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January 12, 2024

Ron Thomas  
Chief of Police  
Denver Police Department  
1331 Cherokee Street  
Denver, CO 80204

Re: The officer-involved shooting on August 25, 2023, in the 3500 block of York Street, Denver, CO, which injured Keith M. Mosley (dob 9/29/87); GO# 2023-459993

Dear Chief Thomas,

Our office has reviewed the investigation of the officer-involved shooting on August 25, 2023, which occurred when Keith Mosley appeared to be holding a gun to the head of a female hostage and threatening to kill her. To save the apparent hostage, Denver Police Officer Andrew Niccum (17051) fired one shot from his rifle which struck Mosley, injuring him. This letter is to inform you of my conclusion that Officer Niccum's use of force was legally justified.

Mr. Mosley has been charged with Attempted Murder in the First-Degree and other felony charges in Case Number 23CR005035. The full investigation is documented in that case. Some of the facts are reviewed below for the purposes of this letter.

### **Summary of Facts**

On August 25, 2023, at approximately 5:34 p.m., a 911 caller reported that a Hispanic male in a black Ford Expedition SUV bearing license plate DLUJ49 fired gunshots at him as he drove on I-25.<sup>1</sup> Shortly thereafter, a DPD officer saw the Expedition turn north onto Josephine Street from 47<sup>th</sup> Avenue. The officer found the vehicle in a driveway next to a residential duplex at 4723 and 4725 Josephine Street, but it was no longer occupied. The license plate matched the 911 caller's report.<sup>2</sup> Multiple officers responded to look for the person who fired the shots from the vehicle.

Officers were told the black Expedition belonged to people living at 4725 Josephine Street. It was apparent that at least one person was inside the residence at that address. However, multiple knocks on the door and on the windows were unanswered. After a period of watching the residence, the police had the black Expedition towed away but officers continued to watch the residence from an unmarked vehicle. Other officers in marked police cars stayed in the area for several hours.

<sup>1</sup> Police confirmed that the vehicle of the 911 caller was struck and damaged by bullets.

<sup>2</sup> The license plates on the black Expedition were registered to a different vehicle and were unlawfully attached to the Expedition.



At approximately 11:00 p.m., a maroon-colored Ford F-150 pickup truck arrived and backed into the driveway. A man was driving, and a woman was in the front passenger seat.<sup>3</sup> Another man and a woman came out of the 4725 Josephine Street residence through a sliding glass door and got into the rear seats of the pickup. The male who came out of the residence and got in the pickup truck was Keith Mosley, and the female was Vanessa Cordova De Padilla (dob 9/30/1992). The maroon truck then left the driveway and turned right to go southbound on Josephine Street.

Officers in two marked police cars turned north from 47<sup>th</sup> Avenue onto Josephine Street to initiate a traffic stop of the truck. Police emergency lights were activated. However, the driver accelerated forward, striking one of the police vehicles and driving onto the sidewalk to elude the police. The driver turned right, westbound on 47<sup>th</sup> Avenue.<sup>4</sup> Officers in other police vehicles followed on 47<sup>th</sup> Avenue as the truck sped west, then turned left, southbound on York Street. Officers Clyde Carmody (14064) and Zachary Moldenhauer (17013) were first in the pursuit behind the maroon truck, with lights and sirens activated.

As they pursued south on York Street, gunshots were fired at them from the truck. Officer Moldenhauer heard the gunshots and saw muzzle flashes being fired from *“the center of the back window of the truck”*.<sup>5</sup> Officer Carmody’s body worn camera recorded a gunshot sound at 23:01:38 and more shots at 23:01:41. A resident of a home on York Street saw a muzzle flash inside the maroon pickup as a police car was following behind.

As the pursuit continued, Officer Carmody performed a PIT maneuver on the truck, but the driver retained control and drove on the east sidewalk, southbound. He entered the traffic lane for northbound traffic on York Street at 36<sup>th</sup> Avenue. In that intersection, at 23:02:40, Officer Andrew Niccum (17051) maneuvered his police vehicle to strike the right rear tire area of the pickup truck. This resulted in the pickup spinning clockwise and then flipping onto its driver’s

<sup>3</sup> The driver was Steven Chayann Rodriguez (dob 2/27/1995); the passenger was Rose Marie Sanchez (dob 1/26/1990).

<sup>4</sup> At the northwest corner of 47<sup>th</sup> Avenue and Josephine Street, a broken side-view mirror, other evidence of a collision with a light pole and a tree, and tire marks were later observed by the Crime Scene Unit.

<sup>5</sup> The sliding rear window of the pickup truck was open when examined by the Crime Scene Unit after this incident.

side. It came to rest in the southbound lane of York Street, at the west side of the street in front of 3545 York Street. This is a residential area with homes along both sides of York Street.



PIT Maneuver – Officer Niccum’s BWC.



Officer Carmody’s BWC.

The front of the pickup was near the west curb and directed to the west; the tail gate was directed to the east; and the four wheels and underside of the truck were directed to the north. The driver’s door and the length of the driver’s side were flush to the street; the passenger side was skyward. There was a hard covering for the bed of the truck that had opened “up”, hinging forward to its full extent, and which remained open since the truck lay on its side. In this position, the cover blocked any view through the rear window into the passenger area.

Many officers arrived at the scene. They heard additional gunfire in the truck, and heard commotion from within, including yelling, and screams, although they could not see what was occurring. Since gunshots had been fired, the inability to see into the passenger compartment made it very dangerous for officers to approach the truck. Officers took positions on the east side of York Street and in the street to the north of the pickup. Other officers fanned out to secure York Street and the immediate area, including the alley to the west side of the residences. Some officers diverted traffic, and efforts were begun to alert nearby residents.

Over the next several minutes, commands from police were shouted multiple times. Officer Carmody yelled: “*Suspects in the truck. Crawl out the window with your hand up. You are surrounded.*” He repeated this or similar commands four times during the next three minutes, and other officers yelled commands at various times. None of the occupants of the truck replied to any commands. Officers saw a male’s head and a female’s head rise through a passenger window at different times to look out, without saying anything to police. A public address loudspeaker was used by the police several times to give commands to the occupants. After several minutes, officers heard someone in the truck kicking repeatedly at the windshield.

Below are a few excerpts from body worn cameras of several officers during the two minutes before Mosley emerged from the truck:

23:16:04 - Mosley yells: “*I got a hostage!*”

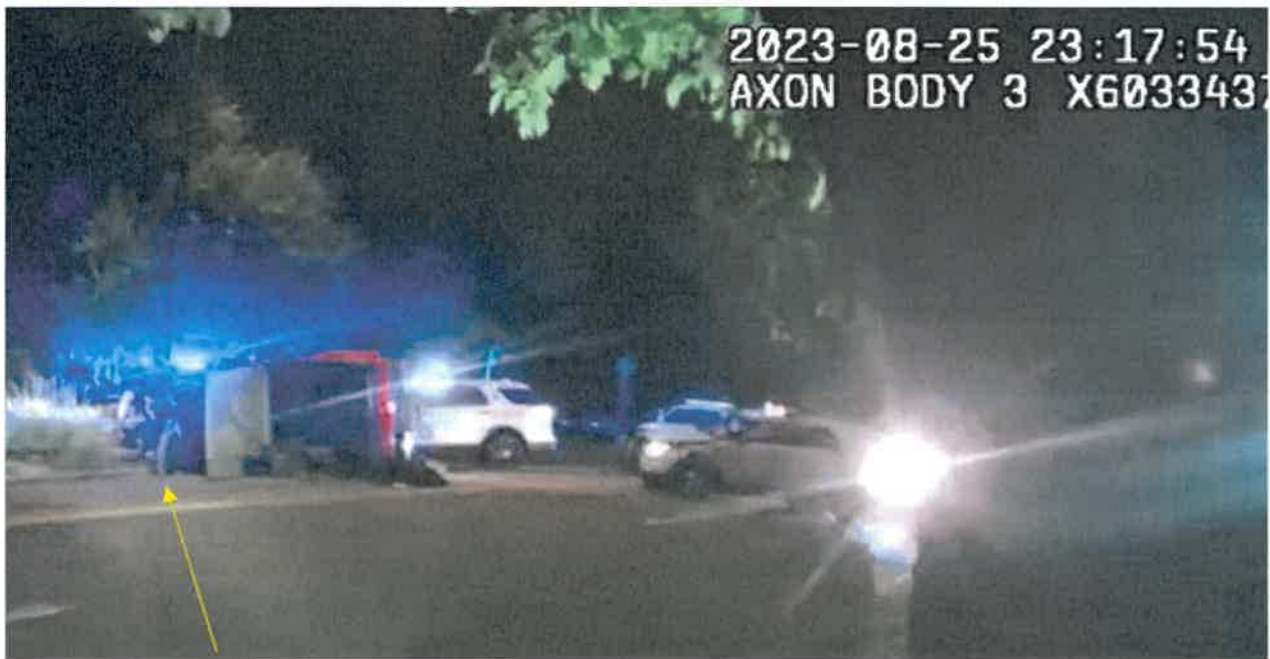
- Officer Moldenhauer tells other officers: “*He said he has a hostage.*”

- Kicking of the truck’s front windshield can be heard.

23:16:46 - Officer Carmody yells: “*His foot’s out. ... He’s through the windshield.*”

- Sergeant Vince Lombardi (89031) airs: “*The front windshield is busted out. Officers to the west alley be prepared, just in case.*”

- A foot can be seen kicking at the windshield glass, gradually breaking out more glass.
- 23:17:17 - Mosley yells: *"I'm going to kill this bitch!"*
- 23:17:29 - Mosley yells: *"I said I'm going to kill her. Do you hear me?" "Huh?"*
- 23:17:34 - Officer Carmody yells: *"Come out with your hands up."*
- 23:17:35 - Mosley yells: *"Do you hear me?"*
- 23:17:36 - Carmody: *"You are surrounded and have nowhere to go!"*
- 23:17:39 - Mosley: *"I'm going to kill this bitch!"*
- 23:17:42 - A female is heard wailing.
- 23:17:50 - Officer Niccum left his position on the east sidewalk and ran north to his police car to get his rifle which had a magnifying scope.
- 23:17:52 - A female screams.
- 23:17:53 - Mosley yells: *"I'm going to kill her!"*
- Officer Carmody says: *"He's got a gun to her head."*
- 23:17:54 - Officer Moldenhauer says: *"He's got a gun to her head."*
- Officer Carmody's recording shows a female emerging through the windshield.<sup>6</sup>



Female hostage in light-colored blue jeans. Mosley is behind her, holding her.

Officer Carmody's BWC.

As the female hostage emerged from the pickup, standing up, Mosley was behind her, holding her close in front of him as if to shield him from the police. He had one arm around her neck and one hand out of view behind her, giving the impression he was holding a weapon against her head. The officers believed he had a gun held to her head.

Mosley pulled the hostage away from the pickup, walking backward, onto the west sidewalk and toward the yard of 3545 York Street.

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<sup>6</sup> The female was Vanessa Cordova De Padilla (referred to herein as the "hostage"), who came out of 4725 Josephine Street with Mosley and got into the rear seat of the maroon pickup truck with him.



Mosley is holding the female hostage in front of him.

Officer Carmody's BWC.

At 23:18:06, Sergeant Vince Lombardi, watching from north of the pickup truck, radioed: *"He's pulling her off the sidewalk. I think he's holding - he's holding a gun to her head."*

Mosley backed the hostage up a slope in the front yard and pulled her to the south side of 3545 York Street, moving west along the side of the house toward the backyard. There was a fence gate leading to the backyard in his path.



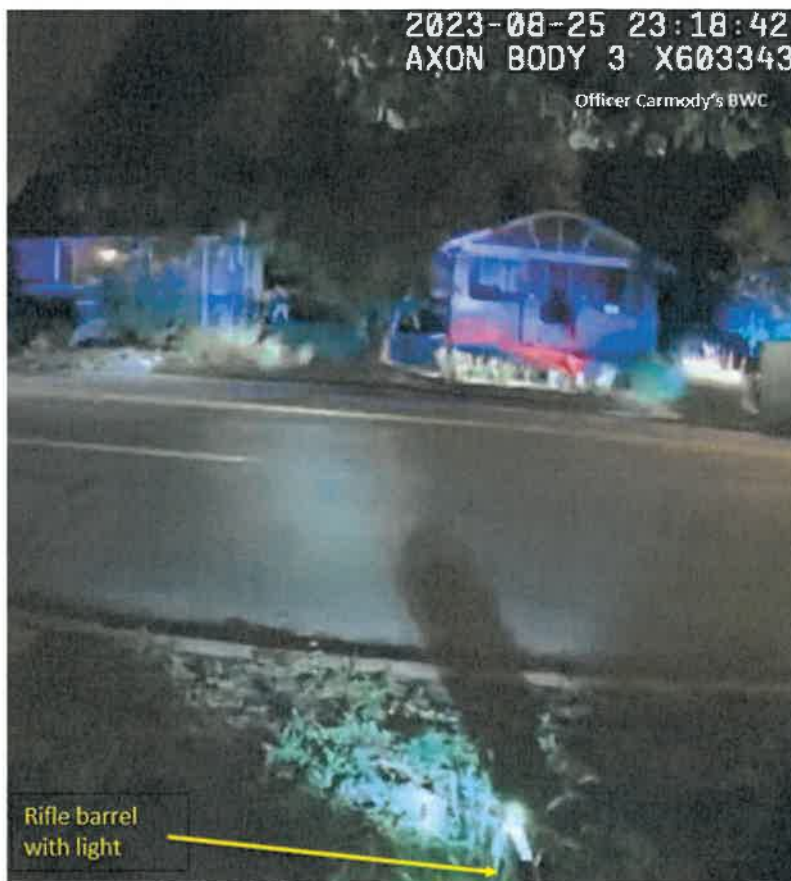
Mosley is moving the hostage toward the backyard of 3545 York Street.

Officer Carmody's BWC.

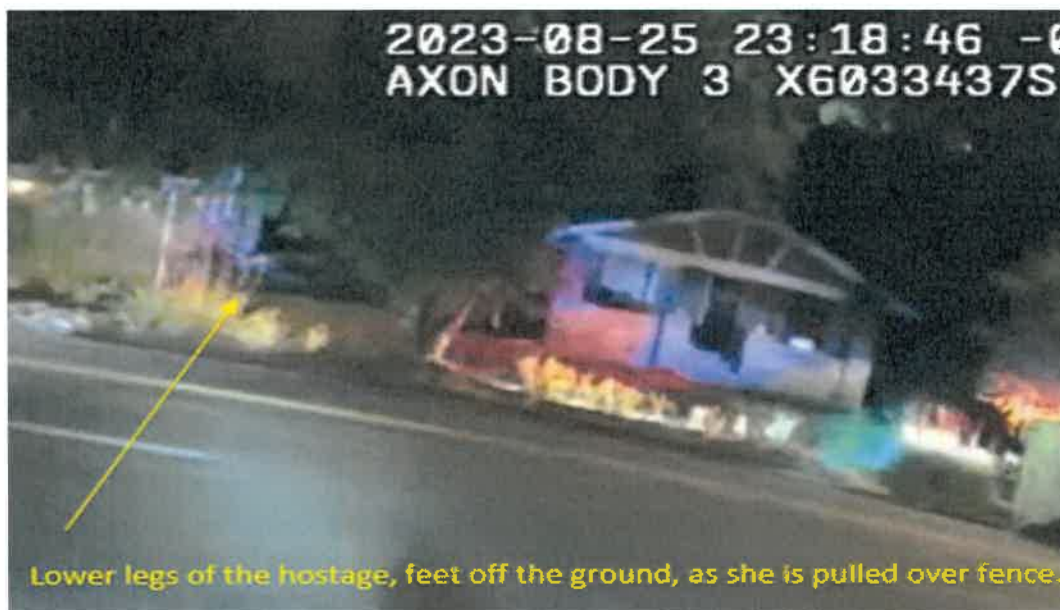
While Mosley was near the gate to the backyard, Officer Niccum returned to the east sidewalk of York Street with his rifle. He took a prone position at 23:18:25 across the street from Mosley.

When Mosley was unable to get through the gate to the backyard, he moved south toward a chain link fence that ran east to west along the north side of the neighboring house at 3535 York Street. Officer Niccum saw Mosley approaching the chain link fence with the hostage. Officer Niccum's view was through his rifle scope.

Officer Carmody stood near Officer Niccum. These are views from Officer Carmody's camera:



The hostage in light blue pants is visible near the fence. Mosley is behind her.



Mosley is pulling the hostage over the top rail of the fence. Her lower legs are hanging down.

When Mosley got to the chain link fence, he went over it and pulled the hostage over from behind. When this occurred, Officer Niccum saw sufficient separation between them to safely fire a shot to save the hostage. He squeezed the trigger to fire one shot at Mosley. Officer Carmody's camera shows gunshot residue discharge and smoke from Niccum's rifle at 23:18:47.

The bullet struck Mosley on the left side of his face, and he fell to the ground immediately. Officers ran across York Street to get the hostage safely away from Mosley, who was conscious. They did not see a gun near Mosley. The hostage began yelling, "I got the gun", and she held her hand inside her sweatshirt as if she was concealing a gun. She did not cooperate with commands to show her hands and to get away from Mosley. She seemed distraught over Mosley being shot and was unwilling to cooperate. She said, "I'm going to kill myself", and told the officers to "Kill me". Because of this, the officers were concerned that she may have the gun.

Ultimately, Mosley, now asking for help, crawled away from the hostage toward the officers, and the two were secured. A gun was not found in their possession or near them. As the hostage was being led to the street, she was asked where the gun was. She said: "I don't have a gun". A little later she said, "He didn't have a gun". Both were taken separately by ambulances to Denver Health Medical Center where they received emergency care.

### **Injuries**

Mosley suffered a visibly serious injury to the left side of his face and his left ear. He was conscious, alert and speaking to the medical personnel in the ambulance. We do not have access to medical records to describe his injuries in detail. The hostage had cervical spine injuries which were likely sustained when the pickup truck crashed, unrelated to Officer Niccum's shot.

### **Handguns and Spent Casings Recovered**

A black Kahr Arms .40-caliber semi-automatic handgun was found later when the pickup truck was searched. It was found hidden behind the glove compartment. One live round was in the chamber when recovered. The magazine inserted in the weapon was empty. Four spent .40 caliber cartridge cases were recovered by Crime Scene Unit Investigators. Two of these were found on York Street along the path of the pursuit; one was found on the street where the pickup crashed; one was found inside the pickup truck. Three of these casings were microscopically identified by the Denver Crime Laboratory Firearms Unit as having been fired in the Kahr Arms handgun.

A green Kel-Tec 9mm semi-automatic handgun was recovered on the ground near the pickup truck where it crashed. The chamber was empty. The magazine was full, containing seven live rounds of 9mm ammunition. One spent 9mm cartridge case was found in the pant pocket of Steven Rodriguez, the driver of the pickup truck.

A silver Davis Industries .380 caliber semi-automatic handgun was recovered on the ground at the scene of the crash after the truck was lifted upright. The chamber was empty. The magazine contained six live rounds of .380 ammunition. No spent .380 caliber cartridge cases were found.

## Witness Statements

### Rose Marie Sanchez

At 4:30 a.m. on August 26, 2023, at DPD Headquarters, Detective Daniel Andrews (96015) interviewed Rose Marie Sanchez, who was the female in the front seat of the maroon pickup truck when it pulled into the driveway on Josephine Street. She told Detective Andrews that shortly after Mosley got into the rear seat of the pickup, he pointed a gun at the driver, Steven Rodriguez, and forced him to drive away from the police on Josephine Street. She said that it was Mosley who fired shots at police during the pursuit, and that "Cruzita"<sup>7</sup> (the hostage) was encouraging him to shoot the police. After the pickup crashed, Mosley hid his handgun in the pickup. She heard Mosley and Cruzita talk about trying to get away from the police by pretending that Mosley was taking Cruzita as a hostage.

### Vanessa Cordova De Padilla

On the afternoon of August 26, 2023, Detective Andrews interviewed Vanessa Cordova De Padilla, (the hostage), at the hospital. She confirmed to Detective Andrews that after the pickup crashed, she and Mosley agreed on a plan to try to escape from the police by pretending that she was being held hostage. She said she allowed Mosley to use her as a human shield as part of the effort to escape. She expressed her love and concern for Mosley, and said, "I don't know what we were thinking."

## Officer Niccum's Statement

Officer Andrew Niccum was interviewed on August 28, 2023, at DPD Headquarters by DPD Lieutenant Joel Bell (91009) and Denver Chief Deputy District Attorney, Matthew Wenig.

Officer Niccum explained that after the crash of the pickup truck he carried a 40 mm "less lethal weapon" and was prepared to use it if necessary. However, upon hearing Mosley say, "I have a hostage", and "I'm going to kill her", and hearing crying and screaming in the car, he decided that it would be better to have his rifle which was equipped with a magnifying scope. So he ran to his car, put his less lethal weapon away and got his rifle with the scope.

When he returned to the east sidewalk across the street from 3545 York Street, he asked where Mosley went. He was told Mosley was in the area toward the backyard. He said:

*So, they're like: "He went back into that corner." I could see movement, but I couldn't see exactly what was going on. So, I get down to prone and I turn on my flashlight that's on my weapon and I illuminate it. ... At this point, as I see him in the back, he's got his arm around her neck, and this other hand is tucked up behind her and he's completely stuck behind her.*

*... and I can see, you know, she's crying, she's screaming. ...When he comes back out to the front part here, he changes his arm position from around the neck to*

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<sup>7</sup> Vanessa Cordova De Padilla uses the name "Cruzita" as well as other first, middle, and last names.



*behind the head, and he's got it tucked in behind this [her head] and he's just peaking around the side....*

*Seeing his face and how desperate he was, and seeing her face and how scared she was, I felt like he would do anything to get away. And if killing her meant buying him ten seconds in a getaway, or if him making his way into a house where he can turn his one hostage into eight, is something I can't let happen.*

*So, once he was moving across here, I had decided if the opportunity gave itself to me, that I was going to attempt the shot. ... I just have to be ready if the opportunity presents itself.*

*When he starts making his way to this house, he's got another fence, he's got an obstacle he has to get over, which is a short little waist high chain link fence. I'm betting that if I get an opportunity, it's going to be here when he's trying to get her over the fence.*

*And so, following them and, like, waiting for this opportunity to start, and then there comes a spot where he gets over the fence and then he leans out and starts trying to drag her over the fence and it gave me the very, very bare minimum to make it happen.*

*The side of this house, down low I believe, had stone walling. So my shot from here to him had a backdrop of the stone wall. And then, I fired the one round. It leaves. ... He slumps instantly down to the ground.*

Officer Niccum explained that while viewing through his scope, even though he did not see a gun in Mosley's hand, he had no doubt that Mosley had a gun and was going to kill the hostage:

*... Because we had had the shots fired before, and because we had the shots fired there in the car, ... I was one hundred percent sure that he had his gun, and he was going to kill her. I did not doubt that at all.*

Officer Niccum said he was aiming at Mosley's head when he fired. Lt. Bell asked him: *Is that because that's the only thing being exposed?*

Officer Niccum: *It was the only thing that was going to be exposed, but there's more to it than just that. I truthfully believe that he was going to kill her, or he was going to go into somebody else's house and take the other people hostage because this was a desperate man and I can see all that on his face, up close and personal because I do have a scope. So, what I'm concerned about is the threat continuing for a long period of time. ... So, the headshot was to make him incapable of creating violence anymore from the time I fire.*

When asked by Chief Deputy District Attorney Wenig to further explain this, Officer Niccum said:

*... you know, in this particular scenario ... with her being so close to him, right? If he does the gun to the back to her head [Officer Niccum demonstrates holding a gun to his head], if I ten-ring him, then it stops this from working [Officer Niccum demonstrates his finger pulling a trigger]. And then she is less likely to get shot. Right? But if I shoot him somewhere else, then the first thing he's going to do is tense up on that reaction and he's going to shoot another shot -- probably in her. And so, I'm hoping that I can stop all the violent actions with one shot. And that is what I was betting on.*

### **Legal Analysis**

Criminal liability is established only if it is proved beyond a reasonable doubt that all elements of a criminal offense have been committed without legal justification. The legal justification for the use of physical force that governs my analysis in this case is set forth in C.R.S. §18-1-704 (1). It states the legal justification for using physical force in defense of another person. Note that since death was not caused, physical force, not “deadly physical force”, was used in this incident.<sup>8</sup>

C.R.S. §18-1-704 (1):

... a person is justified in using physical force upon another person in order to defend himself or a third person from what he reasonably believes to be the use or imminent use of unlawful physical force by that other person, and he may use a degree of force which he reasonably believes to be necessary for that purpose.

C.R.S. §18-1-707 also pertains to the use of physical force by peace officers while carrying out their duties. As pertinent to this case, C.R.S. §18-1-707 states:

- (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 injury 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) ... [Not applicable – pertains to the use of deadly physical force to make an arrest].

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<sup>8</sup> Deadly physical force is defined in C.R.S. 18-1-901(3)(d): “Deadly physical force” means force, the intended, natural, and probable consequences of which is to produce death, and which does, in fact, produce death.

- (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.

I find the requirements of C.R.S. §18-1-707 were appropriately met in this case.

As to C.R.S. §18-1-704 (1), when defense of another is an issue in a case, as it is here, Colorado law provides that the accused is not required to prove he or she was justified in using physical force. Instead, the prosecution bears the burden to show the force used was not justified.<sup>9</sup>

Thus, the question I consider in deciding whether to bring criminal charges in this case is: After considering C.R.S. §18-1-704 (1), would a jury find that all the elements of a crime can be proved beyond a reasonable doubt against Officer Niccum?

Based on the facts shown by this investigation, I conclude that a jury would find Officer Niccum's use of force was justified under C.R.S. §18-1-704 (1). My reasons are summarized below.

(1) Did Officer Niccum *reasonably believe* Mosley was using, or was imminently about to use, unlawful physical force against the hostage? Yes.

Body worn camera evidence shows Mosley using physical force that appears to be against the will of the hostage and without her consent to move her away from the pickup, through the yard, and to pull her over the fence. Reasonable people who view the camera recordings would conclude that Mosley was using unlawful force. Additionally, the other officers who saw this incident on scene believed Mosley was using unlawful force. This evidence is persuasive to support Officer Niccum's reasonable belief that Mosley was using unlawful physical force.

Likewise, the evidence supports a reasonable belief that Mosley possessed a gun and was about to use it to seriously injure or kill the hostage. Multiple gunshots were fired from the maroon pickup truck, so Officer Niccum knew a gun was present. Moreover, Mosley's words, "*I'm going to kill her!*", imply that he had means to kill her. Those words were tantamount to Mosley declaring he had a gun and that he would use it if challenged, or whenever he felt it suited his purpose to escape. Also, the way Mosley held his hand concealed behind her neck and head suggested that he was holding a gun. These facts made it reasonable for Officer Niccum to believe that Mosley had a gun and that he would use it imminently if not stopped. The fact the other officers on scene had the same beliefs as Officer Niccum is also persuasive.

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<sup>9</sup> For crimes alleging a culpable mental state of acting intentionally or knowingly, the issue of self-defense or defense of another is handled at trial as an "affirmative defense", which is a defense that admits the commission of the elements of the charged crime but argues the defendant's actions were legally justified or excused. This affirmative defense becomes an additional element of the charge at trial, and it is the prosecution's burden to disprove it by proof beyond a reasonable doubt. For crimes alleging a culpable mental state of acting recklessly, or with criminal negligence or extreme indifference, the evidence of self-defense or defense of another is handled as a "traverse" defense that seeks to refute, or to cast doubt upon, the proof of the mental state element alleged. The prosecution must prove the alleged mental state element by proof beyond a reasonable doubt. See C.R.S. § 18-1-704 (4); *People v Pickering*, 276 P.3d 553 (Colo. 2011).

(2) Did Officer Niccum *reasonably believe* the degree of force he used was necessary to defend the hostage? Yes.

In his interview, Officer Niccum described that using less disabling force against Mosley may not save the hostage; that Mosley could pull the trigger if he was not immediately incapacitated. This explains why Officer Niccum believed a rifle shot to Mosley's head was necessary. As he put it: *"I truthfully believe that he was going to kill her. ... So, the headshot was to make him incapable of creating violence anymore from the time I fire."*

Officer Niccum explained that he was aware of, and considered, the great risks involved in firing a shot under these circumstances. He drew on his extensive training and experience as a marksman during his long military service, and he was deliberate in his process and decision making.

After considering the facts of this case, I find that Officer Niccum reasonably believed that deadly force, an even greater degree of force than was used, was necessary to save the life of the hostage.<sup>10</sup> He would not have fired if he did not believe this.

Only later was it learned that Mosley did not have a gun held to the "hostage" as he had pretended, and as the officers thought. It is important to note, however, this fact does not change the legal analysis or my decision. This is because long standing Colorado law treats "apparent necessity" and "actual necessity" the same when it comes to the justification statute of C.R.S. §18-1-704. The law does not require actual danger to justify using force in self-defense or in defense of another. Instead, as explained above, the statute focuses on what was *reasonably believed* by the person, Officer Niccum, who used physical force in defense.<sup>11</sup>

### Conclusion

I find that Officer Niccum's actions were justified under Colorado law. A criminal charge against Officer Niccum is not appropriate given the circumstances and evidence in this case.

Sincerely,



Beth McCann  
Denver District Attorney

cc: Armando Saldate, Director of Public Safety; Deputy Chief Joe Montoya; Commander Matt Clark; Commander Carlos Aragon; Lieutenant Joel Bell; Sergeant Scott Murphy; Sergeant Scott Hagan; Sergeant Tony Lopez, Jr.; Detective Daniel Andrews; Detective Steven Seidel; Officer Andrew Niccum; John Davis, Esq., Attorney for Officer Niccum; Denver City Attorney Kerry Tipper; Director of the Office of Independent Monitor Lisabeth Pérez Castle; City Council members.

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<sup>10</sup> Note that had Officer Niccum's rifle shot resulted in Mosley's death, this case would be analyzed under the justifications for the use of "deadly physical force" in C.R.S. §18-1-704 (2) and C.R.S. §18-1-707 (4.5). Deadly force would be justified under subparagraphs (a) and (c) of C.R.S. §18-1-704 (2), as well as C.R.S. §18-1-707 (4.5), because I additionally find that Officer Niccum reasonably believed a lesser degree of force was inadequate.

<sup>11</sup> See *Beckett v. People*, 800 P.2d 74, (Colo.1990), where the Colorado Supreme Court recognized the long-standing principle of "apparent necessity" under Colorado law and found that the language in Colorado's 1986 statute pertaining to self-defense and defense of another encompassed the principle of apparent necessity. Note that the statutory language considered in *Beckett* was identical to the provisions of C.R.S. § 18-1-704 (1) and (2) that are applicable today. See also: *Young v. People*, 107 P. 274 (Colo.1910).