

November 17, 2025

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

Re: Officer-Involved Shooting at 2200 South Valley Highway, Denver, CO, on August 22, 2025,
resulting in the death of Javier Nava-Carbajal (D.O.B. 1/20/77); DPD GO# 25-449153

Dear Chief Thomas,

I have reviewed the investigation of the shooting of Mr. Javier Nava-Carbajal, age 48, on August 22, 2025, by Denver Police Officer Whaylen Phares (24005). I conclude that Officer Phares was legally justified in using deadly physical force to defend against the actions of Mr. Nava-Carbajal. This letter reports my decision as required by C.R.S. §20-1-114 (1).

Factual Summary

At 4:05 a.m. on August 20, 2025, three Denver Police Officers assigned to District 3 were dispatched to an apartment building at 4901 E. Donald Avenue in Denver. Officers Christopher Palmisano (23075), Carly Gutshall (23084), and Whaylen Phares (24005) drove separate vehicles to the apartment building. They were dispatched because a 911 caller reported that eight gunshots had been fired inside the building on the third floor. After the officers arrived at the apartments, dispatch informed them at 4:12 a.m. that another caller reported an active domestic violence assault may be occurring at Building One. The caller said she heard a female screaming and crying and sounds of banging and running in the hallway.

While outside of Building One, Officer Gutshall heard what she believed to be yelling or screaming. As she looked through an upper window, she saw a woman inside running and being followed or chased by a man down the stairs. She believed this was probably related to the domestic violence matter. Officer Phares also saw this. The man, later identified as Javier Nava-Carbajal, came down the stairs to the ground floor and exited the building through a side door that opened to the adjoining covered parking lot at approximately 4:14 a.m. He cursed, "*Fuck you!*" and seemed angry. Officers Gutshall and Palmisano saw him and yelled for him to stop. He ignored them and fled westbound through the parking lot, pushing and trying to ride a bicycle. All three officers chased after Carbajal and shouted more commands for him to stop, which he refused. Carbajal then dropped the bike and began running.

After about twenty seconds of sprinting after Carbajal, Officers Phares and Palmisano caught up to him. Officer Phares tried to stop him, but Carbajal resisted and was able to pull away. He ran north across a small patch of grass and weeds at the southern edge of the parking lot for 2200 South Valley Highway.



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Both Carbajal and Officer Phares fell down in the weeds. Carbajal quickly got up and continued north into the parking lot. Officer Palmisano caught up to him there and tried to restrain him, but Carbajal again resisted and caused Officer Palmisano's body-worn camera to fall from his uniform onto the asphalt.



Officer Phares joined Officer Palmisano and, together, they tried to detain Carbajal. Officer Gutshall was closing in. She radioed that the officers were fighting with the suspect. Then she yelled commands for Carbajal to get on the ground. Officers Phares and Palmisano were trying to detain Carbajal by grabbing his arms or wrists, and Officer Gutshall reached in and grabbed the front of his shirt. None of the officers' efforts were successful in gaining control of Carbajal, who was yelling and actively resisting, and their attempts to take him to the ground were ineffective, given Carbajal's size and strength.

As Carbajal remained on his feet and was stepping away, the struggle moved northward in the parking lot. Officer Gutshall drew her Taser and warned Carbajal that he was about to get tased. Then, intending to use his own body weight to pull Carbajal to the ground, Officer Phares wrapped his arms around Carbajal's waist from behind him. As Officer Phares was about to pull Carbajal down, Officer Gutshall suddenly saw a handgun in Carbajal's right hand. She yelled: "Hey! He's got a gun!" This was recorded by Officer Gutshall's body worn camera at 04:15:51 a.m.

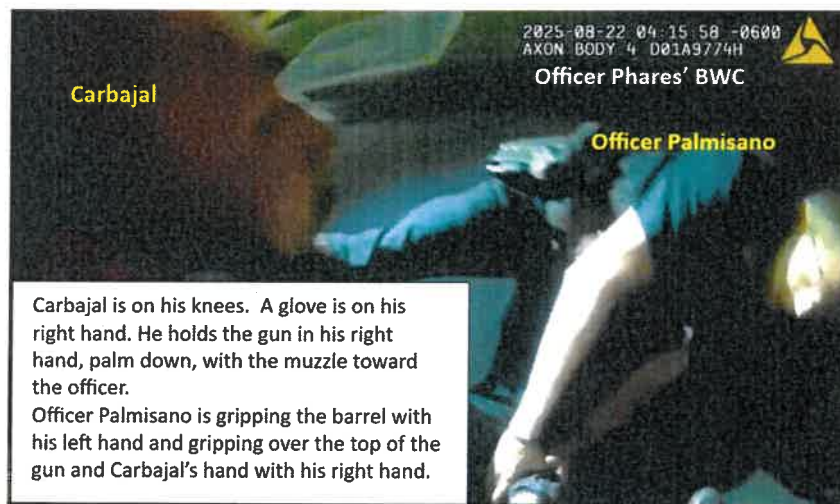
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Officer Phares pulled backward to the right and dropped to the ground, pulling Carbajal down with him. Carbajal landed on his knees with his back to Officer Phares. As he was pulled down, Carbajal said, “No. It’s not a real one.” He was holding the gun in his right hand with a typical pistol grip.

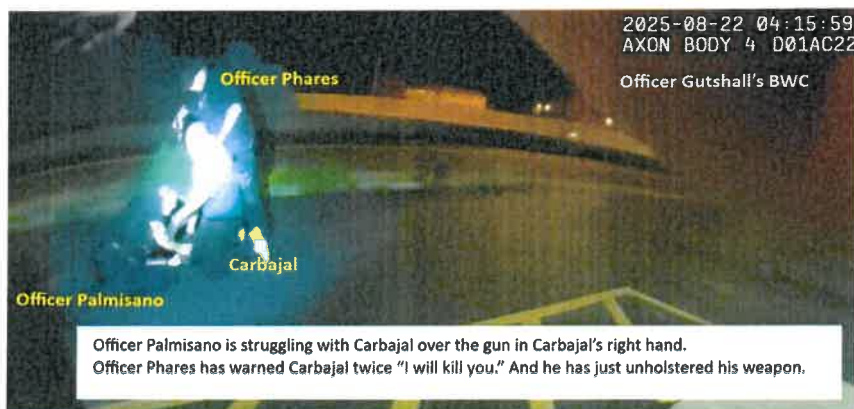
After the take-down, Officer Palmisano saw the gun. He went to the ground directly in front of Carbajal and grabbed the gun with both of his bare hands. He gripped the barrel of the gun with his left hand and wrapped his right hand over Carbajal’s right hand and the gun. This placed Officer Palmisano directly in front of the muzzle. He was simultaneously trying to direct the muzzle away from himself and trying to defeat Carbajal’s grip on the gun. However, Carbajal wore a glove that aided his grip.



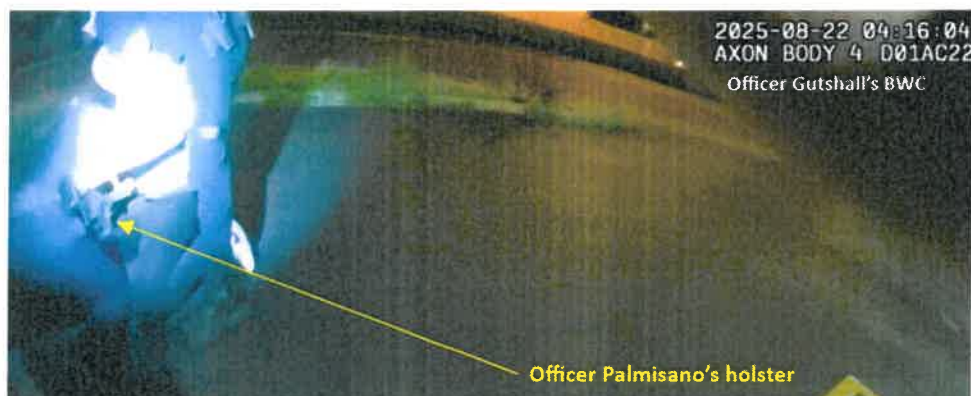
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Officer Phares, who was now on his feet standing behind Carbajal, saw the gun. Holding his service weapon, Officer Phares twice issued a warning to Carbajal: *"I will fucking kill you!"* Carbajal did not stop.

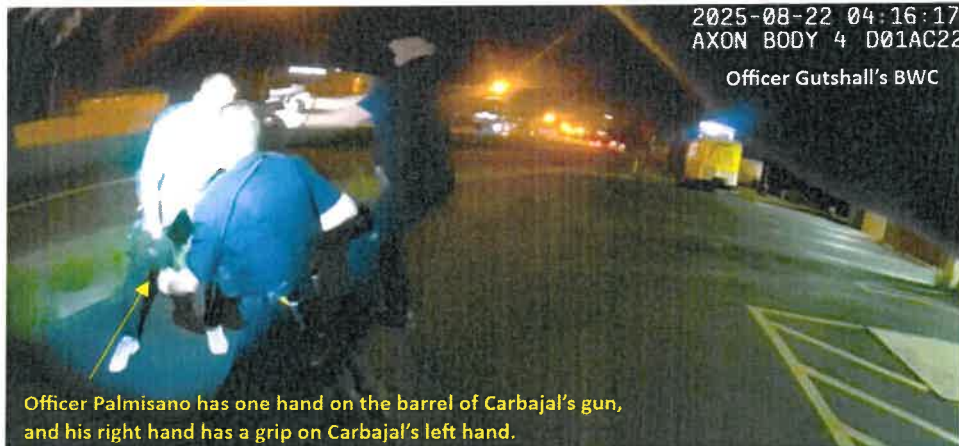


They struggled over the gun in this position for a few seconds. Then, Carbajal began grabbing Officer Palmisano's holster with his free left hand. Officer Palmisano let go with his right hand and moved his right hand to his holster on his right hip to prevent Carbajal from getting his service weapon. Carbajal was grabbing at the holster for approximately 10 seconds (04:16:03 -- 04:16:13). Later in his interview, Officer Palmisano said he heard the "click" of the button that controlled the retention strap when Carbajal was grabbing the holster.



Officer Palmisano and Carbajal were struggling face-to-face. Officer Palmisano head-butted Carbajal. His left hand still gripped the barrel of Carbajal's gun, but his right hand was now gripping Carbajal's left hand. After a few more seconds, Carbajal began to stand up. As he rose, Officer Phares backed up a step and aimed his weapon at Carbajal's upper torso.

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As Carbajal straightened up, Officer Phares fired one shot at 4:16:18 a.m. The bullet struck Carbajal near his left clavicle, and he fell backward, losing his grip on the handgun. Officer Palmisano kept hold of the gun, then tossed it aside and secured Carbajal, who was motionless. Officers Gutshall and Palmisano then began to render aid to Carbajal.

An ambulance and paramedics soon arrived and took Carbajal to Denver Health Medical center where he was pronounced deceased at 4:43 a.m. An autopsy was performed by Forensic Pathologist, Dr. Sterling McLaren, M.D., and a report was issued September 22, 2025. It noted the bullet entered Carbajal's body at the left supraclavicular region of his chest. It traveled downward from left to right. The wound path involved his 2nd and 3rd thoracic vertebrae and underlying spinal cord, the upper lobe of his right lung, and other associated injuries. The bullet was recovered from Carbajal's right chest cavity.

Carbajal's handgun was later examined by the Denver Crime Laboratory Firearms Unit. Despite its realistic appearance as a functional revolver, the examiners determined it is not a functional firearm capable of firing live ammunition. Instead, it is a CO2 operated pellet gun. The cylinder, however, was loaded with six live 9mm rounds that visibly protruded from the cylinder.



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Legal Justification For The Use Of Deadly Physical Force

As pertinent to this case, Colorado Revised Statute §18-1-704 states:

(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.

(2) **Deadly physical force** may be used only if a person reasonably believes a lesser degree of force is inadequate and:

(a) The actor has reasonable ground to believe, and does believe, that he or another person is in imminent danger of being killed or of receiving great bodily injury....

Similarly, C.R.S. §18-1-707, pertinent only to peace officers, states:

(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

When Officer Phares made the decision to fire, Officer Palmisano was on his knees and Carbajal had returned to his feet. Carbajal had gained the advantage in the struggle for the gun. Officer Phares feared Carbajal was a deadly threat and was about to shoot. At the scene he said, "*Chris was losing the gun.*" Later, in his interview he said, "*I was worried that Officer Palmisano was going to get shot.*" He worried that since the gun was a revolver, not a semi-automatic, Officer Palmisano's grip on the barrel could not prevent Carbajal from firing. In her interview, Officer Gutshall echoed similar feelings about the deadly threat posed by Carbajal. She indicated that she would have fired but for Officers Palmisano and Phares being in her line of fire.

The fact that Carbajal's revolver could not fire the 9mm rounds loaded in it -- a fact only discovered later -- does not affect my decision. I must determine what a reasonable person, hypothetically in the shoes of

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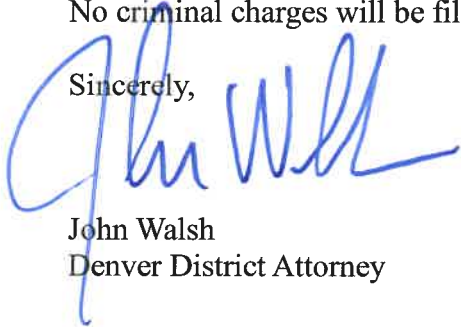
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Officer Phares would believe. The gun appeared to be deadly, and all three officers reasonably believed it was a deadly weapon. This is true despite Carbajal's statement that the gun was not real; his actions, including his struggle to retain the gun, the fact that rounds were visible in the cylinder, and his action reaching for Officer Palmisano's weapon, strongly suggested he intended to and was capable of using deadly force against the officers.

I find that a reasonable person, hypothetically in the shoes of Officer Phares during this encounter, would reasonably believe: (1) that Carbajal was about to use unlawful and potentially deadly force against Officer Palmisano; (2) that Officer Palmisano was in imminent danger of being killed or of receiving serious injury; (3) that using deadly physical force was necessary to defend Officer Palmisano; and, (4) that less than deadly force would have been inadequate.

No criminal charges will be filed.

Sincerely,



John Walsh
Denver District Attorney

cc:

Director of Public Safety Al Gardner
Commander Matt Clark
Detective Ernie Sandoval
Detective Adam Bolton
Officer Christopher Palmisano
Officer Carly Gutshall
Officer Whaylen Phares
John Davis, Esq.
Denver City Attorney Miko Brown
Director of the Office of Independent Monitor Lisabeth Pérez Castle
Denver City Council