SUPREME COURT STATE OF COLORADO 2 East 14th Avenue Denver, CO 80203	DATE FILED March 25, 2025 12:23 PM
On Certiorari to the Colorado Court of Appeals Court of Appeals Case No. 20CA1746	
Petitioner, THE PEOPLE OF THE STATE OF COLORADO, v. Respondent, NATHAN CRAWFORD HOLLIS.	▲ **COURT USE ONLY** ▲ Case No. 23SC834
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PEOPLE'S REPLY BRIEF

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 28 or C.A.R. 28.1, and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

The brief complies with the word limits set forth in C.A.R. 28(g) or C.A.R. 28.1(g).

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/s/ Marixa Frias

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INTRODUCTION

In defining the statutory term "restitution" under section 18-1.3-602(3)(a), C.R.S. (2024), the Colorado legislature has expressly designated, by enumeration, some types or categories of pecuniary losses suffered by a victim that certainly constitute "restitution," although that list is not exhaustive. Included within that statutory term is the specific, pecuniary loss "money advanced by law enforcement agencies." Thus, the question here is not whether "money advanced by law enforcement agencies" is a statutorily authorized pecuniary loss recoverable as "restitution." It is. The question is only whether a law enforcement agency's unrecovered "buy money" falls under the category of pecuniary loss for "money advanced by law enforcement agencies"? It does for three reasons.

First, no sound reason exists to interpret "money advanced by law enforcement agencies" narrowly to exclude unrecovered buy money. Second, the legislative history does not provide any basis to interpret

the phrase so narrowly. And third, the statutory language is itself expansive: "restitution . . . *includes but is not limited to* . . . ." Because Hollis provides no satisfactory reason for concluding the contrary, this Court should decline his invitation to adopt an unreasonably restrictive interpretation of the statute.

As well, the statutory term "restitution" includes within its definition "extraordinary direct public . . . investigative costs" under section 18-1.3-602(3)(b). The similar question posed in this context is whether a law enforcement agency's unrecovered "buy money" qualifies as an "extraordinary direct public investigative cost"? Here, too, it does.

In sum, the People are seeking restitution under two statutory provisions that specifically authorize recovery for "money advanced by law enforcement agencies" and "extraordinary direct public investigative costs." These two provisions plainly contemplate and authorize an award of restitution to a governmental agency, including a

law enforcement agency. Such an agency's unrecovered buy money is recoverable under either statutory provision.

ARGUMENT

I. Unrecovered buy money should qualify as "money advanced by law enforcement agencies" and, therefore, be recoverable as "restitution" under section 18-1.3-602(3)(a).

In contending that unrecovered buy money does not qualify as "money advanced by law enforcement agencies" under subsection (3)(a), none of Hollis's arguments are persuasive, let alone dispositive.

Hollis relies on the same circular reasoning as the division did, arguing that an advance of money made by a law enforcement agency "must relate to a pecuniary loss suffered by a victim in order to qualify as restitution." (*See* AB, pp 19-20, 24-25; *People v. Hollis*, 2023 COA 91, ¶¶ 9, 12). But, as explained in the Opening Brief, not only does this argument fail to answer *why* unrecovered buy money, specifically, doesn't (or shouldn't) qualify as the enumerated pecuniary loss "money advanced by law enforcement agencies," it also incorrectly presupposes

that a law enforcement agency cannot itself be the victim that has suffered that pecuniary loss and seeks to recover it as "restitution" under subsection (3)(a). (*See* OB, pp 16-17). In other words, Hollis assumes the operative phrase narrowly contemplates that the money advanced by a law enforcement agency is recoverable only if advanced for the actual, direct victim of the crime.

But that interpretation (A) is inconsistent with the plain statutory language; (B) is inconsistent with this Court's interpretation of the statute in *Dubois*; and (C) is inconsistent with the plainly intended meaning of the service animal provision in the statute. Rather, (D), buy money qualifies as "money advanced by law enforcement agencies."

A. Subsection (3)(a) identifies the categories of pecuniary losses that are recoverable "restitution" (subject to proximate cause); it does not determine who qualifies as a statutory victim seeking to recover those enumerated losses.

The plain language does not support the division's (and Hollis's) construction of subsection (3)(a). Even a quick look shows that subsection (3)(a) merely identifies the *types or categories of pecuniary losses* that a victim who has suffered them may recover as "restitution." *See* § 18-1.3-602(3)(a), C.R.S. (2024). It neither defines nor limits who may be a victim. The legislative study conducted in 1999 as part of a substantive overhaul of various statutes involving restitution makes this point clear in its examination of its proposed definition of "restitution":

> The work group wanted courts to have a clear statutory direction on *what kinds of damages are included in restitution*. The work group went beyond the current definitions of what constitutes restitution to include expenses such as a victim's out-of-pocket expenses, the loss

> of money, adjustment expenses by insurance companies, and money advanced by law enforcement.[1]

Thus, the "kinds of damages," that is, the specific examples identified in subsection (3)(a), fall within the scope of "*pecuniary loss*." *See, e.g.*, *People v. Roggow*, 2013 CO 70, ¶¶ 16-22 (discussing statutory definition of one in a "position of trust" in section 18-3-401(3.5) and characterizing enumerated statutory examples as general "categories" of persons that fall within definition).

And the structure of subsection (3)(a) confirms this point. Looking at "any pecuniary loss suffered by a victim," the phrase "suffered by a victim" modifies "any pecuniary loss." This modification injects a requisite actor—i.e., the loss must be suffered by a victim, not some

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[1] *See* Colorado Legislative Council, *Study of Criminal Restitution in Colorado*, p 22 (Nov. 1999) (emphasis added), *available at* https://digitalcommons.du.edu/cgi/viewcontent.cgi?article=1474&context=colc_all.

random person or entity with no connection to the criminal offense—into the recoverability calculus. Subject to the proper actor being in place, the statute then provides specific examples that the legislature has deemed constitute the more general term "pecuniary loss," which is a proxy for recoverability. *See* § 18-1.3-602(3)(a). Thus, everything in subsection (3)(a) is a type or category of loss, nothing is a type or category of victim. *See Fischer v. United States*, 603 U.S. 480, 487 (2024) ("[T]he canon of *noscitur a sociis* teaches that a word is given more precise content by the neighboring words with which it is associated." (quotations omitted)); *Coloradans for a Better Future v. Campaign Integrity Watchdog*, 2018 CO 6, ¶ 37 ("It is a familiar principle of statutory construction that words grouped in a list should be given related meaning.").

With that understanding in mind, subsection (3)(a) does not require, as the division and Hollis argue, that for a particular loss to qualify as a pecuniary loss it must be incurred "*in relation to* the

pecuniary loss of a [direct, or primary] victim" of a defendant's criminal offense. (*See Hollis*, ¶ 9; AB, pp 24-25). This is because subsection (3)(a) does not speak to, dispositively or categorically, the *victims* who may potentially recover. It only categorizes pecuniary losses that the legislature specifically deems as "restitution." Thus, for purposes of subsection (3)(a), a district court must resolve whether a particular financial loss, requested in restitution, falls under one of those categories of pecuniary loss, i.e., an "out-of-pocket expense[]," "loss of use of money," "money advanced by law enforcement agencies," etc., and whether the loss was "proximately caused by an offender's conduct." *See* § 18-1.3-602(3)(a).[2]

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[2] To be sure, as acknowledged in the Opening Brief, the legislature implicitly suggested the class of victims that it contemplated could recover certain categories of pecuniary losses in subsection (3)(a) by specifying *by whom* such losses are recoverable. (OB, pp 20-21). For example, the pecuniary loss "rewards paid" is recoverable by those paid "by victims;" the pecuniary loss "money advanced" is recoverable "by

When subsection (3)(a) is understood properly as a categorization of pecuniary losses, then the legislature has already crystallized for this Court that "money advanced by law enforcement agencies" is specifically authorized for recovery as "restitution," regardless of to whom or for whom it was advanced.

B. Because the legislature has specifically authorized "money advanced by law enforcement agencies" as "restitution" under subsection (3)(a), contorted applications of the holdings in *Dubois* and *Padilla-Lopez* are not necessary.

Nine years before this Court issued its *Dubois* decision in 2009, *see Dubois v. People*, 211 P.3d 41 (Colo. 2009), the legislature wholly

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law enforcement agencies;" and the pecuniary loss "money advanced . . . for a service animal" is recoverable "by a governmental agency." *See* § 18-1.3-602(3)(a). These limiting provisions do not change the primary purpose of subsection (3)(a), which is to define the categories of pecuniary losses that constitute "restitution." And, of course, here the victim seeking restitution satisfies the limitation imposed on the category under which it is seeking to recover.

revamped statutes addressing restitution by consolidating them into one comprehensive statutory scheme. In doing so, the legislature added, for the first time and without qualification, to the statutory definition of "restitution" in subsection (3)(a) the express pecuniary loss "money advanced by law enforcement agencies." *See* Ch. 232, sec. 1, § 16-18.5-102, 2000 Colo. Sess. Laws 1030-31.

Instead of being at the forefront of the correct analysis on which this Court must embark, this *express* statutory authorization has been lost in the division's and Hollis's contorted logic focusing instead on seeming limitations on recovery identified in *Dubois* and the question of whether the Task Force here is a statutory "victim" under subsection (4)(a). (*See* AB, pp 20-21, 26-27; *Hollis*, ¶¶ 8-13). This focus is misplaced.

In adding "money advanced by law enforcement agencies" in 2000, the legislative history does not show that the legislature analyzed whether a law enforcement agency qualifies as a "victim" for restitution

purposes. That absence of analysis suggests that the legislature assumed that was the case and that a law enforcement agency necessarily fell under the broad category of statutory "victim[s]" who are "aggrieved" by the offender's conduct under subsection (4)(a). *See* § 18-1.3-602(4)(a). Instead, the legislature's imperative, at that time, was only to provide a "clear statutory direction" by adding a specific authorization for "money advanced by law enforcement agencies" as "restitution" under subsection (3)(a). And in doing so, the legislature also eliminated any doubt about whether a law enforcement agency could qualify as a "victim."

In *Dubois*, this Court confirmed that general understanding, recognizing that the restitution statutes permit governmental entities to be victims. 211 P.3d at 45 ("[A] governmental entity counts as 'any person' as required by that statute." (citing § 2-4-401(8)). *Dubois* also recognized that that there is no longer any requirement that a victim be immediately and directly aggrieved by the offender's conduct to recover

restitution, instead requiring only that the loss be proximately caused by that conduct. *Id.* (holding that, when determining whether a person is "'aggrieved'[,] the requirement of proximate cause remains in the restitution statute and serves to limit the ambit of potential restitution awards").

This Court was asked in *Dubois* to address, what it admittedly characterized as a "discrete scenario" with a "unique set of circumstances," whether one particular law enforcement officer, who had suffered personal losses in the line of duty, and her county sheriff's department, whose patrol car had been damaged, qualified as "victims" under subsection (4)(a) for purposes of restitution. *Id.* at 42-46.

Dubois's analysis of that issue is inapposite, or at least is not the correct lens through which this Court should look to determine whether the Task Force's unrecovered buy money qualifies as "money advanced by law enforcement agencies."

In answering whether the law enforcement officer in *Dubois* was a "victim" and whether her losses were recoverable, the *Dubois* court observed that it had "no direct guidance" from the restitution statute itself. *See Dubois*, 211 P.3d at 46. Thus, the court was required to embark on an analytic voyage, considering the facts and elements of the underlying crime itself, vehicular eluding, and the scope of the statutory term "victim" as someone "aggrieved" by an offender's conduct. *See id.* at 42-47.

After a lengthy analysis, the court answered the question affirmatively. But in doing so, it expressed concern that it did "not intend [its] holding . . . to imply that all police officers who suffer injuries when responding to a call for assistance in the line of duty are 'victims' entitled to restitution." *Id.* at 45. The court said, "[i]n fact, they generally are not" and, further, that there was "no indication" that the "legislature intended to usually include police officers as 'victims.'" *Id.*

The *Dubois* court, therefore, in answering a very *narrow* question that was specific to one particular law enforcement officer and her sheriff's department, was reluctant to suggest that in a *broader* context recovery for "ordinary expenses of law enforcement" that are "incidental to the apprehension of a criminal" was permissible under the restitution statute. Within that cautious framework *Dubois* held that "typically the legislature must specifically include law enforcement costs within the restitution statute for them to be eligible for an award of restitution." *Id.* at 46. Then it recognized, for example, that costs incurred by a governmental agency to clean up or remediate a controlled substance site is one such legislative pronouncement. *Id.* at 46-47; *see* § 18-1.3-602(3)(c)(I)(A),(B).

But this case lies decidedly outside *Dubois*'s realm of caution. It is not plagued by a lack of "direct guidance" from the restitution statute.

Rather—even using the terminology later employed in *Dubois*—an "express legislative pronouncement" for the recovery of "money

advanced by law enforcement agencies" is already on the books as "restitution" in subsection (3)(a). The legislature made that specific authorization clear long before *Dubois* announced that, typically, law enforcement costs must be specifically included. *See Dubois*, 211 P.3d at 46. Thus, the only pertinent question that remains here is whether unrecovered "buy money" qualifies as the specifically-authorized "money advanced by law enforcement agencies."

Hollis ignores, however, the specific authorization for recovery of "restitution" in the form of "money advanced by law enforcement agencies" in subsection (3)(a). He does so in multiple ways.

First, Hollis undercuts the specific authorization in subsection (3)(a) by relying on a limited holding of *Dubois*, which was later applied in *People v. Padilla-Lopez*, 2012 CO 49, ¶ 11, that peace officers or a governmental agency are entitled to restitution where the underlying crime defines the officer or agency as a primary victim. *See Dubois*, 211 P.3d at 46; *Padilla-Lopez*, ¶ 11. Of course, the underlying offense here,

drug distribution, doesn't define law enforcement as the victim. (AB, pp 5-6, 12, 20-21). But, as explained in the Opening Brief, (*see* OB, p 15 n.3), being defined in the underlying criminal statute as a primary victim is not the categorical test to determine whether a governmental or law enforcement agency is entitled to restitution.[3] In other words, while such a showing is one way that a governmental entity may be entitled to restitution even absent specific statutory authorization, it is not the only way a governmental entity may be entitled to restitution. *See Dubois*, 211 P.3d at 46 ("[P]eace officers are generally entitled to restitution only when the underlying crime defines a peace officer as the

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[3] Indeed, few criminal statutes directly govern dealings between defendants and law enforcement officers. *See, e.g.*, second degree assault, § 18-3-203(1)(c), (c.5), C.R.S. (2024); resisting arrest, § 18-8-103(1)(a), C.R.S. (2024); disarming a peace officer, § 18-8-116, C.R.S. (2024); and as in *Dubois*, vehicular eluding, § 18-9-116.5, C.R.S. (2024).

victim, as vehicular eluding necessarily does, *or have been specifically included by the legislature*." (emphasis added)).

Second, Hollis acknowledges that the restitution statute "expressly authorizes governmental agencies to receive restitution for costs incurred in extraordinary public investigation, storing drugs, remediating drug premises, caring for abused animals, and providing governmental insurance benefits," (AB, p 21) alluding to the definition of "restitution" in subsections (3)(b), (c), and (d). But myopically, Hollis fails to include in this list of specific authorizations "money advanced by law enforcement agencies," which is also defined as "restitution" in subsection (3)(a). And he doesn't satisfactorily answer why a law enforcement agency, similar to the specific authorizations for governmental agencies in subsections (3)(b), (c), and (d), cannot be a victim seeking restitution for "money advanced by law enforcement agencies."

Turning to *Padilla-Lopez*, this case, too, is unhelpful. Hollis argues that, as in *Padilla-Lopez*, a governmental agency's expenditure of allocated funds—such as the use of buy money here—to perform a public function—such as investigating drug-related crime— does not "transform" the agency into a "'victim' for restitution purposes." (*See* AB, pp 6-7, 20-21, 37). But, unlike here, *Padilla-Lopez* did not involve a governmental entity seeking restitution for a specific, authorized pecuniary loss under subsection (3)(a). Rather, it is an application of *Dubois*'s test for when a governmental agency can recover restitution for a loss even though it is not specifically authorized. Thus, it simply isn't analogous.

In the end, Hollis provides no sound response to the People's argument that "money advanced by law enforcement agencies" is a specific, enumerated pecuniary loss that expressly constitutes "restitution" under subsection (3)(a) and that a law enforcement agency can independently be the primary victim seeking to recover this loss if it

was proximately caused by the defendant's criminal conduct. (*See* OB, pp 18-25, 30-31).

C. "Money advanced by a governmental agency for a service animal" in subsection (3)(a) underscores that a law enforcement agency is the implied victim for "money advanced by law enforcement agencies."

In the Opening Brief, the People used the pecuniary loss "money advanced by a governmental agency for a service animal" in subsection (3)(a) to further illustrate the correlative point that a law enforcement agency is the intended, implied victim seeking to recover money that it advances within the meaning of "money advanced by law enforcement agencies." (*See* OB, pp 24-25). Hollis answers that "[l]ike the other categories in subsection (3)(a), 'money advanced by a governmental agency for a service animal,' is a subset of 'pecuniary losses suffered by a victim'" and that it was necessary for the legislature to add this provision because a governmental agency was otherwise barred from

seeking restitution for such an expenditure. (*See* AB, pp 27-29).[4] Hollis's response fails and, again, does not negate the premise that a law enforcement agency is the implied victim for "money advanced by law enforcement agencies."

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[4] In support of an argument that the addition of a specific statutory provision for "money advanced by a governmental agency for a service animal" in the restitution statute was necessary, Hollis argues that the "path" to restitution for a governmental agency as the owner of a service animal seeking to recover the loss of that animal was "unclear" because the agency is not a "named victim[] under the animal cruelty statute." (AB, p 28). This claim fails. First, an award of restitution is not crime-specific, thus, this type of loss is not limited to a violation of the animal cruelty statute, section 18-9-202(1.5)(c), C.R.S. (2024). Second, to the extent Hollis again relies on the holding in *Dubois* that a governmental agency is entitled to restitution where it is a named victim of the underlying crime, *Dubois* was decided *after* the legislature added "money advanced by a governmental agency for a service animal" to subsection (3)(a). *See* Ch. 46, sec. 1, § 18-1.3-602(3)(a), 2005 Colo. Sess. Laws 192-93. Thus, this statutory provision was not necessitated by *Dubois*. By the same reasoning, nor was this provision necessitated by *Dubois* because of a claim that governmental agencies are not "permitted restitution for ordinary investigative expenses under *Dubois*," (AB, p 28).

Through House Bill 05-1055, the legislature added the pecuniary loss "money advanced by a governmental agency for a service animal" to the definition of "restitution" in subsection (3)(a) in 2005—again, this occurred four years before this Court considered the restitution statute in *Dubois* in 2009. *See* Ch. 46, sec. 1, § 18-1.3-602(3)(a), 2005 Colo. Sess. Laws 192-93. The legislative history plainly demonstrates that this provision was added specifically to enable *state and local law enforcement agencies* to recover the cost of losing a service animal that was harmed or killed in the line of duty:

- "When passed this bill will allow state and local enforcement agencies to recover the costs associated with the treatment or replacement of the service animal harmed or killed during the commission of a crime. These animals are a vital asset to our law enforcement agencies." *See* Hearing on H.B. 05-1055 before the House Judiciary Comm., 65th Gen. Assem., 1st

Reg. Sess. (January 20, 2005) (statement by Rep. Ragsdale, 1:06-1:24).

- "[H.B.] 1055 is in response to state and local law enforcement agencies' financial problems of replacing these service animals who offer a great tool in apprehending violators." *See* Hearing on H.B. 05-1055 before the House as whole, 2nd reading, 65th Gen. Assem., 1st Reg. Sess. (January 28, 2005) (statement by Rep. Ragsdale, 1:34-1:45).
- "[H.B. 1055 is] adding to the definition of restitution money advanced by a government agency for a service animal, so money that the government agency spends for the care . . . of a service animal is money that they could get restitution for." *See* Hearing on H.B. 05-1055 before the Senate Comm. on State, Veterans, and Military Affairs, 65th Gen. Assem., 1st Reg. Sess. (March 8, 2005) (statement by Sen. Johnson, 5:10-5:30).

- "[H.B.] 1055 . . . add[s] to the items that law enforcement can obtain restitution from a criminal, they add to those items the cost incurred in the harming or the killing of a service animal such as a police dog or horses that are used for crowd control." *See* Hearing on H.B. 05-1055 before the Senate, 2nd reading, 65th Gen. Assem., 1st Reg. Sess. (March 11, 2005) (statement by Sen. Johnson, 0:37-1:00).

This history demonstrates that the legislature was not concerned with enabling private citizens whose service animals are harmed during the commission of a crime to recover that loss in restitution, as Hollis suggests. (*See* AB, pp 23 n.3, 27-29).[5] Instead, the legislature plainly

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[5] Indeed, in answering a legislator's question inquiring why individual owners of service animals were excluded, the bill sponsor surmised it was because those individuals "already have the ability to recover the loss of their [service animal]." *See* Hearing on H.B. 05-1055 before the Senate Comm. on State, Veterans, and Military Affairs, 65th Gen. Assem., 1st Reg. Sess. (March 8, 2005) (statement by Sen. Johnson, 3:33-4:17).

sought to authorize governmental agencies, specifically, *as the intended victim*, to recover the loss of their service-animal-partners harmed in the line of duty. *See, e.g.*, § 18-1.3-602(2.3) (defining, expansively, the intended personnel and entities that fall under "money advanced by a governmental agency").

In sum, the addition of the statutory provision "money advanced by a governmental agency for a service animal" to the definition of "restitution" in subsection (3)(a) only reinforces the recognition that a law enforcement agency itself can be, and is, the intended, implied victim seeking to recover "money advanced by law enforcement agencies" without, as the division suggests and Hollis argues, having to do so on behalf of some other, more direct victim of the offender's conduct. Such a recognition is further buttressed by the legislature's addition of "money advanced by a governmental agency for a service animal" to the definition of "restitution" in subsection (3)(a) without simultaneously adding such an agency to the definition of "victim" in

subsection (4)(a). Again, this is because if a governmental agency is seeking restitution for this specifically authorized loss and it was proximately caused by the defendant's conduct, the agency is definitionally an aggrieved "victim." The same is true for a law enforcement agency seeking to recover the specifically authorized loss, "money advanced by law enforcement agencies."[6]

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[6] The People note, interestingly, that H.B. 05-1055, addressing the "mandatory assessment of restitution in criminal cases that involve the harming of a service animal," and H.B. 05-1014, an omnibus bill that added subsection (3)(c)(I)(A)(B),(II) for the cleanup and remediation of drug manufacturing sites, were both introduced on the same day in January 2005 in the House under different bill sponsors. H.B. 05-1055 did not add to the definition of "victim" when it added "money advanced by a governmental agency for a service animal" to subsection (3)(a). *See* Ch. 46, sec. 1, § 18-1.3-602(3)(a), 2005 Colo. Sess. Laws 192-93. However, H.B. 05-1014, the omnibus bill, did add to the definition of "victim" in subsection (4)(a), adding subpart (VI) "any person who had to expend resources for the purposes described in subparagraph (I) of paragraph (c) of subsection (3) of this section." *See* Ch. 321, sec. 2, § 18-1.3-602(4)(a)(VI), 2005 Colo. Sess. Laws 1498-99.

D. Unrecovered buy money qualifies as "money advanced by law enforcement agencies."

Hollis argues that the phrase "buy money" is not specifically identified as "restitution" in subsection (3)(a). (AB, p 21). But the absence of that specific phrase does not exclude unrecovered buy money from falling within the meaning of "money advanced by law enforcement agencies," which is a specified pecuniary loss in subsection (3)(a). *See, e.g.*, *NLRB v. Sw. Gen., Inc.*, 580 U.S. 288, 302 (2017) (recognizing that the statutory interpretive canon, expressio unius est exclusio alterius, "expressing one item of an associated group or series excludes another left unmentioned," depends on context and "applies only when circumstances support a sensible inference that the term left out must have been meant to be excluded" (quotations omitted)); *Barnhart v. Peabody Coal Co.*, 537 U.S. 149, 168 (2003) (court "does not read the enumeration of one case to exclude another unless it is fair to suppose that Congress considered the unnamed possibility and meant

to say no to it"). Further, the legislature's use of the phrase "includes but is not limited to" in subsection (3)(a) counsels against a narrow interpretation excluding buy money. *See Roggow*, ¶ 20. And as explained in the Opening Brief, the legislature did not limit the phrase "money advanced by law enforcement agencies," and thus, unrecovered buy money is not specifically excluded. (OB, p 36).

Next, honing in on the undefined term "advanced," Hollis argues that buy money is not "money advanced by [a] law enforcement agency" because the mere transfer of money from the agency to an undercover officer or informant does not constitute an advance—as in the furnishing of money before any consideration is received in return—and because law enforcement received drugs in exchange for the money. (*See* AB, pp 22-24).[7] But money that is prepaid to an undercover officer

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[7] Hollis's reliance on the legislature's use of the word "advance" in other statutory provisions, e.g., §§ 18-15-105, -106, C.R.S. (2024), (*see* AB, pp 22-23), does not categorically provide the correct context for the

for use in a controlled drug buy is "advanced." (OB, pp 34-35). And as supported by the cases cited in the Opening Brief, it is an advance when the money is given to a defendant because a defendant has no right to possess or retain either the drugs or the money he receives in exchange for them because they are contraband subject to forfeiture. *See, e.g.*, *Merkison v. State*, 996 P.2d 1138, 1143-44 (Wyo. 2000); *State v. Pettit*, 698 P.2d 1049, 1051 (Or. Ct. App. 1985). Because Hollis had no right to keep the money and the state had a right to demand its return, the exchange is properly characterized as an advance.[8]

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meaning of "advanced" in subsection (3)(a). This is because in statutory construction, "most words have different shades of meaning and consequently may be variously construed, not only when they occur in different statutes, but when used more than once in the same statute or even in the same section." *Envtl. Def. v. Duke Energy Corp.*, 549 U.S. 561, 574 (2007) (quotations omitted). Thus, the presumption of consistent usage is not rigid. *Id.*

[8] Hollis suggests that forfeiture and civil actions already "take the profit out of crime," so that awarding restitution is unnecessary. (AB, p 35). But the People cannot seek forfeiture of money that a defendant has already spent. And a civil action is virtually always available as an

Further, the People caution this Court not to overly scrutinize the legislature's intended meaning of "money *advanced*" such as to exclude unrecovered buy money from the equation. *See, e.g.*, *Martin v. Soc. Sec. Admin., Comm'r*, 903 F.3d 1154, 1163 n.63 (11th Cir. 2018) ("Dictionary definitions are . . . not the end of plain meaning analysis, and a battle of the dictionaries runs the risk of obfuscating a statute's plain meaning."). A restrictive, dictionary interpretation of the verb form of "advance"—as in to supply beforehand or furnish on credit before work is done—does not work in the context of the statutory phrase "money advanced by a governmental agency for a service animal" either. One does not think of money being "advanced" ahead of time in order to

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alternative method for recovering losses covered by the restitution statutes. That availability is not a bar to recovery. Rather, the restitution statutes are intended to promptly and efficiently provide victims recovery for the losses covered without having to resort to a civil action.

secure veterinary treatment and care for a service animal – instead, such expenses are simply paid. If "advance" in this context was restricted to mean prepayment before the veterinary service was rendered, then restitution would cover only such prepayments, which makes no sense. That such services are, instead, merely paid for, meaning that the agency is out that money, is consistent with the legislature's defining "money advanced by a governmental agency for a service animal" as "costs incurred." *See* § 18-1.3-602(2.3).

Thus, turning to "money advanced by law enforcement agencies," when construing that phrase the money "advanced" merely represents a financial loss; so, one simple interpretation is money that a law enforcement agency gives to some person or entity ahead of some occurrence with the expectation that the agency will get the money back but does not.

Finally, the statutory phrase "money advanced by law enforcement agencies" must mean *something*. *See United States ex rel.*

Polansky v. Exec. Health Res., Inc., 599 U.S. 419, 432 (2023) ("[E]very clause and word of a statute should have meaning." (quotations omitted)); *Antero Treatment LLC v. Veolia Water Techs., Inc.*, 2023 CO 59, ¶ 11 (courts must "giv[e] effect to every word and term contained [in a statute], whenever possible"). And to give that phrase effect, as this Court must, it must encompass some type of pecuniary loss suffered by a law enforcement agency. There is no principled reason to conclude that unrecovered buy money does not fall within the meaning of "money advanced by law enforcement agencies." And, as argued in the Opening Brief, other jurisdictions have previously recognized buy money as a recoverable restitution loss. (*See* OB, pp 37-40 (listing cases)).

Hollis does not effectively counter the People's argument, and provides no rationale for why unrecovered buy money, specifically, does not fall within the ambit of "money advanced by law enforcement agencies." (*See* AB, pp 22-31).

II. Unrecovered buy money should qualify as an "extraordinary direct public investigative cost" and, therefore, be recoverable as "restitution" under section 18-1.3-602(3)(b).

Hollis argues that a law enforcement agency's loss of buy money is not an extraordinary direct public investigative cost under section 18-1.3-602(3)(b) because controlled buys are common in drug investigations. (AB, pp 32, 36). But, as explained in the Opening Brief (*see* OB, pp 44-48), the commonality or frequency of the use of buy money in undercover controlled drug buys can't be the test because SANE examinations, for example, are common in the investigation of sexual assault crimes, yet they are recoverable as an extraordinary direct public investigative cost. *See Teague v. People*, 2017 CO 66, ¶¶ 15-16.

Rather, the inquiry in *Teague* considered whether the activity is "beyond what is usual" for the profession of the examiner or investigator as a whole. *See id.* It concluded that SANE examinations are unusual because the medical personnel who perform them do not

usually engage in forensic, as opposed to purely medical investigation, and so the costs associated with doing a SANE examination is extraordinary. *See id.* ¶ 16. By the same token, the mission and function of law enforcement is not to fund the profit of criminal activity. Law enforcement officers do not usually give public funds to those they are investigating; and when they do, they usually anticipate recovering them, so the loss of those funds is an "extraordinary"—beyond what is usual—cost of those unique kinds of investigations where that occurs.

Hollis argues that the use of buy money is not extraordinary because the Task Force has a specific budget for this purpose. (AB, pp 32-33). Again, the existence of a specific budget for a direct investigative cost does not detract from the unique, extraordinary quality of that cost. Indeed, law enforcement agencies likely also have budgeted for SANE examinations, as those agencies are statutorily prohibited from passing the cost of that examination on to a sexual assault victim. *See* § 18-3-407.5(1), C.R.S. (2024) ("A law enforcement

agency with jurisdiction over a sexual assault must pay for any direct cost associated with the collection of forensic evidence from a victim who reports the assault to the law enforcement agency."). Thus, the existence of a specific budget should not be dispositive.

For these reasons, Hollis has not explained why this Court could not rely on "extraordinary direct public investigative cost" instead of, or in addition to, "money advanced by law enforcement agencies" in holding that restitution may be recovered for buy money.

CONCLUSION

Based on the foregoing reasons and authorities, the People respectfully request that this Court reverse the decision of the Court of Appeals.

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CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **PEOPLE'S REPLY BRIEF** upon **LISA WEISZ** via Colorado Courts E-filing System on March 25, 2025.

/s/ Marixa Frias