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March 16, 2021

Chief Tyson Kerr  
Sterling Police Department  
421 N 4<sup>th</sup> Street  
PO Box 4000  
Sterling, CO 80751

This letter is notification of the decision not to file charges against Officer 1 in the matter of the officer-involved shooting of Douglas Sanchez, DOB: 8/2/1966, on October 6, 2020.

On October 6, 2020, agents with the Colorado Bureau of Investigation (CBI) responded at the request of the Sterling Police Department to investigate an officer-involved shooting (OIS) which had occurred at about 1908 hours on October 6, 2020. In addition to CBI, the Sterling Police Department (SPD) and Logan County Sheriff's Office (LCSO) were represented during the investigation.

I have determined that, under the circumstances presented in this investigation, I will not release the name of the officer involved in this incident. The Colorado Supreme Court has addressed the issue of whether, and under what circumstances, the Criminal Justice Records Act (CJRA) requires disclosure of records and official actions by criminal justice agencies. See Harris v. Denver Post Corporation, 123 P.3d 1166 (Colo. 2005) and Freedom Colorado Information v. El Paso County Sheriff's Department, 196 P.3d 892 (Colo. 2008).

These cases are not directly on point as the release of an officer's name alone does not fall squarely within the CJRA, but they are informative in analyzing whether such disclosure is appropriate. The cases require a "balancing test" by the custodian of criminal justice records prior to the disclosure of criminal justice records. This balancing test considers "the privacy interests of individuals who may be impacted by a decision to allow inspection; the agency's interest in keeping confidential information confidential; the agency's interest in pursuing ongoing investigations without compromising them; the public purpose to be served in allowing inspection; and any other pertinent consideration relevant to the circumstances of the particular request." Harris, 123 P.3d at 1175; Freedom Colorado Information, 196 P.3d at 899.

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Here, the balancing test shows that the privacy interests of the individuals who may be impacted by a decision to allow inspection outweigh the other four factors to be considered. The continued safety of the officer and the family of the officer is of great concern in this case since the individual involved in the incident with law enforcement has strong and documented ties to known criminal gangs, including his own claim of membership in a particular gang. Therefore, I will not release the name of the officer, and he will be referred to in this report as Officer 1.

The following is a summary of my findings of fact and conclusions of law based upon the information gathered in this investigation.

#### **FINDINGS OF FACT**

On the evening of October 6, 2020, a call was made to Sterling Dispatch from the Cenex Eagle 1 gas station, located on Main Street in Sterling, CO, stating that Douglas Sanchez had been in the gas station and had just left in a vehicle. The caller provided a description of the vehicle Sanchez was seen leaving the Cenex in, a blue Dodge Charger, being driven by Eric McCarthy. The caller called Dispatch because she knew Sanchez was wanted on Attempted Murder charges.

In fact, On October 6<sup>th</sup>, Sanchez had two active warrants for his arrest; one warrant was for Possession with the Intent to Distribute Controlled Substances, a level 1 drug felony; on the other warrant, Sanchez was wanted for Attempted Murder in the First Degree, a class 2 felony. In the Attempted Murder case, the Affidavit for Arrest Warrant alleged that on September 30, 2020, Sanchez had fired multiples rounds at the intended victim with a scoped .22 caliber rifle. Two spent .22 caliber casings were found during the investigation and multiple neighbors told police they had heard the shots. The intended victim also told police that "recently" Sanchez had tried to "run him over and pulled a knife on him." Officer 1 was involved in the investigation of these other cases involving Sanchez and was aware of the facts and allegations in each case. Since September 30<sup>th</sup>, Officer 1 had studied Sanchez' mugshot to be able to recognize him and had been actively looking for Sanchez. Finally, from the background information, Officer 1 knew Sanchez spoke English.

On the evening of October 6, 2020, Officer 1 was on patrol in his department issued uniform and was driving a marked police car. He was notified by dispatch that Sanchez had left the Eagle 1 gas station on Main St in a blue Dodge Charger. Officer 1 observed the Charger pass him

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going the opposite direction on Main St, so Officer 1 turned his patrol car around and caught up to the Charger at the intersection of 6<sup>th</sup> Avenue and Main St.

As the Charger turned south onto 6<sup>th</sup> Avenue, Officer 1 activated his emergency lights to initiate a traffic stop to arrest Sanchez on the outstanding warrants. The evening was dark and clear, so Officer 1's lights were easily visible. The Charger did not attempt to flee but continued south on 6<sup>th</sup> Avenue for multiple blocks before pulling over near Cheyenne Boulevard. This is a residential neighborhood, but where the Dodge stopped was adjacent to a vacant lot.

At this point, as no other officers were present when the Charger came to a stop, Officer 1 drew his department issued Glock .40 S&W and began to exit his vehicle to hold the occupants of the Charger at gun point until other officers could arrive. As Officer 1 was doing so, the front passenger door of the Charger opened, a male exited, and the male looked at Officer 1. Officer 1 immediately recognized that the male was Douglas Sanchez. Sanchez immediately fled on foot into the adjacent vacant lot. Officer 1 gave chase with his handgun pointed at Sanchez. Officer 1's handgun had a weapon mounted flashlight that was turned on, thereby illuminating Sanchez's movements:

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Officer 1 pursued Sanchez on foot less than 100 yards. The body-worn camera (BWC) footage confirms the following:

1. While running after Sanchez, Officer 1 tells Sanchez to "stop" two separate times.
2. Officer 1 then yells, "I will shoot you."
3. Sanchez then stopped, turned around, and faced Officer 1.
4. As he did so, Sanchez put both of his hands in his pants pockets and began to dig around in the pockets, especially with his right hand in his right pants pocket.
5. As Sanchez is digging in his pockets, Officer 1 repeatedly yells at Sanchez to "Put your hands up!"
6. Sanchez did not obey the commands.
7. In total, Officer 1 yelled at Sanchez to put his hands up five separate times in about a 10 second span.
8. After the second command of "hands up!", Officer 1 also told Sanchez, "I will shoot you!"
9. After being told he would be shot if he did not put his hands up, Sanchez continues to dig in his pockets.
10. Sanchez then grabs a folding knife with his right hand out of his right pocket and takes multiple steps towards Officer 1.
11. It is at this point that Officer 1 fires two shots at Sanchez, both striking him in the torso and causing Sanchez to fall to the ground.
12. Right after firing the two shots, Officer 1 speaks into his radio saying, "Shots fired, shots fired, he has a knife."

During this time that Sanchez is facing Officer 1, the BWC footage shows the two of them are standing approximately 10 feet apart with Officer 1 pointing his gun at Sanchez. Sanchez then takes about five quick steps towards Officer 1, indicating Sanchez was attempting to attack Officer 1 with the knife. Surveillance video from a nearby building shows Sanchez covered about half the distance between himself and Officer 1 before falling to the ground. BWC footage shows the knife falling out of Sanchez's hand to the ground as he is being shot. The knife blade was fully opened and exposed.

The following still images taken from the BWC footage show the knife falling from Sanchez's hand to the ground:

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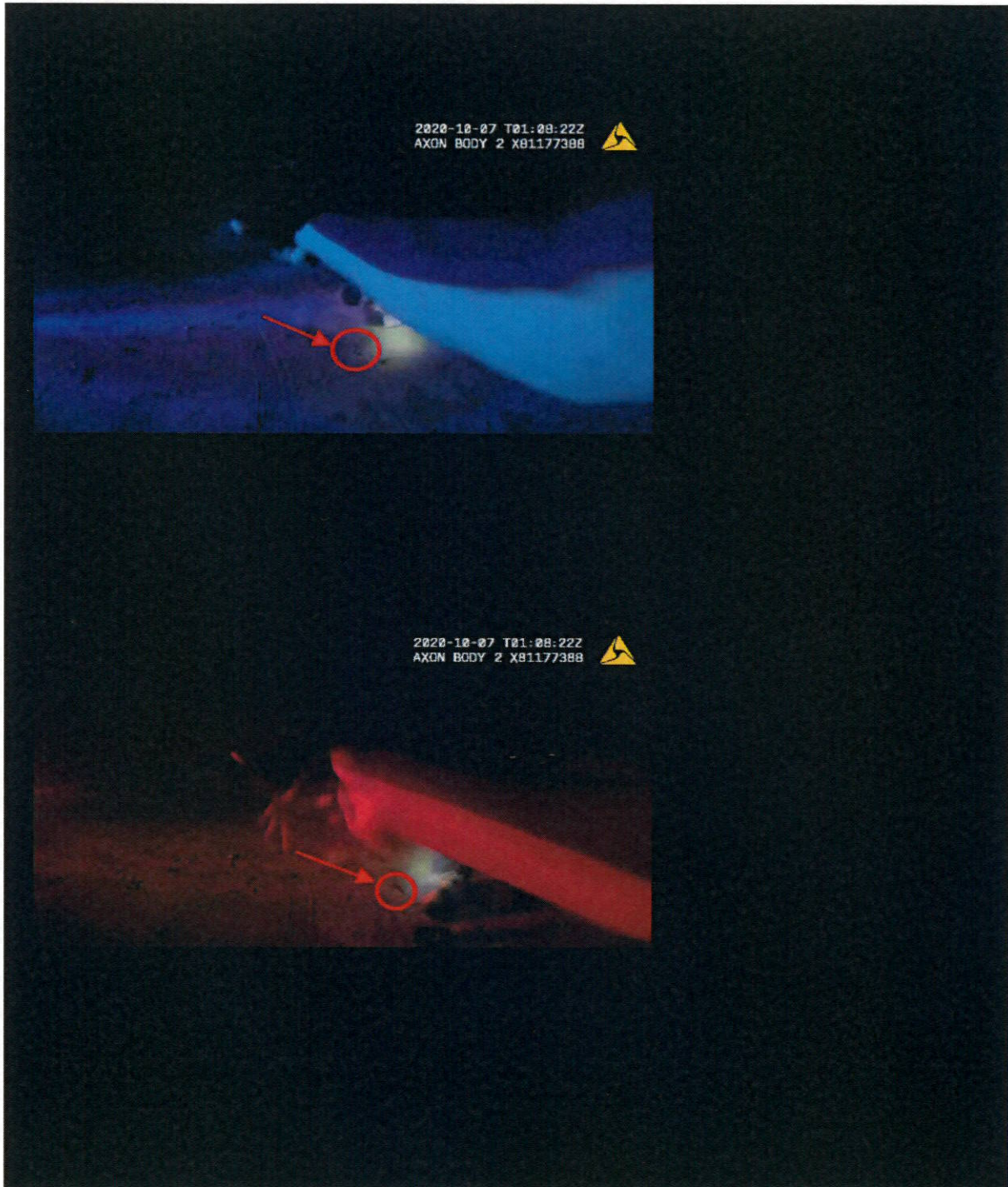
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Per the BWC footage, the time from when Officer 1 exited his police vehicle to when Sanchez was shot was approximately 20 seconds.

Multiple other officers arrived at the scene about the time Sanchez was shot and shortly thereafter. The BWC footage shows one of those officers kick the knife away from where it was lying on the ground near Sanchez prior to him being placed in handcuffs. Two of those officers helped Officer 1 secure Sanchez in handcuffs. One officer begins to provide medical care for Sanchez and directs Officer 1 to retrieve his medical bag from a nearby vehicle. According to the BWC footage, officers were providing medical care to Sanchez within about 90 seconds of his being shot.

On the way to retrieve the medical bag, Officer 1 briefly assists another officer in securing Eric McCarthy, the driver of the Dodge Charger. Of note, this encounter with McCarthy lasted less than 30 seconds. During it, the BWC footage shows Officer 1 speaking very calmly to McCarthy. When Officer 1 first approaches McCarthy as the other officer is attempting to arrest McCarthy, McCarthy is yelling and struggling with officers; 30 seconds later, Officer 1 has been able to get McCarthy to calm down and stop yelling.

Officer 1 then returned to Sanchez to assist other officers in providing medical care for Sanchez until ambulance personnel arrived and took over the medical care of Sanchez. Officer 1 was later interviewed by a CBI agent.

Sanchez was transported to the local hospital before being air lifted to a Denver area hospital for further medical care. Ultimately, Sanchez did not survive. An autopsy was later performed on Sanchez to determine the cause of death. The doctor who performed the autopsy opined that the gunshot injuries to Sanchez were significant, but could have been survivable, and it is possible that the delay in being transported from a small hospital to a large trauma center was a factor in Sanchez's death. Nevertheless, the autopsy found that Sanchez died due to complications from the gunshot wounds.

McCarthy was later interviewed by investigators. During the interview, McCarthy stated that he was giving Sanchez a ride the evening of October 6<sup>th</sup> because a friend had asked him to. McCarthy gave the impression he did not know Sanchez and had never met him prior to October 6<sup>th</sup>. McCarthy stated that when Officer 1 got behind the Charger and turned on his emergency lights that Sanchez started to "freak out" and was saying, "I'm done for, I'm gone."



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According to McCarthy, Sanchez also stated, “They can’t take me” when he noticed the police behind them. Sanchez told McCarthy that he had warrants for his arrest.

### **APPLICATION OF THE LAW**

Colorado law permits deadly physical force to be used if a person reasonably believes that a lesser degree of force is inadequate and the actor has reasonable grounds to believe, and does believe, that he or another person is in imminent danger of being killed or receiving serious bodily injury. C.R.S. § 18-1-704(2) and 18-1-707(4.5).

Here, Officer 1 fired his weapon, hitting and ultimately killing Sanchez. His use of deadly physical force against Sanchez, as described above, was authorized self-defense. Under Colorado law, deadly physical force used in self-defense has two equally important components. First, is a subjective component requiring that the actor, in this case Officer 1, actually believed that he was in imminent danger of death or serious bodily injury and that deadly force was required. Second, is an objective component – that the actor’s actual belief was also a reasonable belief.

In his interview with the CBI investigator, Officer 1 described the following subjective beliefs that he was in imminent danger of death or serious bodily injury:

- Officer 1 knew Sanchez had recently fired a gun at another person in an attempt to kill that person and that Sanchez had also pulled a knife on that other person. Officer 1 had also been informed that Sanchez had shot at police previously.
- Officer 1 observed Sanchez put his hands in his pockets and pull out a folding knife with the blade open. He observed Sanchez make a sudden and quick movement toward him and he thought Sanchez was going to attack him with the knife, stab him and cut him, and try to kill him to get away from the police. Officer 1 stated he did not believe he had time to deploy a TASER or some other weapon to defend himself so Officer 1 believed Sanchez would kill him if he did not shoot him first.

This subjective belief is also evident from Officer 1’s reactions to Sanchez’s actions. Officer 1 did not fire his weapon when Sanchez fled from him on foot. He did not fire his weapon when Sanchez turned to face him. He did not fire when Sanchez put his hands in his pockets and

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refused orders to put his hands up. He only fired when Sanchez pulled a knife out of his pocket and moved to attack Officer 1.

As to whether Officer 1's belief was objectively reasonable, it is readily apparent that any jury would conclude that it is reasonable for a person to believe they are in imminent danger of being killed or suffering serious injury by another in this situation. Officer 1 knew Sanchez had recently shot at another person and pulled a knife on another person. Sanchez fled from Officer 1 on foot. Sanchez ignored numerous commands from Officer 1, including repeated commands for Sanchez to take his hands out of his pockets. Sanchez ignored these commands even though Officer 1 told Sanchez he would be shot if he did not take his hands out of his pockets. Sanchez then pulled out an open knife and moved to attack Officer 1. The BWC from Officer 1 shows Sanchez with the knife. The surveillance video revealed that when Sanchez moved to attack Officer 1 that he covered about half the distance between himself and Officer 1 before Sanchez was shot and fell to the ground. This proves Sanchez was not simply standing still or moving away from Officer 1 but was in fact advancing towards Officer 1 with a deadly weapon (the knife) at the ready. Any person in Officer 1's situation would have been justified using deadly force against Sanchez in self-defense.

Further, Officer 1's actions leading up to the shooting complied with the standards of C.R.S. § 18-1-707 for utilizing deadly force when making an arrest. The statute requires: (1) all other means of apprehension are unreasonable, given the circumstances; (2) the arrest is for a felony involving the use or threatened use of deadly physical force; (3) the suspect poses an immediate threat to the peace officer or another person; and (4) the force does not create a substantial risk of injury to other persons. C.R.S. § 18-1-707(3).

Here, at the point Officer 1 fired his weapon, he was attempting to arrest Sanchez for a felony where Sanchez shot a gun at another person. Sanchez ran from Officer 1, ignored requests from the officer to put his hands up, and then pulled out a knife and attempted to attack Officer 1. This confirms that all other means of apprehension were unreasonable and that Sanchez posed an immediate threat to Officer 1.

At the point Officer 1 fired, he had probable cause to believe Sanchez had committed the crime of Assault on a Peace Officer for moving to attack Officer 1 with a knife. Had Sanchez survived his injuries, the District Attorney's Office would have charged him with First Degree Assault on a

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Peace Officer; the elements of this offense involve threatening an officer with a deadly weapon with the intent to cause serious bodily injury to the officer.

Further, Officer 1's use of his gun did not create a substantial risk of injury to other people. As can be seen in the BWC footage and the surveillance video, when Officer 1 shot Sanchez, he had a "clear backstop" behind Sanchez; meaning, that there were no homes or people immediately behind Sanchez, so even if Officer 1's shots would have missed, they would only have struck the ground behind Sanchez. Additionally, Officer 1, prior to shooting, gave Sanchez clear verbal warnings of his intent to use his firearm, telling Sanchez he would shoot him. And finally, following the shooting, Officer 1 ensured that Sanchez received immediate medical aid, even taking part in treating Sanchez himself.

It is appropriate to consider if Officer 1 has specialized training that would allow him to make decisions more calmly, or otherwise be able to assess threats properly, without mental distortion due to stress. The investigation revealed Officer 1 had the following training and experience:

- Officer 1 had been a peace officer for about 5 years, working for both SPD and the Yuma County Sheriff's Office ("YCSO"). He was a nationally certified EMT and certified in FBI defensive tactics. He is a National Tactical Officers Association certified firearms instructor for rifle, shotgun, handgun, and 37mm and 40mm less-lethal impact weapons. Officer 1 is a certified TASER and Narcan instructor. He has completed at least five, 40-hour firearms classes with at least 43 hours of firearms training this year. He has completed use of force review training and instructs new officers on defensive tactics. Further, he is a SWAT officer certified through the Greeley Police Department SWAT school and has been a SWAT member for the YCSO and SPD.

Officer 1's actions after the shooting indicate he was not acting irrationally or based merely on emotion. After Sanchez was secured in handcuffs by other officers, Officer 1 began to assist them in providing medical aid. When Officer 1 went to retrieve the medical kit, he was aware and composed enough to assist other officers in arresting McCarthy by calmly speaking to McCarthy until McCarthy had calmed down.

Finally, it is worth noting that when Sanchez noticed police were behind the vehicle he was riding in that he "freaked out." According to the driver of the vehicle (McCarthy), Sanchez was

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saying, "I'm done for, I'm gone.... They can't take me." These statements by Sanchez shed light on his mental state and provide context for his actions that followed.

## **CONCLUSION**

In summary, Officer 1 was responding to a call of a suspect wanted on Attempted Murder charges. Officer 1 conducted a traffic stop on the vehicle the suspect (Douglas Sanchez) was riding in as a passenger. When the vehicle stopped, Sanchez fled on foot before turning to face Officer 1. Sanchez disregarded all commands from Officer 1 to put his hands up and instead put and kept his hands in his pockets. Sanchez continued to dig in his pockets even though Officer 1 told him he would be shot if he did not put his hands up. Sanchez then drew a knife out of his pocket and began to charge Officer 1. At that point, Officer 1's life was in immediate danger from Sanchez and he fired two shots, striking Sanchez, and causing Sanchez to fall to the ground. This leads me to the conclusion that Officer 1 was justified in his use of deadly force in self-defense. Additionally, he was justified in his use of deadly force in apprehending Sanchez. Accordingly, there is no basis for criminal prosecution as it relates to Officer 1.

Respectfully,

A handwritten signature in black ink, appearing to read "Travis Sides", with a large, sweeping flourish above the name.

Travis Sides  
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13<sup>th</sup> Judicial District