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September 10, 2021

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Opinion Letter Regarding 8.16.21 CIRT, Case Numbers FCPS21-10103, LCSO21-7334, LPD21-6168, & WPD21-13919.

On August 16, 2021, a Loveland Police officer responded to a call for service and during that call fired his handgun, striking Alex Domina. This constituted an officer use of force incident, invoking the Eighth Judicial District Critical Incident Response Team (CIRT) protocols. The purpose of a CIRT investigation is to provide an independent and comprehensive examination of law enforcement uses of force to ensure there is accountability for any criminal conduct.

#### CIRT Protocols and Legal Authority

The criminal investigation surrounding this incident has been completed and submitted to my office as required by C.R.S §20-1-114. Pursuant to the Eighth Judicial District's Critical Incident Protocol, I am required to determine whether any person committed a crime during this incident. The scope of this review is purely criminal in nature and necessarily limited by Colorado statutes to determine whether any criminal charge is legally provable beyond a reasonable doubt.

A CIRT investigation is not designed to review police training methods, police best-practices, or dictate proper police response. As District Attorney, I do not have the authority to mandate specific training to police agencies nor the authority to discipline any officer. Such actions are solely at the discretion of each individual agency.

A non-involved agency is required to lead all CIRT investigations to ensure the independence of their work. In this case, Fort Collins Police Services led the CIRT investigation with assistance from other member agencies, including, the Larimer County Sheriff's Office, Windsor Police Department, Loveland Police Department (non-critical functions only), and the District Attorney's Office for the Eighth Judicial District. I have reviewed reports, photos, videos, communication records, witness interviews, digital scene scans, and other relevant evidence, along with a full presentation of the case by CIRT investigators.

Pursuant to Colorado Revised Statutes 20-1-114(1), written findings of such investigation shall be made public. The Eighth Judicial District CIRT takes our obligations of integrity and transparency to the Larimer and Jackson County communities seriously and endeavors to convey as much information as possible to the public to ensure trust in our criminal justice system and the CIRT process.

### CIRT Investigation and Factual Background

The facts gathered by CIRT investigators indicate that on the night of August 16, 2021, two separate 911 calls were placed to request police assistance at 1620 Tennessee St., Loveland, Colorado. The first phone call was placed by Judy Domina, the legal guardian of Alex Domina, who also resided at 1620 Tennessee Street. The second call was placed by the Dominas' neighbor. In her call, Ms. Domina specifically requested police assistance and provided the following relevant facts about the situation:

“We have a young man that is having a mental breakdown. He is breaking everything and throwing stuff. We need assistance immediately please. He is a danger to himself and us.”

“He has attempted suicide on multiple times. Yeah, he is just destroying my house. He is gonna need to be committed.”

“He’s been institutionalized for years; he just came to live with me in June.”

“He’s here in my backyard, he is destroying the patio furniture. He has a piece of glass now.”

“We are staying at a distance. He is big, he is 244-pounds.”

“Please handle him with care. It is, he is mental health.”

In response to dispatcher’s question regarding whether Mr. Domina would be cooperative, “He probably won’t be.”

“He’s got a knife. Yes, he has a knife. He says he’s not gonna go back.”

At that point in the call, Ms. Domina reports police have arrived and she disconnects from the dispatcher.

Several officers were dispatched to the scene to provide assistance and Officer Eddie Luzon was the first to arrive. Officer Luzon parked across the street from the Dominas' residence and proceeded to the house, having a brief exchange with Ms. Domina on his way to assess the situation. In that interaction, Ms. Domina told Officer Luzon “He’s got a knife, so just try to talk to him.” Officer Luzon did not have back up at this time and no other officer arrived prior to shots being fired.

Body worn camera video was collected from all responding officers and reviewed. All officers provided either written statements or were interviewed by CIRT investigators. Officer Luzon was interviewed thoroughly as to his thought process and decision making in this incident. He was first interviewed before watching his body worn camera video so his independent recollection could be collected. Subsequently, Officer Luzon was afforded the opportunity to watch his video and readdress the investigator.

Officer Luzon explained to CIRT investigators he has “CIT” or Crisis Intervention Training certification, which is a law enforcement program designed to teach skills to de-escalate interactions, and that he is also a defensive tactics instructor. He stated he was “confident” in his ability to deal with the situation and that his intent was to de-escalate and start a dialogue. He explained his belief that since Mr. Domina was armed with a knife, injury could befall other bystanders, or Mr. Domina himself, if there was not an immediate intervention. Officer Luzon explained that given those factors, and what he described as Judy Domina being “adamant” Mr. Domina “could be talked to,” he did not believe it prudent to wait for backup.

The incident detail report and radio traffic from the call show that the following information about the situation was aired: Mr. Domina was “having a mental breakdown and breaking things” including glass objects; Judy Domina, Mr. Domina’s guardian, had requested police assistance; Mr. Domina was a large individual of approximately 244-pounds; Mr. Domina had been “institutionalized for many years;” Mr. Domina was “in the backyard destroying patio furniture;” and finally, before Officer Luzon exited his vehicle, Mr. Domina had picked up a knife. Officer Luzon confirmed he was aware of this information prior to his arrival on scene.

Evidence shows that when Officer Luzon approached the fenced backyard, he entered the property and stood just beyond the threshold of the fence gate. The gate was unlocked and ajar when he arrived and Officer Luzon reported an inability to see above the gate given his height, 5’5”, and the height of the fence, determined to be 5’0”. Officer Luzon’s location in the entryway was at the beginning of a narrow gravel alleyway, which eventually opened to the main backyard. Officer Luzon stated that he would not have been able to begin a dialogue from outside of the fence line given the distance and obstacles. Officer Luzon had a clear line of sight to Mr. Domina and confirmed that he did have a large knife in his hand. Officer Luzon described the knife as “the biggest butcher knife you could get.” Subsequent inspection revealed it to be a chef’s style knife - the blade measured eight inches and would objectively be considered a large knife.



Photograph 1 – Evidence marker 11, showing the knife Mr. Domina possessed.

Officer Luzon began speaking to Mr. Domina from a distance, later measured to be approximately 45.6 feet. Officer Luzon described the initial distance between he and Mr. Domina provided him safety. As Officer Luzon spoke to Mr. Domina, Mr. Domina can be seen on video causing damage to items in the backyard, including tearing down a large gazebo. Officer Luzon’s initial questions of Mr. Domina were delivered in a calm voice and using Mr. Domina’s first name, Alex, in what Officer Luzon described as being personal in attempt to better respond to someone in crisis. Among other statements Office Luzon made in attempt to begin a dialogue or de-escalate the situation were:

“Hey Alex, how’s it going today, bro? Could you put that knife down for me and let’s just talk man?”

“I’m not taking you anywhere, I just want to talk to you.”

“Alex, man, I need you to stop and just talk to me, bro.”

“Stay over there, do not come near me.”

The interaction from Officer Luzon's entrance at the gate until he fired, was approximately one minute and 13 seconds. In that time, Officer Luzon asked Mr. Domina to put the knife down three times, asked Mr. Domina to talk to him four times, and once Mr. Domina begins to walk toward him, Officer Luzon articulated some form of "stop" or "don't come near me" six times.

In his interview Officer Luzon described his concern that civilian bystanders were behind him and his intent was to stay between "innocents and a very large man with a very large knife." Officer Luzon called for backup units to respond faster. Officer Luzon described attempting to talk Mr. Domina down, but that Mr. Domina "didn't want to hear it." Mr. Domina did respond to Officer Luzon and looked in his direction, indicating he could hear him, but Mr. Domina was not specifically responsive to any of Officer Luzon's questions or requests and video is unable to demonstrate whether Mr. Domina fully comprehends the nature of the situation. Among Mr. Domina's few statements in reply to Officer Luzon were, "I'm not being tricked by that bullshit" and "I'm not going back," apparent references to being placed in custody or committed to an institution, prompting Officer Luzon's response that he was not there for that purpose.

Approximately 57 seconds after Officer Luzon's entrance at the gate, Mr. Domina begins walking toward Officer Luzon at a moderate pace, while holding the knife. Officer Luzon describes Mr. Domina's gaze as directly toward him and that he did not believe Mr. Domina would stop. After giving several commands to desist, Officer Luzon drew his handgun and radioed that he had Mr. Domina at gunpoint. Mr. Domina continued to advance, passed a dog kennel in the yard, and approached the edge of the yard where the grass ends and the stone alleyway begins. As Mr. Domina neared this point, there was a noticeable change in his pace, with video showing Mr. Domina switching from a moderate walking pace to faster movement, tensing his body and beginning to surge forward.

In his interview, Officer Luzon initially recalled warning Mr. Domina, "stop or I'll shoot you," prior to firing. Video evidence shows, and Officer Luzon confirmed after watching the video, he was only able to articulate "don't make me" before the shots were fired. Officer Luzon explained the ending of that sentence would have been "or I'll shoot you," however he wasn't able to finish due to Mr. Domina "picking up speed" and "getting ready to charge."

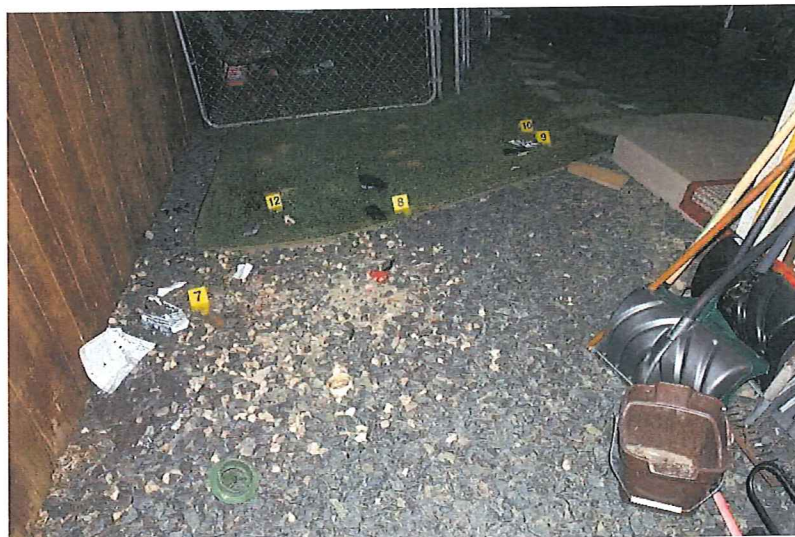
Officer Luzon reported "I felt like (Domina) was coming to stab me and I didn't feel like that was something I would survive, so I fired my weapon." Officer Luzon described firing a sequence of "three or four shots," and estimated the distance between he and Mr. Domina when he fired was "maybe seven yards, not even." Physical evidence showed the actual distance was consistent with Officer Luzon's estimation, with digital measurements producing a distance range between 15.1 feet and 23.3 feet depending on precise location.



Photograph 2 – Still picture from Officer Luzon’s body worn camera showing the positioning of Mr. Domina, with knife in his right hand, at the approximate time Officer Luzon fired.



Photograph 3 – Evidence markers 2, 3, & 4, showing the location of cartridge casings and indicating the approximate location from which Officer Luzon fired from just beyond the threshold of the gate.



Photograph 4 – Evidence markers 10 & 12, showing the location of projectile fragments and the approximate location of Mr. Domina when he was shot just inside the boundary of the grass.

CIRT investigators asked Officer Luzon about his choice to draw his firearm. Officer Luzon described that based on his knowledge as a defensive tactics instructor, the likelihood of successfully using a taser

would be slim. Being by himself, Officer Luzon did not believe there was an opportunity for any less-lethal device given how quickly someone could cover the distance. Officer Luzon discussed his training as it relates to a suspect with a knife and the difficulty in retrieving a defensive weapon as a suspect closes a gap and the limited reactionary time. Officer Luzon believed that reactionary gap gave him no choice but to use lethal force, stating "I matched his lethal force with lethal force."

Officer Luzon was also asked about his ability to retreat when Mr. Domina began to advance. Officer Luzon explained he feared that if he were to take that course of action, Mr. Domina would also retreat and become a "barricaded subject." Instead, Officer Luzon wanted to keep sight on Mr. Domina, attempt a dialogue, and protect the bystanders behind him. Further explaining his concern for the bystanders, Officer Luzon asked rhetorically, "if you are willing to stab me, why wouldn't you stab an innocent civilian?" Officer Luzon indicated to investigators he believed his CIT training failed and that he failed Mr. Domina, but that he would not have done anything differently in hindsight.

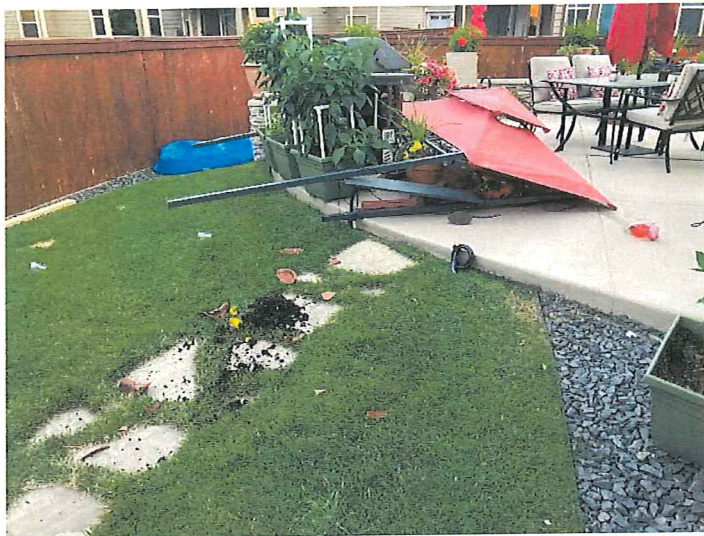
Video and physical evidence shows Officer Luzon fired four times in quick succession. Three of those rounds hit Mr. Domina, causing him to fall to the ground. Medical information indicates the three rounds impacted Mr. Domina in his torso and arm. While some initial on-scene conversation raised the possibility of a stab wound, it is believed the injuries in question were caused by bullet fragments which caused lacerations. The fourth round was found lodged in an internal door frame of the residential home adjacent to the Domina's home to the rear, having cleared the rear fence and entered the home through a closed window.

Mr. Domina remained conscious and expressing significant pain. Mr. Domina's knife had fallen underneath him and was easily within his reach. Officer Luzon continued to hold Mr. Domina at gunpoint indicating he did not believe the scene was yet secure, stating "it is a very common thing for people to play possum...because his hands were underneath his waist, I couldn't see his hands, I knew the knife was still within reach." Within the minute, a second officer, Kerry Marion, arrived. Officer Marion approached Mr. Domina and removed the knife from his immediate vicinity and began to assess his medical needs and render aid. Officer Luzon continued to assess scene security as Officer Marion encountered difficulties with her medical supplies. Approximately 2 minutes and 35 seconds after Mr. Domina was shot, Officers Geoff Reeves and Ryan Ake arrived and were able to provide emergency medical assistance until the arrival of EMTs. The response of additional officers allowed for Officer Luzon to be escorted from the scene per normal practice in officer involved use of force incidents. Mr. Domina was transported to the Medical Center of the Rockies with life threatening injuries. Mr. Domina died on September 7, 2021, while still in the care of Medical Center of the Rockies. The coroner will rule on Mr. Domina's official cause of death.

CIRT investigators interviewed Mr. Domina's family. Interviews with Judy Domina, Mr. Domina's grandmother, and her partner, Dale Steinbaugh, revealed Mr. Domina experienced a sudden and unusual change in mood when asked to complete his daily chores. Mr. Domina began to act out and yelled at Ms. Domina "you're a controlling bitch." Ms. Domina stated she had not seen a previous outburst of this sort and does not know the cause. A subsequent search of the scene revealed significant destruction of items both inside and outside the home. The damage to items is consistent with the description from Ms. Domina on the 911 call and her later description of Mr. Domina throwing tables and lamps. According to Ms. Domina, Mr. Domina suffered from significant physical abuse in his past and has serious developmental delays. Ms. Domina reported Mr. Domina had been in over 40 separate placements and she was recently appointed as a temporary guardian. She stated he is "way over-medicated" and speculated that Mr. Domina may have been trying to get shot by police. Both Ms. Domina and Mr. Steinbaugh stated they believed the situation had the potential for Mr. Domina to have hurt them given the destructive nature his behavior.



Photograph 5 – Broken and scattered furniture shown inside of 1620 Tennessee Street.



Photograph 6 – Broken gazebo and other destruction in the backyard of 1620 Tennessee Street.

Records provided to CIRT investigators verified that Mr. Domina did suffer from significant cognitive and mental health challenges throughout his life which caused him to engage in documented behaviors that created a danger to himself and others in the community.

There is no evidence that Officer Luzon had any prior knowledge of, or interaction with, Mr. Domina, nor had the Loveland Police previously responded to the residence. A thorough canvas of the neighborhood; interviews with additional family members and other known contacts; collection of medical and medication information; and other investigation, did not reveal any definitive evidence which would fully explain Mr. Domina's behavior that day.

Standard CIRT protocol suggests any involved officer interview with investigators within two sleep cycles, or 48 hours. The purpose of this procedure is to ensure thorough collection of information, to prevent outside influences from influencing a witness's recollection, and to keep an investigation on track to provide a timely decision to the community. Officer Luzon chose not to interview in that established time frame. Everyone, law enforcement officers included, retain their Constitutional Fifth Amendment Right to decline to speak to government investigators, and the District Attorney's Office is not able to force any person to speak against their wishes. However, Officer Luzon did choose to interview with investigators on the third day after this incident and did answer all questions asked of him. There is no reason to believe this delay impacted the quality of this particular investigation.

### Assessment of Officer Eddie Luzon's Actions

In evaluating whether an officer's use of force is lawful, the District Attorney's office must analyze the officer's actions pursuant to Colorado Revised Statutes §18-1-707 "Use of Force by Peace Officers," which 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 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.*
  
- (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.*

Also relevant to this review is C.R.S. §18-1-704, "Use of Physical Force in Defense of a Person," also known as "the right to self-defense."

- (1) Except as provided in subsections (2) and (3) of this section, 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.*

In interpreting C.R.S. §18-1-704, the Colorado Supreme Court has held that in most circumstances a person has no duty to retreat before they are legally entitled to use the degree of force authorized by the self-defense statute. The only circumstance in which a legal duty to retreat exists is when the person is the initial aggressor. *People v. Toler*, 9 P.3d 341 (Colo. 2000).

Evidence shows that Officer Luzon entered the situation at the request of Mr. Domina's family and that he believed based on his training and the statements of the family that he could resolve the situation without the use of force. Officer Luzon stood at a significant distance, approximately 46 feet, and attempted to calmly speak to Mr. Domina, engaging in genuine attempts to de-escalate the situation.



While Officer Luzon describes Mr. Domina as “not wanting to hear it,” it remains unclear what Mr. Domina’s ability to perceive or understand the situation was. Regardless, at that point, Mr. Domina was armed with a large inch knife and actively engaged in destructive behavior. Mr. Domina began approaching Officer Luzon and when he was nearing Officer Luzon’s location made a distinct and significant advancement in pace, which can reasonably be interpreted as “charging”, at which point Officer Luzon fired his handgun.

The criminal analysis does not, and cannot, include questions of other available resources, the quality of agency de-escalation training, the wisdom of one’s confidence in de-escalation, the feasibility of containing or minimizing the threat posed to the public by Mr. Domina, or the judgment to enter the scene without backup. While legitimate questions of practice and policy exist, they do not impact Officer Luzon’s criminal culpability here. Instead, the analysis must begin at the point Officer Luzon encountered Mr. Domina and focus on the situation as it was when he fired his weapon.

At the time Officer Luzon fired, he faced an armed suspect clearly advancing towards him and such action constituted an imminent threat to his life. While significant questions remain about what alternatives Officer Luzon could have explored prior Mr. Domina’s advancement given his knowledge this was a mental health crisis, evidence showed he was asked to intervene by Mr. Domina’s family and believed he had the skills to safely do so. At the point Mr. Domina began to charge, the reactionary gap closed, and it is clear that nonviolent means would have been ineffective. Therefore, Officer Luzon’s actions complied with C.R.S. §18-1-707(1). At that moment, less-lethal means would have allowed Mr. Domina to get close enough to use his knife and could well have been ineffective in stopping a 244-pound man who had begun to charge. To the extent a question exists as to whether Officer Luzon had any alternative at that moment, the evidence would not equate to proof beyond a reasonable doubt that the force was unlawful pursuant to C.R.S. §18-1-707(1).

Turning to the requirements of C.R.S §18-1-707(2), the degree of force Officer Luzon used did minimize harm to others, including himself and the bystanders behind him. While it is unknown what risk Mr. Domina posed to the bystanders, some family members did believe they were in at risk given Mr. Domina’s destructive and erratic behavior. One of Officer Luzon’s rounds did end up in a neighbor’s house, and while that certainly could have posed significant danger to others, the shot was predicated on the prevention of a more imminent harm which Mr. Domina may have caused. Officer Luzon did not personally render aid as he continued to maintain scene security, however other Loveland Police officers were able to render prompt medical assistance upon arrival, and Officer Luzon’s scene security may have allowed them to perform that function. The evidence therefore does not allow proof beyond a reasonable doubt Officer Luzon did not comply with the provisions of C.R.S §18-1-707(2).

Further, C.R.S §18-1-707(4.5) allows for use of deadly physical force when an 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.” Here, at the time Mr. Domina began to charge forward, Officer Luzon would have been objectively reasonable in believing he was in imminent danger and a lesser degree of force would be inadequate and stated that he did believe just that. Under that analysis, Officer Luzon’s actions would be legally justified pursuant to §C.R.S 18-1-707(4.5).

Lastly, Officer Luzon’s actions would also be justified under C.R.S. §18-1-704 as lawful self-defense, as he articulated his reasonable belief that he was at risk of being killed and that a lesser response would have been inadequate given the knife, the size of Mr. Domina, and the closing reactionary gap. In his interview, Officer Luzon discussed the tactical considerations he weighed in choosing not to retreat when Mr. Domina began to approach him. Whether that tactical analysis reached the correct conclusion as a matter of public policy is outside the scope of a CIRT investigation, which is solely to determine the

appropriateness of criminal charges. As a matter of criminal law, Officer Luzon took no action consistent with being an initial aggressor, and had no legal duty to retreat before using the degree of force discussed above.

#### Assessment of Alex Domina's Actions

The CIRT investigation includes assessment of criminal culpability for all involved, which includes analyzing Mr. Domina's actions on August 16, 2021. The following criminal statutes were analyzed, with the relevant statutory language provided:

#### C.R.S. §18-3-202 "Assault in the First Degree"

*(1) A person commits the crime of assault in the first degree if:*

- (a) With intent to cause serious bodily injury to another person, he causes serious bodily injury to any person by means of a deadly weapon; or*
- (e) With intent to cause serious bodily injury upon the person of a peace officer, firefighter, or emergency medical service provider, he or she threatens with a deadly weapon a peace officer, firefighter, or emergency medical service provider engaged in the performance of his or her duties, and the offender knows or reasonably should know that the victim is a peace officer, firefighter, or emergency medical service provider acting in the performance of his or her duties.*

#### C.R.S. §18-3-203 "Assault in the Second Degree"

*(1) A person commits the crime of assault in the second degree if:*

- (b) With intent to cause bodily injury to another person, he or she causes such injury to any person by means of a deadly weapon; or*
- (c) With intent to prevent one whom he or she knows, or should know, to be a peace officer, firefighter, emergency medical care provider, or emergency medical service provider from performing a lawful duty, he or she intentionally causes bodily injury to any person; or*
- (d) He recklessly causes serious bodily injury to another person by means of a deadly weapon.*

#### C.R.S. §18-2-101 "Criminal Attempt"

*(1) A person commits criminal attempt if, acting with the kind of culpability otherwise required for commission of an offense, he engages in conduct constituting a substantial step toward the commission of the offense. A substantial step is any conduct, whether act, omission, or possession, which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense. Factual or legal impossibility of committing the offense is not a defense if the offense could have been committed had the attendant circumstances been as the actor believed them to be, nor is it a defense that the crime attempted was actually perpetrated by the accused.*

#### C.R.S. §18-3-206 "Menacing"

*(1) A person commits the crime of menacing if, by any threat or physical action, he or she knowingly places or attempts to place another person in fear of imminent serious*

*bodily injury. Menacing is a class 3 misdemeanor, but, it is a class 5 felony if committed:*

*(a) By the use of a deadly weapon or any article used or fashioned in a manner to cause a person to reasonably believe that the article is a deadly weapon.*

C.R.S. §18-1-901 “Deadly Weapon”

*(e) "Deadly weapon" means:*

*(I) A firearm, whether loaded or unloaded; or*

*(II) A knife, bludgeon, or any other weapon, device, instrument, material, or substance, whether animate or inanimate, that, in the manner it is used or intended to be used, is capable of producing death or serious bodily injury.*

C.R.S. §18-4-501 “Criminal Mischief”

*(1) A person commits criminal mischief when he or she knowingly damages the real or personal property of one or more other persons, including property owned by the person jointly with another person or property owned by the person in which another person has a possessory or proprietary interest, in the course of a single criminal episode.*

Review of Mr. Domina’s actions found he was in possession of a large chef’s knife which would constitute a deadly weapon per statute. Mr. Domina, while holding that knife, advanced upon Officer Luzon, ignoring requests to desist and eventually making a clear shift in speed as he advanced to within 15 to 23 feet of Officer Luzon. While Officer Luzon was not injured during this incident, Criminal Attempt requires only that a “substantial step” towards the ultimate crime occur to reach a finding of criminal culpability. Charges of Criminal Attempt to Commit Assault in the First Degree, a class four felony, and Criminal Attempt to Commit Assault in the Second Degree, a class five felony, would both be considered in this case if the interests of justice warranted charging Mr. Domina.

The crime of Menacing does not require any injury be inflicted and Mr. Domina’s actions advancing with a large knife would reasonably put someone in fear of imminent bodily injury. Finally, as to the crime of Criminal Mischief, there is significant evidence that Mr. Domina destroyed physical property.

At issue would be Mr. Domina’s mental state. In each charge, the District Attorney must prove the mental state – intentionally, knowingly, or recklessly – beyond a reasonable doubt for a jury to have found Mr. Domina guilty of a crime. Given the Mr. Domina’s significant developmental and mental health challenges, as well as the specific, unexplained breakdown that occurred on the night in question, it is unknown how a jury would assess his cognitive ability to form a culpable mental state.

Tragically, Mr. Domina is now deceased. As such, no criminal charges can be filed. While the law allows a District Attorney to file charges if the elements of a crime are met, it does not demand it. I must also consider if doing so would be ethical and in the best interests of justice and the community. Here, had Mr. Domina survived, I would have been unlikely to have filed criminal charges against him given the significant cognitive difficulties he faced which prevented him from full adult development and the significant injuries he was battling before his death. Each case must be analyzed on its individual merits, and while similar conduct may typically warrant criminal charges, that is not the case here given the totality of the circumstances.

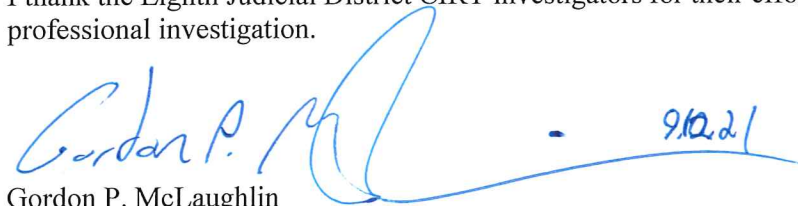
## Conclusion

My sole purview under the CIRT protocols and my abilities under the law relate to the appropriateness of criminal charges. After my review of the thorough CIRT investigation, I conclude that no criminal charges are appropriate for Officer Eddie Luzon or Alex Domina regarding their conduct August 18, 2021. Earlier today, I informed both the Loveland Police Department, as well as the family or Mr. Domina, of the decisions contained herein.

Mr. Domina's death was a tragedy. The legal analysis must begin at the point Officer Luzon was confronted with a man wielding a knife and closing quickly. However, a broader analysis of alternatives leading up to that point may have shown opportunities to have avoided this outcome. While a District Attorney only has the authority to decide the appropriateness of criminal charges, a legal justification is not a moral clearance to avoid reform.

While police are often used as a last resort, the burden cannot fall solely on a responding officer who did not have the knowledge provided by the subsequent investigation, including the depth of Mr. Domina's cognitive disabilities, which even previous behavioral health intervention had failed to safely resolve. However, it is my sincere hope that this tragedy will spark deep thought and reflection from the Loveland Police Department and Loveland city leaders regarding how best to reform their current practices to better address calls for behavioral health crises, provide alternative means of emergency response, and strive to meet modern community expectations to reduce future harm and build trust with our fellow citizens.

I thank the Eighth Judicial District CIRT investigators for their efforts in compiling a complete and professional investigation.



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