



August 22, 2025

**RE: May 23, 2025, deputy initiated tactical vehicle intervention at 5151 Boardwalk Drive, Fort Collins. LVPD (Lead Agency) #LP25-4269; LCSO #SO25-5122; CSP #3C25-0659; FCPS #FC25-7624.**

Sheriff John Feyen,

Pursuant to §16-2.5-301 and §20-1-114, C.R.S., and the 8<sup>th</sup> Judicial District Critical Incident Protocol, the District Attorney's Office reviewed the May 23, 2025, deputy initiated tactical vehicle intervention resulting in the death of Timothy Lobato and serious bodily injury to Kenneth Lujan, which occurred near 5151 Boardwalk Drive, in Fort Collins, Colorado. This legally mandated review is to determine whether any Larimer County Sheriff's Office personnel (specifically, Sergeant Samuel Roth) violated any Colorado criminal statutes with respect to the vehicle intervention.

## **I. EXECUTIVE SUMMARY**

Applying the law to the facts of this incident, as described in greater detail below, I conclude Sergeant Roth was legally justified in his use of physical force to protect the public from the threat posed by, and to effect the arrest of, Kenneth Lujan on May 23, 2025. Due to having concluded that the peace officer was justified in his use of physical force, no criminal charges can or will be filed against him by the District Attorney.

## **II. THE STATUTORY FRAMEWORK FOR OFFICER INVOLVED SHOOTING INVESTIGATIONS AND REVIEW**

C.R.S. § 16-2.5-301 governs investigations into peace officer-involved actions leading to injury or death. It 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, or other use of force by a peace officer that resulted in death. The law enforcement agencies participating need not be from the same judicial district.

The investigation into this vehicle intervention incident was conducted by a multi-agency team consisting of personnel from agencies within the jurisdiction who are members of the district's Critical Incident Response Team (CIRT). The Loveland Police Department was the lead agency,

and it was assisted by other agencies, including the Colorado State Patrol, the 8<sup>th</sup> Judicial District Attorney's Office, and Fort Collins Police Services.

C.R.S. § 20-1-114 provides:

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.

This document constitutes a report of the District Attorney's findings and includes the basis of the decision not to charge the involved peace officer with any criminal conduct.

As Kenneth Lujan has been criminally charged with various felonies for his conduct\*, the District Attorney must abide by Colorado's ethical and procedural rules to protect the rights of the defendant and the integrity of the criminal case. Specifically, Rule 3.8. (Special Responsibilities of a Prosecutor) provides in relevant part:

The prosecutor in a criminal case shall:

(f) except for statements that are necessary to inform the public of the nature and extent of the prosecutor's action and that serve a legitimate law enforcement purpose, refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused unless such comments are permitted under Rule 3.6(b) or 3.6(c) and exercise reasonable care to prevent investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.6 or this Rule.

Therefore, the details in this report will be curtailed to comply with the letter and spirit of the ethical rules and to protect the integrity of the ongoing case, while providing sufficient information to satisfy C.R.S. § 16-2.5-301 and § 20-1-114.

*\*All charges against Kenneth Lujan are merely allegations and he is presumed innocent of all charges filed against him unless and until he is proven guilty beyond a reasonable doubt.*

### **III. MATERIALS REVIEWED**

I have been provided with materials produced during the CIRT investigation into the vehicle intervention directed at the vehicle driven by Mr. Lujan. The agencies and respective case numbers are: Loveland Police Department (Lead Agency) #LP25-4269, Larimer County Sheriff's Office #SO25-5122, Colorado State Patrol #3C25-0659, and Fort Collins Police Department #FC25-7624.

The information I have considered in this review includes:

- Relevant body-worn camera footage of involved and witness officers
- Radio Traffic and Computer Aided Dispatch (CAD) notes
- Reports/summaries of the CIRT investigators
- Recorded interviews of involved and witness officers
- Recorded and summarized interviews of other witnesses (including lay witnesses)
- Photographic and video evidence, including but not limited to comprehensive scene documentation and drone footage
- Physical evidence (*e.g.*, vehicle data and accident reconstruction documentation)
- Medical evidence, including injuries sustained by Timothy Lobato and Kenneth Lujan
- Familial background evidence
- Expert reports regarding crash reconstruction

#### **IV. APPLICABLE LAW**

The District Attorney's review of this event is guided by the Colorado statutes pertaining to the use of force by peace officers, as well as general defense of self or others. Sergeant Roth and any other persons referred to as "officers" or "deputies" in this letter are "peace officers" per statute. *See* C.R.S. §16-2.5-101-103.

By using his marked patrol vehicle in a manner causing injury or death to Mr. Lobato and Mr. Lujan, Sergeant Roth's conduct implicates Colorado's peace officer's use of force and self-defense statutes.

Colorado's relevant use of force statutes and legal definitions:

§18-1-901 (3)(d), C.R.S. "Deadly physical force" means force, the intended, natural, and probable consequence of which is to produce death, and which does, in fact, produce death.

§18-1-707, C.R.S. (Use of force by peace officers—definitions), states in relevant part:

(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 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.

§18-1-704, C.R.S., Colorado's general self-defense statute states in relevant part:

(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.

Under Colorado law, a person acts legally to defend themselves or others when both a "reasonable belief and actual belief" exist on behalf of the actor. *See Sanchez v. People*, 820 P.2d 1103, 1108 (Colo. 1991). The law requires the fact finder to "weigh all relevant circumstances to determine whether a person asserting the defense of self-defense has acted as a reasonable person would act in similar circumstances." *Id.*

## **V. SUMMARY OF LEGAL STANDARD AS APPLIED TO THIS EVENT**

As a threshold legal matter, the level of force used by Sergeant Roth in this case was not "deadly force" as defined by Colorado law as death is not a "the intended, natural, and probable consequence" of a standard vehicle immobilization. Colorado law focuses on the intent of the force, not the result. So, while such techniques carry obvious risks and while it is tragic that Mr. Lobato died as a result of this crash, Sergeant Roth's use of force cannot be reviewed under the deadly force standard and instead is reviewed under the general use of force as required by law.

Condensing the legal authority down to an applicable standard to apply to this event, and since deadly physical force was not used, we must determine:

- 1) Whether Sergeant Roth attempted to utilize nonviolent means prior to resorting to use of force against Mr. Lujan and whether nonviolent means would have been ineffective in effecting an arrest or preventing the escape of Mr. Lujan.
- 2) Whether Sergeant Roth used only a degree of force consistent with the minimization of injury to others.
- 3) Whether Sergeant Roth or his fellow officers ensured that assistance and medical aid were rendered to Mr. Lobato and Mr. Lujan as soon as it was practicable after the vehicle intervention.
- 4) Whether Sergeant Roth or his fellow officers ensured that Mr. Lobato and Mr. Lujan's identified relatives or next of kin were notified of his medical status, if known, as soon as practicable.

## **VI. SUMMARY OF RELEVANT FACTS.**

Because there has been a criminal case filed against Mr. Lujan, the following summary will include various sources of information, at times without specific attribution to the person (or other source) of the information. The facts herein are intentionally limited primarily to those which are – or will likely be - available in the public record and which have also been corroborated by the review of additional evidence gathered in the CIRT investigation. Additional facts, if any, are provided only as needed to meet statutory requirements.

All references to Mr. Lujan’s conduct remain merely allegations and he retains the presumption of innocence unless and until proven guilty.

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On May 23, 2025, local law enforcement agencies took part in a specialized traffic enforcement operation. Larimer County Sheriff Investigator Kurt Solomon was driving an unmarked gray Ram 1500 equipped with emergency red and blue lights and sirens. As that operation wound down, Investigator Solomon initiated a traffic stop of a 1999 white Toyota Camry for an expired license plate. Investigator Solomon initiated the traffic stop by activating his emergency lights at approximately 10:48 PM in the area of Roma Valley Drive and Napa Valley Drive in Fort Collins.

The Camry failed to yield to the emergency lights and fled the attempted traffic contact. Investigator Solomon pursued the vehicle and was joined by Investigator Travis Fischer and Sergeant Samuel Roth. Investigator Fischer was driving an unmarked Ford Expedition equipped with emergency red and blue lights and sirens. Sergeant Roth was driving a fully marked Ford Police Interceptor equipped with emergency red and blue lights and sirens. During the following pursuit, all three vehicles had their emergency red and blue lights activated and would have been visible to the fleeing vehicle.

Investigators Solomon and Fischer along with Sergeant Roth pursued the white Camry for approximately 5 minutes, traveling in a southeast, then northbound direction on Southridge Greens Blvd. The suspect vehicle was observed driving in excess of 50 MPH and reckless manner resulting in it striking a brick pillar in the 6000 block of Southridge Greens Blvd. and running several red lights and stop signs as it took an evasive path through the city. At the intersection of High Castle Drive and Milan Terrace Drive, Sergeant Roth attempted an unsuccessful Tactical Vehicle Intervention (TVI)<sup>1</sup> maneuver.

The pursuit continued north on High Castle Drive to Boardwalk Drive and then traveled eastbound. At approximately 5151 Boardwalk Drive, Sergeant Roth performed another TVI maneuver on the vehicle causing it to collide with a tree and ending the pursuit.

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<sup>1</sup> This maneuver is also sometimes referred to as a precision immobilization technique (PIT) maneuver.



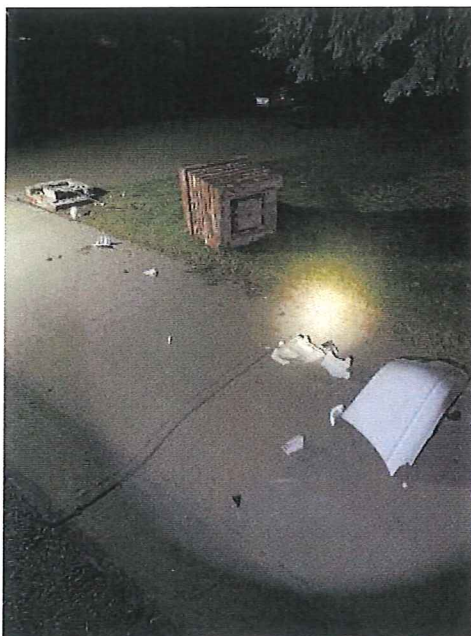
*Map Documenting the Path of Pursuit as Provided by CIRT Investigators*

The vehicle caught fire and law enforcement requested assistance from the fire department and emergency medical services. Sergeant Roth extinguished the engine fire at the scene. Access to the back seat of the vehicle was gained by breaking a window, allowing for the extraction of Timothy Lobato and the third occupant (the third occupant is not being named as they have not been charged with any crime). Mr. Lujan was found in the driver's seat. Mr. Lujan, Mr. Lobato, and the third occupant were transported to local area hospitals.

Mr. Lujan sustained multiple serious injuries as a result of the crash.

Timothy Lobato sustained extensive and life-threatening injuries as a result of the crash. On June 18, 2025, Mr. Lobato died as a result of those injuries. The death certificate listed the manner of death as an accident, resulting from injuries sustained in the vehicle collision.

The Fort Collins Police Services processed both crime scenes. The first scene was located at 6001 South Ridge Greens Boulevard, where the suspect vehicle collided with a brick mailbox, resulting in visible property damage.



*Photograph of Brick Mailbox Struck by the white Toyota Camry*

The second scene was on Boardwalk Drive, just west of the intersection of South Lemay Avenue, which marked the location of the second TVI. At this location, the eluding vehicle left the roadway and struck a tree, causing significant damage to the vehicle.



*Overhead Drone Photograph Documenting Final Locations of Involved Vehicles*

All deputies involved were interviewed by the CIRT investigators. They cooperated with the investigation and provided candid accounts that were corroborated by body worn camera footage, radio traffic and other evidence. The deputies expressed concern as the pursuit reapproached Lemay Avenue after Mr. Lujan's reckless driving and determination to avoid arrest. The deputies were concerned that Mr. Lujan's driving would result in serious injury or death to either himself,

other occupants of his vehicle or the community at large.

## **VII. CHARGES FOR KENNETH LUJAN**

Kenneth Lujan is currently in the Larimer County Jail, charged with the following offenses:

1. **Vehicular Eluding – Resulting in Bodily Injury to Another** (C.R.S. 18-9-116.5(1)(2)(a), Class 4 Felony),
2. **Vehicular Assault – DUI Causing Serious Bodily Injury to a Non-Family Member** (C.R.S. 18-3-205(1)(b), Class 4 Felony), and
3. **Displayed Expired Number Plates** (C.R.S. 42-3-114, Traffic Infraction).

The above charges are currently under review and may be amended due to the death of Mr. Lobato after initial charging. All charges are merely allegations, and Mr. Lujan is presumed innocent unless and until proven guilty beyond a reasonable doubt.

## **VIII. CONCLUSION.**

The CIRT investigation in this case conformed to the letter and the spirit of §16-2.5-301, C.R.S. The investigation was thorough, objective, and all necessary materials were provided in a timely manner. Finally, the investigation yielded ample evidence from which factual and legal conclusions could be reached.

The Larimer County Sheriff's deputies cooperated with the CIRT investigation and provided voluntary interviews. They appeared genuine in their responses and the independent evidence supported their version of events.

The District Attorney's Office makes the following finds regarding the relevant questions posed by this CIRT investigation:

- 1) Whether Sergeant Roth attempted to utilize nonviolent means prior to resorting to use of force against Mr. Lujan. and whether nonviolent means would have been ineffective in preventing an arrest or preventing the escape of Mr. Lujan.

Sergeant Roth explained that he had significant community safety concerns given the manner in which Lujan was driving. Lujan had committed a litany of traffic violations that added up to a consistent reckless pattern of driving that would reasonably be putting others on the roadway at risk and provided Sergeant Roth with probable cause to arrest Lujan. While the location and time of night this incident occurred resulted in few citizens in the vicinity of the pursuit, Sergeant Roth indicated he believed he needed to end the pursuit before Lujan got into a more heavily trafficked area of town. Sergeant Roth explained he believed Lujan's dangerous driving was "escalating" and that necessitated the immobilization maneuver at that time and place.

The length of the pursuit and the specific driving behaviors clearly indicated the vehicle would not stop on its own volition so long as the pursuit continued. Clearly marked vehicles with lights and sirens had failed in convincing Lujan to surrender and there is no reason to believe continued pursuit would have altered those circumstances. Given the nature of a vehicular pursuit, immobilization such as the one used here is one of very few options available to effect arrest. Except for terminating a pursuit in order to effect arrest at a later and potentially safer time, the immobilization tactic used by Sergeant Roth was the most limited tool available.

- 2) Whether Sergeant Roth used only a degree of force consistent with the minimization of injury to others.

Sergeant Roth indicated he did not see the tree which the vehicle ended up impacting and which was the greatest cause of the damage and injuries. Given the speed and erratic nature of the pursuit – both factors dictated by Lujan – and the time of night, it is reasonable that Sergeant Roth would not have had the time to perceive the tree or the ability to so precisely effect the immobilization as to avoid any and all objects. The evidence shows his immobilization maneuver was consistent with the normal practices of the technique and of his department’s policy which allows for the use of the technique in pursuit situations and was described by another deputy during this investigation as “a pretty liberal pursuit policy”. While the consequence to the vehicle passenger, Mr. Lobato, was tragic, as described above, death was not the intended, natural, or probable outcome of the maneuver and instead the intent was to effect a lawful arrest.

- 3) Whether Sergeant Roth or his fellow officers ensured that assistance and medical aid were rendered to Mr. Lobato and Mr. Lujan as soon as was practicable after the vehicle intervention.

Aid was provided expeditiously to all citizens in the vehicle once they could be extricated.

- 4) Whether Sergeant Roth or his fellow officers ensured that Mr. Lobato and Mr. Lujan’s identified relatives or next of kin were notified of his medical status, if known, as soon as practicable.

Mr. Lujan was able to independently communicate with his relatives. There was initial difficulty in identifying Mr. Lobato. Once properly identified on May 25<sup>th</sup>, CIRT members did communicate with his family and updated them thereafter.

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The totality of the evidence presented through the CIRT investigation reveals Sergeant Roth was legally justified on May 23, 2025, in the use of his force to effect the arrest of Mr. Lujan which ultimately led to the death of Timothy Lobato and serious bodily injury to Kenneth Lujan. As a result, the District Attorney’s Office concludes that no charges can or will be brought against the sergeant for his vehicle intervention at 5151 Boardwalk Drive.

The scope of a CIRT review is solely to form legal conclusions regarding uses of force and determine if they conform with Colorado law. It is beyond the authority of the CIRT to review the

propriety of an agency policy, such as whether, where, and why to pursue vehicles and when to terminate such pursuits.

The District Attorney's Office would like to thank the members of the Eight Judicial District Critical Incident Response Team for their work on this investigation.

Respectfully,



Gordon McLaughlin  
District Attorney  
8<sup>th</sup> Judicial District