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Chief of Police Vanessa Wilson
Aurora Police Department
15001 East Alameda Parkway
Aurora, Colorado 80012

**RE: Officer-involved shooting on July 12-13, 2021 at 4283 South Salida Way, [REDACTED]
Aurora, Colorado.**

Dear Chief Wilson,

I have reviewed the shooting that occurred on July 13, 2021 at 4283 South Salida Way, [REDACTED], Aurora, Colorado. This document constitutes a report of the findings of the District Attorney for the 18th Judicial District, and includes the basis of the decision not to charge the involved officers with any criminal conduct.

EXECUTIVE SUMMARY

On July 13, 2021, the 18th Judicial District's Critical Incident Response Team responded to investigate an officer-involved shooting at 4283 South Salida Way, [REDACTED] Aurora, Colorado. The incident began the previous date when Aurora Police dispatch received multiple calls for service from residents of the Chaparral Condominiums regarding Jeffrey Moralez harassing residents. Aurora police officers responded to investigate at approximately 8:40pm. Over the next eight hours, Mr. Moralez confronted officers, pointed weapons at officers, barricaded his home, loaded firearms, and failed to comply with law enforcement's repeated attempts to resolve the situation peacefully. As law enforcement attempted to arrest Mr. Moralez utilizing less-lethal methods, Mr. Moralez opened fire on them.

Seven Arapahoe County Sheriff's Office Deputies in an armored vehicle approached Mr. Moralez's condominium in attempt to get Mr. Moralez to surrender. Mr. Moralez began firing on their vehicle and, as Mr. Moralez would later admit, intentionally fired at the driver's windshield where Deputy Justin Yantiss was seated. The vehicle's window shattered and deputies feared the

glass would not continue to hold with continued direct fire to it. Further, the vehicle had furrowed its back tires in the grass and could not retreat from its position.

APD SWAT Officers Nicholas Wilson and Travis Brady then directed gunfire at Mr. Moralez to stop Mr. Moralez from continuing to fire on the vehicle. Officer Brady fired his rifle seven times, while Officer Wilson fired his rifle three times. Mr. Moralez immediately yelled “I give up” upon Officers Wilson and Brady firing at him. Mr. Moralez suffered minor injuries from debris, likely from the improvised barricades that Mr. Moralez erected from plywood and a door being struck by Officers Brady and Wilson’s gunfire. Mr. Moralez would later claim to have fired over sixty rounds at officers. Investigators recovered sixty-four spent shell casing of varying calibers. Investigators also recovered eight firearms, various magazines, ammunition, and a tactical vest from Mr. Moralez’s condominium.

Applying the law to the facts of this incident, as described below, I conclude that the officers were legally justified in attempting to use lethal force against Mr. Moralez. The officers’ use of force was reasonable, necessary, and appropriate in order for them to defend themselves and others from the threat posed by Mr. Moralez.

STATUTORY FRAMEWORK

C.R.S. § 16-2.5-301 governs investigations into police officer-involved shootings. This statute provides, in relevant part: “Each police department, sheriff’s office, and district attorney within the state shall develop protocols for participating in a multi-agency team, which shall include at least one other police department or sheriff’s office, or the Colorado Bureau of Investigation, in conducting any investigation, evaluation, and review of an incident involving the discharge of a firearm by a peace officer that resulted in injury or death. The law enforcement agencies participating need not be from the same judicial district.” C.R.S. § 16-2.5-301(1).

The investigation into this shooting incident was conducted by the 18th Judicial District Critical Incident Response Team (CIRT). The lead officers were Detectives Stephanie Dorrell and Matthew Talmon of the Douglas County Sheriff’s Office. Other investigators participated from the District Attorney’s Office as well as numerous police agencies and sheriff’s offices throughout the jurisdiction. C.R.S. § 20-1-114 provides, in relevant part: “The district attorney shall, if no criminal charges are filed following the completion of an investigation pursuant to section 16-2.5-301, C.R.S., release a report and publicly disclose the report explaining the district attorney’s findings, including the basis for the decision not to charge the officer with any criminal conduct. The district attorney shall post the written report on its website or, if it does not have a website, make it publicly available upon request.” C.R.S. § 20-1-114(1). This document constitutes a report of the findings of the District Attorney for the 18th Judicial District, and includes the basis of the decision not to charge the involved officers with any criminal conduct.

MATERIALS REVIEWED AND INFORMATION CONSIDERED

I reviewed all materials provided by the lead investigators and members of the CIRT, including body-worn camera video, surveillance video, dispatch notes, radio traffic, interviews

of the involved officers, reports regarding interviews with witnesses, and photographs of the scene. Additionally, I personally responded to the scene of the incident to observe.

SUMMARY OF THE FACTS

On July 12, 2021, APD dispatch received multiple calls-for-service from residents of the Chaparral Condominiums regarding Mr. Moralez during the day. Multiple residents reported that Mr. Moralez had been yelling and being disruptive. Residents familiar with Mr. Moralez reported he was having mental problems. Based on previous law enforcement contact, law enforcement knew that Mr. Moralez possessed firearms and had previous mental health-related problems. APD's CRT (Crisis Response Team), a mental health focused response team with assigned officers and mental health clinicians, had responded to earlier complaints. However, CRT was unable to successfully contact Mr. Moralez and resolve the calls-for-service.

At approximately 8:20pm on July 12, 2021, Chaparral Condominiums resident [REDACTED] reported to APD dispatch that Mr. Moralez had gotten into a confrontation with him and had been harassing his wife, making sexually explicit comments. APD Sergeant Brandon Samuels responded, as well as other APD officers, arriving at approximately 8:40pm. Sgt. Samuels contacted the reporting party to investigate the possible criminal harassment. While investigating the harassment, Sgt. Samuels was approached by Mr. Moralez while Sgt. Samuels was seated in his marked patrol vehicle in the parking lot. Mr. Moralez complained to Sgt. Samuels about APD activity and Sgt. Samuels' response. Mr. Moralez claimed that Sgt. Samuels was trespassing. Mr. Moralez then returned to his condominium. During this interaction, Mr. Moralez was shirtless and Sgt. Samuels did not see any weapon on Mr. Moralez at that time. Due to Mr. Moralez's behavior and the fact he was known to possess weapons, Sgt. Samuels decided to wait to contact and detain Mr. Moralez until he was outside of his home.

As other officers arrived, Officer Thomas Eckstadt and Sgt. Samuels reported hearing Mr. Moralez from inside of his condominium and could hear the action of an unknown firearm being "racked". Mr. Moralez then exited his condominium, again shirtless, but Sgt. Samuels now observed that Mr. Moralez had armed himself with a handgun in the waistband of his pants. Officers Eckstadt, Robert Wong, and Mark Young also reported seeing a handgun in Mr. Moralez's waistband. Mr. Moralez started directly approaching Sgt. Samuels and Ofc. Eckstadt. Both were in fully marked police uniforms.

At approximately 9:08pm, Ofc. Eckstadt and Sgt. Samuels drew their weapons and can be heard on body camera telling Mr. Moralez clearly and repeatedly to put his hands up, that they just want to talk, and telling him to drop the gun. Mr. Moralez did not comply with the commands. Mr. Moralez can be heard on body camera yelling at officers that they were not in a fox hole with him and that he will make an example of the Aurora police.

Mr. Moralez proceeded back into his condominium. At this point, Sgt. Samuels began to speak to Mr. Moralez over a loud speaker, stating that they just wanted to talk to him, just want a peaceful resolution, and trying to get Mr. Moralez to come out of his condominium. This interaction is captured on the body camera of multiple officers. Sgt. Samuels' tone as he spoke to Mr. Moralez was calm and patient. This interaction goes on for hours. At times, Mr. Moralez,

would come out of his condominium, still armed with a handgun, appearing angry and upset, to yell at officers, before going back inside his condominium.

At about 10:30pm, Officers Eckstadt and Cole Moore reported observing Mr. Morales's shadow as he walked up to the door of his patio. Officers Eckstadt and Moore indicated they could see Mr. Morales holding a long object in his hands which appeared to be a rifle. Ofc. Eckstadt heard Mr. Morales yell "I have a M" (unintelligible) and something about 1776.¹ Ofc. Eckstadt then observed Mr. Morales's shadow reach down and manipulate the object, which sounded like a rifle being charged or loaded. Officers Eckstadt and Moore then observed Mr. Morales kneel down to the ground in a shooting stance and raise the long metal object up to point in the direction of officers. Officers Eckstadt and Moore could see Mr. Morales was kneeling down below the blinds as he pointed the object which would give him a clear view of officers. Officers Eckstadt and Moore heard Mr. Morales yell something to the effect of having a good "silhouette" on officers. Ofc. Moore reported hearing "you mother fuckers are going to get some." Given the location the officers were staged, the lighting conditions, and his positing near his door, Mr. Morales's actions are difficult to observe on body camera. However, some of the statements of Mr. Morales, including having the "silhouette" can be heard on the body camera footage.

Officers Eckstadt and Moore reported these actions made them both believe Morales was armed with a rifle, had loaded the rifle, was pointing it at them, and was about to shoot them. Officers, however, did not return fire. Instead, officers immediately moved behind parked vehicles for cover. APD SWAT was then activated to respond. APD SWAT Officers Nicholas Wilson and Travis Brady were among the officers tasked with responding to the Chaparral Condominiums.

Officers observed Mr. Morales begin to barricade his home, pulling down a flag, his blinds, and officers heard items being moved within the home. At APD's request, the Arapahoe County Sheriff's Office (ACSO) and the Douglas County Sheriff's Office (DCSO) sent their Lenco Bearcat armored vehicles to assist. ACSO's Bearcat crew consisted of ACSO Sergeants Todd Fechner (behind driver) and Bradford Zborowski (behind front passenger) and Deputies Justin Yantiss (driver), Michael Balding (co-pilot/boom operator), Duane Fox (behind Sgt. Zborowski), Tyler Fechner (behind Sgt. Fechner) and Trevor Cuaz (behind Dep. Fechner).

During this time, Mr. Morales called the communications/dispatch centers for ACSO, the Colorado State Patrol (CSP), and Buckley Space Force Base, alleging that police impersonators were harassing him and had pointed guns in his face. APD crisis negotiators responded to Buckley SFB to speak with Mr. Morales on their line. A little after 1:00am on July 13, 2021, Mr. Morales threatened that "if SWAT comes in through the door, I have magazines with more than fifteen rounds in it." Attempts to convince Mr. Morales to exit his home and peacefully surrender to police were unsuccessful.

At approximately 3:20am, APD obtained a signed arrest warrant for Mr. Morales for felony menacing with a deadly weapon. APD Sergeant John Wilton, with the crisis negotiators,

¹ Many rifles, including assault style and military rifles, have models such as M-1, M-4 and M16.

advised Mr. Morales via phone that he was under arrest and ordered him to exit his home. Mr. Morales hung-up.

SWAT Sergeant Paul Jerothe reported that Mr. Morales began to barricade his front door with boards. Sgt. Jerothe heard Mr. Morales exclaim that there was a propane bottle by the front door. APD began loud and clear announcements from their loud speaker that Mr. Morales was under arrest and ordered him to exit his home. Mr. Morales did not comply. At approximately 3:40am, APD SWAT officers began to deploy less-lethal flashbangs and CS gas Ferret rounds at Mr. Morales's condominium to compel Mr. Morales to surrender.² These less-lethal methods were not successful in inducing Mr. Morales to exit his condominium. Instead, Mr. Morales began firing out the west side of his condominium.

ACSO's Bearcat crew then positioned their Bearcat on the west side of Mr. Morales's condominium. ACSO's Bearcat was equipped with a DRACO gas delivery system. The DRACO was attached to the Bearcat's boom and could be used to deliver gas into a location, as well as port doors, walls, and windows to provide access for tactical teams.



Shortly before 4:00am, the ACSO Bearcat began to port the west side of the condominium, and began to deploy CS gas from the *DRACO*. Mr. Morales responded by directing gunfire at the *DRACO* device and the boom. This can be observed in the body camera footage of the ACSO deputies.

² A flashbang is a less-lethal explosive device that produces a blinding flash of light and a loud “bang.” A CS gas Ferret round is a frangible projectile that is primarily used to dislodge barricaded subjects. Upon impact, the nose ruptures and delivers CS gas.



Boom with Impact Marks



DRACO with Impact Marks

Despite the gunfire, the Bearcat crew continued to port the condominium, taking down the barricades, and deploying the CS gas. Mr. Moralez then began to target the front of the Bearcat.

While porting the westside of the condominium, the Bearcat's rear axle furrowed into the soft grass. The Bearcat became partially stuck and unable to retreat.

At approximately 4:12am, Mr. Moralez began firing shots from his rifle at the Bearcat's windshield, striking the driver's windshield multiple times. Mr. Moralez's shots caused the outer pane of the bullet resistant windshield to shatter. The deputies inside the Bearcat worried about how much gunfire the Bearcat windshield could sustain before failing. If the windshield failed, the deputies inside the Bearcat would be at risk of being seriously injured or killed. Body camera from inside the Bearcat shows the bullet strikes on the driver's windshield:



Mr. Morales continued to direct gunfire at the Bearcat. Due to the sustained gunfire from Mr. Morales, APD SWAT Officers Brady and Wilson relocated to a position where they could direct gunfire at Mr. Morales.

Officers Wilson and Brady were admitted to 4285 S. Salida Way [REDACTED] by its resident, who subsequently evacuated. 4285 S. Salida Way was a condominium building in the *Chaparral Condominiums*, immediately west of Mr. Morales's condominium. Officers Wilson and Brady positioned themselves in an east side bedroom with its bedroom window facing Mr. Morales's condominium. Mr. Morales continued to fire from inside his condominium.



Officers Wilson and Brady reported difficulty seeing into Mr. Morales's condominium due to airborne debris, lighting conditions, smoke and gas, and barricades erected by Mr. Morales. However, Officers Wilson and Brady observed Mr. Morales's movement within the condominium. At approximately 4:19am, Officers Wilson and Brady fired 10 shots in rapid succession at Mr. Morales, who was concealed behind an improvised barricade. Officer Brady fired his agency issued *Daniel Defense* model *DDM4V7S* automatic rifle seven times, while Officer Wilson fired his agency issued *Daniel Defense* model *DDM4V7S* automatic rifle three times. Approximately one second after Officers Wilson and Brady fired their last shot, Mr. Morales yelled "I give up." Officers Wilson and Brady ceased fire. Despite his statements, Mr. Morales did not exit the front door from his home until approximately 4:40am, where he was taken into custody by APD officers.

Mr. Morales was transported to the Medical Center of Aurora to be treated for injuries. Mr. Morales was stuck by debris, likely from the improvised barricades Mr. Morales erected from plywood and a door being struck by Officers Brady and Wilson's gunfire.

DCSO Detectives Dorrell and Talmon, along with APD Detective Christopher Fanning, responded to the hospital to interview Mr. Morales. During the interview, Mr. Morales identified himself as a combat veteran and Combat Engineer with multiple deployments to Afghanistan. Mr. Morales expressed anti-Aurora Police ideology.

Mr. Morales's statements indicated that he recognized the marked uniforms as police. Mr. Morales admitted to directing gunfire, from multiple weapons, at the DRACO, the boom, and the Bearcat. Mr. Morales admitted to targeting the driver's side windshield of the Bearcat. Mr. Morales claimed his intent was to disable the Bearcat. Mr. Morales claimed to have fired in excess of sixty rounds during the incident. Mr. Morales claimed to have made several small improvised explosive devices during the incident, which he intended to use against officers.

During the search of Mr. Morales's condominium, ACSO crime scenes investigators recovered sixty-four various spent shell casing of varying calibers, a Smith and Wesson M&P 15 semi-automatic rifle, three Glock handguns, one Beretta model 92 handgun, one Weatherby 20 gauge shotgun, one Savage Arms A17 rifle, one Colt 1911 handgun, and various magazines, ammunition, and a tactical vest. ACSO investigators documented damage, from Mr. Morales's gunfire:



Mr. Moralez was subsequently charged with multiple counts of attempted murder of a peace officer, first degree assault of a peace officer, and felony menacing.³

APPLICABLE LAW

The ethical obligation of prosecutors and the policy of the District Attorney's Office is to only prosecute a case when 1) there is a good faith basis to believe the individual to be prosecuted has committed the crime, and 2) there is a reasonable likelihood of conviction at trial.

³ The filing of a criminal charge is merely a formal accusation that an individual committed a crime under Colorado law. A defendant is presumed innocent until and unless proven guilty.

This is a higher standard than the probable cause standard used by police officers making arrest decisions. Criminal liability for charging is established when there is a good faith basis to believe the individual committed the crime, and there is sufficient evidence to prove all of the elements of the crime beyond a reasonable doubt, to include the criminal conduct and the criminal mental state. Additionally, the prosecution must disprove any statutorily recognized justification or defense beyond a reasonable doubt.

The District Attorney's review of an officer-involved shooting event is guided by the statutes pertaining to the affirmative defenses applicable to use of force by peace officers, specifically C.R.S. § 18-1-707:

(1) Peace officers, in carrying out their duties, shall apply nonviolent means, when possible, before resorting to the use of physical force. A peace officer may use physical force only if nonviolent means would be ineffective in effecting an arrest, preventing an escape, or preventing an imminent threat of serious bodily injury or death to the peace officer or another person.

(2) When physical force is used, a peace officer shall: (a) Not use deadly physical force to apprehend a person who is suspected of only a minor or nonviolent offense; (b) Use only a degree of force consistent with the minimization of injury to others; (c) Ensure that assistance and medical aid are rendered to any injured or affected persons as soon as practicable; and (d) Ensure that any identified relatives or next of kin of persons who have sustained serious bodily injury or death are notified as soon as practicable.

(3) A peace officer is justified in using deadly physical force to make an arrest only when all other means of apprehension are unreasonable given the circumstances and (a) The arrest is for a felony involving conduct including the use or threatened use of deadly physical force; (b) The suspect poses an immediate threat of death or serious bodily injury to the peace officer or another person; (c) The force employed does not create a substantial risk of injury to other persons.

(4) A peace officer shall identify himself or herself as a peace officer and give a clear verbal warning of his or her intent to use firearms or other deadly physical force, with sufficient time for the warning to be observed, unless to do so would unduly place peace officers at risk of injury or would create a risk of death or injury to other persons.

(4.5) Notwithstanding any other provision in this section, a peace officer is justified in using deadly force if the peace officer has an objectively reasonable belief that a lesser degree of force is inadequate and the peace officer has objectively reasonable grounds to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving serious bodily injury.

ANALYSIS AND CONCLUSION

This event began by Mr. Moralez engaging Sgt. Samuels in a confrontational manner when Sgt. Samuels was trying to perform his duty to investigate potential criminal activity. Sgt. Samuels remained calm and respectful, without any show of force towards Mr. Moralez. Mr. Moralez proceeded to escalate the situation when he returned to his condominium, retrieved a firearm, and reengaged officers with that firearm. Despite clear commands from officers, Mr. Moralez refused to comply with officers' instructions to drop the gun or surrender peacefully.

Mr. Moralez retreated into his condominium and for hours, law enforcement pleaded with Mr. Moralez to come out and turn himself in. Law enforcement were calm, polite, and respectful to Mr. Moralez. Mr. Moralez refused all of law enforcement's attempts to resolve the situation peacefully.

At approximately 10:30pm, Mr. Moralez again escalated the situation by aiming a rifle at officers and indicating he had a good "silhouette" on them. Mr. Moralez's actions constituted felony menacing with a deadly weapon on a peace officer. Mr. Moralez demonstrated that he was an immediate threat of inflicting death or serious bodily injury to the officers and potentially other residents at the condominium complex.

While inside his condominium, Mr. Moralez remained armed and constructed barricades to violently resist any law enforcement attempts to apprehend him. Mr. Moralez's statements to crisis negotiators demonstrated that he would shoot officers who tried to apprehend him.

Members of law enforcement were carrying out their duties and applied nonviolent means to the extent possible before resorting to the use of physical force. Based on Mr. Moralez's actions, and law enforcement and crisis negotiators' attempts to convince Mr. Moralez to peacefully leave his condominium, it was clear that nonviolent means would be ineffective in effecting his arrest or preventing an imminent threat of serious bodily injury or death to a peace officer or another resident.

Law enforcement next tried to get Mr. Moralez to surrender by the use of less-lethal physical force, including flashbangs and CS gas. These less-lethal methods were ineffective as Mr. Moralez refused to surrender. Rather, Mr. Moralez further escalated the situation by firing shots outside of his condominium. Mr. Moralez's actions created a potential deadly situation to both officers and other complex residents.

Law enforcement then resorted to using the Bearcat to port the condominium and deploy less-lethal CS gas in an attempt to get Mr. Moralez to surrender. Mr. Moralez began firing on the Bearcat and, as Mr. Moralez would later admit, intentionally firing at the driver's windshield where Deputy Yantiss was seated. The Bearcats window shattered and deputies feared the glass would not withstand continued direct fire to it. Further, the Bearcat had furrowed its back tires in the grass and could not retreat from its position.

The deputies in the Bearcat were in imminent danger of being killed or of receiving serious bodily injury and had no way to get to safety. Mr. Moralez had demonstrated a willingness to seriously injure or kill the officers or others in the vicinity, and all lesser degrees of force employed over the previous 6 hours had proved ineffective. Thus, Officers Wilson and Brady had an objectively reasonable belief that a lesser degree of force was inadequate. Officers Wilson and Brady were objectively reasonable to believe, and did believe, that deputies in the

Bearcat and other officer and residents in the surrounding area, were in imminent danger of being killed or of receiving serious bodily injury prior to using deadly force. Upon Mr. Moralez's offer to surrender, Officers Wilson and Brady ceased their use of force.

Officer Brady and Officer Wilson did not commit any crime and criminal charges will not be filed against them.

Garrik Storgaard

Chief Deputy District Attorney

18th Judicial District