

February 6, 2014

First Lieutenant Kevin M. Leavitt  
Commander- Hart Post No. 62  
Michigan State Police  
3793 West Polk Road  
Hart, Michigan 49420

Re: Legal Opinion-Use of Deadly Force  
Officer: Trooper James Luttrull  
Deceased: William Jackson Marble  
Date of Incident: January 14, 2014  
MSP Report Number: 62-233-14

Dear First Lieutenant Leavitt:

The following constitutes my review of the investigation into the fatal shooting of William Jackson Marble by Michigan State Police Trooper James Luttrull on January 14, 2014, at 1221 North Dennis Road, Amber Township, Mason County, Michigan. In the preparation of this Legal Opinion, I have had the opportunity to review and to examine the following items:

1. Michigan State Police Report Number 62-233-124
2. Mason County Sheriff's Department Report Number 14-153
3. Ludington Police Department Report Number 14-199
4. Scottville Police Department Report Number 14-28
5. Mason-Oceana Central Dispatch Event Log 14-2398
6. Certain 911 calls and radio traffic indexed under M-OCD Log 14-2398
7. In car audio and video from MSP Unit Number 62-02 assigned to Tpr. Luttrull.
8. Autopsy report by Dr. Steven Cohle of William Jackson Marble A-14-019.
9. Laboratory Reports associated with MSP GR-14-208

In addition, I had the benefit of being able to personally observe interviews of various non-law enforcement witnesses and to review the transcriptions of the interviews of non-eyewitnesses David

Hunt and Karen Hunt, and also numerous conversations I had with investigating D/Sgts Scott Rios and David Johnson, both during the overnight hours of January 15 and subsequently.

## **I. FACTS**

### **A. Events at the Marble Residence.**

William Jackson Marble and his wife Nancy Marble resided together at 1221 North Dennis Road, Amber Township, Mason County, Michigan. This is a single family residence located on the Northwest corner of North Dennis Road and West Hansen Road. It is of newer construction and has two primary entrances, one facing North Dennis Road and a second facing West Hansen Road. The Marbles were married in 2010. This was the second marriage for Nancy Marble and the fifth for William Marble. Both Nancy and William were retired public school teachers, both having taught at Mason County Eastern Schools. William Marble retired in 2002. Both have children from prior marriages, but none together. William Marble had no prior criminal record.

At 22:45 on January 14, 2014, a call was received by Mason-Oceana Central Dispatch Operator Josh McGahan. This call was from a land line telephone associated with the William and Nancy Marble residence. The caller was an adult female who did not provide her name, but is believed to be Nancy Marble. The caller's speech was slurred and thick-tongued, and repeated three times "there's something wrong with my phone!" A second, similar, 911 call was received. Then Operator McGahan called back at the house to inquire of the problem, the same adult female repeated in a frustrated matter "there's something wrong with my phone!" Central dispatch sent Troopers Luttrull and Hammerle to that address at 23:01 describing that the female caller was increasingly upset due to phone problems.

Trooper Luttrull was the first to arrive at the home at 23:14. He pulled into one of the

driveways and waited until Trooper Hammerle arrived. Trooper Luttrull was in full MSP uniform without a coat and was operating a fully marked MSP patrol unit. This unit was equipped with video equipment and audio equipment, including a functioning wireless microphone which was attached to his uniform. Trooper Luttrull, as he awaited Trooper Hammerle's arrival, walked up onto the porch of the house and was able to hear an argument between the two occupants of the home, who referred to each other as "Bill" and "Nancy." Significant portions of the argument were captured by the video/audio equipment and were preserved by MSP and reviewed by the undersigned. To summarize, both parties sounded intoxicated, with slurred speech, occasionally profane. The argument recorded concerned a medical issue of Nancy Marble, and potentially William Marble (recording time 16:37-17:17) and a statement from Nancy that she was afraid that Bill was going to kill her (26:36). The weather was poor, temperatures in the 20s, with several inches of freshly fallen snow and heavy snowfall at the time, as captured on the patrol video. Other than brief views of Troopers Luttrull and Hammerle at the time of their respective arrivals, no other persons are depicted in the video until after the shooting. Trooper Luttrull's microphone picks up and his unit records approximately 27 minutes of the argument between William and Nancy Marble.

Shortly after Nancy Marble makes the statement that she's afraid that Bill is going to kill her, Trooper Luttrull knocks on the door, with Trooper Hammerle just behind him. Trooper Hammerle is also dressed in full MSP uniform without a coat and driving a fully marked MSP patrol unit. After Trooper Luttrull knocks several times on the door, Nancy Marble approaches from the inside, screams, and immediately exclaims "The cops are at the door, Bill!" She then opens the door. Trooper Luttrull asks her if everything is alright tonight. She responds "I'm doing-okay." Trooper Luttrull mentions that he had overheard the argument from standing outside the window. Nancy

exclaims “Shit,” again yelled “Bill” and he can be overheard stating “I am coming.” Nancy then says “I told you.” A few seconds later Nancy screams for a second time, and either Trooper Luttrull or Trooper Hammerle yells “drop” twice. Instantaneously one gunshot is heard. Trooper Luttrull then gives numerous loud verbal commands stating “Drop the gun, Bill. Drop the gun, Bill. Get on the floor. Get on the floor. Get away from the gun. Get away from the gun. Bill, I need you to do yourself and Nancy a favor and get away from the gun.” Nancy can be heard also yelling at Bill to lay down. The entire incident from when Trooper Luttrull knocks on the door until the gunshot is heard takes less than 45 seconds. Dispatch is informed by Trooper Hammerle at 11:29 P.M. that a shot was fired.

Trooper Hammerle was interviewed by D/Sgts Scott Rios and David Johnson during the early morning hours of January 15, 2014, at the Mason County Sheriff’s Department. He additionally authored a report of the incident (Supplement 11). In that report he indicated that upon gaining entry, he observed a short hallway which led towards the kitchen. He also noticed, at the end of the hallway, that there was an opening which led right and left upon exiting the hallway. He was not able to see what was to the left or right immediately after the hallway ended. He observed Nancy Marble walk towards the kitchen. She exited the hallway and turned the corner to the left, where she was no longer in view. He continues,

At almost the same moment I saw the male figure, I observed a pistol in his right hand. The pistol was pointed directly towards Tpr. Luttrull and I. It should be noted the pistol was extended from his elbow, level with the ground, at approximately waist height. At approximately the same time, Tpr. Luttrull and I drew our pistols, and Tpr. Luttrull discharged one round towards the male. At this time the male... continued staring at both Tpr. Luttrull and I. He slowly brought the pistol down, and eventually dropped it to the floor, to the left of him. Furthermore, he slowly brought himself to the ground, first going to a knee, then his left side.....Both of his hands were to the right of his body (from my perspective), which was the same side as the

pistol. His hands were approximately six (6) inches away from the pistol while he was laying on his left side, on the ground.

Trooper Hammerle additionally was interviewed by D/Sgts Scott Rios and David Johnson during the early morning hours of January 15th at the Mason County Sheriff's Department. At that time he indicated that he was in fear of his life due to William Marble pointing a gun at him and the potential for his injury or death due to that gun being pointed at him.

Trooper Luttrull was interviewed by D/Sgt Johnson (Supplement 18). He also authored a report of the incident (Supplement 15). In that report he indicated that while standing on the porch he overheard an argument between "Nancy" and "Bill" which was over a medical issue. During the argument, he never saw either of the parties. He recounted that when Trooper Hammerle arrived, that they jointly went to the door and Trooper Luttrull knocked on the door. After Nancy answered the door, Trooper Luttrull stated,

While standing in the hallway adjacent to the kitchen area, I observed Bill slowly appear from the living area with his hands by his side. Bill did not make any statements to us, only staring at us. It appeared that Bill had a dark-colored object in his right hand, so I used my flash light to illuminate his hand area. At that time I could see that Bill was holding a black and silver-colored hand gun and the muzzle was pointed directly at Tpr. Hammerle and I.

I was frightened, and felt that Bill was about to shoot Tpr. Hammerle and I. Fearing ~~my lead to my partner, down on my side, in my hand, and I fired one round at the suspect. Bill dropped the gun and fled for his~~ his hand next to the gun. I noticed he was bleeding. Numerous loud repetitive verbal commands were given to Bill to move away from the gun. Bill was non-compliant. Nancy attempted to pick the gun up, but was told to move away from the gun and she complied. Tpr. Hammerle advised dispatch via MSP ... radio that shots had been fired, one subject was down, and to call EMS.

Tpr. Hammerle and I continued to give Bill loud, repetitive verbal commands to move away from the gun until we decided that we would approach and secure the weapon. Using my foot I moved the weapon away from Bill and provided cover for Tpr. Hammerle while he handcuffed Bill.

After the shooting, Nancy Marble went to a room away from the entryway where the

shooting occurred and it took several minutes to coax her out. Once she was secured and determined to be safe, and it was confirmed that there were no other persons in the house, Trooper Hammerle obtained the first aid kit out of his patrol unit and both troopers administered first aid to William Marble as they awaited the arrival of Life EMS. These activities are also captured on the patrol unit recording.

At the time he obtained the first aid kit, Trooper Hammerle secured the pistol of William Marble<sup>1</sup>, a Bursa .380 pistol, obtained from the floor of the house. Trooper Hammerle secured it on the front seat of his patrol unit. There it remained until it was observed by MSP Sgt Adam Clement. Sgt Clement (Supplement 8) observed that the weapon was a semi-automatic pistol with a magazine in it and the safety mechanism in the “fire” position. Also Trooper Douglas Tanner (Supplement 1) observed the weapon on the front seat of Trooper Hammerle’s patrol unit. He observed the pistol to have red/brown stains consistent with blood on the grip and frame. The safety was in the “fire” position with a full seven cartridge magazine. However when Trooper Tanner went to clear any ammunition from the chamber of the weapon, there was not a bullet in the chamber. This weapon, Item 18, was then transferred by Trooper Tanner to the MSP Crime Lab vehicle for further analysis by D/Lt Jeff Crump. Sgt Clement recovered the data disc from Trooper Luttrull’s patrol unit and provided it to D/Sgt David Johnson at the Mason County Sheriff’s Department during the early morning hours of January 15. Trooper Tanner further observed on the kitchen table a false book which was opened displaying a hollowed out space which was large enough for a pistol, containing another loaded seven shot magazine for the Bersa .380 pistol. Trooper Tanner also inventoried a

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<sup>1</sup> This weapon was checked in the Law Enforcement Information Network and was legally registered to William Jackson Marble on July 29, 2012.

number of pistols, rifles, and shotguns throughout the residence, more specifically identified in Supplement 1.

The next officers on scene were Mason County Deputies Mike Hanson and Adam Lamb. They were able to assist in coaxing Nancy Marble out of the bathroom and were able to get her seated in the livingroom. Ludington Police Department Officer Mike Haveman responded to the scene and spoke briefly with Nancy Marble. Officer Haveman is personally familiar with Nancy Marble through a familial relationship. Officer Haveman reported her to be intoxicated, “she had glassy, bloodshot eyes, her speech was slurred & mumbled and she appeared very confused.” Officer Haveman turned Nancy Marble over to Scottville Police Officer Angela Babinec who transported her to the Mason County Sheriff’s Department. She was interviewed there by D/ Sgts Rios and Johnson.

One spent shell 40 caliber casing was observed outside on the front porch. It was covered with a white plastic container to protect it from the rapidly accumulating snow. The shell was recovered by D/Lt Jeff Crump and examined by him at the crime laboratory.

At the direction of F/Lt Leavitt at the scene, Sgt Adam Clement obtained from Trooper Luttrull his duty weapon, a .40 caliber pistol, with a 12 round magazine, and 12 rounds of ammunition. Sgt Clement turned these items over to D/Sgt David Johnson. (Item 1). The pistol was subsequently turned over to the crime laboratory for further analysis. D/Sgt Johnson determined that Trooper Luttrull’s duty weapon was fully loaded at the beginning of this incident and that only one shot was fired from that weapon during the course of this incident. Supplement 2. Trooper Hammerle’s gun was not discharged, nor were any other weapons, either by law enforcement or non-law enforcement personnel. All rounds were accounted for by D/Sgt. Johnson.

**B. Interviews with Nancy Marble, David Hunt, Karen Hunt, Officer David Rodriguez**

Nancy Marble was interviewed by D/Sgts Rios and Johnson. Her initial interview took place at the Mason County Sheriff's Department at approximately 1:30 AM on January 15. (Original report.) D/Sgt. Rios observed that there was a strong odor of intoxicants emanating from her, her eyes were red and bloodshot. She had also been crying. She first indicated that she and Bill went to the Elks where they had a couple of drinks and then purchased some rum, wine, and scotch at a drugstore. On the way home they stopped and picked up fast food which they took home to eat. Nancy stated that she wanted to speak with her sister-in-law Karen Hunt, that Karen was her best friend, but they don't talk anymore. Nancy was very concerned about a private health matter which she went into great detail about and was of the feeling that Bill had given this condition to her. Nancy discussed another private health matter that Bill Marble suffered from and was curious as to whether the two conditions were at all related. She was really down and depressed over her condition over the weekend. Nancy indicated that she was drinking rum and coke throughout the evening and was having problems with her telephone so she called 911, 411 to see why the phone wasn't working, as they were watching TV. D/Sgt. Rios described her recitation of the incident with the police as follows:

NANCY stated that she then heard the knock, went to the door and the police officers were there. They were really friendly and she said, "BILL," and then she heard a pop and BILL was on the ground, smiling. NANCY then stated she tried to push the gun away. I asked NANCY why she pushed the gun away. She stated she didn't know, she thinks she was afraid to pick it up. I asked NANCY who she thought would try to pick up the gun and NANCY indicated she thought BILL.

Nancy confirmed that she and Bill had argued about her private health matter at the house that evening. She stated that had no idea why Bill would bring a gun to the door. The only thing that



she could think of was that he was drinking and when he's drinking he doesn't think straight. She indicated that Bill has a drinking problem but other than that they have a lot in common. When he's drinking, he says a lot of mean things. Nancy stated that she didn't feel threatened by the troopers' presence, but she did not know what was going on as Bill came up from behind her.

In a second interview, Nancy Marble indicated that in order to get the gun that Bill had out, he would have needed to (1) get up off his seat in the living room, (2) walk over to the hutch or the clock (where he kept the fake book with the gun inside), (3) walk all the way through the dining room, through the kitchen, and then to the hallway, which she indicated he did.

In a third interview, on the afternoon of January 17, Nancy Marble provided additional information. She first indicated that her husband Bill had picked up a gun when UPS came to deliver a package to the house shortly before Christmas, 2013. She asked Bill about this behavior, but nothing was disclosed about his response. She further revealed that Bill was right hand dominant. (Supplement 12).

David Hunt, Nancy Marble's brother, was interviewed by D/Sgt. Tom Posma of the Mason County Sheriff's Department. Mr. Hunt is a retired teacher from Freesoil Schools. He indicated that he had received a telephone call earlier on the evening of the shooting from Nancy indicating that she was having telephone problems and wanted him to call the telephone company about the problem. Mr. Hunt told Nancy that he was at pool league and couldn't place a call at that time.

Karen Hunt, David Hunt's wife and Nancy Marble's sister-in-law, was also interviewed by D/Sgt. Posma. Mrs. Hunt has taught for 38 years in the Ludington Area Schools. Karen indicated that she is close with Nancy and that they socialize together. Nancy called Karen on the telephone around 9:30 PM the evening of the shooting. Nancy was very concerned about a private health

matter and that tests were being run to confirm the initial diagnosis. Karen told Nancy to try to not become too upset by it because it is now treatable, as there had been some advances in treatment for this condition. Karen stated that Nancy was embarrassed about this and asked her not to say anything to anyone about this. Nancy was also having telephone problems during this call. Karen indicated that Nancy also sounded as though she had been drinking during the call. Karen confirmed that Bill Marble was an alcoholic, but that she had never seen him be physically abusive to Nancy. <sup>2</sup>

Officer David Rodriguez of the Little River Band of Ottawa Indians Police Department was interviewed by D/Sgt Denise Bentley (Supplement 5). He is the son of Nancy Marble and is the K-9 officer for the tribal police department. Officer Rodriguez indicated that his mother married Bill Marble in 2010, that Bill was a serious alcoholic, and that he also suffered from breathing issues that required constant treatment. He indicated that his mother was not a big drinker until she married Bill Marble and that she would often “drunk dial” him when he was working in the early morning hours. He indicated that both he, and his twin brother Bradley, would avoid Bill Marble when he was drinking because he did “a complete 180” after a few drinks. Officer Rodriguez indicated that Bill Marble had a large number of firearms, both pistols and long guns, stored throughout the home. Talking about guns was about the only thing that he and Bill Marble had in common. Bill had always seemed respectful of the police and it completely surprised him when he heard that Bill had pointed a gun at the troopers.

**C. Interviews of Colin Billingley, Jack Stinebaugh, Dr. Lisa Hotovy,  
Timothy Hutchinson, Random Messeder, Craig Bowman.**

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<sup>2</sup> The private health matter referred to by Mrs. Marble and Mrs. Hunt was the same private health matter that Trooper Luttrull overheard the Marbles arguing about as he stood outside waiting for Trooper Hammerle to arrive approximately two hours later.

Colin Billingsley and Jack Stinebaugh were interviewed separately by D/Sgt. Johnson (Supplement 17). They are employed as delivery persons for United Parcel Service. Billingsley reported that the day before Thanksgiving, 2013, that he and Stinebaugh went to the Marble home together to make a delivery. Both were fully dressed in brown UPS uniforms and arrived in a standard issue UPS delivery vehicle. Billingsley stated that Stinebaugh went to the house and he stayed back at the truck. When Stinebaugh returned to the truck, he told Billingsley that an older male, fitting the description of William Marble, answered the door with a gun and had it pointed at Stinebaugh. Stinebaugh confirmed the incident and further related that Marble had pointed the gun directly at Stinebaugh's mid-section. This was not reported to law enforcement.

Dr. Lisa Hotovy, Timothy Hutchison, and Craig Bowman were interviewed separately by D/Sgt Mike Stephens (Supplement 7). They were at the Ludington Elks Lodge on the evening of the shooting. Dr. Hotovy indicated that she was tending bar and that Nancy and Bill Marble came into the lodge, as was their custom, on that Tuesday evening. She believed that Nancy had drank three rum and cokes and Bill had approximately two glasses of cabernet sauvignon. They did not appear to be visibly intoxicated, in her opinion.

Timothy Hutchison was also interviewed. He observed the Marbles at the Elks and that they were in conversation with Craig Bowman. Hutchison stated that Bill appeared intoxicated as his hands weren't shaking like they typically do before his first drink.

Craig Bowman was also interviewed. He had a conversation with the Marbles the night of the shooting at the Elks Lodge. This was the first time he had met them and the topics of conversation were kids, politics, and gun control. His conversation was also unremarkable.

Random Messeder, the general manager of the Ludington Elks Lodge, was interviewed by

D/Sgt Denise Bentley (Supplement 5). He indicated that he was in the Elks Lodge on the night of the shooting and that Nancy Marble had one or two rum and cokes and Bill had two or three glasses of wine.

**D. Autopsy Report by Dr. Stephen Cohle and Observations by Dr. Alan Grillo**

William Jackson Marble was transported by LIFE EMS to Spectrum Health-Ludington Hospital. There he was treated by Dr. Alan Grillo, who was one of the two emergency department doctors on duty. Dr. Grillo was interviewed by D/Sgt. Johnson (Supplement 17). Dr. Grillo reported that upon presentation to the emergency department at Spectrum Health - Ludington Hospital, Mr. Marble was on a backboard, pale, had a fair amount of blood on him, and his shirt had been partially cut open. He had monitoring pads on him from emergency treatment, as well as handcuffs. He had no heartbeat and was not breathing. He had a single gunshot wound to the upper right chest and no exit wound. Hospital personnel attempted to revive him for nearly forty minutes, and he estimated that an additional twenty minutes of emergency efforts were made at the scene and en route to the hospital.

Dr. Grillo noted wounds additional to the gunshot wound to the chest. Two wounds were evident to Bill Marble's right hand. One wound was between the first and second fingers. A grazing wound between these two fingers was the point of initial contact. The second was through the webbing between the first (index) finger and the thumb. This wound contained a piece of something black lodged in the flesh at the back of the injury to the right hand. The gunshot wound then entered the right upper chest before coming to rest in the area of the left shoulder blade. The "piece of something black" was likely what Bill Marble was holding in that hand at the time he

was shot.<sup>3</sup> Dr. Grillo hypothesized that Bill Marble had the gun in his right hand with his arm fully extended at or near shoulder height with his torso facing parallel to the troopers and that Trooper Luttrull's single shot entered first between the second and index fingers, next fractured off a portion of the gun in his hand, before passing through the webbing between the index finger and the thumb. The course of the single shot would have then continued into the right chest before lodging in the left shoulder blade.

Dr. Stephen D. Cohle, MD, Kent County Medical Examiner, performed an autopsy of Mr. Marble at Spectrum Health, Blodgett Campus, Grand Rapids on January 15, 2014, at 9:00 AM. Dr. Cohle gave a final diagnosis of gunshot wound to the chest, entry in the right upper chest, with no soot or gunpowder around wound, with the single bullet passing through the skin and soft tissue of the chest, through the right third rib and right third intercostal space, the upper lobe of the right lung, with exit from the posterior right fifth rib at the costovertebral junction. The bullet was recovered from the soft tissue of the upper back. The overall direction of travel of the bullet was from front to back, from right to left, and without significant upward or downward deviation. Additional graze wounds of dorsum of right hand and lateral right third finger. Additionally Mr. Marble had blood alcohol level of 250 mg/dl. Toxicology reports did not reveal the presence of drugs of abuse. The hand wounds are described by Dr. Cohle as follows:

There are two graze wounds on the right hand, one that measures 3/4 inch x 1/4 inch and located on the lateral aspect of the right third finger. There is a nearly contiguous deep graze wound in the anatomical snuff box region of the dorsum of the right hand. This measures 2 1/2 inches in length x 3/4 inch in width. There are skin tags at the anterior extent of this wound that point towards the tip of the fingers. No soot nor gunpowder surrounds this wound.

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<sup>3</sup> See Spitz, *Medicolegal Investigation of Death*, 4<sup>th</sup> edition, Fig. XII-81, p. 669.

Photographs taken by D/Sgt Rob Davis, who was in attendance at the autopsy (Supplement 4), depicting the hand wounds were reviewed. Images 16-19 depict the right hand of William Marble and show a small, black, oval shaped, flat piece of foreign material in a puncture wound located in the webbing between the thumb and index finger. The item appears no larger than a commonly sized medicine capsule, but appears to be flat, not rounded. Additionally, D/Sgt Davis recovered Item 9, one spent .40 caliber bullet recovered

### **E. Crime Laboratory Analyses**

The scene was processed by the Michigan State Police Grand Rapids Crime Laboratory. D/Sgt Jason A. Sinke and D/Lt Jeff Crump were sent to the scene. D/Lt. Crump recovered the Bersa .380 pistol (Item 18) from the inside of MSP police vehicle 6203 and assigned to Trooper Hammerle. He also noted, as did Sgt. Clement and Tpr. Tanner, that it was loaded with one magazine, chamber was empty, and safety was in the “off” position. D/Lt. Crump also recovered one .40 caliber fired cartridge casing from the deck on the North side of the residence, just North and East of the rear entry door. D/Lt. Crump, in his position as firearms and toolmarks examiner, determined that the fired cartridge case recovered from the porch and the bullet recovered from Mr. Marble’s body had been fired by the gun of Trooper Luttrull. Lab report number 3. He further examined the gun and determined that a small piece of the black rubber grip was broken off , approximately ½ inch long and 3/8 inch wide, and that the gun had blood on it. This is consistent with the object depicted in Images 16-19 taken by Det. Sgt. Davis of William Marble’s (dominant) right hand at the autopsy.

## II. LAW AND ANALYSIS

Michigan law is clear regarding the use of deadly force by police officers. Numerous court decisions have clarified the use of deadly force by police officers in various factual scenarios. “Police officers, especially when faced with a potentially dangerous situation, must be given a wide degree of discretion in determining what type of action will best ensure the safety of the individuals involved and the general public....” *Ross v. Consumers Power Co. (On rehearing)*, 420 Mich 567, 659 (1984). This allows a police officer to use as much force as is reasonably necessary under the circumstances. *Tope v. Howe*, 179 Mich App 91 (1996). If a police officer has a reasonable belief that he or she is in great danger, the officer may use such force as is reasonably necessary in self-defense, and the officer is not required to retreat when confronted with a display of force by the suspect. *Alexander v. Riccinto*, 192 Mich App 65 (1991). “A peace officer may use deadly force in defense of his own life, in defense of an another, or in pursuit of a fleeing felon.” *Ealey v. Detroit*, 144 Mich App 324 (1985). *But see: Tennessee v. Garner*, 471 US 1 (1985).

In addition to published decisions, MCL 780.972, the so called “stand your ground law,” authorizes any individual to use deadly force when “[t]he individual honestly and reasonably believes that the use of deadly force is necessary to prevent the imminent death of or imminent great bodily harm ... to another individual.”

The dissenting opinion by Justice Cavanagh in *People v. Dykhouse*, 418 Mich 588, 510 fn.10 (1984) sets forth that “justifiable homicide is the result of ... a police officer acting reasonably in the course of his or her duties.”

The clearest statement of the law perhaps comes from *People v. Doss*, 406 Mich 90, 102 (1979).

The reasonableness of the force used must be judged in the light of the circumstances as they appeared to the officer at the time he acted, and the measure is generally considered to be that which an ordinarily prudent and intelligent person, with the knowledge and in the situation of the arresting officer, would have deemed necessary under the circumstances. The officer has discretion, within reasonable limits, to determine the amount of force which the circumstances require, and he is not guilty of wrong unless he arbitrarily abuses the power confided in him.

The situation which presented itself to Trooper Luttrull and to Trooper Hammerle at the home of William and Nancy Marble is a classic situation where law officers respond to a potential domestic violence case. Alcohol is involved in the parties and weapons were accessible inside the home. Trooper Luttrull overheard the Marbles' argument and, considering the 911 calls received from the home, felt that further inquiry was in order. It was unmistakable that he and Trooper Hammerle were present on official police business due to their presence in full uniform. He knocked on the door, encountered Nancy Marble, who summoned her husband, William Marble to the door. The encounter then turned on a dime from a simple argument to a gun being pointed at mid-sections of the two uniformed troopers. Mr. Marble was less than twenty feet away from the troopers, well within shooting range of them. Both Trooper Luttrull and Trooper Hammerle felt fear for their lives upon realizing that a pistol was pointed at them. The reasonably prudent person would conclude that his life was immediately in danger. When presented with a person exercising deadly force against a police officer, a police officer may reasonably exercise similar deadly force against that person without further justification. That is exactly what Trooper Luttrull did in this situation. Clearly the shooting of William Jackson Marble by Michigan State Police Trooper James Luttrull was reasonable and justified, based on the presentation of Mr. Marble pointing the handgun at Troopers Luttrull and Hammerle. It is unnecessary to distinguish whether Trooper Luttrull was



acting in defense of himself or in the defense of Trooper Hammerle, as they were situated very near to each other, with Trooper Hammerle slightly behind the right shoulder of Trooper Luttrull.

Reviewing the criminal statutes, clearly the actions of Mr. Marble on January 14, 2014, in pointing a handgun at Troopers Luttrull and Hammerle with the intent to place them in fear of an imminent battery constituted a violation of MCL 750.82, assault with a dangerous weapon (felonious assault). The troopers' intentions and presence were clearly announced, both by Trooper Luttrull and by Nancy Marble in her loud exclamation "THE COPS ARE AT THE DOOR, BILL!"

The trajectory of the single shot fired by Trooper Luttrull, which entered Mr. Marble's right (dominant) hand between the second and index finger, then exited and re-entered passing through the webbing between the index finger and thumb, before entering the right chest and lodging in the left shoulder blade confirm Troopers Luttrull and Hammerle's statements that Mr. Marble had his right hand extended pointing towards the troopers at shoulder height with a pistol pointed at the them. Coupling that with the damage to the rubber grip of the handgun observed by Lt. Crump at the crime lab, indicates conclusively that Mr. Marble was pointing a handgun directly at Troopers Luttrull and Hammerle at the time he was shot.

The prior acts of William Marble in November, 2013, in answering the door with a handgun pointed at a uniformed UPS driver showed that he acted wilfully and that it was not a mere accident or happenstance that he approached the door with a loaded handgun when uniformed personnel were at the door.

### **III. CONCLUSION**

The shooting of William Jackson Marble by Michigan State Police Trooper James Luttrull on January 14, 2014, was in reasonable response to the deadly force presented by Mr. Marble to

Trooper James Luttrull and to Trooper Alexander Hammerle, who were both in full Michigan State Police Uniform when Mr. Marble pointed a handgun directly at them within shooting distance. It is, therefore, the opinion of the Mason County Prosecuting Attorney that the shooting of William Jackson Marble on January 14, 2014, by Trooper James Luttrull was legally justified.

Respectfully submitted,

Paul R. Spaniola  
Mason County Prosecuting Attorney

PRS/