



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

April 29, 2022

Chief Link Strate  
Arvada Police Department  
8101 Ralston Road  
Arvada, Colorado 80002

Dear Chief Strate,

The First Judicial District Critical Incident Response Team has completed its investigation into the fatal shooting of Destinee Rain Delara-Thompson by an Arvada Police Officer (the “Officer”) on August 17, 2021, at 10101 I-70 Frontage Road, City of Wheat Ridge. Lakewood Police Commander Mark Reeves presented the investigation to my office on October 26, 2021.

After 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 Ms. Delara-Thompson. 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 person 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 Arvada Police Department (“APD”) immediately activated the CIRT team to investigate the use of deadly force by the Officer. Consistent with CIRT policy, APD did not participate in the substantive



portions of the CIRT investigation. The CIRT team promptly responded to investigate, led by Commander Reeves. Under his direction, the CIRT team processed the scene, completed interviews with those who saw or heard the events, and preserved necessary evidence. The involved officers provided voluntary statements and submitted to questioning. These interviews were recorded, reviewed as part of the investigation, and included within the file. Commander Reeves briefed me, my leadership team, and CIRT team members on this investigation and provided the file for my review.

My team reviewed over 1,450 photographs and approximately 614 pages of reports by the Arvada Police Department, Jefferson County Sheriff's Office, Wheat Ridge Police Department, Golden Police Department, and other CIRT agencies throughout the First Judicial District. I reviewed the recorded interviews of the officers and witnesses who heard or saw the events and the 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, they commit the crime of 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 an officer. An officer is 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 suffering serious bodily injury; 2) the officer does in fact believe that the officer or another person is in imminent danger of being killed or suffering serious bodily injury; and 3) the officer has an objectively reasonable belief that a lesser degree of force is inadequate. § 18-1-707(4.5), C.R.S. Acting in self-defense or defense of others is subject to the same analysis. § 18-1-704(1)-(2), C.R.S. By law, in deciding whether the Officer was justified in acting in self-defense or defense of others, it does not matter whether Ms. Delara-Thompson 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 Ms. Delara-Thompson, he had objectively reasonable grounds to believe, and did in fact believe, that he or another person was 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 Ms. Delara-Thompson? If so, the shooting is justified under Colorado law, and no criminal charges can or should be filed.

## Facts Established by Investigation

On August 17, 2021, at about 12:20 p.m., APD and the Wheat Ridge Police Department (“WRPD”) received 911 calls from the Target located at 5071 Kipling Street, Arvada, reporting shoplifting and felony menaced, where a female customer left with a shopping cart of items without paying for them and pulled a knife (switchblade) on the Target Loss Prevention Officer, threatening to cut him. The female was recognized by the Loss Prevention Officer from a theft that occurred two days prior.

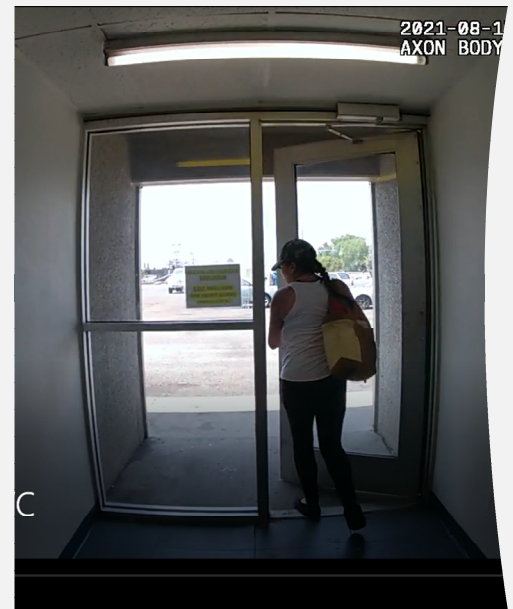
The woman was described as white or Hispanic, wearing a black tank top and dark pants, with a tattoo on her chest. An additional witness from Target called 911 with similar information and descriptions, reporting that he was following the woman to the American Motel, 10101 I70 Frontage Road, Wheat Ridge. At 12:25 p.m., the witness following on foot told dispatch that the female had taken off her black tank top and was now wearing a white tank top. Though the dispatcher told the person to not follow the woman, the updated information was radioed to the responding officers and shared through the Computer Automated Dispatch (CAD) notes that they could read in their cars. At 12:26 p.m., the witness lost sight of the woman.

APD and WRPD officers went to the Target and the American Motel. That day, WRPD officers wore body-worn cameras, but APD did not have body-worn cameras in their department. The first officers arrived at the American Motel at 12:29 p.m. Some of the uniformed officers were standing in the main lobby, some at the bottom of the west stairwell and exit, and some officers were in plain clothes and an unmarked police truck in the parking lot.

The witness who had followed the woman from Target continued to provide information to law enforcement and reported, via 911, that the woman was associated with Room 303, and that she was possibly coming down the elevators. Officers were at the elevators and stairway, in the main lobby area, and the west stairways and elevators, trying to locate the woman. At approximately 12:35 p.m., a woman, later determined to be Ms. Delara-Thompson, came downstairs and found the officers stationed between the stairwell and the door to the parking lot.



Ms. Delara-Thompson meeting officers on the first floor of the American Motel.



Ms. Delara-Thompson leaving after speaking with officers at the west end of the American Motel.

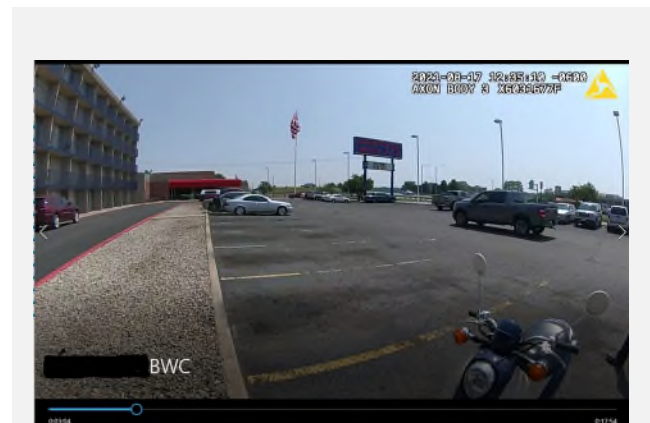
Both WRPD and APD officers spoke with Ms. Delara-Thompson, who fit the description given by the witness at the Target who had followed the woman to the American Motel. Spontaneously, she told the officers that she was not the person they were looking for, and the person they were looking for was on the third floor, associated with Room 303 – giving the same room that the witness relayed to law enforcement. She also said that she was coming from the fourth floor and that she had already spoken with an officer, though that was later found to be false.

Officers asked Ms. Delara-Thompson for identification because she fit the description of the suspect who stolen goods from Target and menaced a loss prevention officer with a knife, but she said she didn't have any. They asked her to stop, but she replied she wasn't involved and left through the west doors, into the parking lot, moving quickly. As she left, officers followed her out of the west doors and into the parking lot at a steady walk. A WRPD body-worn camera recorded the encounter lasting for about 36 seconds and follows the APD officer as he walked outside following Ms. Delara-Thompson toward the main entrance of the American Motel.

While the officers were talking with Ms. Delara-Thompson inside the west doors, two plain clothes Arvada officers were parked in the west lot. They were parked in their APD unmarked pickup truck, equipped with emergency lights and sirens. The plain clothes officers saw Ms. Delara-Thompson, who matched the description of the woman at Target, walk quickly from the west doors, towards the east and the main lobby entrance, and they followed her in their vehicle. Once behind her, they initiated their sirens, giving a series of chirps, to get her attention. She responded by running past the main lobby entrance doors where several other officers were waiting and soon came out into the parking lot. Per the body-worn camera video from the officers at the west doors, the unmarked pickup truck followed Ms. Delara-Thompson and the siren chirps happened 8 seconds later, three minutes and twelve seconds into the body-worn camera recording. Twenty-three seconds later in the body-worn camera recording, the first sound of shots is recorded though WRPD and their body-worn cameras were not at the scene of the shooting.

Officers from the lobby were speaking with the man who had followed the woman from Target to the American Motel, and saw Ms. Delara-Thompson running east through the parking lot. The witness told the officers it was the same woman he saw at the Target. Officer Benallo, who had joined APD in 2017 after completing the Jefferson County Law Enforcement Policy Academy, ran after Ms. Delara-Thompson, his taser drawn. On this day, he was a Field Training Officer and a Firearms Instructor with APD and had recently qualified with his duty firearm. He started his shift at about 5:45 that morning after a good night sleep and a typical day on patrol. He wore his department issued uniform.

The officers in the unmarked truck tried to catch up to Ms. Delara-Thompson when she ran to a white minivan parked to the east of the main lobby doors. The unmarked truck parked perpendicular to the minivan, and the plain clothes officer in the front passenger seat of the unmarked pickup jumped out and tried, but failed, to contact the woman before she got into



WRPD Officer body worn camera showing APD unmarked truck traveling eastbound towards the main entrance.



the minivan. The plain clothes driver stood behind the minivan while the passenger officer stayed at the van's driver's side door. Once in the minivan, Ms. Delara-Thompson locked the doors, her windows rolled up. The plain clothes officer told her, through the driver's window, that he was a police officer and that it was okay, that they wanted to speak with her. He noticed that she seemed frantic, and she was saying "it wasn't me, it wasn't me."



Ms. Delara-Thompson started the minivan and put it in reverse. By then, three uniformed APD officers from the main lobby, including Officer Benallo, were at the passenger side window of the minivan. One officer broke out the front passenger side window to communicate with the woman to get her attention though she had not responded to any of the earlier commands. Instead of following the commands, she slammed on the gas in reverse towards the unmarked police pickup. As she reversed, Officer Benallo, who had holstered his taser once he was in the parking lot, pulled out his firearm. The minivan's front wheels turned, so the front of the minivan was swinging towards the driver's side, where the two plain clothes officers were standing. The rear of the minivan struck the passenger-side rear of the unmarked truck, and as Ms. Delara-Thompson started to drive forward, it sounded to Officer Benallo like she was "flooring it."

Officer Benallo, at the passenger-side front window of the van, had his handgun drawn. From where Officer Benallo stood, he believed the minivan's driver's side was parked directly next to a red truck, blocking the plain clothes officer in without a place to retreat. Once the minivan reversed, Officer Benallo lost sight of the plain-clothed officer. From Officer Benallo's perspective, the woman had run into the plain-clothed officer, possibly crushing him, or he was caught under the minivan and would be dragged if the minivan moved forward. Officer Benallo fired his handgun through the smashed passenger side window, towards her torso, firing five rounds.

As the minivan drove forward towards the frontage road, Officer Benallo shot two more rounds into the rear of the minivan toward the driver, and when the minivan turned onto the frontage road, heading east, he was able to see the driver and took one final shot at Ms. Delara-Thompson. Officer Benallo saw the

front driver's side window shatter indicating he hit the window and possibly the driver. In total, Officer Benallo fired eight rounds.

Ms. Delara-Thompson was shot and as the minivan continued east on the frontage road, passing W 49<sup>th</sup> Avenue, it went off the road in a vacant lot, on the north side, before the intersection with Kipling Street. The minivan went into a ditch, and came to rest just to the west of the Sinclair Gas Station, located at 4901 Kipling St. The minivan rolled and came to rest on the driver's side. Officers from several agencies, medical personal, and the fire department, responded to the minivan and rendered aid to Ms. Delara-Thompson. She was pronounced deceased at the scene.

### **The Scene**

CIRT detectives processed the scene, coordinated the preservation and analysis of physical evidence, and obtained statements from all community witnesses who saw or heard parts of the event. APD offered criminalist support, with oversight from CIRT. The CIRT team utilized digital documentation to memorialize the scene. Ballistics examination was conducted by the Jefferson County Regional Crime Laboratory (JCRCL). Crimes Scene Investigators (CSI) located eight shell casing in the area where Officer Benallo stood in the parking lot. CSI also processed the minivan and located defects in the minivan consistent with being caused by a bullet. Some of the defects located were undetermined, due to the damage of the vehicle caused by the crash of the vehicle.

The woman was later identified as Destinee Delara-Thompson. Investigation revealed that Ms. Delara-Thompson was not the suspect from the incident at Target but at the time law enforcement talked with Ms. Delara-Thompson at the American Motel, she had two active warrants for her arrest.

The occupants of room 303 were contacted and search warrants were issued for room 303. The suspect was identified and later arrested, and a knife was located through the search of room 303, consistent with the knife used in the Target crime.

### **Analysis**

Officer Benallo used deadly force the afternoon of August 17, 2021, at the American Motel, located at 10101 I-70 Frontage Road, City of Wheat Ridge. Officer Benallo was called out to a theft from Target where a woman, matching the description of Ms. Delara-Thompson, threatened a loss prevention officer with a knife and then ran to the American Motel. Once on scene, law enforcement officers met Ms. Delara-Thompson on her way down the west stairs. She appeared to be a white or Hispanic woman with dark pants and a white tank top. She gave minimal

### **The Autopsy**

An autopsy was conducted on Ms. Delara-Thompson by Forensic Pathologist Dr. Dawn Holmes on August 18, 2021, and attended by CIRT investigators, with results as follows:

1. Gunshot wound, indeterminate range, left lateral chest, impacting upper lobe of the left lung, pericardial sac, left ventricle of the heart, right ventricle of the heart, pericardial sac, middle lobe of the right lung. There was a clear entry and exit wound. The course was back to front, left to right, and downward.
2. There were no other gunshot wounds, but other injuries likely related to the crash of the vehicle.
3. Blood samples were sent to NMS labs, and based on the results, Dr. Holmes found Ms. Delara-Thompson was positive for methamphetamine, morphine, Amphetamine, caffeine, and fentanyl.

Dr. Holmes found the cause of death was gunshot wound to the chest, that she was pregnant at the time of her death, and ruled manner of death a homicide.

information before walking quickly out of the hotel. As Ms. Delara-Thompson streaked through the parking lot to her minivan, she was identified by the witness who had followed the woman from Target. Causing the officers in the main lobby, including Officer Benallo, to follow the woman to the minivan on the east side of the motel.

At the minivan, Officer Benallo stood at the passenger side while at least one officer, in plain clothes, stood at the driver's side. To the rear, the minivan was blocked by the unmarked APD truck, but the parking space did not have a barrier or curb at the front. There were open parking spaces on both sides of the minivan but Officer Benallo did not perceive an additional space for the plain clothed officer between the driver's side and the red truck. Once the woman ignored commands, turned the car on, and quickly reversed, hitting the unmarked truck, and swinging the front end toward the plain clothed officer, Officer Benallo could no longer see the plain clothed officer. Fearing for the lives of his fellow officers, believing they had been or could be struck by the minivan, and were possibly under the minivan, Officer Benallo chose to fire his weapon. As the minivan hit the unmarked truck and started to pull forward, Officer Benallo's concern for fellow officers continued as the minivan jumped the curb and headed east. Officer Benallo's singular focus on the threat posed by the minivan, resulted in his failure to perceive the plain clothed officer, alive and well, until the minivan was eastbound on the frontage road.

Officer Benallo's knowledge that the minivan was boxed in on three sides, surrounded by officers, and unresponsive to commands, combined with his misperception regarding the space between the minivan, the plain clothed officer, and the red truck, gave him a reasonable belief, in that moment, that the plain clothed officer had been struck down by the minivan and others were likely to be as well. Given the dangerousness of a vehicle, it was an objectively reasonable belief that a lesser degree of force was inadequate to resolve the threat posed by Ms. Delara-Thompson, given her failure to comply with commands, and the manner in which she operated her minivan given the proximity of armed police officers. Because the Officer had objectively reasonable grounds to believe, and did believe, that he and the officers were in imminent danger of being killed or suffering serious bodily injury, shooting at Ms. Delara-Thompson was legally justified. No lesser use of force could reasonably ameliorate that danger. Moreover, a reasonable person, under like conditions and circumstances, at the time Ms. Delara-Thompson was shot, would believe that it appeared that deadly physical force was necessary to prevent imminent deadly harm to the agents or other persons. As there is no evidence proving, beyond a reasonable doubt, that a legally unjustified homicide occurred, no criminal charges can or should be brought against Officer Benallo under Colorado law.

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

Sincerely,

A handwritten signature in cursive script that reads "Alexis D. King". The signature is written in black ink and includes a long horizontal flourish extending to the right.

Alexis D. King  
District Attorney  
First Judicial District