



SUMMARY AND LEGAL CONCLUSIONS
REGARDING THE DISAPPEARANCE AND
DEATH OF MATTHEW SHELTERS

Brett D. Barkey
District Attorney

December 13, 2018

District Attorney's Office
14th Judicial District
1955 Shield Drive, Suite 200
Steamboat Springs, Colorado 80487
970-870-5200
routt14@14da.org

SUMMARY AND LEGAL CONCLUSIONS ON **THE DISAPPEARANCE AND DEATH OF** **MATTHEW SHELTERS**

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The District Attorney's Office for the 14th Judicial District prepared this summary of the reports produced by the Steamboat Springs Police Department, the Routt County Sheriff's Office, and the Colorado Bureau of Investigation.¹ This document contains the following:

- 1) A summary timeline of events based on the available evidence from the multi-agency investigation.
- 2) The District Attorney's analysis as to whether there are any criminal violations arising from the evidence obtained during the investigation, either directly related to the disappearance and death of Matthew Shelters or collateral to those events.
- 3) The District Attorney's decision as to the filing of any criminal charges based on the evidence obtained during those investigations.

This document is not intended to recite all information obtained during the investigation and contained in the investigative materials. Rather, the timeline focuses on the information and facts bearing directly on the question of whether evidence exists of a direct or collateral crimes arising from the disappearance and death of Matthew Shelters, and if so whether it is appropriate to prosecute. Significant forensic evidence in the case was limited to that obtained from Mr. Shelters' recovered body, clothing and personal items. The bulk of information uncovered in the case came from the large number of interviews and hundreds of hours spent on this investigation.

All investigative materials from the three law enforcement agencies participating in the matter have been made available to the District Attorney, to undertake this analysis. All the agencies involved in the investigation believe that all the evidence that is reasonably available to make prosecution decisions has been recovered. The District Attorney is satisfied that all reasonable investigative efforts have been completed or will shortly be completed.

¹ Steamboat Springs Police Department, Routt County Sheriff's Office, and the Colorado Bureau of Investigation are referred to as SSPD, RCSO and CBI throughout this document. Their report numbers are, respectively, P1803957, S1803653, and 2018-234.

Timeline

1998

Mr. Shelters suffered a traumatic brain injury in an accident. As reported by family, there was a noticeable change in Mr. Shelters afterward, and Mr. Shelters may have received therapy for a couple of years, but then stopped.

November 2013

Mr. Shelters was the subject of a welfare check. Karen Shelters expressed concern her son was depressed, had financial problems and was suicidal. She last spoke to him in August 2013. According to Karen Shelters, Mathew Shelters was not communicating with family members for extended periods. Police contacted Mr. Shelters.

March 2014

Municipal Court warrant for Mr. Shelters was issued for Failure to Appear, Evasion of Sales Tax. This warrant was active at the time Mr. Shelters was reported missing.

2017-2018

Mr. Shelters was in a relationship with Shaina Clark. During the latter part of their relationship, according to Ms. Clark, Mr. Shelters was getting "blackout drunk" most nights of the week and using cocaine. According to Ms. Clark, Mr. Shelters would transition quickly from being "fine" to "blacked out". According to Brian Freedman, Mr. Shelters drank 4-5 nights per week, and he had seen Mr. Shelters use cocaine.

February - March, 2018

According to Ms. Clark, she ended her relationship with Mr. Shelters due to his alcohol and cocaine use. Ms. Clark moved out of Mr. Shelters' apartment. Ms. Clark said Mr. Shelters was spending approximately \$500 per week on alcohol and cocaine. Shortly thereafter, Ms. Clark had a "one-night stand" with an employee of the Old Town Pub (OTP), a restaurant and bar in Steamboat Springs, Colorado. Ms. Clark told Mr. Shelters about this, and it depressed Mr. Shelters, as evidenced by his communications with his father and mother, and by reports of Mr. Shelters' friends. According to Mr. Shelters' mother, Mr. Shelters was "at his worst" when relationships did not work out, and it made him "feel like a failure". One friend of Mr. Shelters reported to police that Mr. Shelters told the friend he had considered suicide. Mr. Shelters and Ms. Clark made efforts to work their relationship out, but Mr. Shelters' drinking continued, and the evidence indicates he was also using cocaine.

According to multiple friends, Mr. Shelters was worried about money and spoke of owing a debt to the IRS.

Friday, April 20, 2018

According to William Hogan, on this date he gave Mr. Shelters a ride home from the OTP because Mr. Shelters was getting “surly”.

Saturday, April 21, 2018

According to Paige O'Brien and William Hogan, Mr. Shelters was at a social gathering at a home on 13th street.

According to OTP manager Sean Regan, Mr. Shelters was in OTP on this date, and was highly intoxicated and rude to staff in a way that was out of character for Mr. Shelters.²

Sunday, April 22, 2018

According to Ms. Clark, Mr. Shelters took her to the airport for her trip to Costa Rica. Mr. Shelters planned on caring for Ms. Clark's cat while she was gone.

According to Sean Regan, Mr. Shelters came into the OTP and apologized to staff for his rude behavior the day before.

Monday, April 23, 2018

According to Jeffrey Laroche, Mr. Shelters' supervisor at “E3”, a restaurant and bar in Steamboat Springs, Colorado, Mr. Shelters was at E3 for a meeting attended by him and Jason Roma, about an issue that had arisen at work. According to Mr. Roma, the meeting got a bit confrontational, but ended on a positive note.³ When Mr. Shelters left E3 he planned to come in the next day for work. Mr. Shelters' bicycle was apparently left at E3. According to Laroche, there was no video surveillance of Mr. Shelters in E3 on this afternoon and any video recordings would have been copied over in the normal course of business.

At 3:48 p.m., Ms. Clark received a text message from Mr. Shelters asking if she arrived in Costa Rica. She replied yes, and Shelters responded with “xoxo”.

According to Sean Regan, Mr. Shelters was at the OTP late afternoon or early evening, and nothing seemed out of the ordinary. Mr. Regan reported that Mr. Shelters had a couple of drinks

² It appears this may be the incident that William Hogan described as having occurred on Friday, April 20, 2018.

³ Shaina Clark reported that approximately one week before Mr. Shelters disappeared, he received a text from Mr. Laroche, indicating Mr. Laroche believed Mr. Shelters was speaking negatively about E3 and if that continued, Mr. Shelters should find another job.

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and left at approximately 6:00 p.m. Mr. Regan believed Mr. Shelters left to retrieve Ms. Clark's vehicle and then went to Brian Freedman's house.

Cell phone records show that at 6:34 p.m., Mr. Shelters' phone called Brian Freedman's phone and a 16-second connection ensued.

According to Brian Freedman and Katherine Koebnick, Mr. Shelters called Mr. Freedman and shortly thereafter arrived at their residence (467 ½ 8th street), between 6:30 and 7:30 p.m. Mr. Shelters arrived in Clark's vehicle and stayed for approximately 45 – 60 minutes. Mr. Shelters discussed being upset about his relationship with Ms. Clark. Mr. Shelters said he was going to drink downtown and did not want to drive Ms. Clark's car, and he asked if he could leave the car at their residence. Mr. Freedman agreed and Mr. Shelters took the car keys off of a keychain and gave them to Mr. Freedman. Mr. Shelters then left on foot towards downtown. Neither Mr. Freedman nor Ms. Koebnick saw Mr. Shelters use cocaine at their residence on this date, but Ms. Koebnick said she had seen Mr. Shelters use cocaine at her residence "recently".

Cell phone records show that at 9:37 p.m., Mr. Shelters' phone sent a text to William Hogan's phone, and that at 9:50 p.m., Mr. Hogan's phone sent a text to Mr. Shelters' phone.

According to David Eliason, he saw Mr. Shelters at Backdoor Burger, a restaurant and bar in Steamboat Springs, Colorado, in the evening for a party among a "tight knit" group. Mr. Eliason said Mr. Shelters did not appear to be under the influence of cocaine, but he said he believed Mr. Shelters was struggling with a cocaine problem. He said Mr. Shelters appeared to be in good spirits.

According to Tyler Bennett, he saw Mr. Shelters at Backdoor Burger in the evening for a going-away party among some friends. Mr. Bennett drank with Mr. Shelters. Mr. Bennett said Mr. Shelters drank 4 – 5 Red Bull and vodkas, that he talked about fishing and his job at E3 and seemed in good spirits, and that Mr. Shelters said he thought his relationship with Ms. Clark was improving.

According to Shelby Spencer, she saw Mr. Shelters at Backdoor Burger in the evening and Mr. Shelters seemed normal.

Tuesday, April 24, 2018

According to Mr. Bennett, Mr. Shelters left without saying good-bye around 12:30 a.m. Mr. Bennett said he left Backdoor Burger at around 12:30 a.m. with Shelby Spencer. Mr. Bennett said he went to Dude and Dan's, a restaurant and bar in Steamboat Springs, Colorado, had one drink served by a bartender named "Collins,"⁴ and then went to the OTP. Mr. Bennett at one

⁴ Staff at Dude and Dan's told police that establishment closed at midnight. Mr. Bennett said he is sure that it was after midnight that he had a drink at Dude and Dan's.

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time believed he saw Mr. Shelters at OTP when he was there with Ms. Spencer, but later determined the person he thought was Mr. Shelters was somebody else.⁵

According to Shelby Spencer, she left Backdoor Burger with Mr. Bennett, went to a couple more bars, and then she took a taxi home. Ms. Spencer said she did not have a clear memory of what occurred after leaving Backdoor Burger due to alcohol intoxication.

Video surveillance from Backdoor Burger reveals that Mr. Shelters left at 12:22 a.m. according to the video time stamp. Mr. Shelters is seen on the video speaking with Patrick Thompson and then walking northwest through the alley toward 9th street in Steamboat Springs. According to Mr. Thompson, he offered Mr. Shelters a ride, and Mr. Shelters declined then walked toward 9th street. Mr. Thompson said he did not know Mr. Shelters well, but he seemed normal.

William Hogan saw Mr. Shelters, he says at a bar, after Mr. Shelters left Backdoor Burger. According to Mr. Hogan, Mr. Shelters asked Mr. Hogan "for a front on a bag".⁶ In this conversation, Mr. Hogan did not say what he meant by "a bag" nor did he say whether he gave Mr. Shelters anything. Mr. Hogan has declined multiple opportunities to be further interviewed regarding this conversation and other matters.

Between 12:00 a.m. and 1:00 a.m., Gregory Hill received a video alert from his security company. On that video, a man that appeared to be Mr. Shelters is captured by a motion sensor security camera walking eastbound at 701 Princeton Avenue, and then turning northbound toward the Atwood Ranch property. The man did not appear to be carrying anything, he was walking normally, and was alone.⁷

According to cell phone records, at 1:59 a.m., Mr. Shelters' phone communicated with the cell tower at High Point, which is located above the McDonalds/Sundance Plaza in Steamboat Springs. The location of the phone at that time was approximately 1.6 miles from the High Point cell tower somewhere within a roughly 120-degree arc to the north/northwest. This area encompasses the entire area along U.S. Highway 40 and, all of the downtown and residential area of Steamboat Springs, a 1.5 to 2 mile stretch of the Yampa River, and multiple undeveloped property areas to the north of Sundance Plaza.⁸

⁵ Video from OTP was obtained and reviewed and did not contain any images of Mr. Shelters. There was an individual who looked similar to Mr. Shelters in a general way in OTP at the time Bennett arrived.

⁶ Mr. Hogan withheld this information from police in his interviews. The information became known when a third party turned over an audio recording to police on August 24, 2018. The third party said the audio recording was made during a conversation with Mr. Hogan on August 21, 2018.

⁷ Gregory Hill, the resident of 701 Princeton Avenue, did not recognize Mr. Shelters nor make a connection to the video message he received until after Mr. Shelters' body was found on Atwood Ranch property in July. Mr. Hill notified police of what he saw in the video on July 14, 2018. The video was not preserved due to the passage of time, and was not recoverable by the time it was reported by Mr. Hill. The description of the person Hill saw matches Mr. Shelters and is along the route to the place where Mr. Shelters' body was found.

⁸ Mr. Shelters' body was found just outside this area, on July 4, 2018.

Mr. Shelters did not report to work at E3. Attempts to call or contact him by co-workers were unsuccessful.

At 8:00 p.m., Shaina Clark sent Mr. Shelters a long text message and received no response.

Friday, April 27, 2018

Shaina Clark contacted SSPD advising that she could not reach Mr. Shelters who was supposed to be caring for her cat. Ms. Clark denied that Mr. Shelters had expressed any suicidal ideation and she did not wish to report him missing.

Nathan Shelters, Matthew Shelters' brother, spoke with SSPD and requested that he be listed as missing. Matthew Shelters was then entered into the law enforcement database as missing.

Saturday, April 28, 2018

Mr. Shelters' cell phone service provider, Verizon, confirmed the last known use of Mr. Shelters' cellphone and last "ping" area, and that the phone was no longer operating/turned on.

April 29 to July 3, 2018

A large group of citizens undertook a search for Mr. Shelters. This group was primarily coordinated by Melissa LeBlanc, with support from Nicole Shively and Sean Regan. During this time, multiple people reported "tips" to SSPD. These included

- possible sightings of Mr. Shelters;
- speculation and rumors about what may have happened to him based on social media postings and internet postings;
- reports from a psychic organization engaged by one or more of Shelters' friends providing GPS coordinates of where Shelters might be; and
- theories of what happened to Shelters based on dreams or "vibes".

These tips were pursued by investigators at the insistence of those providing them, and produced no reliable, relevant information. Included among these tips were the following theories, *none of which were supported by any evidence*:

- Shelters was attacked and killed in downtown Steamboat Springs, similar to a rumor about another person who was murdered and placed in a dumpster with the entire event and death being covered up by authorities;
- Shelters was taken/harmed by a "Mexican" drug cartel or "biker" gang.

Again, the investigation revealed no evidence to support any of these 'theories' or rumors.

June 1-7, 2018

Sometime during this week, Diane Hagihara, the wife of Gregory Hill at 701 Princeton Avenue, located a set of keys on the east end of their property. The location where these keys were found is a path leading toward Atwood Ranch. That path ran adjacent to Soda Creek and continued through the neighboring property (Cari Hermacinski's) and into Atwood Ranch, ending at the fence line at that property boundary. One of the keys appeared to be for a local post office box and Ms. Hagihara turned the keys over to the post office, where the keys were placed in a container with several other lost keys.⁹

Wednesday, July 4, 2018

Cari Hermacinski entered the Atwood Ranch property, which is adjacent to hers, and discovered a badly decomposed human body while looking for wildlife with some friends. Ms. Hermacinski called authorities, who responded, and the scene was processed for the collection of evidence. A driver's license and ski pass belonging to Mr. Shelters, along with ten \$1.00 bills, were located in the wallet found in the pants at the scene where the corpse was discovered. Based on the preliminary findings on this scene, this appeared to be the body of Mr. Shelters.¹⁰

Thursday, July 5, 2018

An autopsy was performed in Loveland, Colorado, by Dr. Michael Burson, and tissue was examined for toxicology, with the following findings: The body was in an advanced state of decomposition, including skeletonization and soft tissue loss; there was evidence of injury/post-mortem artifact resulting from animals; there were no indications of traumatic bony fractures; there was no evidence of abnormality of the scalp or of any cerebral hemorrhage or contusion evident in the brain. Lab analysis of remaining lung tissue revealed the presence of Beta-Phenethylamine, Methylcgonine¹¹ and Caffeine. Dr. Burson was unable to determine a cause of death, but concluded that the presence of a cocaine metabolite indicated that "acute cocaine intoxication may have been present at the time of death."

Sunday, July 8, 2018

SSPD was notified that six individuals, Nicole Shively, Melisa LeBlanc, Alicia Mangold, Bernie Tomassetti, Dag Larson and Todd Ackerman had entered Atwood Ranch with a drone and located two shoes on the slope above Soda Creek where the body was discovered. These items were collected by law enforcement. When recovered, the laces of the shoes were untied and

⁹ The finding of these keys was not reported to law enforcement until July 14, 2018, after Shelters body was discovered on Atwood Ranch. The keys were then recovered and confirmed to be a key for Shelters apartment, a key for Clark's apartment, and a key for Clark's post office box.

¹⁰ Final DNA confirmation of Shelters' identity is pending with the CBI crime lab.

¹¹ A common metabolite of cocaine in a human being.

tucked underneath the insole of the shoe. Cari Hermacinski had given this group permission to enter her property to access Atwood Ranch.

Monday, July 9, 2018

RCSO obtained permission from the manager of Atwood Ranch, Matt Belton, to enter the property where the body was found and conduct further searching, during which they located a baseball cap.¹²

July 7, 2018 - present

A joint investigation that included SSPD, RCSO and CBI began on July 10, 2018. Based on information known at the time, or in follow-up to information provided during this joint investigation, the following people, among others, were interviewed or re-interviewed: Cari Hermacinski, Robert Shine, Brian Freedman, Katherine Koebnick, Shaina Clark, Ali Schrader, Bernie Tomassetti, Christopher Burczyk, Eric Morang, Tyler Bennett, Shelby Spencer, Andrea Kosoris, Dag Larson, Todd Ackerman, Gregory Hill, Nicole Shively, William Hogan, Melissa LeBlanc, Michael Mangold, Chris Porter, Paige O'Brien, Chris Powers, Tyree Woods.

Several people who knew Mr. Shelters reported their theories and suspicions to police, offering specific people as possibly complicit in either his death or the disposal of his body, and suggesting that authorities look into these suspicions, which were almost entirely based on behaviors and personalities the reporting parties viewed as “shady” or suspicious. Of particular focus for some of these reporting parties were William Hogan and Brian Freedman. On multiple occasions, these ‘leads’ were traced back to *people expressing their speculative theories as fact, or as rumors without any identifiable basis in fact.*

¹² None of the civilians who entered Atwood Ranch as referenced in this report had permission to do so from the owner or property manager. In doing so, each of these persons violated Colorado's Trespassing statute(s) when they entered Atwood Ranch. The property owners do not wish to prosecute.

District Attorney's Legal Analysis

The below is an analysis of two distinct categories of crimes: 1) Crimes *directly related* to the disappearance and/or death of Matthew Shelters, and 2) Crimes *collateral* to Mr. Shelters' disappearance or death.

There are two legal standards that must be met before an individual may be arrested, charged and ultimately convicted of a crime. The first is "probable cause," meaning that evidence "is sufficient to permit a person of ordinary prudence to believe in a person's guilt. *People v. Walker*, 675 P.2d 304 (Colo. 1984). Probable cause is required for law enforcement officers to seek an arrest warrant or to issue a summons. Probable cause is also the *minimum* required for the District Attorney's Office to file criminal charges in court. *Colorado Rules of Professional Conduct*, Rule 3.8(a).

Before charging individuals with crimes in court, the District Attorney's Office ultimately analyzes cases to determine whether evidence is sufficient to succeed at trial – that is, convince a jury "beyond a reasonable doubt" that an individual has committed a crime. *National Prosecution Standards, National District Attorney's Association*, Standard 4-2.4.j; *Prosecution Function, Criminal Justice Section Standards, American Bar Association*, Standard 3-3.9(a). The "beyond a reasonable doubt" requirement is a higher evidentiary standard than "probable cause." Because it is the standard required to be met before individuals may be punished for crimes by such penalties as prison and fines, "beyond a reasonable doubt" is appropriately the highest evidentiary standard in the law.¹³

Crimes directly related to the disappearance or death of Mr. Shelters

The available evidence does not establish probable cause to believe there was any criminal behavior perpetrated by third parties directly related to the disappearance or death of Matthew Shelters.

Homicide/Kidnapping

No witness has identified any criminal behavior directly connected to Mr. Shelters' disappearance or death, and there is no physical evidence that establishes any criminal behavior with a direct connection to Mr. Shelters' disappearance or death. Due to the state of Mr. Shelters' body at the time it was discovered, no cause of death can be determined. The lack of medical evidence as to a cause of death, makes a homicide prosecution very difficult and reliant entirely on circumstantial evidence, such as a motive to kill or harm. Here, there is no suspect

¹³ These are *evidentiary* standards. Rumor and speculation are *not* evidence admissible in Colorado's courts. That an outcome is *possible*, in theory, does not make it *probable* and therefore does not meet either the probable cause or beyond a reasonable doubt evidentiary standard.

that has been identified by reliable evidence as having any motive to harm Mr. Shelters. Nor is there sufficient, reliable circumstantial evidence to believe that Mr. Shelters was killed or harmed by another person.

Although several people have suggested that Shelters was the victim of an intentional act of violence, either at the hands of a person or persons involved with narcotics trafficking, or a cult, or an unidentified serial criminal preying on people in the area, *there is no evidence whatsoever to support such a conclusion*. Rather, these suggestions are either the product of rumor and misinformation, or are pure speculation.

Abuse of a Corpse

No witnesses have provided any evidence of mistreatment of Mr. Shelters' body, and there is no physical evidence that establishes any mistreatment of Mr. Shelters' body. The location of the body and items in that area is equally consistent with Shelters traveling up the slope from the area of Soda Creek where his body was found and falling down the slope into the creek¹⁴ on his own, as it is with any theory that his body was manipulated by anyone at any time prior to its discovery on July 4, 2018. The state of the body, according to the autopsy, is consistent with decomposition and animal predation.

Although several people have suggested that Mr. Shelters overdosed and that his body was then 'dumped' at or near the location he was found on July 4, 2018, there is no evidence establishing probable cause to believe that is what occurred. While it is possible, the available evidence does not support a conclusion that it did happen, or even that it probably happened. The video observed by Gregory Hill from his motion sensor security camera at 701 Princeton Avenue, which appears to show Mr. Shelters walking alone, close to and enroute to, the place where his body was ultimately found, is particularly critical on this point.

Distribution of a Controlled Substance, False Reporting to Authorities, and Trespassing

It is possible that William Hogan provided an amount of cocaine to Mr. Shelters and that is what Mr. Hogan was referring to when he told a third party that Mr. Shelters asked for "a front on a bag". If that is true, Mr. Hogan committed the offense of Unlawful Distribution of a Schedule II Controlled Substance. Certainly, several witnesses indicated that Mr. Shelters had a history of using cocaine, and the toxicology performed on Shelters' body established the presence of a cocaine metabolite. However, there were no individuals interviewed who indicated that they had ever actually witnessed Mr. Hogan distribute cocaine to Mr. Shelters or anyone else. Nor is there legally sufficient evidence to indicate that the cocaine metabolite in Mr. Shelters' body came from cocaine provided by Mr. Hogan, if he indeed provided any, to the exclusion of any

¹⁴ Runoff in Soda Creek was significant rate at this time of the year.

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other source. Consequently, at this time the evidence is simply insufficient to charge Mr. Hogan with the unlawful distribution of a controlled substance.

It is clear that at least one person, and possibly more than one person, committed the class 3 misdemeanor of False Reporting to Authorities, pursuant to C.R.S. 18-8-111(1)(a)(III), which is defined as providing information to law enforcement relating to a matter with their official concern when the person knows they do not have such information or knows that the information is false. During the course of this investigation, more than one person shared information that they stated as fact but that turned out to be a rumor or speculation. Additionally, multiple people denied knowing anything about Mr. Shelters' cocaine use, or Mr. Hogan's alleged cocaine distribution, when it appears they likely had more information about that topic than they were providing – such an omission *could possibly* fall within the applicable scope of C.R.S. 18-8-111. Lastly, it is clear that William Hogan lied to law enforcement when he told them the last time he saw Mr. Shelters was Saturday, April 21, 2018, because Mr. Hogan later admitted in a recorded conversation with a third party, that Mr. Hogan believed he was the last one to see Mr. Shelters the night Mr. Shelters disappeared (April 23-24, 2018) and that Mr. Shelters asked him for “a front on a bag”.

Finally, it is clear that every non-law enforcement individual who entered Atwood Ranch without permission from the owner of that property committed the offense of either 2nd or 3rd Degree Criminal Trespass, pursuant to either C.R.S. 18-4-503(1)(a) (a class 2 or 3 misdemeanor depending on the classification of the property) or C.R.S. 18-4-504 (class 3 misdemeanor or class 1 petty offense depending on the classification of the property). 2nd Degree Criminal Trespass as applicable here is defined as entering, without permission, in or upon the property of another when that property is fenced or otherwise enclosed in a manner designed to exclude others. 3rd Degree Criminal Trespass as applicable here is defined as entering, without permission, the premises of another.

District Attorney's Declination of Prosecution

The District Attorney concludes that evidence is insufficient to prove any crimes *directly related* to Mr. Shelters' disappearance and death. Therefore, at this time no person can or will be charged with a crime *directly related* to those events, such as homicide or kidnapping. Colorado Rules of Professional Conduct, Rule 3.8; National Prosecution Standards, National District Attorney's Association, Standard 4-2.4.j; Prosecution Function, Criminal Justice Section Standards, American Bar Association, Standard 3-3.9(a).

Further, applying either the beyond a reasonable doubt standard, or a probable cause standard, there is insufficient evidence to conclude that anyone abused or mistreated the body of Matthew Shelters, and for that reason, no person can be charged with that crime. *Id.*

Similarly, applying either the beyond a reasonable doubt standard, or a probable cause standard, there is insufficient admissible evidence to prove that William Hogan distributed a controlled substance to Matthew Shelters, and for that reason, Hogan cannot be charged with that crime. *Id.*

As indicated above, it appears that criminal offenses *collateral* to the disappearance and death of Matthew Shelters, were committed during the course of this investigation. However, for the reasons stated below, in the exercise of his prosecutorial discretion, the District Attorney has determined that nobody will be charged with these offenses, under these circumstances.

To begin, Mr. Shelters' disappearance and death was very traumatic for Mr. Shelters' family. It is the District Attorney's opinion that the prosecution of collateral charges like false reporting and trespassing, which could take as long as a year, will delay any closure and healing the family might achieve now that the joint investigation is complete.

Additionally, Mr. Shelters' disappearance had a substantial impact on the Steamboat Springs community. Just as with Mr. Shelters' family, the District Attorney concludes that prosecuting collateral cases will delay closure and healing for the broader community. National Prosecution Standards, National District Attorney's Association, Standard 1-1.2 ("A prosecutor should put the rights and interests of society in a paramount position in exercising prosecutorial discretion in individual cases").

Looking at the individuals who may have committed collateral offenses, Mr. Hogan alone appears to have intentionally misled law enforcement. However, in the District Attorney's opinion, the harm caused to the Mr. Shelters' family and community caused by a long prosecution of Mr. Hogan on this charge, outweighs the law enforcement objectives that might be gained. Therefore, in the exercise of the District Attorney's discretion, Mr. Hogan will not be charged with false reporting to authorities.

As for individuals it who may have trespassed, in the District Attorney's exercise of discretion, none will be prosecuted for the following reasons:

- As stated already, such prosecutions would delay closure and healing for the family and community.
- The land owner does not wish for any prosecutions to proceed. None of the individuals has a criminal history.
- None of the individuals is likely to reoffend.¹⁵



Brett D. Barkey
District Attorney

¹⁵ The National District Attorney's Association's National Prosecution Standards lists "factors" for consideration in deciding whether or not to prosecute in Standard 4-1.3:

- (i) the charging decisions made for similarly-situated defendants;
- (j) the attitude and mental status of the accused;
- (k) undue hardship that would be caused to the accused by the prosecution;
- (l) a history of non-enforcement of the applicable law [under these circumstances];
- (o) whether the alleged crime represents a substantial departure from the accused's history of living a law-abiding life; and
- (q) whether the extent of the harm caused by the alleged crime is too small to warrant a criminal sanction.

Additional factors are discussed in Standard 4-2.4:

- (a) the nature of the offense not involving violence or bodily injury;
- (c) the characteristics of the accused that are relevant to his or her blameworthiness or responsibility, including their criminal history if any;
- (d) potential deterrent value of a prosecution to the offender and to society at large;
- (g) the accused's relative level of culpability in the criminal activity; and
- (l) the impact of the crime on the community; and
- (m) any other aggravating or mitigating circumstances.