



**OFFICE OF THE FIRST JUDICIAL
DISTRICT ATTORNEY OF COLORADO
District Attorney Alexis King**

June 9, 2026

Chief Kenneth Fountain
Lakeside Police Department
5801 West 44th Avenue, Unit A
Denver, CO
80212

Re: *Officer Involved Shooting, February 7, 2023, at about 5601 West 44th Avenue*

Dear Chief Fountain,

The First Judicial District Critical Incident Response Team has completed its investigation into the shooting of Neil Morton, by Lakeside Police Department Officer David Maestas (the “Officer”) at an undeveloped field north of 5601 West 44th Avenue on February 7, 2023. Former Wheat Ridge Police Commander Scott Bellomy presented the investigation to the First Judicial District Attorney’s Office on April 4, 2023. Mr. Morton then engaged in protracted litigation because of competency issues and a plea of Not Guilty by Reason of Insanity.

On September 11, 2025, the parties agreed that based on the information provided, Mr. Morton was insane at the time of the offense and Mr. Morton has been committed ever since. My office then engaged in a thorough review and analysis of the evidence; I find that the Officer’s use of deadly physical force was legally justified to defend himself and others from the threat posed by Mr. Morton. Given my conclusion, no criminal charges will be filed against the Officer. I am issuing this letter to you pursuant to §20-1-114(1), C.R.S.

The First Judicial District Critical Incident Response Team (CIRT) investigates any incident in which a law enforcement officer within the First Judicial District uses deadly force, or attempts to use deadly force, against a human being while acting under the color of official law enforcement duties. The CIRT team is comprised of highly trained and skilled investigators working under my authority and appointed from multiple law enforcement agencies, including my office. This multi-jurisdictional team of objective, dispassionate professionals protect the integrity of the investigation by exercising independent judgment in conducting a thorough investigation. To maintain transparency and reduce conflict of interest, officers from the involved agency do not perform critical duties related to the investigation.

Here, the Lakeside Police Department (LKPD) immediately activated the CIRT team to investigate the use of deadly force by the Officer. Consistent with CIRT policy, LKPD did not participate in the CIRT investigation. The CIRT team promptly responded to investigate, led by Commander Bellomy. Under his direction, the CIRT team processed the scene, completed interviews with those who saw or heard the events, and preserved necessary evidence. The Officer provided a voluntary statement and submitted to



questioning. The interview was recorded and reviewed as part of the investigation and included within the file. Commander Bellomy briefed me, my leadership team, and CIRT team members on this investigation and provided the file for my review.

My team reviewed 1049 photographs, and approximately 282 pages of reports by the Arvada Police Department, Edgewater Police Department, Golden Police Department, Jefferson County Sheriff's Office, Lakeside Police Department, Lakewood Police Department, Mountain View Police Department, and Wheat Ridge Police Department. We also reviewed the recorded interviews of the Officer, all witnesses who heard or saw the events, BWC, and evidence collected from the scene and evaluated by independent examiners.

As District Attorney, my role is to determine whether the Officer committed a criminal offense. No charges may be legally or ethically brought unless a crime can be proven beyond a reasonable doubt, a standard that applies to officers and civilians alike. Because this shooting was justified under Colorado law, no criminal charges can or should be filed against the Officer.

A person may be held criminally liable under Colorado law only when the evidence proves beyond a reasonable doubt that they committed every element of an offense defined by Colorado statute. When a person intentionally shoots another person, resulting in that person's death or injury, they commit the crime of murder or attempted murder, unless a legally recognized justification exists. If a justification exists, the shooter is not criminally liable. Generally, acting in self-defense or defense of others is one such justification. These defenses are available to all Coloradans, including officers. Officers are also specifically authorized to use deadly physical force under certain circumstances.

As relevant here, a peace officer is justified in using deadly force if: 1) the officer has objectively reasonable grounds to believe that the officer or another person is in imminent danger of being killed or of receiving serious bodily injury; 2) the officer does in fact believe that the officer or another person is in imminent danger of being killed or of receiving serious bodily injury; and 3) the officer has an objectively reasonable belief that a lesser degree of force is inadequate. C.R.S. §18-1-707(4.5). Acting in self-defense or defense of others is subject to the same analysis. C.R.S. §18-1-704(1)(2). By law, in deciding whether the Officer was justified in acting in self-defense or defense of others, it does not matter whether Mr. Morton was actually trying to injure the Officer or another person, so long as a reasonable person, under like conditions and circumstances, would believe that it appeared that deadly physical force was necessary to prevent imminent harm. The facts must be viewed as they appeared to the Officer at the time; future developments are irrelevant to the legal analysis.

Therefore, I must determine whether, at the time the Officer shot Mr. Morton, he had objectively reasonable grounds to believe, and did in fact believe, that he or another person were in imminent danger of being killed or suffering great bodily injury, and whether he reasonably believed a lesser degree of force was inadequate. In other words, would a reasonable person, confronted with the same facts and circumstances, believe that it was necessary to use deadly physical force to defend himself or others from Mr. Morton? If so, the shooting is justified under Colorado law and no criminal charges can or should be filed.

Facts Established by Investigation

On February 7, 2023, at 4:04 p.m. a Walmart employee assigned to asset protection observed a male, later identified as Neil Morton, consume food and a drink as he walked around the store, and then left without paying. The Walmart employee then contacted Mr. Morton who agreed to go with the employee to the Loss Prevention office but then Mr. Morton turned and left the store.

At 4:26 p.m., the Walmart employee called an LKPD officer to tell them Mr. Morton had left; however, the officer was on a traffic stop and told the Walmart employee was told to call Jeffcom. The Walmart employee

called Jeffcom and reported the shoplifting. He also described Mr. Morton as a white male, 5'10", thin, with a scruffy beard wearing a black hoodie, blue/black coat, tan pants, with no known weapons.

At 4:27:19 p.m. LKPD Officer Maestas self-dispatched to the shoplifting call after the other LKPD called him directly. Officer Maestas first spoke with the Walmart employee outside the Walmart. The Walmart employee pointed out where he last saw Mr. Morton and his direction of travel. Officer Maestas drove around Walmart and saw Mr. Morton at 4:28:40 p.m. and called out on the radio that he was going to try contact Mr. Morton. Officer Maestas parked along the eastern edge of the road adjacent to the undeveloped field and activated his lights.

When Officer Maestas responded to the call, he had been a Lakeside Police Officer for nine months. Before joining LKPD, he was an Erie Police Officer for one month, and a Boulder County jail officer for one and a half years. This was the first day of his work week and he was two and a half hours into his shift. He was driving a fully marked LKPD vehicle, wearing a full police uniform and functioning body worn camera. His BWC was set to automatically activate when the overhead lights on his vehicle turned on. but his vehicle was new, and that function had not yet been installed. As a result, Officer Maestas did not realize it was off and did not activate it until after the shots were fired. However, the BWC has a thirty second buffer prior to activation without audio so most of the interaction was captured on video.



This overhead image shows the path of the Officer before the shooting in the large dirt area, north of the "Murphy Express" label.

Upon contact, Officer Maestas asked Mr. Morton to take his hands out of his pocket, which Mr. Morton did, showing empty hands. Mr. Morton then put his hands back in his jacket pockets and pulled a box cutter out of his pocket and held it in his hand. Officer Maestas backed up to his vehicle, trying to create space between him and Mr. Morton. Mr. Morton went towards him. Officer Maestas continued backing up through the field and Mr. Morton advanced on him, quickly gaining ground. Officer Maestas repeatedly told Mr. Morton to stop. Mr. Morton repeatedly told Officer Maestas to shoot him.



The BWC images above show Mr. Morton advancing with the box cutter in his hand, then coming very close to the Officer before he decided to shoot Mr. Morton. The box cutter is clearly visible in Mr. Morton's right hand as the Officer lay on his back.

At 4:29:04 p.m. Officer Maestas drew his gun while continuing to back up. At 4:29:11 p.m. a LKPD Commander arrived and drove onto the dirt lot toward Officer Maestas as Mr. Morton was still advancing toward him. At 4:29:16 p.m. Officer Maestas slipped in the mud and fell backwards. As he went down, Mr. Morton was face to face with Officer Maestas and he feared Mr. Morton was going to get on top of him and stab him. Officer Maestas fired his weapon at Mr. Morton. Mr. Morton fell to the ground. At 4:29:49 p.m. Mr. Morton tried to stab himself in the neck with the box cutter several times.

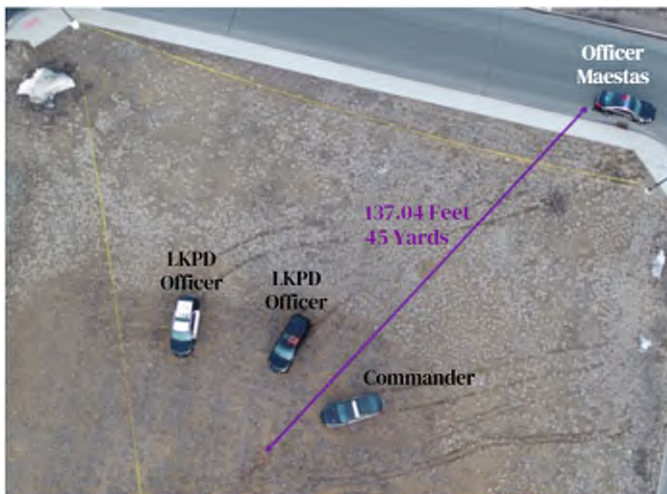
Mr. Morton was handcuffed by responding officers who also provided medical aid until fire and ambulance personnel arrived to treat and transport Mr. Morton.

The Scene

CIRT detectives and analysts processed the scene, coordinated the preservation and analysis of physical evidence, and obtained statements from all witnesses who saw or heard parts of the event. LKPD officers did not actively participate in the use of force investigation. The CIRT team utilized digital documentation to memorialize the scene.

Six shell casings and the box cutter were located at the scene. Measurements show that Officer Maestas retreated at least one hundred thirty-seven feet before the shooting took place. The sight and sound officers were photographed and interviewed by CIRT investigators.

Officer Maestas was connected to peer support and his attorney. He was photographed and relieved of his firearm. Officer Maestas' gun was a Glock 17, 9mm, which he carried with seventeen rounds in the magazine and one in the chamber. Officer Maestas carried three magazines with a capacity of seventeen rounds. When evaluated by CIRT, the Officer's gun had one in the chamber and eleven in the magazine, indicating he fired six rounds. Six 9mm casings were found at the scene. Officer Maestas was interviewed on February 7, 2023.



This overhead was taken the day of the shooting and identified where each police car was parked and the distance traveled by the Officer to the scene of the shooting.

It is unknown how many rounds hit Mr. Morton, given his right to keep his medical records private. No bullets were recovered. Another LKPD officer and a commander believed they saw a gunshot wound to Mr. Morton's upper right thigh. Mr. Morton's clothes were cut off his body and indicated he was shot. A circular hole was observed in the hoodie, sweater, pullover, and jacket in the left arm pit area. Four circular holes and two linear holes were observed on the front of the boxer briefs. The front left pant leg had two circular holes, one linear, and one slightly circular. The front of the right pant leg had two linear holes and one circular hole. He was hospitalized and survived.

Analysis

Officer Maestas responded to a shoplift after the suspect, later identified as Mr. Morton, left the store. The Officer drove to the area the

Walmart employee believed Mr. Morton had gone. The Officer observed someone matching the description of the suspect. The Officer asked Mr. Morton to remove his hands from his pockets. Mr. Morton removed his hands and showed them to the Officer and they were empty. But then, Mr. Morton immediately put his hands back in his pockets and pulled out a box cutter. Mr. Morton began advancing on Officer Maestas, who retreated, attempting to put distance between himself and Mr. Morton. Officer Maestas continued retreating and telling Mr. Morton to stop and Mr. Morton would not comply with the request, rather, Mr. Morton only told the Officer to shoot him which the Officer did not do until he had fallen on his back and Mr. Morton was very close to him, unresponsive, and wielding the box cutter.

When Officer Maestas was on his back with Mr. Morton above him with a boxcutter, having backed away from Mr. Morton and commanded him to stop without response, Officer Maestas had objectively reasonable grounds to believe that he was in imminent danger of being killed or receiving serious bodily injury from the box cutter. Further, he did believe he was in danger of being killed or receiving serious bodily injury, and ultimately, his decision to fire at Mr. Morton, given the proximity, weapon, and behavior of Mr. Morton, made Officer Maestas' belief objectively reasonable. No lesser use of force could reasonably ameliorate that danger. Moreover, a reasonable person, under like conditions and circumstances, at the time Mr. Morton was shot, would believe that it appeared that deadly physical force was necessary to prevent imminent deadly harm to the Officer. As there is no evidence proving, beyond a reasonable doubt, that a legally unjustified attempted homicide occurred, no criminal charges can or should be brought against Officer Maestas under Colorado law.

Please do not hesitate to contact me with questions or concerns regarding my determination of this matter.

Sincerely,

Alexis D. King
District Attorney
First Judicial District
Colorado