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September 9, 2021

## **Decision Letter:**

Attached is the decision letter issued by District Attorney Brian Mason related to the officer-involved shooting in which two Thornton Police Officers discharged their firearms during an incident on April 9, 2021.

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*District Attorney Mason assumed the oath of office on January 12, 2021. The 17<sup>th</sup> Judicial District Attorney's Office endeavors to seek justice on behalf of the citizens of Adams and Broomfield counties in felony and misdemeanor cases. DA Mason and his staff are dedicated to transforming the criminal justice system to better serve the citizens of the 17<sup>th</sup> Judicial District.*

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August 27, 2021

Chief of Police Terrence Gordon  
City of Thornton Police Department  
9551 Civic Center Drive  
Thornton, CO 80229

Re: The officer-involved shooting of Mr. Raymond Quintana, occurring on April 9, 2021

Dear Chief Gordon:

On April 9, 2021, two police officers employed by the City of Thornton discharged their firearms at Mr. Raymond Quintana. The 17<sup>th</sup> Judicial Critical Incident Response Team (CIRT) conducted an independent and thorough investigation into the matter. Westminster Police Detective Steve Sanders and the Adams County Sheriff Office Detective Dylan Lussier led the investigation and presented the factual findings to my office on June 23, 2021. The investigation consisted of law enforcement reports, audio and video recorded interviews, photographs, body cameras, and diagrams of the crime scene. The Office of the District Attorney concludes that the investigation was thorough and complete. This letter includes a summary of the facts and materials that the CIRT presented for review.

The District Attorney's Office review is limited to determining whether any criminal charges should be filed against any of the involved officers for a violation of Colorado law. The standard of proof for filing a criminal case is whether there is sufficient evidence to prove all of the elements of a crime beyond a reasonable doubt. The prosecution also has the burden to prove beyond a reasonable doubt that the use of force was not legally justified. This independent investigation and review is not intended to take the place of an internal affairs investigation by your agency. As such, the District Attorney's Office review does not evaluate compliance with any departmental policies, standards, or procedures.

Based on the evidence presented and the applicable Colorado law, there is no reasonable likelihood of success of proving the elements of any crime beyond a reasonable doubt as it relates to the law enforcement officers involved in this incident. Therefore, there will be no criminal charges filed against these officers.

### **SUMMARY OF THE INVESTIGATION**

At approximately 8:30 a.m. on April 9, 2021, Thornton Police Officers responded to the Reserve Apartment complex at 9700 Welby Road on a report of a trespass. The individual who

made the report, “J.J.”, is a security officer employed by the complex. Once the officers arrived, J.J. advised them of a series of recent coin thefts from the laundry room. On this occasion, J.J. went to the laundry room at the direction of maintenance staff who identified the suspect associated with the coin theft. J.J. encountered the suspect, who carried a backpack and wore a black hooded sweatshirt with the hood pulled up onto his head. J.J. confronted the man about breaking into the laundry machines. The suspect pulled out a black handgun and pointed it at J.J.’s face. J.J. told the officers that he was in fear for his life and thought the suspect was going to kill him. Acting upon instinct, J.J. swatted away the gun and ordered the suspect to leave. The suspect again pointed the gun at J.J. and ran from the laundry room. Surveillance video from the laundry room captured this incident.



*Surveillance image from the Reserve Apartment Complex laundry room.*

While the officers were on scene speaking with witnesses, Thornton Police Officer Zac Crowe encountered a man in a black hooded sweatshirt who appeared to match the description of the suspect. Officer Crowe approached the suspect and instructed him to keep his hands out of his pockets. The suspect refused to comply and ran away. Officer Crowe chased him into a parking lot. The suspect turned around and pointed a gun at Officer Crowe. The suspect yelled, “Better back off, fucker!” Officer Crowe saw the gun pointed at him and took cover between vehicles parked in the lot to avoid being shot. Officer Crowe later explained, “I thought he was gonna shoot me and, being at the distance, and me running, it, I was, I was honestly fear, in fear for my life just because the distance and at that point, he had his gun out. I did not have my gun out. And I was in, in the wide open.”



*Still image from Officer Crowe's Body Camera of suspect pointing a gun at Officer Crowe.*

The suspect entered a vehicle and drove out of the parking lot. Officer Crowe identified the vehicle as a tan Nissan Maxima and followed it in his marked patrol vehicle. He shared information over the police radio about his pursuit of the suspect with the gun. Multiple officers pursued the suspect in the vehicle at a high rate of speed out of the apartment complex and northbound on Colorado Boulevard. Thornton Police Officer Lindsay Hinton heard the radio traffic that the suspect in the Nissan Maxima pointed a gun at officers and fled the scene. Officer Hinton identified the suspect vehicle heading northbound on Colorado Boulevard and joined in the chase. The suspect eluded officers at a high speed and ultimately crashed the vehicle into a fence near the intersection of East 115<sup>th</sup> Avenue and Colorado Boulevard. Officer Hinton and Officer Crowe were the first officers to arrive at the crash scene. They parked their patrol cars surrounding the vehicle on Colorado Boulevard as traffic continued passing by.

*Image of Nissan Maxima crashed into fence near intersection of East 115<sup>th</sup> Avenue and Colorado Blvd.*



Officers Crowe and Hinton got out of their patrol cars with their guns drawn at the suspect vehicle. The officers gave repeated verbal commands to the suspect to get out of the vehicle and show his hands. The suspect emerged from the vehicle and stood on top of the hood. Both officers saw the suspect holding the handgun in his right hand. Officer Hinton yelled, “He’s got a gun!” Within seconds, both Officers Hinton and Crowe fired their weapons at the suspect. The evidence later revealed that Officer Hinton fired one shot and Officer Crowe fired five shots.

Officer Crowe stated that he observed the suspect point the gun directly at Officer Hinton:

At that point, when [the suspect] was getting closer to the fence, he pointed the gun directly at Officer Hinton. Fearing for her life, and her life was in imminent danger, and possibly everybody else that was behind her, um, that’s when I ..decided, because I was in fear for her life and others and not only hers, but also myself from earlier, if he was to turn back around, that’s when I [] fired my handgun.

Officer Hinton explained in her interview that she feared for her life, as well as for the lives of other people in the area. At the moment she perceived the gun pointed straight at her, she believed the suspect was going to shoot and kill her or, if he missed, that he would kill a bystander in the area.



*Still image from Officer Crowe's body-worn camera of suspect pointing on top of vehicle holding a gun.*

The officers' gunshots appeared to miss the suspect, as he continued on over the fence. The officers followed the suspect and saw him continue to run with the gun in his hand. The officers set up a perimeter to locate the suspect, but lost sight of him. The homeowner of a residence nearby called 911 to report that the suspect entered her home and said that he was injured and needed help. He pointed a gun at her and demanded her car and car keys. She refused and the suspect eventually ran away.



*Still image from Officer Jacob Dressler's body-worn camera of suspect running with the gun.*

While searching the area, officers observed damage and evidence of broken entry to a nearby residence. Various items of property were taken from the residence to include keys to a Jeep. The Jeep was stolen from the garage and later recovered seven miles away with no sign of the suspect. Crime scene investigation inside the residence revealed fingerprints that identified Raymond Quintana as the suspect. Mr. Quintana was further identified as the suspect in a Denver crime that occurred on March 3, 2021, where he crashed into a police vehicle while driving a tan Nissan Maxima. This vehicle was discovered to be the same vehicle that the suspect entered after pointing the handgun at Officer Crowe in this incident.

Mr. Quintana successfully avoided capture on April 9, 2021. An arrest warrant was issued for him for charges of attempted first degree assault, first degree burglary, second degree burglary, menacing, aggravated motor vehicle theft and eluding. On April 14, 2021, Mr. Quintana was located at an apartment in Westminster. After several hours of negotiations with law enforcement, Mr. Quintana took his own life. An autopsy of the body revealed evidence of a non-lethal perforating gunshot wound to Mr. Quintana's leg consistent with the events from April 9, 2021.

### **LEGAL ANALYSIS**

As was previously noted, this review is limited to a determination of whether criminal charges should be filed against the involved officers. The decision to file criminal charges involves an assessment of all known facts and circumstances as well as an evaluation of whether there is a reasonable likelihood of conviction at trial under the applicable law. Criminal liability is established when the evidence is sufficient to prove all of the elements of a crime beyond a reasonable doubt. In addition to proving the elements of a crime, the prosecution must also

disprove any statutorily recognized justification or defense beyond a reasonable doubt. Consequently, in order to file a criminal charge, the District Attorney's Office must be able to prove beyond a reasonable doubt that the involved law enforcement officer's actions were not justified under the circumstances surrounding this incident and the applicable law.

Here, both Officers Crowe and Hinton discharged their firearms at Mr. Quintana as he got out of the vehicle and approached the fence. It is unclear whether Mr. Quintana was struck by the gunfire. However, the evidence suggests that he reported being injured shortly after the incident. In addition, at the time of Mr. Quintana's death, he appeared to have a nonfatal gunshot wound to his leg. Therefore, for purposes of this legal analysis, it is assumed that either Officer Crowe or Officer Hinton shot Mr. Quintana in the leg. The legal question is whether these two involved officers' conduct supports the filing of criminal charges.

Under Colorado law, a law enforcement officer may use an amount of force that is necessary and reasonable to effect an arrest. Additionally, under Colorado law, police officers, like any other individual, have the right to defend themselves or others from the use or imminent use of unlawful physical force. An officer's right to use reasonable force is an affirmative defense, meaning that the prosecution must prove beyond a reasonable doubt that the use of force was not justified. The affirmative defenses applicable to the officers' use of force at the time of this incident is found under §18-1-707, C.R.S. (2020). The pertinent language of the statute reads as follows:

- (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....
- (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 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.

The legal definition of “deadly physical force” as contemplated by the use of force statute cited above means “force, the intended, natural, and probable consequence of which is to produce death, and which does, in fact, produce death.” While the force here did not produce death, this analysis evaluates the discharge of a firearm that has the potential to cause death.

In the 1989 case of *Graham v. Connor*, the United States Supreme Court set forth a “reasonableness standard” in evaluating the use of force by a police officer. Under this standard, the inquiry into the appropriateness of an officer’s use of force must (1) take into consideration the totality of the circumstances, including factors such as the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether the suspect is actively resisting arrest or attempting to evade arrest by flight; and (2) be judged from the perspective of an objectively reasonable officer on the scene “in light of the facts and circumstances confronting them, without regard to [his] underlying intent or motivation.” Further, the United States Supreme Court noted, “[t]he calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.”

In this case, the involved police officers were initially engaged in the course of their duties to search for and apprehend a suspected coin thief who threatened a security guard with a handgun. Despite being advised that Mr. Quintana was armed with a deadly weapon, Officer Crowe’s first attempt to contact Mr. Quintana was non-violent and involved a minimization of injury to others. However, Mr. Quintana quickly escalated the encounter when he again displayed the handgun and threatened to use it against Officer Crowe. Consequently, the officers’ pursuit of Mr. Quintana was for multiple felonies involving conduct including the use or threatened use of deadly physical force.

The continued pursuit of Mr. Quintana proved to demonstrate that he would use any means possible to evade police. He eluded officers in a highly traveled area of Thornton at a high rate of speed and crashed his vehicle into a fence. At the crash scene, the officers made every reasonable effort to safely contact Mr. Quintana without injury to others. The officers were clearly identified as police officers by their uniforms and their associated marked police

vehicles. Both officers gave him repeated commands to Mr. Quintana to exit the vehicle and drop his weapon. However, Mr. Quintana continued to disobey the Officers' reasonable requests to drop the weapon and show his hands.

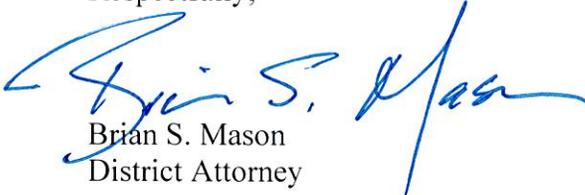
The officers did not immediately resort to the use of force. On the contrary, the officers gave Mr. Quintana repeated opportunities to resolve the situation without violence. Mr. Quintana persisted in his effort to evade apprehension while armed with a handgun. When Mr. Quintana turned his gun towards Officer Hinton, he posed an immediate threat to Officer Hinton or any other person traveling along Colorado Boulevard. Officer Crowe and Officer Hinton both stated that they discharged their firearms fearing that Officer Hinton's life and the lives of citizens in the area were in danger if they failed to take action. Given the evidence, the prosecution cannot prove that the officers' actions were not justified in this incident.

### CONCLUSION

Under the totality of the circumstances and evidence gathered in this investigation, the prosecution cannot prove that the involved officers were not justified in using reasonable force under §18-1-707, C.R.S. (2020). Therefore, applying the facts of this incident to the applicable law, the evidence does not support the filing of criminal charges against Officer Zachary Crowe and Officer Lindsay Hinton for firing their weapons at Mr. Raymond Quintana.

Please feel free to contact me if you have any questions.

Respectfully,



Brian S. Mason  
District Attorney