physical force used in defense of yourself or others has two equally important components. The first is a subjective component requiring that the actor himself, here Deputy Everett Blanck, actually believed that another Deputy was in imminent danger of death or great bodily injury, and that deadly force or an attempt at 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 Investigator Blanck**

According to his interview, Deputy Blanck subjectively believed that Mr. Castillo was charging a fellow Deputy on scene and that deputies were in imminent danger of being killed or receiving great bodily injury. Investigator Blanck saw Mr. Castillo exit the trailer with what he believed to be a "short sword". Investigator Blanck heard the 40 mm less lethal rounds being fired. Investigator Blanck saw Mr. Castillo run to the south and then the east around the front of the camper. Mr. Castillo still had the weapon in his hand. Investigator Blanck saw Mr. Castillo "charge toward" a Deputy that was in that area. Investigator Blanck saw Mr. Castillo "strike" at the Deputy with the weapon in his hand. Investigator Blanck saw the Deputy moving backward and eventually lost sight of the Deputy.

During his interview, he made this statement:

"I was exceptionally concerned that he would come up on the Deputies that were taking cover behind that shed. He would've been at very close distance to them, so they would not have had time to react. Well, they didn't have distance on their side. And by going behind the shed, they would no longer have, uh, any kind of cover or concealment, um, internally in my head, and, and it's amazing that the, the thoughts can happen in that short span of time. Um, I remember thinking to myself, God, I don't wanna shoot this guy, um, excuse me.... Um, because I was concerned, uh, about that imminent threat to those guys of either being seriously injured or killed"

Having just seen the male attack a Deputy with a weapon, not succumb to less lethal means, and not respond to verbal commands, Investigator Blanck was concerned that the male would encounter the Deputies behind the shed and they would not have enough time/distance to react.

### **Objective reasonableness of the belief**

Turning now to the objective reasonableness of this belief, it is readily apparent that any jury would conclude that a reasonable person, in Investigator Blanck's situation would believe that Deputies and nearby citizens were in imminent danger of being killed by Mr. Castillo in this situation.

At the time that this occurred, Investigator Blanck was there because he was part of the SWAT team and had been deployed specifically because this was a high-risk situation of which he was briefed. He was aware that Mr. Castillo had warrants for assaulting a peace officer,

obstructing a peace officer, and a separate case for assault. He was briefed that Mr. Castillo had barricaded himself in a camper on the backside of the property and was not complying with law enforcement commands. He learned a car had been burned at the property and Mr. Castillo was reported to be armed with a pipe, a four-inch knife, and possibly a gun.

Finally, it is appropriate to consider whether the officer has specialized training that would allow him to make decisions more calmly, or otherwise be able to assess threats properly, without mental distortion due to stress. Investigator Blanck has worked for the Mesa County Sheriff's Office (MCSO) for more than 16 years. While there, he has been on the Street Crimes Unit, worked undercover operations with the Drug Task Force, been a firearms instructor and has been on the SWAT team for an estimated 12-13 years. Investigator Blanck is a sniper for the SWAT team which requires additional specialized training. Prior to his job with the MCSO, he was with the United States Army for three years.

In summary, following an escalated situation involving Mr. Castillo being involved in two arson situations, and a lengthy stand-off in which he repeatedly refused to comply with law enforcement directives, Mr. Castillo charged a Deputy, while armed with a large metal rod with a point on it, and a pair of pliers in his other hand. Mr. Castillo had repeatedly stated he was not going to comply and that law enforcement would have to shoot him.

Mr. Castillo represented that he had a gun, and had a history of assault, obstructing and specifically assaulting an officer. Investigator Blanck feared that Mr. Castillo would come up on the Deputies that were behind the shed and they would not have time defend themselves, so Investigator Blanck fired his weapon, reasonably believing that his fellow Deputies were in imminent danger of Mr. Castillo killing or inflicting great bodily injury to them. Investigator Blanck responded lawfully and appropriately in defense of others. Accordingly, it is not appropriate to file charges against him. As previously referenced, Mr. Castillo has been charged in this incident.

Respectfully,

*/s/ Daniel P. Rubinstein*

Daniel P. Rubinstein  
District Attorney